



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 3, 2014

Mr. Matthew L. Grove
Assistant County Attorney
Fort Bend County
401 Jackson Street, 3rd Floor
Richmond, Texas 77469

OR2014-17664

Dear Mr. Grove:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 538249.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for the video and audio recordings of a specified promotional interview board, as well as the questions, acceptable answers, and instructions used for the interviews. You claim the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.122(b) of the Government Code excepts from disclosure "a test item developed by a . . . governmental body[.]" Gov't Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined the term "test item" includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. ORD 626 at 6. Section 552.122 also protects the answers to test questions when the answers might reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987); ORD 626 at 8.

You seek to withhold the submitted information under section 552.122 of the Government Code. You state the submitted information is intended to test an individual's knowledge and ability for the particular employment position being sought. Additionally, you indicate these

questions will be re-used in future examinations, and argue release of these questions could compromise the effectiveness of future examinations. Upon review, we find some of the submitted information, which we have marked, and the corresponding test questions on the audio recording, consist of "test items" under section 552.122(b) of the Government Code. We further find the associated answers to the questions we have marked, and those on the audio recording, reveal the substance of the questions themselves. Therefore, the sheriff's office may withhold this information, which we have marked and indicated, under section 552.122(b). However, we find the remaining questions at issue do not evaluate an individual's or group's knowledge or ability in a particular area. Rather, the information at issue reveals questions that evaluate an applicant's individual abilities, personal opinions, and subjective ability to respond to a particular situation. We further find the submitted scoring sheet does not reveal the substance of test items for purposes of section 552.122. Accordingly, the sheriff's office may not withhold any portion of the remaining information under section 552.122 of the Government Code. As you raise no other exceptions to disclosure, the remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Alley Latham
Assistant Attorney General
Open Records Division

AKL/eb

Ref: ID# 538249

Enc. Submitted documents

c: Requestor
(w/o enclosures)