



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 31, 2016

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

OR2016-24132

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# 632571.

The Fort Bend County Civil Service Commission (the "commission") received a request for feedback from the oral board and a copy of a specified interview recording. 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 of the Government Code excepts from public 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" in section 552.122 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. ORD 626 at 6. The question of whether specific information falls within the scope of section 552.122(b) must be determined on a case-by-case basis. *Id.* Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976). 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 interview questions, scoring matrix, and audio recording of the interview under section 552.122. You argue release of the submitted information could compromise the effectiveness of future interviews and would give requestors an advantage over future candidates. Based on your representations and our review, we conclude the information we have marked qualifies as "test items" under section 552.122(b) of the Government Code. We also find the release of the answers to these questions would tend to reveal the questions themselves. Therefore, the commission may withhold the questions and answers we have marked and the corresponding portions of the audio recording under section 552.122(b) of the Government Code. However, we conclude the commission has not established the remaining information tests an individual's or group's knowledge or ability in a particular area. *See* ORD 626 at 9. Therefore, the commission may not withhold any of the remaining information under section 552.122(b) of the Government Code. As the commission raises no other exceptions, you must release the remaining information.

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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/eb

Ref: ID# 632571

Enc. Submitted documents

c: Requestor
(w/o enclosures)