



May 30, 2002

Mr. James L. Hall  
Assistant General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342

OR2002-2911

Dear Mr. Hall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 163609.

The Texas Department of Criminal Justice (the "department") received a request for the requestor's and the selected applicant's answers to job interview questions for the Food Service Manager III position at the Huntsville Unit. The requestor specifically excludes from his request the interview questions and recommended responses. You claim that portions of the requested information are excepted from disclosure under sections 552.117 and 552.122 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that you have submitted to this office only the answers provided by the requestor, and not the answers provided by the selected applicant. We understand you to submit the requestor's responses to the interview questions as a representative sample of the requested information. We assume that this representative sample of responsive documents submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office. Accordingly, our ruling addresses your claimed exceptions only to the extent that the selected applicant's questions are the same as those of the requestor, which you have submitted.

The department seeks to withhold, as “test items,” six questions and answers pertaining to one position. You inform us that the department utilizes structured interviews in which the same specific questions are asked of all the applicants, that the questions are intended to display the technical expertise of the applicant, and that the same questions and answers are used repeatedly.

We have considered your arguments and reviewed the submitted documents. We agree that questions 1, 3, 4, 5, and 6 are “test items.” The requestor seeks the requestor’s and the selected applicant’s answers to the questions. Because the answers may disclose the questions, the requested answers to questions 1, 3, 4, 5, and 6 may be withheld under section 552.122(b). However, we do not believe that interview question 2 tests an individual’s or group’s knowledge or ability in a particular area, but rather, evaluates an applicant’s experience and overall job suitability. You may not, therefore, withhold from disclosure the answer to interview question 2 under section 552.122(b).

You also raise section 552.117(3) of the Government Code, which excepts from disclosure a department employee’s home address, home telephone number, or social security number, and any information that reveals whether an employee has family members, regardless of whether the employee complies with section 552.024. *See* Gov’t Code § 552.117(3). The department must withhold the social security numbers of department employees pursuant to section 552.117(3). We note, however, that the requestor has a special right of access to his own social security number under section 552.023 of the Government Code. *See* Gov’t Code § 552.023(a) (providing that person or person’s authorized representative has special right of access, beyond that of general public, to information held by governmental body that relates to that person and is protected from disclosure laws intended to protect that person’s privacy interests). The department may not withhold the requestor’s social security number under section 552.117(3).

To summarize: based on section 552.122, the department may withhold as “test items” the answers to questions 1, 3, 4, 5, and 6. The department must withhold social security numbers of department employees under 552.117(3), but must release to the requestor his own social security number under section 552.023.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days.

*Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



V.G. Schimmel  
Assistant Attorney General  
Open Records Division

VGS/sdk

Ref: ID# 163609

Enc: Submitted documents

c: Mr. John W. Cook  
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(w/o enclosures)