



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 17, 2009

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

OR2009-03479

Dear Mr. Mu:

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# 337440.

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to a specified job posting, including information regarding the selected applicant's application. You state you are providing some of the requested information to the requestor. You claim the remaining requested 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.

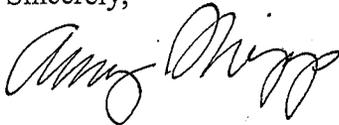
Section 552.122(b) of the Government Code excepts from disclosure test items developed by a licensing agency or governmental body. Gov't Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which 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. Whether information falls within the section 552.122 exception 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, as well as the preferred and actual answers to those questions, under section 552.122. Having considered your arguments and reviewed the information at issue, we conclude that interview questions one through six qualify as test items for the purposes of section 552.122(b). We also conclude that the release of the recommended and actual answers to those questions would tend to reveal the questions themselves. Accordingly, we conclude the department may withhold interview questions one through six, along with the recommended and actual answers to those questions, under section 552.122 of the Government Code. We find, however, that the remaining interview questions and the applicants' closing remarks are general questions evaluating an applicant's general workplace skills and overall suitability for employment, and do not test any specific knowledge of an applicant. Accordingly, we determine that the remaining questions and applicants' remarks are not test items under section 552.122(b) and therefore may not be withheld on this basis. As you raise no other exceptions to disclosure, the remaining information must be released to the requestor.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/cc

Ref: ID# 337440

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)