



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 27, 2009

Ms. Beth Vidaurri  
Public Information Officer  
Corpus Christi Regional Transportation Authority  
5658 Bear Lane  
Corpus Christi, Texas 78405

OR2009-07165

Dear Ms. Vidaurri:

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# 344159.

The Corpus Christi Regional Transportation Authority (the "authority") received a request for information related to the hiring of two specified positions. You state that the authority has released some of the requested information to the requestor. You also state that you have redacted social security numbers pursuant to section 552.147 of the Government Code.<sup>1</sup> You claim that portions of the submitted 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 portions of the submitted information, which we have marked, are not responsive to the instant request because they were created after the date the request was received. The authority need not release non-responsive information in response to this request and this ruling will not address that information.

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<sup>1</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

Section 552.117(a)(1) of the Government Code exempts from public disclosure the present and former home addresses and telephone numbers, social security number, and family member information of current or former officials or employees of a governmental body who timely request that such information be kept confidential under section 552.024. Section 552.117 also encompasses a personal cellular telephone number, provided that a governmental body does not pay for the cell phone service. *See* Open Records Decision No. 506 at 5-6 (1988) (Gov't Code § 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). The authority may only withhold information under section 552.117(a)(1) on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. You state, and provide documentation showing, that one of the individuals whose information is at issue has elected to keep his home addresses, home telephone numbers, social security numbers, and family member information confidential prior to the date the authority received the current request for information. Thus, the authority must withhold the information we have marked under section 552.117(a)(1) for this employee. However, the submitted information does not reflect whether the remaining individuals are employees of the authority, and if so, whether they made timely elections for confidentiality under section 552.024 of the Government Code. If the remaining individuals are employees who made timely elections under section 552.024, the authority must withhold their personal information, which we have marked, under section 552.117(a)(1). However, if the individuals are not employees or if they did not make timely elections under section 552.024, then the authority may not withhold their information under section 552.117(a)(1).

Section 552.122(b) of the Government Code exempts 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, the applicants' answers to those questions, and the Applicant Ranking Sheet under section 552.122 of the Government Code. Having considered your arguments and reviewed the submitted information, we find that the interview questions, the applicants' answers, and the Applicant Ranking Sheet are general questions evaluating an applicant's individual abilities, personal opinions, and subjective ability to respond to particular situations, and do not test any specific knowledge of an

applicant. Thus, none of the submitted information may be withheld under section 552.122 of the Government Code. As you raise no other exceptions against disclosure of this information, it must be released.

We note portions of the remaining information are subject to section 552.130 of the Government Code.<sup>2</sup> Section 552.130 excepts from disclosure information that “relates to. . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.” Gov’t Code § 552.130(a)(1), (2). The authority must withhold the Texas driver’s license information we have marked pursuant to 552.130 of the Government Code.

Finally, we note that the remaining information contains a personal e-mail address that is subject to section 552.137 of the Government Code. Section 552.137 excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov’t Code § 552.137(a)-(c). The e-mail address at issue is not a type specifically excluded by section 552.137(c). Accordingly, the authority must withhold the e-mail address we have marked under section 552.137 of the Government Code, unless the owner of the e-mail address has affirmatively consented to its disclosure.

In summary, the authority must withhold the personal information we have marked for the employee who elected to keep his personal information confidential under section 552.117(a)(1) of the Government Code. Also, to the extent the remaining individuals are employees who timely elected to keep their information confidential, the authority must also withhold their information, which we have marked, under section 552.117(a)(1). The authority must withhold the driver’s license information we have marked under section 552.130. The authority also must withhold the e-mail address we have marked under section 552.137, unless the owner has affirmatively consented to its 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.

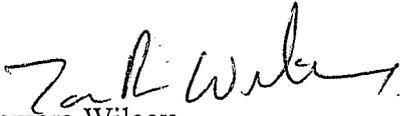
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free,

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/eeg

Ref: ID# 344159

Enc. Submitted documents

c: Requestor  
(w/o enclosures)