



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 9, 2009

Mr. Ronald J. Bounds  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2009-07897

Dear Mr. Bounds:

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# 345891.

The City of Corpus Christi (the "city") received a request for documents pertaining to any person failing an alcohol test who retained their employment with the city and the requestor's personnel file. You state the city has provided the requestor with the portions of the requested information that are not claimed to be excepted from disclosure. You claim portions of the submitted information are excepted from disclosure under section 552.122 and 552.136 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

A portion of the submitted information is comprised of interview questions and answers. Section 552.122(b) of the Government Code excepts from disclosure test items developed by a licensing agency or governmental body. *See* 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. Whether information falls within the

---

<sup>1</sup>We note in your letter dated April 10, 2009, you have withdrawn your remaining assertions under the Act.

section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6. 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 have submitted an applicant's interview questions and answers. You state the submitted interview questions are "intended to display the technical expertise and job-related knowledge of [the applicant]" and the city uses the questions on a continuing basis during the hiring process for the specified job posting. Further, you argue release of the information at issue would compromise the city's hiring process and the effectiveness of future interviews and examinations. You seek to withhold the submitted interview questions and answers to those questions under section 552.122. Having considered your arguments and reviewed the submitted information, we conclude the interview questions we have marked qualify as test items for the purposes of section 552.122(b). We also find release of the answers to these test items would tend to reveal the questions themselves. Therefore, the city may withhold the information we marked pursuant to section 552.122(b). However, we find the remaining interview questions and answers are general questions and statements pertaining to the applicant's suitability for the position, and the city has failed to explain how the questions evaluate any specific knowledge or ability of an applicant for the position at issue. Accordingly, these questions and their answers are not excepted from disclosure under section 552.122 of the Government Code.

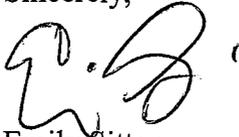
Next, you assert the insurance policy numbers you have marked are subject to section 552.136(b) of the Government Code. Section 552.136(b) states "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136. However, we note the requestor is the individual to whom one of the access device numbers pertains. Section 552.023(a) of the Government Code gives a person or a person's authorized representative a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from disclosure by laws intended to protect that person's privacy interests. *Id.* § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). Because section 552.136 protects personal privacy, the requestor has a right of access to his access device number under section 552.023 of the Government Code. Accordingly, such information may not be withheld under section 552.136 of the Government Code. However, we have marked the access device number to which the requestor does not have a right of access that the city must withhold under section 552.136.

In summary, the city may withhold the information we have marked under section 552.122(b) of the Government Code and must withhold the information we have marked under section 552.136 of the Government Code. 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, 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,



Emily Sitton  
Assistant Attorney General  
Open Records Division

EBS/rl

Ref: ID# 345891

Enc. Submitted documents

c: Requestor  
(w/o enclosures)