



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 10, 2009

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

OR2009-07996

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# 346138.

The City of Corpus Christi (the "city") received a request for three categories of information pertaining to the city's selection of a Recreation Program Service Superintendent. You state that a portion of the requested information has been released to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.117, 552.122, 552.130, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117(a)(1) of the Government Code excepts from public disclosure the present and former home addresses and telephone numbers, social security numbers, 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. 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 city may only withhold information under section 552.117(a)(1) on behalf of current 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. Accordingly, if the employee whose information you have marked timely elected to keep her home address and home telephone number confidential pursuant to section 552.024, the city must withhold this information

under section 552.117(a)(1). However, if the employee at issue did not timely elect under section 552.024, this information must be released.

We next turn to your argument under section 552.122 of the Government Code, which excepts from 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 that the term "test item" 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.* at 6. 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); Open Records Decision No. 626 at 8 (1994).

You have marked the portions of the submitted information you assert are subject to section 552.122. You state that this information, which consists of interview questions and answers, as well as a written exercise and answers, is "intended to display the technical expertise and job-related knowledge of the applicants" and reveals the city's "evaluations of the applicants' specific knowledge pertaining to high level supervisory tasks such as budget preparation, event management, and supervisory skills, and experience in dealing with City-sponsored community enrichment activities." Upon review of the submitted information, we agree that the written exercise evaluates the applicants' specific knowledge or ability in a particular area. We also find that the answers to this written exercise would reveal the exercise question itself. Accordingly, the city may withhold the written exercise and corresponding answers you marked under section 552.122(b). However, we find that the interview questions evaluate an applicant's individual abilities, personal opinions, and subjective ability to respond to particular situations, but do not test any specific knowledge of an applicant. *See* Open Records Decision No. 626 at 6 (1994). Upon review, we conclude the interview questions and answers you marked do not constitute test items for purposes of section 552.122, and may not be withheld from disclosure.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. *Id.* § 552.130(a)(1), (2). We agree that the city must withhold the Texas motor vehicle record information you have marked under section 552.130 of the Government Code.

Finally, the remaining information contains e-mail addresses that are excepted from disclosure under section 552.137 of the Government Code, which requires a governmental body to withhold the e-mail address of a member of the general public, unless the individual to whom the e-mail address belongs has affirmatively consented to its public disclosure. *See* Gov't Code § 552.137(b). You inform us that the owners of the e-mail addresses at issue

have not consented to their release. Therefore, the city must withhold the e-mail addresses you have marked under section 552.137.

In summary, the city must withhold the employee's home address and telephone number under section 552.117(a)(1) if the employee timely elected to keep this information confidential pursuant to section 552.024. However, if the employee did not elect, this information must be released. The city may withhold the written exercise and its answers under section 552.122(b). The city must withhold the information you marked under section 552.130 and the e-mail addresses you marked under section 552.137(b). As you raise no other exceptions to 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, 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,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/cc

Ref: ID# 346138

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)