



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 16, 2009

Ms. Charlotte Towe
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2009-17800

Dear Ms. Towe:

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# 364518.

The Texas Department of Criminal Justice (the "department") received a request for the following information related to a specified job vacancy: 1) written recorded results by the interviewer and "justification for selection" for the selected applicant; 2) documentation of how the interview questions were selected, who selected them, and when the interviewer had possession of them; and 3) documents submitted to the interviewer by all applicants. You state some of the responsive material has been or will be made available to the requestor. You claim the submitted interview questions, model answers, and actual answers are excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

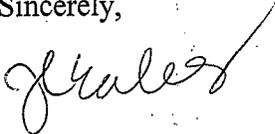
Section 552.122(b) of the Government Code excepts from required public disclosure "a test item developed by a ... governmental body[.]" Gov't Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by 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.

Having reviewed the submitted information, we find that questions 1, 2, 3, and 4 evaluate the applicant's specific knowledge or ability in a particular area, thus qualifying as "test items" under section 552.122(b) of the Government Code. We also find that release of the model and actual answers to these test items would tend to reveal the questions themselves. Therefore, the department may withhold this information pursuant to section 552.122(b). However, we find that questions 5, 6, and 7 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. Accordingly, questions 5, 6, and 7 and the model and actual answers to these questions are not excepted from disclosure under section 552.122 of the Government Code, and 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, 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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 364518

Enc. Submitted documents

c: Requestor
(w/o enclosures)