



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 19, 2010

Ms. Charlotte A. Towe  
Assistant General Counsel  
Office of the General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2010-07201

Dear Mr. 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# 379831.

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to selection interviews for job posting number 022428 HT. You state you have or will release some information to the requestor. You claim that the submitted 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 of the Government Code 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" 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. ORD 626 at 6. The question of whether specific information falls within the scope of section 552.122(b) 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.

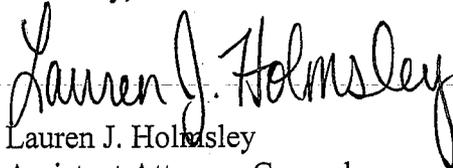
You raise section 552.122 of the Government Code for the eight interview questions and answers you have submitted. You argue that release of these interview questions and answers could increase the cost of the employment selection process while decreasing its fairness and effectiveness. You state the department uses the same or similar interview questions on a continuing basis during the department's selection process. Having

considered your arguments and reviewed the submitted information, we find that interview questions one, four, five, seven, and eight qualify as test items for the purposes of section 552.122(b). We also find that release of the answers to these questions would tend to reveal the questions themselves. Therefore, the department may withhold questions one, four, five, seven, and eight and the answers to those questions under section 552.122(b) of the Government Code. We find, however, the remaining submitted information either does not consist of interview questions, or consists of 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 the remaining submitted information does not consist of test items under section 552.122(b) and may not be withheld on that 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\\_ori.php](http://www.oag.state.tx.us/open/index_ori.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,



Lauren J. Holmsley  
Assistant Attorney General  
Open Records Division

LJH/jb

Ref: ID# 379831

Enc. Submitted documents

c: Requestor  
(w/o enclosures)