



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 2, 2010

Ms. Barbara H. Owens  
Assistant General Counsel  
Texas Department of State Health Services  
P.O. Box 149347  
Austin, Texas 78714-9347

OR2010-09817

Dear Ms. Owens:

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# 385195 (DSHS File # 17251).

The Texas Department of State Health Services (the "department") received a request for (1) the interview questions, the preferred answers to the interview questions, and the actual answers given by candidates, to include the grades given by the interviewers, for job postings 134015 and 134506 and (2) the monthly salaries for the persons who obtained the positions. You state you have released some of the requested information. You claim that portions of the submitted information 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 disclosure test items developed by a licensing agency or governmental body. 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 answer might

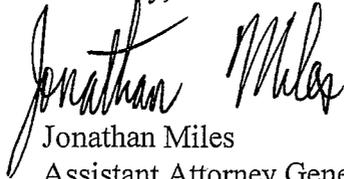
reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987); ORD 626 at 8.

You seek to withhold the information you have marked under section 552.122 of the Government Code. You explain the interview questions at issue are used to measure an interviewee's skills, knowledge, intelligence, capacities, and aptitude to perform the tasks for a particular position. You argue that the release of these questions would compromise the effectiveness of future examinations and limit the department's ability to select the best qualified candidate in future interviews. You also state that the department reuses the interview questions at issue. Having considered your arguments and reviewed the submitted information, we find the information we have marked evaluates 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 the release of the answers to these test items would tend to reveal the questions themselves. Therefore, the department may withhold this information under section 552.122(b). However, we find the remaining information consists of general questions and information evaluating an applicant's individual abilities, personal opinions, and subjective ability to respond to particular situations, and overall suitability for employment and does not test any specific knowledge of an applicant. Accordingly, the remaining information is not excepted from disclosure under section 552.122 of the Government Code. As you raise no further exceptions against 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, toll free, at (888) 672-6787.

Sincerely,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/jb

Ref: ID# 385195

Enc. Submitted documents

c: Requestor  
(w/o enclosures)