



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 6, 2011

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

OR2011-00331

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# 405133 (DSHS file-18184-2011).

The Texas Department of State Health Services (the "department") received a request for the following information related to a specified job posting: the requestor's and another named individual's answers to the interview questions, the optional matrix selection documentation, the optional matrix interview tool, and the form completed for the reference checks. You state some of the requested information has been or will be made available to the requestor. You claim some of 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. *Id.* 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); Open Records Decision No. 626 at 8 (1994).

You have marked interview questions, and their answers, the department seeks to withhold. You state that these questions are "factual questions requiring specific knowledge [or] situational questions requiring the applicant to explain what steps are necessary in a given situation[.]" You further argue that the release of the questions at issue 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. Based on your representations and our review of the information at issue, we find that the questions you have marked constitute test items for the purposes of section 552.122(b). We therefore conclude that the department may withhold the information you have marked under section 552.122 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, toll free, at (888) 672-6787.

Sincerely,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/vb

Ref: ID# 405133

Enc. Submitted documents

c: Requestor  
(w/o enclosures)