



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 15, 2014

Mr. Steve Aragón  
Chief Counsel  
Texas Health and Human Services Commission  
P.O. Box 13247  
Austin, Texas 78711

OR2014-00878

Dear Mr. Aragón:

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# 511305.

The Texas Health and Human Services Commission (the "commission") received a request for information pertaining to a specified job posting. You claim 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.

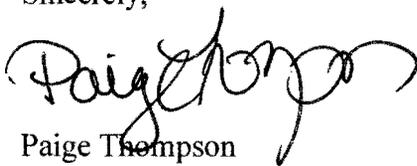
Section 552.122(b) of the Government Code excepts from disclosure "[a] test item developed by a . . . governmental body[.]" Gov't Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined the term "test item" in section 552.122 includes "any standard means by which an individual's 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 state the information in Exhibit B constitutes test items. You also state the information at issue is used on a continuing basis during the hiring process and release would compromise the effectiveness of the commission's interview and hiring process. Based on your representations and our review, we conclude the information we marked qualifies as "test items" under section 552.122(b) of the Government Code. We also find the release of the applicant's responses to these questions would tend to reveal the questions themselves. Therefore, the commission may withhold the questions we have indicated and the answers to these questions under section 552.122(b) of the Government Code. However, we find the remaining information in Exhibit B only evaluates an applicant's individual abilities, personal opinions, and subjective ability to respond to particular situations, and does not test any specific knowledge of an applicant. Accordingly, we determine the remaining information in Exhibit B does not consist of test items under section 552.122(b) and may not be withheld on that basis. As you raise no further exception to disclosure, the remaining information in Exhibit B 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/dls

Ref: ID# 511305

Enc. Submitted documents

c: Requestor  
(w/o enclosures)