



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 19, 2014

Ms. Heather Silver  
Assistant City Attorney  
Office of the City Attorney  
City of Dallas  
1500 Marilla, Room 7DN  
Dallas, Texas 75201

OR2014-03044

Dear Ms. Silver:

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# 515445.

The City of Dallas (the "city") received a request for the requestor's written responses to each of the scenarios in a specified Fire Captains Assessment Center. 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 representative sample of information.<sup>1</sup>

Initially, we note, and you acknowledge, the submitted test exercises in Exhibit C are not responsive to the instant request, as the requestor only asks for the answers. This ruling does not address the public availability of nonresponsive information, and the city is not required to release nonresponsive information in response to this request.

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

---

<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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. Whether information falls within the scope of section 552.122 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 inform us the submitted test exercises are utilized by the city to measure the practical capabilities and knowledge of candidates for promotion in the city's fire-rescue department. You explain the test exercises "are re-used verbatim, or with only minor changes, on an on-going basis to provide for consistent evaluations of candidates[.]" You explain the information at issue consists of the candidate's handwritten notes that he took during the test exercises. You state the release of the candidate's notes will reveal the subject matter of the test questions and permit candidates to reconstruct the test questions, thereby undermining the city's ability to assess candidates in a consistent manner, and compromising the effectiveness of future candidate assessments. Having considered your arguments and reviewed the submitted information, we find release of the answers would tend to reveal the questions themselves. Therefore, the city may withhold the candidate's handwritten notes in Exhibit D under section 552.122 of the Government Code.

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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 515445

Enc. Submitted documents

c: Requestor  
(w/o enclosures)