



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 7, 2014

Ms. Heather Silver
Assistant City Attorney
City of Dallas
1500 Marilla Street - 7DN
Dallas, Texas 75201

OR2014-03977

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# 516412.

The City of Dallas (the "city") received a request for information pertaining to the requestor's promotional examination with the city's Fire-Rescue Captain Assessment Center.¹ You state the city will release some information to the requestor upon receipt of production costs. You claim the remaining requested 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.²

Section 552.122 of the Government Code excepts from disclosure "[a] test item developed by a . . . governmental body[.]" Gov't Code § 522.122(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." ORD 626 at 6. The term "test item" does not encompass evaluations of

¹You state the city sought and received clarification of the information requested. See Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or overbroad request, ten-day period to request attorney general ruling is measured from date request is clarified).

²We 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.

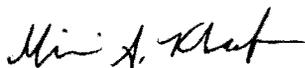
an employee's overall job performance or suitability. *See id.* at 8. The question of whether specific information falls within the scope of section 552.122(b) must be determined on a case-by-case basis. *Id.* at 6. Traditionally, this office has applied section 552.122 where release of test items might 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 Exhibit D consists of responses to the "personnel problem test exercise, policy test exercise, and operational test exercise for the 2013 Dallas Fire-Rescue Department Operations Captain Assessment Center." You further state Exhibit D also includes written notes of the candidate, which are collected at the end of the testing process. You inform us the city utilizes the test exercises at issue to measure the practical capabilities and knowledge of candidates for promotion in the city's fire 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 argue release of the written responses to the test exercises will "reveal the subject matter of the test questions[.]" thereby undermining the city's ability to assess candidates in a consistent manner, and compromising the effectiveness of future candidate assessments. Based on your representations and our review, we find the test exercises are test items under section 552.122(b) of the Government Code. We also find the release of the candidate's notes and answers to these questions would tend to reveal the questions themselves. Therefore, the city may withhold Exhibit D under section 552.122(b) 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, 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,



Miriam A. Khalifa
Assistant Attorney General
Open Records Division

MAK/akg

Ref: ID# 516412

Enc. Submitted documents

c: Requestor
(w/o enclosures)