



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 18, 2014

Mr. Allan Meesey  
Associate General Counsel  
Texas Department of Transportation  
125 East 11<sup>th</sup> Street  
Austin, Texas 78701-2483

OR2014-14448

Dear Mr. Meesey:

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# 535564.

The Texas Department of Transportation (the "department") received a request for the employment applications and interview information of the applicants hired for two specified job vacancies. You state you have released some information to the requestor. You also state you will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code.<sup>1</sup> Further, you state you will withhold personal e-mail addresses subject to section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>2</sup> We understand you will withhold some information pursuant to section

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<sup>1</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

<sup>2</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

552.024 of the Government Code.<sup>3</sup> 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 have reviewed the submitted representative sample of information.<sup>4</sup>

Section 552.122(b) of the Government Code excepts from public 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. *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); ORD 626 at 8.

You seek to withhold the representative question and answer under section 552.122 of the Government Code. You state the information at issue consists of a test item that is used to evaluate an applicant’s knowledge in a particular area. You also state the question will be re-used in future interviews. Based on your representations and our review, we agree the submitted question is a “test item” under section 552.122(b) of the Government Code. Furthermore, we find release of the answer to the question would reveal the question itself. Therefore, the department may withhold the representative question and the answer to this question 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/>

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<sup>3</sup>Section 552.024(c) of the Government Code allows a governmental body to redact the information described in subsection 552.024(a) without the necessity of seeking a decision from the attorney general. *See* Gov’t Code § 552.024(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.024(c-2). *See id.* § 552.024 (c-1), (c-2).

<sup>4</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.

[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,

A handwritten signature in black ink that reads "Alley Latham". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Alley Latham  
Assistant Attorney General  
Open Records Division

AKL/eb

Ref: ID# 535564

Enc. Submitted documents

c: Requestor  
(w/o enclosures)