



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 11, 2014

Mr. Robert L. Dillard III  
Counsel for the City of University Park  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
500 North Akard Street  
Dallas, Texas 75201

OR2014-16018

Dear Mr. Dillard:

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# 541204.

The City of University Park (the "city"), which you represent, received a request for fire department promotional examination tests during a specified time period, including questions and answer choices. 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> We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.122(a) of the Government Code excepts from disclosure "[a] test item developed by an educational institution that is funded wholly or in part by state revenue[.]" Gov't Code § 552.122(a). 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." ORD 626 at 6. The question of whether specific information falls within the scope of section 552.122(a) must be determined on a case-by-case basis. *Id.* at 7. Traditionally, this office has applied

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<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.

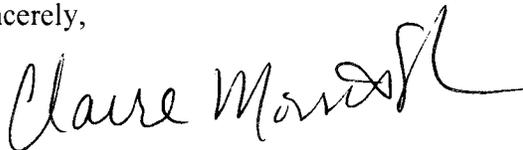
section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *See* Open Records Decision No. 118 (1976). *See generally* ORD 626 at 4-5. Section 552.122 also protects the answers to test questions when the answers might reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987).

You seek to withhold the submitted information under section 552.122 of the Government Code. You assert the questions and answer choices test the knowledge and abilities of applicants in a particular area. Based on your representations and our review, we agree the submitted questions and answer choices are "test items" under section 552.122(b) of the Government Code. However, we find the submitted answer key would not reveal the questions themselves. Thus, the answer key, which we marked for release, may not be withheld under section 552.122(b). Therefore, except for the information we marked for release, the city may withhold the submitted information 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](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# 541204

Enc. Submitted documents

c: Requestor  
(w/o enclosures)