



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 25, 2014

Ms. Halfreda Anderson-Nelson  
Senior Assistant General Counsel  
Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-0163

OR2014-17067

Dear Ms. Anderson-Nelson:

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# 539009 (DART ORR# 10973).

Dallas Area Rapid Transit ("DART") received two requests for the requestor's personnel file. DART states it has released some of the requested information, but claims the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.122(b) of the Government Code excepts from disclosure a test item developed by a licensing agency or governmental body. Gov't Code § 552.122(b). 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. Open Records Decision No. 626 at 9 (1994). Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. *See 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 assert the submitted information, which includes questions from an Accutest IDenta training program exam, is excepted under section 552.122. You explain all DART police

officers in training must pass the Accutest IDenta exam before they are allowed in the field as a DART officer. Upon review, we conclude some of the submitted information, including the Accutest IDenta test questions, consists of test items under section 552.122(b). We also find release of the responses to these questions would tend to reveal the questions themselves. Therefore, DART may withhold these questions and their responses, which we have marked, under section 552.122(b). However, we conclude DART has not established any of the remaining information tests an individual's or group's knowledge or ability in a particular area. *See* ORD 626 at 9. Therefore, DART may not withhold any of the remaining information under section 552.122(b) of the Government Code. Accordingly, DART must release the remaining information.<sup>1</sup>

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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/cbz

Ref: ID# 539009

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>We note the requestor has a special right of access to some of the information being released. *See* Gov't Code § 552.023.