



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 19, 2015

Ms. Robin L. Whitney
Assistant General Counsel
Office of the General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2015-09755

Dear Ms Whitney:

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# 569283.

The Texas Department of Criminal Justice (the "department") received a request for information related to a specified position including copies of the questions the promotion board asked and the applicants' responses to the questions. You state the department has released some information to the requestor. 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 information.

Section 552.122 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. ORD 626 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).

You state the submitted questions and answers “are intended to display the technical expertise of the applicant.” You contend release of the information at issue would decrease the fairness and effectiveness of future selection processes because the department reuses similar questions. Upon review, we conclude the interview questions we have marked qualify as test items under section 552.122(b). We also find release of the applicants’ responses to these questions would tend to reveal the questions. Therefore, the department may withhold the marked interview questions and the corresponding responses under section 552.122(b) of the Government Code. We find, however, the remaining information does not test any specific knowledge of an applicant. Accordingly, we determine the remaining information does not consist of test items under section 552.122(b) of the Government Code and may not be withheld on that basis. As you raise no further exceptions to disclosure, the department must release the remaining information.

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,



Karen Hattaway
Assistant Attorney General
Open Records Division

KH/sdk

Ref: ID# 569283

Enc. Submitted documents

c: Requestor
(w/o enclosures)