



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 11, 2016

Ms. Halfreda Anderson-Nelson
Public Information Officer
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2016-00787

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# 593561 (DART ORR #W000268-101515).

Dallas Area Rapid Transit ("DART") received a request for information pertaining to the requestor's employment during a specified time period. You state you have 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 information consists of interview questions and test items for DART's Electronic Support Technician. Further, you argue release of the information at

issue could compromise the confidentiality of DART's interview and evaluation process and "would give an advantage to future applicants in knowing the interview and test questions and answers." Based on your representations and our review, we conclude the information we have marked qualifies as "test items" under section 552.122(b) of the Government Code. We also find the release of the answers to these questions would tend to reveal the questions themselves. Therefore, DART may withhold the questions and answers we have marked under section 552.122(b) of the Government Code. However, we find the remaining information does not evaluate an individual's or group's knowledge or ability in a particular area. Rather, the information at issue reveals questions that evaluate an applicant's individual abilities, personal opinions, and subjective ability to respond to a particular situation. Accordingly, DART may not withhold any portion of the remaining information under section 552.122 of the Government Code. As you raise no further exceptions to disclosure, DART 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,



Katelyn Blackburn-Rader
Assistant Attorney General
Open Records Division

KB-R/akg

Ref: ID# 593561

Enc. Submitted documents

c: Requestor
(w/o enclosures)