



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 10, 2016

Ms. Stacy Spann
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2016-10568

Dear Ms. Spann:

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# 609591.

The Texas Department of Criminal Justice (the "department") received a request for the complete interview files and corresponding documentation related to a specified position. 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). 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 submitted information under section 552.122 of the Government Code. You state the submitted questions are intended to display the technical expertise of the applicant. You state the submitted questions are used in the selection of applicants for a specified position from selection to selection. Based on your representations and our review, we conclude some of the submitted questions qualify as "test items" under section 552.122(b) of the Government Code. We also find release of the answers to these questions would tend to reveal the questions themselves. Therefore, the department may withhold the information we have marked under section 552.122(b) of the Government Code. However, we find the remaining information you seek to withhold evaluates an individual's experience and subjective abilities to respond to particular situations and does not test any specific knowledge. 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,



Joseph Keeney
Assistant Attorney General
Open Records Division

JDK/dls

Ref: ID# 609591

Enc. Submitted documents

c: Requestor
(w/o enclosures)