



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 31, 2016

Mr. Zachary Brown
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2016-12235

Dear Mr. Brown:

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# 615223.

The Texas Department of Criminal Justice (the "department") received a request for the questions asked for interviews conducted for a specified position on a specified date and the answers to those questions. 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 state the submitted information consists of questions and model answers from interview materials for the specified position. You inform us these questions are utilized each time interviews for the specified position are conducted and are intended to reveal the technical expertise of the applicant. Based on your representations and our review, we conclude some of the questions qualify as “test items” under section 552.122(b) of the Government Code. We also find the release of the model answer to one of these questions would tend to reveal the question itself. Therefore, the department may withhold this information, which we have marked, under section 552.122(b) of the Government Code. However, we find the remaining questions evaluate an applicant’s personal opinions and do not test the specific knowledge of an applicant. Accordingly, we find the remaining information is not subject to section 552.122(b), and the department may not withhold it on that basis. 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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/eb

Ref: ID# 615223

Enc. Submitted documents

c: Requestor
(w/o enclosures)