



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 11, 2016

Ms. Patricia Fleming
Assistant General Counsel
Office of the General Counsel
Texas Department of Criminal Justice
P.O. Box 13084 Capitol Station
Austin, Texas 78711-3084

OR2016-18147

Dear Ms. Fleming:

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# 622189.

The Texas Department of Criminal Justice (the "department") received a request for interview questions and answers related to a specified job 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 exempts from disclosure "[a] test item developed by a . . . governmental body[.]" Gov't Code § 522.122(b). In Open Records Decision No. 626 (1994), this office determined that 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." ORD 626 at 6. The term "test item" does not encompass evaluations of an employee's overall job performance or suitability. *See id.* at 8. 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.* 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 seek to withhold the submitted interview questions, model answers, and interviewee responses under section 552.122 of the Government Code. You inform us the questions at issue test the knowledge and abilities of an applicant for the specified job. You state the department intends to continue using the questions at issue. Additionally, you state release of the information at issue would be detrimental to the department's interview and hiring process. Based on these representations and our review, we agree the questions at issue qualify as test items under section 552.122(b) of the Government Code. We also find the release of the model answers and interviewee responses to these questions would tend to reveal the questions themselves. Accordingly, the department may withhold the submitted information pursuant to section 552.122(b) of the Government Code.

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,



Kavid Singh
Assistant Attorney General
Open Records Division

KVS/bhf

Ref: ID# 622189

Enc. Submitted documents

c: Requestor
(w/o enclosures)