



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 6, 2015

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

OR2015-20876

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# 582125 (DART ORR# 11736).

Dallas Area Rapid Transit ("DART") received a request for information pertaining to the requestor's interviews with DART for specified positions. 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 representative sample of information.<sup>1</sup>

Section 552.122(b) of the Government Code excepts from 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

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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 claim the submitted information is excepted under section 552.122 of the Government Code. You state release of the information at issue would provide an unfair advantage to future applicants and impair DART's ability to evaluate qualified candidates. Based on your representations and our review, we agree some of the information at issue consists of a "test item" under section 552.122(b) of the Government Code. Furthermore, we find release of the answer to the question would reveal the question itself. Therefore, DART may withhold the question and answer 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.<sup>2</sup>

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](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,



Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/som

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<sup>2</sup>We note the requestor has a right of access to some of the information being released, including his personal e-mail address. *See* Gov't Code §§ 552.023(a), .137(b) (personal e-mail address of member of public may be disclosed if owner of address affirmatively consents to its disclosure); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves).

Ref: ID# 582125

Enc. Submitted documents

c: Requestor  
(w/o enclosures)