



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 28, 2016

Ms. Carol McCord
Open Records Section
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR2016-28451

Dear Ms. McCord:

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# 646446 (Comptroller ID#s 12948366119 and 12956106999).

The Texas Comptroller of Public Accounts (the "comptroller's office") received two requests for details from the requestor's interviews for Tax Auditor positions. You state you have released some of the information. You claim some of 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(b) 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. *Id.* 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 some of the submitted questions and answers under section 552.122 of the Government Code. You state the information at issue consists of standard test items that are used to evaluate an applicant's knowledge in a particular area. You also state the questions will be re-used in future interviews. Based on your representations and our review, we agree the questions you marked are "test items" under section 552.122(b) of the Government Code. Furthermore, we find release of the answers to the marked questions would reveal the questions themselves. Therefore, the comptroller's office may withhold the marked questions and the answers to these questions under 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,



Jesse Harvey
Assistant Attorney General
Open Records Division

JH/bw

Ref: ID# 646446

Enc. Submitted documents

c: Requestor
(w/o enclosures)