



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 3, 2017

Mr. Robert N. Jones, Jr.  
Assistant General Counsel  
Texas Workforce Commission  
101 East 15th Street  
Austin, Texas 78778-0001

OR2017-00032

Dear Mr. Jones:

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# 640632 (TWC Tracking No. 161012-002).

The Texas Workforce Commission (the "commission") received a request for a copy of a named applicant's entire test including responses. 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(b) excepts from disclosure test items developed by a licensing agency or governmental body. 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, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6 (1994). Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *Id.* 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 questions and answers under section 552.122 of the Government Code. You inform us the questions at issue test the knowledge, skills, and abilities of an applicant in a particular area. You state the commission uses these questions for subsequent postings for the same position. Additionally, you state release of the information at issue would compromise the effectiveness of the commission'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 answers to these questions would tend to reveal the questions themselves. Therefore, the commission may withhold the submitted information under section 552.122(b).

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,



Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/sb

Ref: ID# 640632

Enc. Submitted documents

c: Requestor  
(w/o enclosures)