



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 6, 2017

Ms. Paige Mebane
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2017-00470

Dear Ms. Mebane:

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# 640564 (Fort Worth PIR No. W055863).

The City of Fort Worth (the "city") received a request for all city marshal employee salary records during a certain time period, as well as all records pertaining to the last city marshal promotion. You state the city released some information. We understand the city will withhold some information subject to section 552.117(a)(2) of the Government Code pursuant to Open Records Decision No. 670 (2001).¹ You claim some of the submitted information is excepted from disclosure under section 552.122 of the Government Code.² 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

¹Open Records Decision No. 670 is a previous determination authorizing all governmental bodies that are subject to the Act to withhold home addresses and telephone numbers, personal cellular telephone numbers, personal pager numbers, social security numbers, and family member information of peace officers without the necessity of requesting an attorney general decision under section 552.117(a)(2) of the Government Code.

²Although you also raise section 552.101 of the Government Code, you have provided no arguments explaining how this exception is applicable to the submitted information. Therefore, we assume you no longer assert this exception. See Gov't Code §§ 552.301(e)(1)(A), .302.

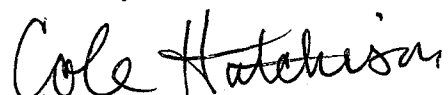
job performance or suitability. ORD 626 at 6. The question of whether specific information falls within the scope of section 552.122(b) must be determined on a case-by-case basis. *Id.* Traditionally, this office has applied section 552.122 where release of “test items” might compromise the effectiveness 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 seek to withhold the submitted questions and responses to the submitted questions under section 552.122 of the Government Code. You inform us the submitted information consists of model test questions and answers. You assert release of the information at issue would be disadvantageous to the selection process and would jeopardize the effectiveness of future examinations. Based on these representations and our review, we agree some of the questions at issue qualify as test items under section 552.122(b) of the Government Code. We also find release of the answers to some of these questions would tend to reveal the questions themselves. Therefore, the city may withhold the information we have marked under section 552.122(b) of the Government Code. We find, however, the remaining information at issue only evaluates an applicant’s individual abilities, personal opinions, and subjective ability to respond to particular situations, and does not test any specific knowledge of an applicant. Accordingly, the remaining information at issue does not consist of test items under section 552.122(b) of the Government Code and may not be withheld on that basis. As you raise no further exceptions to disclosure, the city 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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/eb

Ref: ID# 640564

Enc. Submitted documents

c: Requestor
(w/o enclosures)