



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 26, 2017

Ms. Heather Silver  
Assistant City Attorney  
City of Dallas  
1500 Marilla Street, Room 7DN  
Dallas, Texas 75201

OR2017-16807

Dear Ms. Silver:

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# 667629.

The City of Dallas (the "city") received a request for all assessor notes and ratings for all candidates in the Battalion Chief Assessment Center in April 2017. The city states it is releasing some of the requested information, including assessor notes written on the information at issue, but claims the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the exception the city claims 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 licensing agency or governmental body. Gov't Code § 552.122(b). 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. Open Records Decision No. 626 at 9 (1994). Whether information falls within the section 552.122 exception must be determined

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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.

on a case-by-case basis. *See 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. The city states the submitted information relates to in-basket, operations, and presentation test exercises that the city utilizes to measure the practical capabilities and knowledge of candidates for promotion in its Fire-Rescue Department. The city explains the test exercises “are re-used verbatim, or with only minor changes, on an on-going basis to provide for consistent evaluations of candidates[.]” It also argues release of the test questions “will thwart the city’s ability to assess the abilities of its Fire-Rescue Department officer candidates in a consistent manner and compromise the effectiveness of future candidate assessments.” Upon review, we conclude some of the submitted questions consist of test items under section 552.122(b). We also find release of the preferred answers to these questions would tend to reveal the questions themselves. Therefore, the city may withhold these questions and their preferred answers, which we have marked, under section 552.122(b). However, we conclude the city has not established the remaining information tests an individual’s or group’s knowledge or ability in a particular area. *See* ORD 626 at 9. Therefore, the city may not withhold the remaining information under section 552.122(b) of the Government Code. Accordingly, 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](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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/tdw

Ref: ID# 667629

Enc. Submitted documents

c: Requestor  
(w/o enclosures)