



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 22, 2017

Mr. Ryan Mitchell
Assistant City Attorney
City of Arlington
P.O. Box 90231
Arlington, Texas 76004-3231

OR2017-19154

Dear Mr. Mitchell:

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# 672137 (Ref. No. 38858).

The City of Arlington (the "city") received a request for any documents pertaining to the creation and filling of a specified job position. You state you have released or will release some information to the requestor. 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.¹

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 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.*

¹We assume that 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 that those records contain substantially different types of information than that submitted to this office.

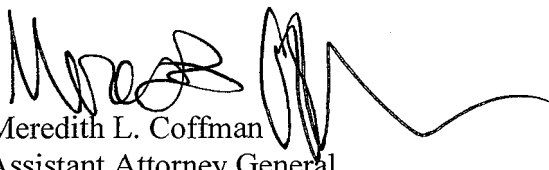
Traditionally, this office has applied section 552.122 where release of “test items” might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118(1976). Section 552.122 also protects the answers to test questions when the answers might reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987); ORD 626 at 8.

You state the submitted information consists of interview questions for the specified job position and the answers given by the job candidates. You state the questions are used by hiring personnel to evaluate an individual’s or group’s knowledge or ability of particular areas. You further state release of the information at issue would give future job candidates an unfair advantage and compromise the city’s hiring process. Based on your representations and our review, we conclude the information we have marked qualifies as “test items” under section 552.122(b) of the Government Code. Further, we find release of the answers to the questions would reveal the questions themselves. Therefore, the city may withhold the information we have marked under section 552.122(b) of the Government Code. However, we find the remaining information evaluates an individual’s experience and subjective abilities to respond to particular situations and does not test any specific knowledge. Upon review, we find you have failed to demonstrate this information constitutes a test item or reveals test questions under section 552.122(b) of the Government Code. Thus, the city may not withhold the remaining information on the basis of section 552.122(b) of the Government Code. 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,


Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/tdw

Ref: ID# 672137

Enc. Submitted documents

c: Requestor
(w/o enclosures)