



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 7, 2017

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

OR2017-27882

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# 687161 (TWC Tracking No. 170920-012)

The Texas Workforce Commission (the "commission") received a request for tests and test scores pertaining to the requestor's application for two specified jobs openings. You state the commission has released some information. 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 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.* 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 552.112 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 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 some of 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. Accordingly, the commission may withhold the questions and answers we have marked pursuant to section 552.122(b) of the Government Code. We find, however, the remaining information only evaluates an applicant's general workplace skills, subjective ability to respond to particular situations, and overall suitability for employment, and does not test any specific knowledge of an applicant. Accordingly, we determine the remaining information 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 commission 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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/tdw

Ref: ID# 687161

Enc. Submitted documents

c: Requestor
(w/o enclosures)