



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 14, 2017

Ms. Elizabeth Reynolds
Paralegal
City of Dallas
1500 Marilla Street, Room 7DN
Dallas, Texas 75201

OR2017-28439

Dear Ms. Reynolds:

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# 688709.

The City of Dallas (the "city") received a request for interview information pertaining to a specified position within the Dallas Fire-Rescue Department. The city states it is releasing some of the requested information. The city states it will redact information pursuant to Open Records Decision No. 684 (2009) and Open Records Letter No. 2017-09757 (2017).¹ The city claims some of the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.²

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

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of requesting an attorney general decision. Open Records Letter No. 2017-09757 authorizes the city to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a ruling from this office.

²We 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.

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 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 information at issue consists of questions the city utilizes "to measure the practical capabilities and knowledge of candidates for promotion in its Fire-Rescue Department." The city explains the test questions are "re-used verbatim, or with only minor changes, on an on-going basis to provide for consistent evaluations of candidates[.]" The city also argues release of the test questions "will thwart the city's ability to assess the abilities of its Fire-Rescue Department Coordinator III candidates in a consistent manner and compromise the effectiveness of future candidate interviews." Based on your representations and our review, we find some of the submitted questions consist of test items under section 552.122(b) of the Government Code. Therefore, the city may withhold the questions we have indicated under section 552.122(b) of the Government Code. However, we find the remaining information only evaluates the applicant's general workplace skill, subjective ability to respond to particular situations, and overall suitability for employment, and does not test any specific knowledge of the applicant. Accordingly, we determine the remaining information at issue does not consist of test items under section 552.122(b) of the Government Code. Therefore, the city may not withhold the remaining information under section 552.122 of the Government Code and must release it.

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,



Sidney M. Pounds
Assistant Attorney General
Open Records Division

SMP/gw

Ref: ID# 688709

Enc. Submitted documents

c: Requestor
(w/o enclosures)