



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 20, 2019

Mr. Brett Norbraten
Open Records Attorney
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711-3247

OR2019-16849

Dear Mr. Norbraten:

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# 771290 (OR-20180921-18163).

The Texas Health and Human Services Commission (the "commission") received a request for applicant and interview information pertaining to a specified job number. We understand the commission will release 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 representative sample of information.¹

Section 552.122 of the Government Code excepts from 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 that 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." ORD 626 at 6. The term "test item" does not encompass evaluations of an employee's over all job performance or suitability. *See id.* at 8. The question of whether

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

specific information falls within the scope of section 552.122(b) must be determined on a case-by-case basis. *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).

The commission states the submitted information relates to an in-basket test exercise that the commission utilizes for prospective candidates in an accounting position. You explain the exercise at issue evaluates the candidates' aptitude with respect to basic accounting and tracking functions. You further assert that release of the information at issue would compromise the effectiveness of future evaluations of candidate knowledge and allows future administrations of the test to be compromised. Based on your representations and our review, we agree the information at issue qualifies as a test item under section 552.122(b) of the Government Code. We also find the release of the answers to the question would tend to reveal the question itself. Therefore, the commission may withhold the submitted information under section 552.122(b) of the Government Code.

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,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/sb

Ref: ID# 771290

Enc. Submitted documents

c: Requestor
(w/o enclosures)