



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 15, 2020

Mr. Matthew Entsminger
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2020-01436

Dear Mr. Entsminger:

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# 806395 (Ref. No. 762569-1).

The Travis County Civil Service Commission (the "commission") received a request for scoring sheets and audio recordings pertaining to specified applicants for a specified employment promotion opportunity. You state the commission released some information. You claim some of 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 disclosure "[a] test item developed by a licensing agency or 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 question of whether 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). 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.

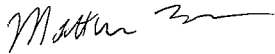
The commission seeks to withhold the questions and answers it indicated under section 552.122 of the Government Code. The commission states the information it indicated

consists “of test questions in the form of specific fact scenarios that are used to evaluate the interviewees’ knowledge, ability, and judgement.” The commission also states release of the information it indicated “will compromise the effectiveness of future examinations for this position because the questions and desired responses are largely objective in nature and the [c]ommission will likely use the same questions in future examinations and interviews.” However, upon review, we find the information at issue only evaluates an applicant’s general workplace skill, subjective ability to respond to a particular situation, and overall suitability for employment, and does not test any specific knowledge of the applicant. Accordingly, the commission may not withhold any portion of the submitted information under section 552.122 of the Government Code. The commission must release the submitted 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/jxd

Ref: ID# 806395

Enc. Submitted documents

c: Requestor
(w/o enclosures)