



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 10, 2020

Ms. Erin Smith
Test Validation Specialist
City of Dallas Civil Service Department
1500 Marilla Street, Room 1C-South
Dallas, Texas 75201

OR2020-03926

Dear Ms. Smith:

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# 811011 (ORR# C010758-111819).

The City of Dallas (the "city") received a request for information pertaining to a specified promotional examination. You state you 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(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 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 submitted information relates to presentation test exercises that the city utilizes

¹ We 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.

to measure the practical capabilities and knowledge of candidates for promotion in its Fire-Rescue Department. The city explains the test exercises “are re-used verbatim, or with only minor changes, on an on-going basis to provide for consistent evaluations of candidates[.]” The city argues release of the information at issue “will thwart the city’s ability to assess the abilities of its Fire-Rescue Department officer candidates in a consistent manner and compromise the effectiveness of future candidate assessments.” Upon review, we conclude the information at issue relates to test items under section 552.122(b). Furthermore, we find release of the answers at issue would reveal the promotional test exercises themselves. Accordingly, the city 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 <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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KM/rm

Ref: ID# 811011

Enc. Submitted documents

c: Requestor
(w/o enclosures)