



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 31, 2022

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

OR2022-15415

Dear Ms. Maas:

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# 948380.

The City of Dallas (the "city") received a request for information pertaining to assessments for a specified employment position. The city claims 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.¹ We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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

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.

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 relates to written exam questions and oral interview, tactical, and personnel meeting test exercises that the city utilizes to measure the job knowledge and practical capabilities of candidates for promotion in its fire department. The city explains the information at issue is “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 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). Accordingly, the city may withhold the information it has marked under section 552.122(b) of the Government Code. The city 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 <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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/jm

Ref: ID# 948380

c: Requestor