



June 15, 1999

Ms. Joan Carol Bates  
Medicaid Attorney  
Office of General Counsel  
Texas Department of Health  
1100 West 49<sup>th</sup> Street  
Austin, Texas 78756-3199

OR99-1663

Dear Ms. Bates:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 126868.

You assert that the requested information is excepted from disclosure based on section 552.104 of the Government Code. Section 552.104 states that information is excepted from required public disclosure if release of the information would give advantage to a competitor or bidder. The purpose of this exception is to protect the interests of a governmental body usually in competitive bidding situations. *See* Open Records Decision No. 592 (1991). This exception protects information from public disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. *See* Open Records Decision No. 463 (1987).

Although the contracts have been awarded and executed, you explain that “the bidding process will be closed only after the readiness review is completed, and all HMOs with executed contracts have passed the required readiness review.” Because the readiness review process may preclude a successful bidder from performing under an executed contract, and thus, reopen the bidding process, we conclude that release of the requested information before the readiness reviews are completed will harm the competitive process. Thus, you may withhold the requested information under section 552.104.

In light of our conclusion under section 552.104, we need not address the other exceptions raised, if any. We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely

A handwritten signature in black ink, appearing to read "Yen-Ha Le".

Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/ch

Ref.: ID# 126868

Encl: Submitted documents

cc: Mr. Gary Fuchs  
Tonn & Associates  
400 West 15<sup>th</sup> Street, Suite 816  
Austin, Texas 78701  
(w/o enclosures)