



THE ATTORNEY GENERAL
OF TEXAS

JIM HATTON
ATTORNEY GENERAL

November 1, 1990

Robert Bernstein, M.D., F.A.C.P.
Commissioner of Health
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR90-522

Dear Dr. Bernstein:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 9993.

The Department of Health received an open records request for certain information pertaining to ProTechnics and sought the opinion of this office, pursuant to section 7(c) of the Open Records Act, as to whether the requested information should be withheld. The department asserted sections 3(a)(4) and 3(a)(10) of the Open Records Act as possible exceptions to public disclosure. This office subsequently invited representatives of ProTechnics to submit additional legal arguments regarding the proprietary nature of the requested information. ProTechnics was advised that if no response was received, we would direct the Department of Health to release the requested information.

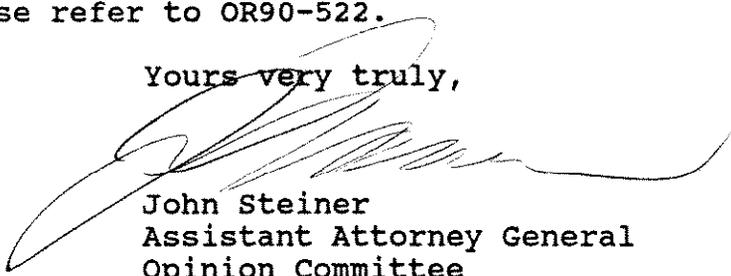
The purpose of section 3(a)(4) is to protect the government's purchasing interests by preventing a competitor or bidder from gaining an unfair advantage over other competitors or bidders. This section was designed to protect the government's purchasing interests in a competitive bidding situation, not the commercial or financial interests of private entities. See Open Records Decision No. 463 (1987); 319, 302 (1982); 170 (1977). No bidding situation exists in this instance, and consequently section 3(a)(4) is not applicable.

As we have received no response from ProTechnics, we have no basis for determining that the requested information

is excepted from public disclosure under section 3(a)(10). The information must therefore be released. See Open Records Decision No. 552 (1990).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-522.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/le

Ref.: ID# 9993, 10106

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