

126042 Trade Secret Designation and Protections

(a)

All of the information provided to CalOHII by Demonstration Project Applicant or Participant shall be treated as a public record unless such information is designated to be a trade secret or unless the public interest in maintaining the confidentiality of that information clearly outweighs the public interest in disclosure. (1) Any records, or portion thereof, which the Demonstration Project Applicant/Participant wants to protect as a trade secret shall be submitted in a separate sealed envelope clearly marked on the outside as "Trade Secret Material." For purposes of this section, "trade secret" shall have the same meaning as in the Uniform Trade Secrets Act, Civil Code section 3426 et seq. The Application shall contain a declaration under penalty of perjury describing why the Applicant/Participant believes the material is a trade secret. After review, if CalOHII determines that the material submitted meets the definition of a "trade secret", then CalOHII will treat the material as such and will exempt it from disclosure. If it is determined that the material does not meet the definition of a "trade secret", then the material or information will be disclosed as public information in accordance with the Public Records Act, Government Code section 6250. CalOHII's refusal to grant a requested claim of trade secret does not excuse the Applicant from establishing all elements of the demonstration project application. Any material which CalOHII agrees to consider as a trade secret shall be exempt from disclosure under the Public

Records Act, Government Code section 6250 et seq. Records for which CalOHII has denied protection as a trade secret shall also be exempt from disclosure under the Public Records Act during the time the records are in the possession of CalOHII. (2) The Demonstration Project Applicant/Participant shall have the sole burden of designating, at the time of its submission, any specific information that it believes should be treated as confidential and the reasons therefore.

(1)

Any records, or portion thereof, which the Demonstration Project Applicant/Participant wants to protect as a trade secret shall be submitted in a separate sealed envelope clearly marked on the outside as "Trade Secret Material." For purposes of this section, "trade secret" shall have the same meaning as in the Uniform Trade Secrets Act, Civil Code section 3426 et seq. The Application shall contain a declaration under penalty of perjury describing why the Applicant/Participant believes the material is a trade secret. After review, if CalOHII determines that the material submitted meets the definition of a "trade secret", then CalOHII will treat the material as such and will exempt it from disclosure. If it is determined that the material does not meet the definition of a "trade secret", then the material or information will be disclosed as public information in accordance with the Public Records Act, Government Code section 6250. CalOHII's refusal to grant a requested claim of trade secret does not excuse the Applicant from establishing all elements of the demonstration project application. Any material which CalOHII agrees to consider as a trade secret shall be exempt from disclosure under the Public Records Act, Government Code section 6250 et seq. Records for which CalOHII has denied protection as a trade secret shall also be exempt from disclosure under the Public Records Act during the time the records are in the possession of CalOHII.

(2)

The Demonstration Project Applicant/Participant shall have the sole burden of

designating, at the time of its submission, any specific information that it believes should be treated as confidential and the reasons therefore.

(b)

Requests for Confidentiality. A request for confidential treatment of any information received in connection with any demonstration project application or report submitted to CalOHII must accompany the submission of such information. The confidential information must be submitted separated from the other parts of the filing and marked "Confidential Treatment Requested." The request for confidentiality should not contain confidential information, as requests for confidentiality will be available for public inspection. Confidential Treatment Requests must be signed by the person making the application or report and contain the following: (1) A statement identifying the information which is the subject of the request, the application or report it relates to, and a reference that the request is made pursuant to this provision. (2) A statement of the grounds upon which the request is made, including (if applicable) a statement as to its confidentiality and the measures taken to protect its confidentiality, and a statement of the adverse consequences which are expected to result if the information is disclosed through the public records of CalOHII. (3) A statement of the specific time for which confidential treatment of the information is necessary and the basis for such conclusion. (4) If appropriate, a statement of the extent to which such information has been previously disclosed or will be disclosed in the future.

(1)

A statement identifying the information which is the subject of the request, the application or report it relates to, and a reference that the request is made pursuant to this provision.

(2)

A statement of the grounds upon which the request is made, including (if applicable) a statement as to its confidentiality and the measures taken to protect its confidentiality, and a statement of the adverse consequences which are expected to result if the information is disclosed through the public records of CalOHII.

(3)

A statement of the specific time for which confidential treatment of the information is necessary and the basis for such conclusion.

(4)

If appropriate, a statement of the extent to which such information has been previously disclosed or will be disclosed in the future.

(c)

Granting of Request. If a request for confidential treatment is granted, the person making such request will be notified in writing, the information will be marked "confidential" and kept separate from the public file, and the application or report will be noted with the following legend: "Additional portions of this filing have been granted confidential treatment pursuant to Section 126042 and are contained in a separate confidential file."

(d)

Information contained in confidential files shall only be disclosed to authorized representatives of the Demonstration Project Applicant/Participant or other governmental agencies as necessary for them to perform their constitutional or statutory duties or as required by law.

(e)

In the event of a receipt of a subpoena request for designated confidential materials, before the disclosure, CalOHII will make a reasonable attempt to notify

the submitter of the information before the mandated disclosure, if the notification is not prohibited by law.