

**Federal Communications Commission
Office of Engineering and Technology
Laboratory Division Public Draft Review**

Draft Laboratory Division Publications Report

Title: Exhibit Confidentiality Table, Confidentiality Procedures Detail, Confidentiality FCC Submitted Apps, Confidentiality TCB Submitted Apps

Short Title: Exhibit Confidentiality Table, Confidentiality Procedures Detail, Confidentiality FCC Submitted Apps, Confidentiality TCB Submitted Apps

Reason: Attachments: 726920 D02 Confidentiality Procedures Detail v01, 726920 D03 Confidentiality FCC Submitted Apps v01 and 726920 D04 Confidentiality TCB Submitted Apps v01 are in draft review for proposed major changes to the previous documents. All attachment's text are contained below within this draft document. No change is proposed 726920 D01 Exhibit Confidentiality Table v01. However, the attachment text is provided below for reference only.

Publication: 726920

Keyword/Subject: Confidentiality; Sections 0.457 and 0.459; Long-Term Confidentiality; Short-Term Confidentiality

First Category: Administrative Requirements

Second Category: Confidentiality

Third Category:

Question:

How can information included with a request for an equipment authorization be held confidential?

Answer:

The following information is a synopsis of confidentiality as it applies to an equipment authorization. More specific information on confidentiality processes may be found in the four attachments to this publication.

Confidentiality of Pending Application Exhibits

When an application for equipment authorization of an RF device is filed with the FCC (or with a Telecommunications Certification Body (TCB) acting on behalf of the FCC) all of the information

related to that application is confidential until the equipment authorization has been approved, and a grant of authorization to market is issued. Only the applicant, the applicant's agent (if applicable), and the FCC (or TCB) can access the information, using the combination of FCC ID and a randomly generated FCC Form 731 Confirmation Number.

If an application is filed with the FCC, an applicant may request deferral of the grant of authorization (See Section 0.457(d)(1)(ii)). Pending application information is not available for public inspection; therefore, the information related to the application will effectively be held confidential until the requested deferred grant date.

Confidentiality of Granted Application Exhibits

Upon applying for an equipment authorization, there are two types of confidentiality that may be requested for certain exhibits within the application - permanent / long-term confidentiality which is intended to safeguard trade secrets in accordance with Sections 0.457(d) and 0.459 of the FCC rules; and short-term confidentiality which is intended to allow for the preparation of marketing of devices without disclosure of sensitive information to the public prior to actual sale of the devices. A table that describes the confidentiality requests accepted for both long-term and short-term confidentiality is attached.

Any exhibit not granted confidentiality is viewable on the Office of Engineering and Technology (OET) equipment authorization Web site as soon as a grant is issued. Applicants filing for an equipment authorization should be aware of the public availability of exhibits not marked confidential following the issuance of a grant of equipment authorization. Before a grant of equipment authorization is issued the applicant should ensure that (1) a sensitive exhibit is approved as confidential and (2) no confidential information is included in any non-confidential exhibit.

An FCC filed application requires only one confidentiality fee regardless of the number of exhibits requested held confidential, and regardless of whether the application contains a request for both Long-Term Confidentiality and Short-Term Confidentiality. There is no confidentiality fee payable to the FCC for an application filed with a TCB.

Attachment List:

- [726920 D01 Exhibit Confidentiality Table v01 * No changes provided for reference only](#)
- [726920 D02 Confidentiality Procedures Detail v02 ** For Draft Review](#)
- [726920 D03 Confidentiality FCC Submitted Apps v02 ** For Draft Review](#)
- [726920 D04 Confidentiality TCB Submitted Apps v02** For Draft Review](#)

This draft is only available for comment for proposed changes to an existing Knowledge Data Base publication. Users seeking an interoperation or guidance must use the published version currently available under [KDB Number 726920](#)

Attachment 726920 D01 Exhibit Confidentiality Table v01* No changes provided for reference only

Exhibit Confidentiality Table

Exhibit Type	Long-Term Confidential	Exceptions	Comments	Short-Term Confidential
Attestation Statements	No			No
Block Diagram	With Justification	Scanning Receivers (0.457(d)(ii) – Always (no justification); PCs, PC Peripherals, & unintentional radiators - No	Block Diagrams for PCs, PC Peripherals, other unintentional radiators not required by Rules therefore not held confidential; Short-Term Confidential N/A to scanning receivers	With Justification
Cover Letter(s)	No			No
External Photos	No			With Justification
ID Label / Location Info	No			No
Internal Photos	Special Circumstances (see comments)	Scanning Receivers (0.457(d)(ii) – Always (no justification)	Epoxied / sealed circuit board, sealed device, non-consumer device serviceable only by Grantee or designated tech (non-disclosure agreement may be required)	With Justification
Operational Description	With Justification	Scanning Receivers (0.457(d)(ii) – Always (no justification)	Short-Term Confidential N/A to scanning receivers	With Justification
Parts List / Tune Up Info	With Justification	Scanning Receivers (0.457(d)(ii) – Always (no justification)	Short-Term Confidential N/A to scanning receivers	With Justification
RF Exposure Info	No			No
SDR Software / Security Info	Always		Long-Term Confidential always applies, therefore Short-Term Confidential N/A	N/A
Schematics	With Justification	Scanning Receivers (0.457(d)(ii) – Always (no justification)	Short-Term Confidential N/A to scanning receivers	With Justification
Test Report	No			No
Test Setup Photos	No			With Justification
Users Manual	Special Circumstances (see comments)		“Technical” manual used as a service manual only by qualified tech (non-disclosure agreement may be required); or for use only by Other Equipment Manufacturer (OEM) and includes proprietary information	With Justification

Attachment 726920 D02 Confidentiality Procedures Detail v02** For Draft Review

Confidentiality Procedures Detail

Some exhibits submitted with an equipment authorization application may be held confidential based on information documented in a Cover Letter exhibit uploaded with the application. Provide the following information in the Cover Letter exhibit:

- a) Reference Section 0.457(d) and 0.459 of the FCC Rules as the authority for requesting confidentiality;
- b) Describe a reason why the material should be withheld from public inspection;
- c) Identify the specific confidential information by exhibit type, name, and description;
- d) State if this information is publicly available elsewhere and;
- e) Explain why the information is a “trade secret.” “Trade secret” information is information not generally known or reasonably ascertainable that gives a business an economic advantage over competitors. The information is not normally released to anyone outside the company.

After the FCC or a TCB (acting on behalf of the FCC) approves confidentiality, the information is held confidential as long as the FCC retains the information in accordance with the FCC Records Retention schedule, or until a request for inspection is filed and approved based on the requirements of Section 0.461.

Files marked confidential are not viewable on the FCC equipment authorization Web site; and files not marked confidential are viewable on the equipment authorization Web site only after a grant is issued.

Long-Term Confidentiality

Certain Exhibit types submitted with an application are always held confidential:

- a) Software Defined Radio / Cognitive radio attachments submitted into the SDR Software / Security Info Exhibit type that describe the software and security information required by Section 2.944.
- b) Scanning receiver information included in the below exhibit attachments noted as “commonly held confidential” and also scanning receiver internal photos (see Section 0.457(d)(1)(ii).) Neither a letter requesting confidentiality nor a separate fee for these exhibits is required.

Exhibit types commonly held confidential are:

- a) Schematics,
- b) Block Diagrams,
- c) Operational Descriptions,
- d) Parts List / Tune Up Info.

Internal Photos and Users Manual exhibits, are not typically held confidential, but may be eligible for confidentiality in certain circumstances. Confidentiality for these exhibit types is not routine; and therefore, you must provide additional justification in a Cover Letter exhibit. Confidentiality for this information may be granted in the following circumstances:

- a) Internal photos of a consumer device may be held confidential when the circuit board is enclosed in epoxy or in a material that would destroy the circuit board if removed, or if the device is sealed and disassembly would destroy the product;
- b) Internal photos of a non-consumer device may be held confidential if the device is not accessible to the general public (for example a device mounted on the top of a large tower (or in a fenced enclosure) that is only serviceable by the licensee or designated technicians);

- c) A user's manual may be held confidential when the manual is very technical and is not provided to the consumer because the consumer cannot service the device.

When confidentiality of Internal Photos or Users Manuals is requested, you must submit the following:

- a) A Cover Letter exhibit signed by the applicant or the applicant's agent that describes the non-routine confidentiality request and the specific justification for the request.
- b) In examples b) and c) above (internal photos of a non-consumer device and users manuals), you must include as a Cover Letter exhibit a signed copy of a non-disclosure agreement (NDA) between the grantee and the purchaser that lists the confidential item and describes the reason confidentiality is requested.
- c) When a non-consumer device is sold as a part of a consumer device (i.e. a module integrated into a device marketed to consumers), it is imperative that the party marketing the device document in a Cover Letter exhibit, any NDA requested by the grantee of the non-consumer device.

Exhibit types that are not eligible for Long-Term Confidential treatment are:

- a) Test Reports,
- b) RF Exposure Info,
- c) External Photos,
- d) (FCC) ID Labels / Location Info,
- e) Attestation Statements,
- f) Cover Letter(s),
- g) Test Setup Photos.

In exceptional circumstances, the Commission may approve confidentiality for exhibits listed above (items a – g) that are not typically eligible for Long-Term Confidential treatment. A request for confidentiality of any of these exhibits must be submitted as a KDB Permit But Ask Inquiry under the Category of Permit But Ask (1st Category) and Special Circumstances (2nd Category). If the authorization is to be issued by the FCC and the request is approved, the FCC will mark the exhibit(s) Confidential. If the authorization is to be issued by a TCB and the request is approved, the TCB must notify the FCC that the application has been uploaded. This notification should be a final inquiry under the KDB Inquiry Number associated with the Permit But Ask Category. **The Grant must not be issued until the FCC has appropriately marked the Confidential exhibits and modified the application to permit the Grant to be issued.** A reply to the KDB inquiry will be sent notifying the TCB that the requested exhibits have been marked Confidential (and any other PBA issues have been reviewed). (See KDB Publication Number 388624 D02).

Third-Party Long-Term Confidentiality

In some cases, the applicant or the applicant's agent is not authorized to see the schematics or other proprietary information for a specific portion of a device that is an integral part of the product, but is a "trade secret" of another company (a third party). In these cases, the third party may request and be granted confidentiality for this specific information. For example, if Company A provides the transmitter board of Company B's product, Company A may request and be granted confidentiality for the schematic diagrams, detailed block diagrams and operational description of the transmitter without Company B or Company B's agent seeing these exhibits. For FCC filed applications, the third party can submit the request and confidential exhibits if the third party is given information that allows access to the pending application by the applicant or his agent. The third party must be listed as a contact in the FCC filed application.

If an applicant is filing with a TCB, the third party is prevented from submitting information because they do not have access to the TCB password. In these cases, the TCB must work out an agreement with the third party that allows the TCB to file this information instead of the third party.

Short-Term Confidentiality

The Form 731 “Short-Term Confidentiality” option provides applicants the ability to receive an equipment approval and get a product to market while ensuring that business sensitive information remains confidential until the actual marketing of the device. When marketing begins, the information must be released for viewing on the FCC equipment authorization Web site.

Short-Term Confidentiality cannot be applied to only a single model number within a filing containing multiple model numbers under one FCC ID. When marketing begins, all exhibits marked short term confidential associated with a specific FCC ID (regardless of model number(s)) must be released.

Exhibits eligible for Short-Term Confidentiality include all exhibits eligible for Long-Term Confidentiality and in addition:

- a. External Photos,
- b. Test Setup Photos,
- c. Internal Photos,
- d. Users Manuals.

Post-Grant Confidentiality

Post-Grant Confidentiality is a request for confidentiality for material already released and made available to the public. You are discouraged from making a request for Post-Grant Confidentiality. Justification for confidentiality of an exhibit(s) and a declaration from the Applicant / Grantee of awareness that information has been publicly available since the date of grant must be uploaded as a Cover Letter exhibit.

Change Notice

10/tbd/2011 726920 D02 Confidentiality Procedures Detail v01 has changed to 726920 D02 Confidentiality Procedures Detail v02

726920 D02 Confidentiality Procedures Detail v02 represents a significant change to previous guidance.

Attachment 726920 D03 Confidentiality FCC Submitted Apps v02** For Draft Review

Confidentiality Processes for FCC Filed Applications

Long-Term Confidentiality Process (FCC Applications)

When filing an application with the FCC, a fee is charged for the type of device for which authorization is requested and a separate fee for Long-Term Confidentiality is charged. These fees are listed in the OET Fee Filing Guide, which is available online at www.fcc.gov.

1. A justification for a Long-Term Confidentiality request must be submitted in the application. The justification should (a) reference Sections 0.457 and 0.459 which identify the information to be held confidential, and (b) list the specific attachments to be held confidential. The justification should be uploaded into the Cover Letter(s) Exhibit type.
2. To request Long-Term Confidentiality for specific exhibits in an application, you must check the “Yes” box on the Form 731 question regarding a request for Long-Term Confidentiality; submit a cover letter exhibit that justifies the confidentiality request for each specific exhibit and check the “Long-Term Confidential” checkbox on each Exhibit attachment for which confidentiality is requested before that exhibit is uploaded.
3. When the FCC issues the grant, a letter approving the “Long-Term Confidentiality” is also issued.

Short-Term Confidentiality Process (FCC Applications)

1. When completing the Form 731, you must check the “Yes” box on the Form 731 question regarding a request for Short-Term Confidentiality. You should then either specify the Short-Term Confidentiality release date, or request (using the “Yes” or “No” radio button) that the Short-Term Confidentiality release date be set to 45 days from grant date.
2. When submitting the supporting exhibits there is a checkbox on the “Add Attachments” link following the completion of the Form 731 for “Short Term Confidential”. For each attachment that “Short Term Confidentiality” is requested, you should check the checkbox. The checkbox may not be checked for:
 - a) Attestation Statements,
 - b) Cover Letter(s)
 - c) ID Label/Location Info
 - d) Test Reports
 - e) RF Exposure Info.

The “Add Attachments” link also has a checkbox for “Long-Term Confidential” which holds information permanently confidential. If you select “Long-Term Confidential”, then you should not select “Short-Term Confidential” (select only one type of confidentiality for each exhibit file uploaded).

3. If you select “Short Term Confidentiality”, a confidentiality fee is required. If you request “Long-Term Confidentiality” and “Short-Term Confidentiality”, only one confidentiality fee is required. If the device is a composite device, the confidentiality fee must only be paid for one portion of the composite application. If the application is for a permissive change, you should submit a confidentiality fee only if you submit new confidential information.

4. A justification of the request for Short-Term Confidentiality must be submitted in the application and should be uploaded into the Cover Letter(s) exhibit type. In the justification, you should:

- a) Reference the Sections 0.457 and 0.459 which identify the information to be held confidential,
- b) List the specific attachments to be held confidential. The justification should be uploaded into the Cover Letter(s) Exhibit type.

5. Requesting Short-Term Confidentiality holds information confidential up to 180 days from the date of grant. If you specify a release date (within the 180 days from Grant) the exhibits marked Short-Term Confidential will be made available on that date. If you use the option of “45 days from grant date”, the exhibits marked Short-Term Confidential will be made available 45 days after grant. In either case, you can modify the Short-Term Confidentiality date using the equipment authorization Web site option to “Change Short-Term Confidential Date.” A modification to the Short-Term Confidentiality date requires the FCC ID, the Form 731 Confirmation Number (EA#), a modified Short-Term Confidentiality release date (within 180 days from grant) and an attachment on company letterhead describing the reason for the change (PDF format only). Exhibits will be made publicly available on the modified Short-Term Confidentiality release date.

6. When the FCC issues the grant, a letter approving the “Short Term Confidentiality” is also issued.

7. When marketing of the device begins, the justification for “Short Term Confidentiality” no longer applies, and the information held confidential must be released to the public. The applicant or the applicant’s agent is responsible for immediately modifying the Short-Term Confidentiality release date to make the information previously held Short-Term Confidential publicly available.

8. To reinstate Short-Term Confidentiality that may have expired, contact easeadmin@fcc.gov .

Post-Grant Confidentiality Process (FCC Applications) (the request for confidentiality cannot be filed through a TCB, because the original grant was issued by the Commission)

1. If confidentiality is requested within 30 calendar days of grant, the application may be modified to add confidentiality. The applicant, or the applicant’s agent, should send an e-mail to easeadmin@fcc.gov requesting a correction of the application. Include a justification for the correction, and documentation of awareness by the grantee that the information has been publicly available since the date of grant. No additional application fee is required; however, a confidentiality fee must be paid (use the Return to 159 function on the equipment authorization electronic filing Web site) if a confidentiality fee was not paid with the application. The original grant will be Set Aside and the engineer who handled the original application will match the exhibit(s) in the original filing with the exhibit(s) for which confidentiality is requested. Based on approval by management, the reviewing engineer marks the requested exhibit(s) as “Confidential” and the exhibit(s) will no longer be publicly available. The engineer will then issue and print a new grant, noting the original date of Grant in the “Comments” and ensuring that the application will be modified to reflect the requested changes.

2. If confidentiality is requested more than 30 days after the issuance of the grant (31 days or greater), a Class II Permissive Change request must be filed with the Commission. A Cover Letter requesting confidentiality of the exhibit(s) filed in the original application should cite the original FCC ID and Confirmation Number (EA #). Also include a justification for the correction, and documentation from the grantee of awareness that the information has been publicly available since the date of grant. This letter should be uploaded as a Cover Letter exhibit. In addition, a fee payment for confidentiality is required if the original application did not include a confidentiality fee. After payment verification and review of the Permissive Change submittal, the Commission will correct the original application, and follow the Confidentiality process.

Change Notice

10/tbd/2011 726920 D03 Confidentiality FCC Submitted Apps v01 has changed to 726920 D03 Confidentiality FCC Submitted Apps v02
726920 D03 Confidentiality FCC Submitted Apps v02 represents a significant change to previous guidance.

Attachment 726920 D04 Confidentiality TCB Submitted Apps v02** For Draft Review

Confidentiality Processes for TCB Filed Applications

Long-Term Confidentiality Process (TCB Applications)

The FCC does not charge a fee for TCB filed applications; therefore, there is no charge for confidentiality for TCB filed confidentiality requests. A justification of the request for Long-Term Confidentiality must be submitted in the application as a Cover Letter exhibit. The justification should:

- a) Reference Sections 0.457 and 0.459 which identify the information to be held confidential;
- b) List the specific attachments to be held confidential.

To request confidentiality on specific exhibits you should:

- a) Check the “Yes” box on the Form 731 question regarding a request for Long-Term Confidentiality;
- b) Submit a Cover Letter exhibit that justifies the confidentiality request for each specific exhibit;
- c) Check the “Long-Term Confidential” checkbox on each Exhibit attachment for which confidentiality is requested before that file is uploaded.

Short-Term Confidentiality Process (TCB Applications)

1. To request Short-Term Confidentiality, as a TCB you should check the “Yes” box on the Form 731 question regarding a request for Short-Term Confidentiality; then either specify the Short-Term Confidentiality release date or, by using the “Yes” or “No” radio button, request that the Short-Term Confidentiality release date be set to 45 days from grant date.

2. For each Short-Term Confidentiality attachment request, mark the “Short Term Confidential” checkbox. The checkbox may not be checked for:

- a) Attestation Statements,
- b) Cover letter(s),
- c) ID Label / Location Info,
- d) Test Reports,
- e) RF Exposure Info.

The “Add Attachments” link also has a checkbox for “Long-Term Confidential” which holds information permanently confidential. An exhibit can only be marked “Long-Term Confidential” or “Short Term Confidential,” not both.

3. Submit a justification of the request for Short-Term Confidentiality in the application. The justification should:

- a. Reference Sections 0.457 and 0.459 which identify the information to be held confidential,
- b. List the specific attachments to be held confidential,
- c. Address why release of the information at the time of grant would be a problem.

4. Requesting Short-Term Confidentiality will hold information confidential up to a maximum of 180 days from the date of grant. You may specify a release date, or if no date is specified then 45 days from the date of grant will be automatically applied. In either case, the exhibits marked Short-Term Confidential will automatically be made available on the date indicated in the Short-Term Confidentiality release date box. You also have the option to modify the Short-Term Confidentiality date using the TCB equipment authorization Web site option for “Short-Term Confidential Exhibit Maintenance.” A modification to the Short-Term Confidentiality date requires the

FCC ID, the Form 731 Confirmation Number, a modified Short-Term Confidential release date of no more than 180 days from grant.

5. When marketing of a device begins, the justification for Short Term Confidentiality no longer applies, and the information held Short-Term Confidential must be released to the public. The applicant should immediately notify the TCB, who is responsible for immediately using the Short-Term Confidential Exhibit Maintenance option and the “Release all short-term confidential Exhibits” radio button, to make the information previously held Short-Term Confidential publicly available.

To reinstate expired Short-Term Confidentiality the TCB must contact easadmin@fcc.gov.

Post-Grant Confidentiality Process (TCB Applications) (the request for confidentiality cannot be filed through the FCC, because the original grant was issued by a TCB)

1. If confidentiality is requested within 30 days of the issuance of the grant, the TCB can modify or correct the filing.
2. If confidentiality is requested more than 30 days after the issuance of the grant (31 days or greater), the TCB must request through easadmin@fcc.gov that an application identified by the FCC ID and the Form 731 Confirmation Number (TC#) be placed into audit mode to allow for application modifications.
3. In either of the above instances, as a TCB you must upload a signed and dated letter from the applicant or the applicant’s agent requesting post-grant confidentiality. The letter must include a justification for the confidentiality and documentation requesting confidentiality for the specific exhibit(s). A justification as to why the request is being made retroactively and a statement that the applicant is aware that the information has been publicly available since the date of grant must be uploaded as a Cover Letter(s) exhibit.
4. After the changes are complete, if the application was placed into audit mode, the TCB should inform the FCC so that the application audit can be closed in accordance with established audit procedures.

Change Notice

10/tbd/2011 726920 D03 Confidentiality FCC Submitted Apps v01 has changed to 726920 D03 Confidentiality FCC Submitted Apps v02
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