



**Federal Communications Commission  
Office of Engineering and Technology  
Laboratory Division**

April 8, 2016

**EQUIPMENT AUTHORIZATION CONFIDENTIALITY REQUEST PROCEDURES**

**I. INTRODUCTION**

Certain exhibits submitted with an equipment authorization Form 731<sup>1</sup> application may be held confidential as permitted by the rules.<sup>2</sup> The types of confidentiality requests are:

- 1) Long-Term Confidentiality
- 2) Short-Term Confidentiality

In general, the FCC will hold information confidential if it is not routinely made available to the public. Information granted confidentiality must be justified by submitting a Confidentiality Request Letter as an exhibit uploaded with the equipment authorization application.

The Confidentiality Request Letter must contain the following information:

- 1) Reference to §§ 0.457(d) and 0.459 of the FCC Rules as the authority for requesting confidentiality.
- 2) State the type or types of confidentiality being requested: Long-Term Confidentiality, Short-Term Confidentiality.
- 3) Indicate why the material should be withheld from public inspection.
- 4) Identify the specific confidential information by exhibit type, name, and description.
- 5) State that the information is not publicly available.<sup>3</sup>

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<sup>1</sup> As of the effective date of FCC 14-208, "Equipment Authorization Order" (EA Order), all applications for certification are to be processed by a Telecommunication Certification Body (TCB). This guidance applies for the process to be followed by an application processed by a TCB. When a TCB completes a Form 731 application and is in the process of submitting exhibits there are checkboxes on the Form 731 that should be checked to indicate that confidentiality applies to the application and specify which type of confidentiality. If Short-Term Confidentiality applies, the date of expiration should be specified. Additionally for each supporting exhibit uploaded there is a checkbox to specify that confidentiality is requested for that specific exhibit. It is the responsibility of the person submitting the application to properly associate confidentiality with each applicable exhibit or the information may become publicly available on the FCC website.

<sup>2</sup> Section 0.457(d) provides a general list of the type of information that can be requested to be withheld from public view.

<sup>3</sup> Information that is generally known to the public cannot be held confidential.

- 6) Indicate if the information is a “trade secret” and who it will be made available to. “Trade secret” information is information not generally known or reasonably ascertainable that gives a business an economic advantage over competitors.
- 7) If requesting Long-Term Confidentiality for internal photos or user’s manual exhibits under special conditions, provide the justification, information and any additional exhibits as discussed in II. Long Term Confidentiality Section 3) below.
- 8) Applicant signature.

Individual exhibits may be held either Short-Term Confidential or Long-Term Confidential but not both at the same time, in accordance with the table below:

Exhibits	Long-Term Confidentiality*	Short-Term Confidentiality
ID Label/Location	No	No
Attestation Statements	No	No
External Photos	No	Yes
Block Diagram	Yes	Yes
Schematics	Yes	Yes
Test Report	No	No
Test Setup Photos	No	Yes
User’s Manual	***	Yes
Internal Photos	***	Yes
Parts List / Tune Up	Yes	Yes
RF Exposure Info	No	No
Operational Description	Yes	Yes
Cover Letter(s)	No	No
SDR Software / Security Info **	Yes	No
* See Section IV. below for exceptional circumstances.		
** Automatically held Long-Term Confidential.		
*** Long-Term Confidentiality may be permitted under special conditions ( <i>See</i> II. LONG-TERM CONFIDENTIALITY, Section 3 below.)		

When a confidentiality request is approved, the information marked as confidential will not be publicly available on the FCC equipment authorization web site. Exhibits will remain confidential: (1) in accordance with the type of confidentiality requested; (2) until the applicant files a request to remove confidentiality; or (3) if a Freedom of Information Act (FOIA) request for inspection is filed and approved based on the requirements of § 0.461.

## II. LONG-TERM CONFIDENTIALITY

### 1) Automatically held Long-Term Confidential:

The following exhibits are held confidential without filing a request:

- a) Software Defined Radio/Cognitive radio attachments submitted under the SDR Software/Security Info Exhibit type.
- b) Scanning receiver information included in one of the exhibits listed in the following paragraph and noted as “commonly held confidential” and scanning receiver internal photos (*See* § 0.457(d) (1) (ii)).

- 2) Exhibits that an applicant can request under **Long-Term Confidentiality** are as follows:
  - a) Schematics
  - b) Block Diagrams
  - c) Operational Descriptions
  - d) Parts List/Tune-up Info
- 3) The internal photos and/or user's manual exhibits may be given Long-Term Confidentiality under the following **special conditions**<sup>4</sup>:
  - a) Internal photos
    1. May be held confidential if the circuit board or internal components are not accessible to users. For example, it is acceptable if the circuit board is enclosed in epoxy.
    2. Also, it is acceptable if the device is not accessible to the public, for example, a device mounted on the top of a large tower (or in a fenced enclosure) such that it is only serviceable by professional designated technicians under a Non-Disclosure Agreement (NDA). All sales for these devices must be under a NDA restricting the disclosure of the propriety information, including internal photos.
  - b) User's manual may be held confidential only when the manual contains proprietary technical information intended for professional technicians obligated under a NDA. All sales and distribution of the user's manual must be under a NDA that restricts the disclosure of the information.
  - c) In the application cover letter requesting Long-Term Confidentiality the following additional description (in item 7) and the NDA exhibit is required:
    1. Describe in detail how internal photos and/or user's manual information are controlled to prevent them from becoming public or disclosed to unauthorized persons.
    2. Describe how public access is restricted for products serviceable by professional designated technicians.
    3. A statement that all sales of the non-consumer device will be under a NDA to include third party sales and that the final user of the device is subject to the NDA.
    4. Provide an example of the NDA between the grantee and a purchaser. The request for confidentiality must include the key terms of the NDA to ensure consistency between the two.

### III. SHORT-TERM CONFIDENTIALITY

Exhibits eligible for Short-Term Confidentiality include the following exhibits:

- 1) External Photos
- 2) Test Setup Photos

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<sup>4</sup> PAG is not required if a non-disclosure agreement (NDA) or some similar arrangements are required between the user and the grantee, and a sample NDA is included in the application.

- 3) Internal Photos
- 4) Users Manuals
- 5) Schematics
- 6) Block diagrams
- 7) Operational Descriptions
- 8) Parts List/Tune up Info

Short-Term Confidentiality can be requested for a maximum of 180 days from the date of the grant. Grants initially given confidentiality less than 180 days are permitted to extend the confidentiality period up to the 180 day maximum through the web site option: “[Change Short-Term Confidential Date](#).” When the device is marketed the grantee must inform the TCB (for TCB grants of certification) or FCC (for FCC grants of certification) to release the Short-Term Confidentiality information withheld on the FCC equipment authorization website.

If the Short-Term Confidentiality has expired, a request to re-instate Short-Term Confidentiality must be submitted as an exceptional circumstance inquiry request (*See* section IV).

#### **IV. EXCEPTIONAL CIRCUMSTANCES**

A TCB shall not authorize any Long-Term or Short-Term Confidentiality for exhibits except as permitted above, unless it has been approved by the Commissions under the TCB Pre-approval guidance (PAG) procedure (*See* KDB Publication Number: [388624](#)).<sup>5</sup> An applicant may first request confidentiality under an exceptional circumstance directly to the Commission by submitting an inquiry.<sup>6</sup> Decisions will be made on a case-by-case basis. If the Commission approves a request then the applicant must have the TCB submit a separate TCB PAG referencing this initial inquiry.

Exceptional circumstances may include but are not limited to:

- 1) Reinstating confidentiality for a recently expired Short-Term Confidentiality exhibit.
- 2) Making an exhibit(s) confidential that is currently publicly available but that qualifies for Long-Term Confidentiality.
- 3) Requesting exhibits not eligible for Long-Term Confidentiality (see table above) to be held Long-Term Confidential.

If the inquiry request is approved the inquiry tracking number shall be entered in the appropriate field on the Form 731 application.

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<sup>5</sup> The EA Order replaces the permit-but-ask procedure by the pre-approval guidance procedure. *See*: § 2.964.

<sup>6</sup> Submit an inquiry at <https://www.fcc.gov/labhelp> and then select “Submit an Inquiry” located on the left side of the page. Use the first category of “Administrative Request Technology” and the second category “Request Confidentiality (KDB 726920)”.

## **CHANGE NOTICE**

**10/16/2014:** 726920 D01 Confidentiality Request Procedures v01 replaces: 726920 D01 Exhibit Confidentiality Table, 726920 D02 Confidentiality Procedures Detail v02, 726920 D03 Confidentiality FCC Submitted Apps v0201, 726920 D04 Confidentiality TCB Submitted Apps v0201, into one document.

**03/05/2015:** 726920 D01 Confidentiality Request Procedures v01r01 replaces 726920 D01 Confidentiality Request Procedures v01. Section II. 3) added for special consideration for Long-Term Confidentiality for internal photos and user's manual. Revisions to address changes resulting from the EA Order.

**04/08/2016:** 726920 D01 Confidentiality Request Procedures v01r02 replaces 726920 D01 Confidentiality Request Procedures v01r01. Footnote 4 added to clarify that a PAG is not required for item 3) the internal photos and/or user's manual exhibits under special considerations. IV.EXCEPTIONAL CIRCUMSTANCES Item 4) Removed "Requesting an exhibit submitted in support of an application by a third-party to be held confidential from the grantee and the public".