

15.118 Confidentiality of information in financial assistance applications.

1. The board and the authority shall give due regard to the confidentiality of certain information disclosed by applicants for financial assistance during the application process, the contract administration process, and the period following closeout of a contract in the manner described in this section.

2. All information contained in an application for financial assistance submitted to the authority shall remain confidential while the authority is reviewing the application, processing requests for confidentiality, negotiating with the applicant, and preparing the application for consideration by the director or the board. The authority may release certain information in an application for financial assistance to a third party for technical review. If the authority releases such information to a third party, the authority shall ensure that the third party protects such information from public disclosure. After the authority has considered a request for confidentiality pursuant to subsection 3, any information not deemed confidential shall be made publicly available. Any information deemed confidential by the authority shall also be kept confidential during and following administration of a contract executed pursuant to a successful application. Information deemed confidential may be treated as such for as long as the authority deems necessary to protect an applicant's competitive position, and the confidential treatment of the information shall apply whether the authority is in possession of the information or whether the information has been sent to off-site storage or to the state archivist.

3. The authority shall consider the written request of an applicant or award recipient to keep confidential certain details of an application, a contract, or the materials submitted in support of an application or a contract. If the request includes a sufficient explanation as to why the public disclosure of such details would give an unfair advantage to competitors, the authority shall keep certain details confidential. If the authority elects to keep certain details confidential, the authority shall release only the nonconfidential details in response to a request for records pursuant to chapter 22. If confidential details are withheld from a request for records pursuant to chapter 22, the authority shall release an explanation of why the information was deemed confidential and a summary of the nature of the information withheld and the reasons for withholding it. In considering requests for confidential treatment, the authority shall narrowly construe the provisions of this section in order to appropriately balance an applicant's need for confidentiality against the public's right to information about the authority's activities.

4. If a request for confidentiality is denied by the authority, an applicant may withdraw the application and any supporting materials, and the authority shall not retain any copies of the application or supporting materials. Upon notice that an application has been withdrawn, the authority shall not release a copy in response to a request for records pursuant to chapter 22.

5. The authority shall adopt by rule a process for considering requests to keep information confidential pursuant to this section. The authority may adopt emergency rules pursuant to chapter 17A to implement this section. The rules shall include criteria for guiding the authority's decisions about the confidential treatment of applicant information. The criteria may include but are not limited to the following:

- a. The nature and extent of competition in the applicant's industry sector.
- b. The likelihood of adverse financial impact to the applicant if the information were to be released.
- c. The risk that the applicant will locate in another state if the request is denied.
- d. Any other factor the authority reasonably considers relevant.

2008 Acts, ch 1149, §1; 2011 Acts, ch 118, §87, 89; 2012 Acts, ch 1018, §9

Referred to in §15.107C, 260E.7