

261—401.9(84GA, HF590) Confidentiality.

401.9(1) *Period of confidentiality.* All information contained in an application for financial assistance submitted to the board shall remain confidential while the board is reviewing the application, processing requests for confidentiality, negotiating with the applicant, and preparing the application for consideration by the board.

401.9(2) *Release of information for technical review.* The board may release certain information in an application for financial assistance to a third party for technical review. If the board releases such information, the board shall ensure that the third party protects such information from public disclosure.

401.9(3) *Applicant request for confidentiality.* An applicant may make a written request to the board to keep confidential certain details of an application, contract, or the material 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 board shall keep such details confidential.

401.9(4) *Criteria for determining confidential treatment.* In determining whether to grant a request for confidential treatment of applicant information, the board must appropriately balance an applicant's need for confidentiality against the public's right to information about the board's activities. The board may consider 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 would locate in another state if the request is denied.
- d. Any other factors the board may reasonably consider relevant.

401.9(5) *Confidentiality decision.* The board shall notify an applicant in writing of its decision regarding the confidentiality of an application, contract, or supporting materials. Once the board has notified the applicant of its decision, any information not deemed confidential by the board shall be made publicly available. Any information deemed confidential by the board shall be kept confidential by the authority and the board during and following the administration of a contract executed pursuant to a successful application.

401.9(6) *Withdrawal of application.* If the board denies an applicant's request for confidentiality, the applicant may withdraw an application and any supporting materials. The board shall not retain any copies of the application and supporting materials. Upon notice that an application has been withdrawn, the board shall not release a copy in response to a request for records pursuant to Iowa Code chapter 22.

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