



August 19, 2010

VIA ECFS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

**Re: Revised Request for Confidential Treatment
PS Docket No. 06-229**

Dear Ms. Dortch,

On May 12, 2010, the Commission released an order (“*Waiver Order*”) granting conditional waivers to public safety entities for early deployment of public safety broadband networks in the 700 MHz public safety broadband spectrum.¹ Consistent with the requirements set forth in the *Waiver Order* and the Public Safety and Homeland Security Bureau Public Notice,² on July 16, 2010, the SAN FRANCISCO BAY AREA URBAN AREA submitted the required Interoperability Showings with a request for confidential treatment of the entire document. By this letter, the SAN FRANCISCO BAY AREA URBAN AREA revises its request for confidential treatment, and requests only that Appendices D and E of the Interoperability Showings be kept confidential. Accordingly, a Redacted Public Version of the Interoperability Showings is attached with redacted Appendices D and E.

Appendices D and E of the Interoperability Showings contain sensitive information that falls within Exemption 4 of the Freedom of Information Act (“FOIA”).³ Exemption 4 permits parties to withhold from public inspection “trade secrets and commercial or

¹ See Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, PS Docket No. 06-229, FCC 10-79 (rel. May 12, 2010).

² See Public Safety and Homeland Security Bureau Provides Further Guidance to Conditional Waiver Recipients On Completing the Interoperability Showing Required by the 700 MHz Waiver Order, *Public Notice*, DA 10-923 (rel. May 21, 2010).

³ See 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d).

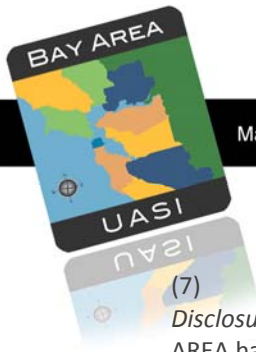


financial information obtained from a person and privileged or confidential-categories of materials not routinely available for public inspection.”⁴

Section 0.457(d)(2) allows persons submitting materials that they wish be withheld from public inspection in accordance with Section 552(b)(4) to file a request for non-disclosure, pursuant to Section 0.459. In accordance with the requirements contained in Section 0.459(b) for such requests, the SAN FRANCISCO BAY AREA URBAN AREA submits the following:

- (1) *Identification of Specific Information for Which Confidential Treatment Is Sought (Section 0.459(b)(1))*: The SAN FRANCISCO BAY AREA URBAN AREA seeks confidential treatment for Appendices D and E of its July 16, 2010 Interoperability Showings. Appendices D and E contain sensitive information which falls within Exemption 4 of FOIA.
- (2) *Description of Circumstances Giving Rise to Submission (Section 0.459(b)(2))*: The SAN FRANCISCO BAY AREA URBAN AREA submits the Interoperability Showings to comply with the *Waiver Order* requirements for waiver recipients.
- (3) *Explanation of the Degree to Which the Information Is Commercial or Financial, or Contains a Trade Secret or Is Privileged (Section 0.459(b)(3))*: Appendices D and E contain sensitive information about The SAN FRANCISCO BAY AREA URBAN AREA’S public safety LTE network such as coverage maps, site lists and the network deployment schedule. This information is highly privileged and competitively sensitive and would not normally be made publicly available. Disclosure of the information could also impair the security of the network, which could have grave implications given its use for public safety communications.
- (4) *Explanation of the Degree to Which the Information Concerns a Service that Is Subject to Competition (Section 0.459(b)(4))*: Substantial competition exists in the telecommunications industry and many competitors are engaged in the provision of fourth generation technologies such as The SAN FRANCISCO BAY AREA URBAN AREA’S public safety LTE network described in Appendices D and E.
- (5) *Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5))*: Disclosure of Appendices D and E, containing sensitive information about BAY AREA UASI’s The SAN FRANCISCO BAY AREA URBAN AREA’S public safety LTE network, could put The SAN FRANCISCO BAY AREA URBAN AREA at a competitive disadvantage vis-a-vis other LTE service providers in the area, who would now know its deployment and coverage plans. Competitors could use this information to develop market and business strategies to negatively affect The SAN FRANCISCO BAY AREA URBAN AREA’S future plans for the network. Disclosure could also threaten the security of the public safety network by making public critical details of network construction and operation that could be used by others to impair or breach the security of the network. Given the planned use of the network by public safety entities this could have grave implications.
- (6) *Identification of Any Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6))*: Appendices D and E have not been publicly released by The SAN FRANCISCO BAY AREA URBAN AREA and are protected by The SAN FRANCISCO BAY AREA URBAN AREA by bearing “confidential” legends and by being subject to restrictions on dissemination.

⁴ *Id.*



(7) *Identification of Whether the Information Is Available to the Public and the Extent of Any Previous Disclosure of the Information to Third Parties (Section 0.459(b)(7))*: The SAN FRANCISCO BAY AREA URBAN AREA has not made Appendices D and E available to the public or any third parties.

(8) *Justification of Period During Which the Submitting Party Asserts that the Material Should Not be Available for Public Disclosure (Section 0.459(b)(8))*: The SAN FRANCISCO BAY AREA URBAN AREA respectfully requests that the Commission withhold Appendices D and E from public inspection indefinitely. On balance, the need to protect the network from unnecessary competitive harms and significant security threats outweighs any benefits of public disclosure.

Accordingly, for the foregoing reasons, The SAN FRANCISCO BAY AREA URBAN AREA respectfully requests that Appendices D and E of its July 16, 2010 Interoperability Showings be kept confidential and be withheld from public inspection at all times. The SAN FRANCISCO BAY AREA URBAN AREA requests the Commission return the materials without consideration if this request is denied pursuant to Section 0.459(e).

Please contact the undersigned with any questions,

Respectfully submitted,

By: Laura Phillips, Executive Director

On behalf of:

The Alameda County Sheriff's Office on behalf of the San Francisco Bay Area Urban Area,
Waiver Recipient

Attachments: Redacted Public Version of the Interoperability Showings