

Chapter 3
Confidential Provider Information

Section 1. Purpose. These rules are adopted in order to establish guidelines for the handling and disclosure of confidential, trade secret, and proprietary information disclosed to or collected by the Wyoming Business Council through its administration of the Broadband Development Grant Program.

Section 2. Authority. These rules are promulgated as required by W.S. 9-12-1503(c)

Section 3. Definitions.

(a) "Act" means the Wyoming Public Records Act as set forth in W.S. 16-4-201 et seq.

(b) "Application Information" means all information contained within any application made to the Program, as well as all information provided as Addenda, Appendices or Attachments thereto, provided for purposes of project evaluation and funding determinations.

(c) "Confidential Information" means:

(i) Applicant tax information as set forth in W.S. 16-4-203(d)(xv).

(ii) Geophysical location information for critical infrastructure, including but not limited to:

(A) Points of Presence, Heads Ends, Network Operations/Security Centers, and Data Centers.

(B) Cable vaults, chases and/or conduits.

(C) Tower sites, including height, antenna azimuth and transmit power, and related backhaul.

(D) Any information which actually identifies any individual broadband user(s)/consumer(s), or which could reasonably be utilized to identify any individual broadband user(s)/consumer(s).

(iii) Lists or descriptions of equipment proposed or actually installed, as well as the proposed or actual configurations thereof.

(iv) Business Plans, Marketing Plans, Commercialization Plans, Deployment/Security Plans, Financial Records and similar information as set forth in W.S. 16-4-203(d)(v).

(v) Other information of a kind that would customarily not be released to the public by the person or entity from whom it was obtained.

(vi) Any information required to be kept confidential pursuant to federal statute or regulation.

(d) "Proprietary information" means information that, if released, would impair the government's future ability to obtain necessary information or would cause substantial harm to the competitive position of the persons or entities providing the information.

(e) "Public Meeting" means as defined in W.S. 16-4-403.

(f) "Trade secret" means a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort.

Section 4. Disclosure of Public Records.

(a) Any record which does not qualify as confidential, trade secret, or proprietary is presumed to be a public record subject to release under the Wyoming Public Records Act. In addition to the items deemed subject to disclosure per W.S. 9-12-1503(c)(i) through 1503(c)(v), the following records are subject to public disclosure:

- (i) Coverage/service area maps and shapefile information included with an application;
- (ii) Actual speed test results including download, upload and latency speeds;
- (iii) Proposed and/or actual costs and/or fees charge to or paid by consumers in any project area funded under the Program; and
- (iv) De-identified/anonymized physical address information for locations proposed for funding or actually funded/served by the Program.

Section 5. Hearing procedure.

(a) The Board may hold a hearing at its discretion or on the request of any interested person to determine whether any information classified as confidential, trade secret, or proprietary should be subject to public disclosure.

(i) Interested persons must make a written request to the Broadband Manager or their designee requesting a hearing, specifying the relevant information sought to be subject to public disclosure, and the justification for the request. A request submitted by email shall be deemed sufficient.

(A) At the discretion of the Council, an action item related to the request shall be added to the agenda for the next Regular Public Meeting of the Board. In such event, the requesting party and all affected parties shall be notified of the date, time and place of the meeting at which the request shall be considered.

(B) Prior to any action on a request, the requesting party as well as the party or parties affected by the request shall have the opportunity to offer testimony related the request and any objections thereto, and field questions from the Board in public session.

(I) In the event the requesting party fails to attend the scheduled meeting of the Board to present testimony, the Board may summarily dismiss the request and the dismissal shall be noted in the meeting minutes.

(II) There shall be no distinction made between persons attending the Public Meeting virtually and those attending in-person.

(b) Public comment shall be accepted prior to any action by the Board.

(c) At its sole discretion, the Board may enter executive session to receive legal counsel related to the request pursuant to W.S. 16-4-405.

(d) All actions related to any decision by the Board to deem public any information following a hearing held pursuant to these rules shall be recorded in the meeting minutes.

(e) Any hearing which occurs pursuant to this Section of this Chapter of these rules shall be considered non-precedential and shall not bind the Board to take any future action predicated on that decision.