

## REQUEST FOR CONFIDENTIAL TREATMENT

### FILED ELECTRONICALLY

Anthony Serafini  
Office of Engineering and Technology  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Dear Mr. Serafini:

Pursuant to Section 0.459 of the FCC's rules, Southern Methodist University (SMU) requests that the information contained in the Attachment to SMU's application for experimental license (File No. 0739-EX-CN-2017) be held in confidence and not made available for public inspection.

As detailed herein, confidential treatment is appropriate under Exemption 4 of the Freedom of Information Act ("FOIA"), which applies to information constituting "trade secrets and commercial ... information" that "would not customarily be released to the public." See 5 U.S.C. § 552(b)(4), 47 C.F.R. § 0.457(d). In support of this request, SMU provides the following information pursuant to Section 0.459(b) of the rules.

1. Specific Information for Which Confidential Treatment Is Sought – § 0.459(b)(1): SMU seeks confidential treatment for information set forth in the Attachment to its application, which includes a description of the experimental plan that is proprietary to SMU and is subject to non-disclosure agreements between SMU and manufacturers of the radio equipment to be utilized in the experiment.
2. Circumstances Giving Rise to the Submission – § 0.459(b)(2): The proprietary information submitted to the FCC is required in connection with SMU's application for an FCC experimental license under Part 5 of the FCC's rules. See 47 C.F.R. § 5.1 *et seq.*
3. Degree to Which the Information Is Commercial or Financial, or Contains a Trade Secret or Is Privileged – § 0.459(b)(3): The information for which SMU is requesting confidential treatment contains commercially sensitive information "which would customarily be guarded from competitors." See, e.g., *James A. Kay, Jr.*, 17 FCC Rcd 1834 (2002). This information includes, but is not limited to, details of the planned testing methodology. Disclosure of this information to competitors would be competitively harmful. Accordingly, public disclosure of the confidential information could result in material harm to the proposed experiment's commercial purposes.
4. Degree to Which the Information Concerns a Service That Is Subject to Competition – § 0.459(b)(4): There is substantial competition in the wireless industry among service providers and equipment manufacturers in the emerging

field that is the subject of the application. Because new and innovative equipment and services are just now being tested for near-term launch, competition among equipment vendors and service providers is particularly keen at this time, and service providers and equipment manufacturers alike have a strong interest in protecting from disclosure proprietary information concerning their potential future products and service offerings.

5. How Disclosure of the Information Could Result in Substantial Competitive Harm – § 0.459(b)(5): Information about SMU's proposed experimental program could be misused by current and potential competitors to gain commercially exploitable knowledge, thereby allowing them to reap unfair advantages in formulating their own plans for technical development of competing equipment and/or systems. Release of details of this experimental program to third parties would allow others to benefit from plans and information that SMU has spent considerable time and money developing, and to adapt their own plans based on this proprietary information.
6. Measures Taken by the Applicant to Prevent Unauthorized Disclosure – § 0.459(b)(6): SMU has agreed to limitations on the use and sharing of proprietary information pursuant to non-disclosure agreements with the manufacturers. Information in the Attachment falls within the category of confidential information under those agreements. SMU has strictly limited access to the information solely to its employees, contractors, and agents who require knowledge of the tests described in this experimental license application in order to perform their duties and fulfill SMU's contractual obligations.
7. The Information Submitted Is Not Available to the Public and Has Not Previously Been Disclosed to Third Parties, Except for Appropriately Limited Circumstances – § 0.459(b)(7): Disclosure has been limited to SMU's employees, counsel, contractors, and agents who have a specific need to review and analyze proprietary technical information relating to the proposed experimental testing.
8. Period During Which the Submitted Material Should Not Be Available for Public Disclosure – § 0.459(b)(8): SMU respectfully requests confidential treatment for an indefinite period. There is no time limit on SMU's non-disclosure obligations, and SMU at present cannot predict when the information might become significantly less sensitive. Accordingly, SMU requests that the FCC maintain confidential treatment of the material, at a minimum, until SMU expressly notifies the FCC that confidential treatment no longer is required or necessary.

For all of the foregoing reasons, SMU asks the FCC to withhold the Attachment to SMU's experimental license application from public inspection. In the event that a request for examination of this document is filed, SMU requests an opportunity to respond and to provide a partially redacted version in lieu of full disclosure.