

NON-EXPORT CONTROLLED

January 15, 2016

Filed Electronically

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

Re: Request for Confidential Treatment, File No. 0042-EX-PL-2016

Dear Ms. Dortch:

Pursuant to the provisions of Sections 0.457 and 0.459 of the Commission's rules governing submission of confidential materials,¹ Harris Corporation ("Harris") respectfully requests that the narrative portion of above-referenced experimental license application be afforded confidential treatment and not be placed in the Commission's public files. Harris is providing this information to the Commission in a confidential exhibit to accompany its application.

The confidential information qualifies as "trade secrets and commercial or financial information" that "would customarily be guarded from competitors" and are not routinely made available to the public for inspection by the Commission.²

In support of this request and pursuant to 47 C.F.R. § 0.459(b), Harris hereby states as follows:

1. The information contained in the narrative contains operational and design details regarding a proprietary system Harris is developing for one of its customers. Information regarding the system has been kept confidential and is considered a trade secret by Harris and its customer.³

¹ 47 C.F.R. §§ 0.457, 0.459.

² See 47 C.F.R. § 0.457(d); see also *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992) ("[W]e conclude that financial or commercial information provided to the Government on a voluntary basis is 'confidential' for the purpose of Exemption 4 if it is of a kind that would customarily not be released to the public by the person from whom it was obtained.").

³ 47 C.F.R. § 0.459(b)(3).

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2. Harris is in the business of manufacturing communications systems, a highly competitive industry.⁴
3. Public release of this proprietary and confidential information would undercut the ability of Harris' customer to bring its innovative system to the market. It would also commercially damage Harris' relationships with its customers and its reputation for protecting the confidential information of its partners.⁵
4. Harris and its customer have taken significant measures to safeguard the confidentiality of the system's design and have not publicly disclosed the details contained in the narrative.⁶
5. Harris requests that the confidential information be withheld from disclosure for an indefinite period.⁷ Because of the competitive nature of Harris' business, disclosure of this information could jeopardize the competitive position of both Harris and its customer.
6. Harris notes that a denial of its request would impair the Commission's ability to obtain this type of voluntarily disclosed information in the future, making review of applications more problematic.⁸ The ability of a government agency to continually obtain confidential information was the legislative intent for developing exemptions from the Freedom of Information Act.⁹ The U.S. Court of Appeals for the D.C. Circuit has recognized a "private interest in preserving the confidentiality of information that is provided to the Government on a voluntary basis."¹⁰

⁴ 47 C.F.R. § 0.459(b)(4).

⁵ 47 C.F.R. § 0.459(b)(5).

⁶ 47 C.F.R. § 0.459(b)(6-7).

⁷ 47 C.F.R. § 0.459(b)(8).

⁸ 47 C.F.R. § 0.459(b)(9).

⁹ See *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 878 (D.C. Cir. 1992) ("Where, however, the information is provided to the Government voluntarily, the presumption is that [the Government's] interest will be threatened by disclosure as the persons whose confidences have been betrayed will, in all likelihood, refuse further cooperation.").

¹⁰ *Id.* at 879.

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Harris requests that the Commission return this submission if its request for confidentiality is denied.¹¹ Please address any questions to the undersigned.

Respectfully submitted,

/s/ William F. LeBeau

Name

FCC Legal Counsel to Harris Corporation

Title

¹¹ See 47 C.F.R. § 0.459(e).