

(Q1) Identification of the specific information for which confidential treatment is sought.

(A1) Vista Research, Inc. is conducting field tests and data collection as part of a Phase II Small Business Innovation Research contract (Proposal #0612002) to the Department of Homeland Security to address Topic Number H-SB061-004 "Signal Processing for a Southern Border Surveillance System," of the DHS's Advanced Research Program Agency SBIR 06.1 solicitation. Vista considers the data and circumstances, including the specific type, brand, model, and operating characteristics of the radars, as being integral to the intellectual property being employed under this contract and seeks confidential treatment of this information and other details of the experimental license application that has been submitted to the Commission.

(Q2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.

(A2) Information was submitted through an application with exhibits for a license for an Experimental Radio Service (Other Than Broadcast) from the Commission's Office of Engineering and Technology (FCC File No. 0463-EX-PL-2007, Confirmation Number EL409420) to non-concurrently operate Furuno 2127 and Furuno 2157BB non-coherent maritime radars within a 7 km radius of a operating site near Salinas CA (North 36 deg 36' 27", West 121 deg 35' 36")

(Q3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.

(A3) The information submitted to the Commission is commercial or financial, or contains a trade secret or is privileged, to the extent that disclosure of the specific details proposed under the application and exhibits to Vista's competitors and/or other private parties could damage its commercial position with its customers and potential customers. Disclosure of this information could result in substantial financial losses to Vista due to a reduction in market share through exploitation of this information by unauthorized third parties to create alternative products that directly compete with Vista's.

(Q4) Explanation of the degree to which the information concerns a service that is subject to competition.

(A4) The use of non-coherent radars over land does not, in itself, constitute intellectual property or a patentable invention and is open to competition from other commercial and non-commercial entities. Therefore the development of new technologies and services for applying these devices under these circumstances presents a free market environment that is subject to open competition and presents a risk that third parties will seek unfair advantage by exploiting the information contained in the application and exhibits.

(Q5) Explanation of how disclosure of the information could result in substantial competitive harm.

(A5) Disclosure of the operational wavelength, pulse repetition frequency, sweep period, unit brand and model number, antenna type, and operational parameters described in the application could provide our competitors with valuable information and knowledge that Vista has gained through substantial private investment, practical experience, and proprietary internal research. Disclosure of the information in the application could compromise the competitive advantage gained by Vista through these privately funded research and development efforts and also could result in substantial

financial losses due to lost business opportunities and/or direct loss of market share to competing products that unfairly and/or improperly exploit our proprietary knowledge, expertise, and technologies.

(Q6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure.

(A6) All consultants, subcontractors, Government agencies, and employees of Vista Research have executed non-disclosure agreements that specifically prohibit unauthorized disclosures of proprietary information, including the information contained in the application. All relevant documents and files generated by Vista have been marked as proprietary and have been subject to document control and security procedures. Vista is currently in the process of preparing and reviewing documents for the submission of patent claims to the US Patent Office that, in part, are derived from information in the application and has retained legal counsel for this purpose.

(Q7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.

(A7) The information in question is not publicly available and has not been previously disclosed to third parties except under the specific circumstances where a non-disclosure agreement with that party has been executed and a legitimate business interest in doing so has been established.

(Q8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure.

(A8) The period requested for which material should not be available is justified by the necessity to preserve intellectual property and patent rights for a sufficiently long time interval that the necessary patent application documentation and exhibits can be prepared and submitted without being compromised or invalidated by that proprietary information first entering into the public domain.

(Q9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.

(A9) The commercial viability and value of the information contained in the application, as well as proof that a suitable market exists for the related technologies, is in clear evidence by the award of a Government contract to Vista to implement and test these technologies that are in part derived through the use of the information in question. This award demonstrates an acknowledgement by an impartial third party entity that confidentiality is appropriate in this case and that this request by Vista should be granted by the Commission.
