



1120 South Tryon St.
Suite 700
Charlotte, NC 28203
brightspeed.com

Via Email:

broadband@dhcd.virginia.gov

Vati@dhcd.virginia.gov

November 21, 2024

Ms. Tamarah Holmes, Ph.D.

Virginia Department of Housing & Community Development

600 East Main Street, Suite 300

Richmond, Virginia 23219

RE: Freedom of Information Act ("FOIA") Exemption Request
for Materials Submitted in support of BEAD application

Dear Dr. Holmes:

Connect Holding II LLC d/b/a Brightspeed intends to submit information in response to the Commonwealth Connect Broadband Equity, Access and Deployment (BEAD) Program. This program is designed as a competitive program and the application requirements include financial, technical and marketing/competitive information that the company protects as confidential to its business. Such information includes the list of prospective counties and towns in which Brightspeed may submit a BEAD application, in addition to financial information detailed in this letter. In the Appliance Guidance, DHCD specifically mentions the FOIA exemption letters may be requested.

As with any information required to be submitted by applicants under BEAD, applicants may request¹ this list of counties and cities be exempt from the Freedom of Information Act.

Brightspeed is requesting confidential of materials submitted with its Letter of Intent.

We are also requesting confidential treatment for certain materials to be submitted with its BEAD project application.



Applicants may request to submit supplementary information to the application that includes a FOIA-exemption, pursuant to “§ 2.2-3705.6” for information related to a grant application that may make the application more competitive. FOIA exemption requests must be sent directly to broadband@dchd.virginia.gov, and the applicant must indicate for which BEAD application the information corresponds. Applicants wishing to submit multiple FOIA exemption requests for multiple BEAD applications must do so individually in separate requests.

In particular, our audited financial statements are confidential documents. As such, this information is confidential and should be treated as such. Hence, we are submitting this letter outlining the FOIA exemption request, and request instruction for how to submit that information to maintain its confidential treatment given the use of the CAMS portal.

Prior to submitting any confidential information, to the Virginia Department of Housing and Community Development, Brightspeed submits this FOIA Exemption Request to the Virginia Department of Housing & Community Development (“DHCD”) pursuant to Section 2.2-3705.6-32 of the Code of Virginia (“Va. Code”).

That VA Code section provides that DHCD has the legal authority to exempt from the mandatory disclosure provisions of the Virginia Freedom of Information Act the following types of information contained in a public record:

Information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

To ensure this type of information is exempted from a FOIA request, and protected from disclosure, VATI requires applicants seeking a FOIA exemption to make a written request to the Department:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
2. Identifying with specificity the data, information, or other materials for which protection is sought; and
3. Stating the reasons why protection is necessary.



Documentation submitted in response to the BEAD program, including documents that contain the confidential financial data, details about the costs of the network build, and information about partners and vendors (who also treat their financial information as confidential), and information about potential areas for pursuing grant applications, should be afforded confidential treatment.

The type of information detailed above, if disclosed, would be harmful to Brightspeed's competitive position and its business interests, and its contractual commitments to its vendors to protection this information as confidential. This information is not otherwise publicly available.

Brightspeed requests that the type of information set forth above (even if inadvertently failed to be marked confidential) be granted an exemption from FOIA obligations and treated as confidential in accordance with the VATI guidelines. Should your office receive a FOIA request for this information and be evaluating whether to disclose it, please contact us with sufficient time prior to the response time so that we may pursue all legal recourse to protect that information. My contact information is below.

Sincerely,

A handwritten signature in blue ink, appearing to read "P. Sherwood".

Pamela H. Sherwood, Esq.
Vice President Regulatory, Compliance and
Broadband Grant Office
Pamela.Sherwood@Brightspeed.com
(704)314-2249 Office