

**MASSACHUSETTS BROADBAND INSTITUTE**  
*Confidentiality and the Public Records Law*

Governor Deval Patrick and the State Legislature created the Massachusetts Broadband Institute (MBI) within the Massachusetts Technology Collaborative to expand high-speed Internet, or broadband, services to all communities in the Commonwealth. Broadband is an essential building block for expanding economic opportunity and the provision of critical public safety, health care, educational and other public services.

MBI issued a Call for Solutions in October 2008 requesting detailed information and innovative solutions for expanding broadband coverage in western Massachusetts. The Call for Solutions clearly states that all responses will be public information and posted on the MBI's website.

Some respondents to the Call for Solutions have asked whether there is some other way in which information can be submitted to the MBI and be kept confidential by the MBI. The short answer is yes, but under very limited circumstances. To protect all parties, the MBI will apply a protocol that protects confidential information from disclosure and provides expedited resolution of requests for confidentiality.

The MBI is subject to the Massachusetts Public Records Act (MPRA), which means that documents the agency receives are generally subject to public disclosure. This law has been interpreted by both the Massachusetts Secretary of State and the courts to favor disclosure.

An exception to the general rule of disclosure is that the MBI can receive and protect the confidentiality of information in documentary form where we determine in advance that the information is:

- appropriate for confidential treatment (*i.e.*, trade secrets or proprietary information the disclosure of which would present a risk of harm to the submitting party under the MPRA);
- not submitted to satisfy a condition of receiving a governmental contract or other benefit or to comply with some other legal requirement;
- likely to assist the MBI in the formulation of governmental policy; and
- submitted in the form and subject to the terms specified by the MBI, including a promise of confidentiality by the MBI.

The MBI employs MTC's Policy and Procedures Regarding "[Sensitive Information](#)" Submitted Voluntarily for Use in Developing Governmental Policy. This Policy sets forth detailed procedures designed to protect those who wish to submit sensitive or proprietary information to MTC and the MBI under this exception to the MPRA.

To expedite requests with regard to the MBI – while at the same time maintaining the protections set forth in MTC's Policy and Procedures – a two-step rapid reply system has been established to handle all MBI-related requests promptly:

1. Send an email request to [rapidreply@masstech.org](mailto:rapidreply@masstech.org) describing the nature of the documentary information you wish to submit (without disclosing the actual sensitive information), the manner in which this information might assist the MBI in the development of policy, the risk of harm posed by the disclosure of the documents, and the duration of time over which protection from disclosure is necessary.
2. The MBI will reply via email to this request within seven business days with a determination of whether a promise of confidentiality will be made and, if so, the particular documents or information covered by that promise and the date upon which the promise of confidentiality will expire. Documents submitted upon such a promise of confidentiality must comply with MTC's Policy and Procedures.