



Adopted Policy Resolution 07.2024

**Supporting the Creation of a Freedom of Information Act Waiver  
to Protect Project Proposals**

**Sponsor**

Representative William E. "Bill" Sandifer, III, South Carolina

**WHEREAS**, the Freedom of Information Act (FOIA) was established in 1967 and amended by the FOIA Improvement Act of 2016 (Public Law No. 114-185) to provide the public the right to request access to records from any federal agency; and

**WHEREAS**, federal agencies are required to disclose any information requested under the FOIA unless it falls under one of nine exemptions, including: 1) information that is classified to protect national security; 2) information related solely to the internal personnel rules and practices of an agency; 3) information that is prohibited from disclosure by another federal law; 4) trade secrets or commercial or financial information that is confidential or privileged; 5) privileged communications within or between agencies; 6) information that, if disclosed, would invade another individual's personal privacy; 7) information compiled for law enforcement purposes; 8) information that concerns the supervision of financial institutions; and 9) geological information on wells; and

**WHEREAS**, the Southern States Energy Board's mission is to enhance the economic development and quality of life in the South through innovations in energy and environmental policies, programs, and technologies; and

**WHEREAS**, to support its mission and long-term goals, Southern States Energy Board personnel pursue and negotiate collective funding from various sources, including federal agencies, for member states on programs that support energy and environmental

research, education and training, technology development, regulatory reform and other key issue areas; and

**WHEREAS**, Southern States Energy Board personnel are experiencing an unprecedented quantity of FOIA requests from federal agencies for newly proposed and awarded projects that have been submitted in the past three years; and

**WHEREAS**, the federal agency proposal and procurement process involves submitting a full application of multiple documents and, in some cases, a concept paper, being selected for award negotiations, and negotiating the scope of the work, related budgets, and terms and conditions of the award, among other management tools; and

**WHEREAS**, FOIA exemptions 4 and 6 offer limited protection of proposal contents, the applicability of which is at the discretion of the federal agency; and

**WHEREAS**, responding to FOIA requests of proposal documents expends valuable Southern States Energy Board resources of time and associated labor costs while yielding no benefit to the Board, compromises the Board's future competitiveness by revealing organizational and management strategies, and creates numerous unintended consequences that negatively impact the success of a project; and

**WHEREAS**, two-way communication and engagement with communities impacted by project development are key tenants of a successful project; and

**WHEREAS**, a proposal's contents are obsolete the moment it is selected, since the proposal negotiation process involves refinements to the work to be conducted as part of the project, budgets, locations of work, and more; and

**WHEREAS**, for SSEB and any applicant, publicly releasing these details, rather than waiting until the final plans are approved and finalized or allowing the applicant to present the project plans to the community or public based on the current status of project development, is detrimental to the proposer's integrity within the communities the applicant seeks to serve.

**THEREFORE, BE IT RESOLVED**, the Southern States Energy Board is committed to continuing to publicly sharing project information once the award for the project is

issued by the federal agency and is fully executed through a cooperative agreement or grant; and

**BE IT FURTHER RESOLVED**, the Southern States Energy Board urges Members of Congress, the Department of Justice, and other federal agencies to expedite the creation of a new Freedom of Information Act exemption to protect project proposals in their entirety, including concept papers and full applications.