

The first one is the “uncontracted projects” exception found in T.C.A. 4-3-730(b). It states “**(b)** Any binding contract or agreement entered into or signed by the department that obligates public funds shall, together with all supporting records and documentation, be considered a public record and open for public inspection as of the date such contract or agreement is entered into or signed.” *This means that all of the supporting records and documentation for projects is confidential until the contract for that project is signed.*

The second exception is in T.C.A. 4-3-730(f)(1): “**(f) (1)** The provisions of this section shall not apply to company documents or records containing marketing information or capital plans that are provided to the department with the understanding that they are now and should remain confidential. Any such document or record shall remain confidential until such time as the provider thereof no longer requires its confidentiality.” *This means that any marketing information or capital plans the department receives from a company will be confidential until the company tells us it is no longer confidential.*

ECD also has a third exception for records for which the department seeks a determination from the Attorney General’s office that the information is “proprietary information” under T.C.A. 4-3-730(c). In those cases, the records are confidential for five years. This exception is used very infrequently. The definition of “proprietary information” is found in T.C.A. 4-3-730(e)(1): “**(1)** “Proprietary information” means commercial or financial information that is used either directly or indirectly in the business of any person or company submitting information to the department, and that gives such person an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information.”

Finally, “trade secrets” received by ECD are always confidential. 4-3-730(e)(2) defines “trade secrets” as “**(2)** “Trade secrets” means manufacturing processes, materials used in manufacturing processes, and costs associated with the manufacturing process of a person or company submitting information to the department.”