



PUBLIC NOTICE

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WIRESLINE COMPETITION BUREAU ANNOUNCES ENTITIES PROVISIONALLY SELECTED FOR RURAL BROADBAND EXPERIMENTS; SETS DEADLINES FOR SUBMISSION OF ADDITIONAL INFORMATION

WC Docket No. 10-90

On November 7, 2014, the Federal Communications Commission closed the application window for the rural broadband experiments. By this date, applicants were required to complete FCC Form 5610 and attach project bid forms, a descriptive data form listing all of their proposed projects, and certain other project information.¹ Subsequently, the FCC Auction System ranked the submitted bids meeting requirements for the rural broadband experiments from the most cost-effective to the least cost-effective within each funding category.

This Public Notice announces the bidders that have been provisionally selected for funding in each category, subject to the post-selection review process. Each identified bidder must complete certain steps in order to be authorized to receive Connect America Fund support for its rural broadband experiment.

Attachment A provides summary information concerning the provisionally selected bidders, including the number of project bids, the states in which these proposed projects are located, the total amount of support requested for these projects, and the total number of census blocks covered by these projects.² These bidders are seeking support to serve diverse geographic areas with different cost characteristics. Collectively, they have bid on support to cover 26,867 census blocks in 25 states and Puerto Rico³:

¹ *Wireline Competition Bureau Announces Application Process for Entities Interested in Participating in the Rural Broadband Experiments*, WC Docket No. 10-90, Public Notice, 29 FCC Rcd 10016, 10020, 10028-29, paras. 16-17, 36 (Wireline Comp. Bur. 2014).

² Additional information about the proposals of the provisionally selected bidders will be released at a future date.

³ A number of the census blocks that provisionally selected bidders seek to serve are the subject of a pending challenge in the Phase II challenge process. *See id.* at 10035-36, paras. 64-66. The Wireline Competition Bureau is currently reviewing the challenges and responses received in the Phase II challenge process to determine whether a census block or blocks that a selected bidder proposed to serve should be deemed ineligible for rural broadband experiment funding. In the event that census blocks are deemed ineligible for rural broadband experiment funding, support for any project selected for funding that includes such census blocks will be adjusted proportionally. *See Connect America Fund; ETC Annual Reports and Certifications*, WC Docket Nos. 10-90, 14-58, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8769, 8786-87, para. 51 (2014) (*Rural Broadband Experiments Order*).

- 19 entities seeking support to build networks that are capable of delivering 100 Mbps downstream and 25 Mbps upstream to all locations⁴ in the project census blocks in Arkansas, California, Colorado, Delaware, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Puerto Rico, and Texas.⁵
- 12 entities seeking support to build networks capable of delivering 10 Mbps downstream and 1 Mbps upstream to all locations in the project census blocks in Colorado, Idaho, Iowa, Kansas, Kentucky, Michigan, North Carolina, Ohio, Tennessee, Texas, Virginia, and Washington.
- 9 entities seeking support to build networks capable of delivering 10 Mbps downstream and 1 Mbps upstream to all locations in project census blocks that are extremely costly to serve in California, Illinois, Maryland, Michigan, North Dakota, Kansas, South Dakota, and Texas.

With the release of this Public Notice, the post-selection review process for these bidders now begins. The Bureau is required to determine whether each selected applicant has demonstrated that it has the technical and financial qualifications to successfully complete the proposed project within the required timeframes and is in compliance with all statutory and regulatory requirements for the universal service support that the applicant seeks.⁶ We emphasize that selected bidders are required to deliver the required minimum speeds to all locations within the funded census blocks.⁷

Attachment B provides instructions for these entities on how to complete FCC Form 5620 and upload their post-selection review attachments. The identified bidders are required, within 10 business days of this Public Notice, to submit the most recent three consecutive years of audited financial statements, including balance sheets, net income, and cash flow, and to submit a description of the technology and system design used to deliver voice and broadband service, including a network diagram, which must be certified by a professional engineer.⁸ Entities proposing to use wireless technologies also must provide a description of spectrum access in the areas for which the applicant seeks support.⁹ The bidders identified in Attachment A are required to submit these materials by **Friday, December 19, 2014 at 11:59p.m. EST**. Failure to submit the requested materials by this deadline will constitute a default, and the bidder will no longer be considered for the identified rural broadband experiment.

Finally, we note that three bidders that initially appeared on the provisionally selected bidders list for funding category one submitted project bids that were facially non-compliant with the requirements

⁴ For purposes of this Public Notice and the associated attachments, “all locations” refers to all price cap locations in each census block.

⁵ Bidders in this category must offer at least one service plan that provides 25 Mbps downstream/5 Mbps upstream to all locations within the selected census blocks. *See Rural Broadband Experiments Order*, 29 FCC Rcd at 8779-80, para. 26.

⁶ *Id.* at 8787, para. 52.

⁷ Under the Commission’s rules, recipients of support are required annually to provide the results of network performance tests pursuant to the methodology and in the format determined by the Wireline Competition Bureau, Wireless Telecommunications Bureau, and Office of Engineering and Technology. 47 C.F.R. § 54.313(a)(11). The Wireline Competition Bureau, Wireless Telecommunications Bureau, and the Office of Engineering and Technology (together, the Bureaus) recently sought comment to further develop the record on a proposed methodology for high-cost recipients to measure and report speed and latency performance to fixed locations. The Bureaus have proposed that recipients be required to perform tests at least once an hour during peak period over a four-week period, with 95% of the observations at or above the required minimum speed. *See Wireline Competition Bureau, Wireless Telecommunications Bureau, and the Office of Engineering and Technology Seek Comment on Proposed Methodology for Connect America High-Cost Universal Service Support Recipients to Measure and Report Speed and Latency Performance to Fixed Locations*, WC Docket No. 10-90, Public Notice, DA 14-1499 (rel. Oct. 16, 2014).

⁸ *See Rural Broadband Experiments Order*, 29 FCC Rcd at 8787-88, para. 54.

⁹ *Id.*

for this category.¹⁰ Those three bidders were removed from consideration, and the FCC Auction System produced the provisionally selected bidders shown on Attachment A.

One of these bidders, ViaSat, Inc., sought a waiver of the Commission's 100 millisecond (ms) latency standard for categories one and two. We deny ViaSat's waiver request for the rural broadband experiments, without prejudice to ViaSat's submission of this request into the docket for further consideration for the Phase II competitive bidding process that will occur to the extent price cap carriers decline the offer of Phase II model-based support. We are not convinced that ViaSat has demonstrated that special circumstances warrant a deviation of the rural broadband experiment rules established for categories one and two, and that waiving the rules for categories one and two would serve the public interest.¹¹ ViaSat's petition raises issues that warrant further consideration with public input for the Phase II competitive bidding process, which remains pending, but we conclude that waiving one of the core requirements for one bidder in the rural broadband experiments without public input after the close of the filing window would be prejudicial to the integrity of the competitive bidding process.¹²

For additional information on this proceeding, contact Ian Forbes (Ian.Forbes@fcc.gov) of the Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7400.

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¹⁰ Two of these bidders proposed to offer service not meeting the required speeds for category one.

¹¹ See 47 C.F.R. § 1.3; *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹² Because ViaSat submitted its waiver request in its FCC Form 5610 submitted into the FCC Auction System, rather than separately in the docket, other bidders and the general public have not had the opportunity to provide input on the request.