



PUBLIC NOTICE

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WIRELINER COMPETITION BUREAU RELEASES PRELIMINARY LIST AND MAP OF ELIGIBLE AREAS FOR THE RURAL DIGITAL OPPORTUNITY FUND PHASE I AUCTION

AU Docket No. 20-34
WC Docket No. 19-126
WC Docket No. 10-90

Comments Due: April 10, 2020

The Wireline Competition Bureau (Bureau), in coordination with the Rural Broadband Auctions Task Force and the Office of Economics and Analytics, announces the release of the preliminary list of census blocks and a map of areas that have been deemed initially eligible for the Rural Digital Opportunity Fund Phase I auction (Auction 904).¹ For illustrative purposes, we also release a list of the associated census block groups and reserve prices, and a list of the associated census tracts and reserve prices. The list of census blocks, census block groups, and census tracts can be found on the Auction 904 website at www.fcc.gov/auction/904. The map can be found at <https://www.fcc.gov/reports-research/maps/auction-904-preliminary-eligible-areas>.

As directed by the Commission, the Bureau is conducting a limited challenge process to give parties an opportunity to identify by **April 10, 2020** census blocks that fall into one of the three following categories:

- *FCC Form 477 Filers.* Current Form 477 filers should identify as ineligible any census blocks that have become served with voice and 25/3 Mbps or better broadband services since June 30, 2019, in order to address the lag between the time when areas became served and the time that service is reflected in publicly available Form 477 data.² Parties filing comments in WC Docket No. 19-126 regarding this updated Form 477 data should provide the FCC Registration Number (FRN) used to make the updated Form 477 filing, the “as of date” of the updated data, and the specific census blocks that have changed since the June 2019 filing.

¹ *Rural Digital Opportunity Fund; Connect America Fund*, Order, FCC 20-5, at para. 14 (Feb. 7, 2020) (*Rural Digital Opportunity Fund Order*) (directing the Bureau to release a preliminary list of eligible census blocks based on the most recent publicly available Form 477 data, which currently is data as of June 30, 2019, and to conduct a limited challenge process).

² *Id.* Any updated or revised coverage data filed by a party as part of this notification process must be reflected in a revision to that party’s Form 477 submissions to the extent applicable. Filers should follow the established process for making corrections to their Form 477 data, <https://apps2.fcc.gov/form477/login.xhtml#block-menu-block-4>. We note that Form 477 filers are under a continuing obligation to make corrections to their filings.

- *Subsidized Census Blocks.* Parties are invited to identify specific census blocks that have been awarded funding by a federal or state broadband subsidy. Parties should identify only census blocks where a provider has an enforceable commitment to offer broadband service at 25/3 Mbps or better and for which funding has already been paid or a formal commitment has been executed.³ As explained in the *Rural Digital Opportunity Fund Order*, the Commission will exclude identified areas where 25/3 Mbps or better service has been or will be deployed without Rural Digital Opportunity Fund support to avoid duplicating those programs with Rural Digital Opportunity Fund support.⁴ This voluntarily submitted information will not prevent winning Rural Digital Opportunity Fund bidders from accessing other funding sources, including from states.⁵
- *Rate-of-Return Carriers.* As we did with the CAF Phase II auction, we give rate-of-return carriers the opportunity to identify any census blocks within their service areas as ones where they do not expect to extend broadband in satisfaction of their USF deployment obligations; i.e., moving census blocks from ineligible to potentially eligible, subject to other eligibility criteria.⁶

To identify the preliminary eligible areas, as directed by the Commission, we have used the Connect America Cost Model (CAM) with updated coverage data using the most recent publicly available Form 477 data to identify census blocks that are unserved with broadband at speeds of at least 25/3 Mbps.⁷ The preliminary list of census blocks *includes* census blocks located in price cap carrier territories that, based on June 30, 2019 Form 477 data, are not served by the incumbent price cap carrier or an unsubsidized competitor with voice and broadband at speeds of 25/3 Mbps or higher and that fall into one of the following groups:⁸

- Census blocks for which price cap carriers currently receive CAF Phase II model-based support;⁹
- Any census blocks that were eligible for, but did not receive, winning bids in the CAF Phase II auction;
- Any census blocks where a CAF Phase II auction winning bidder has defaulted;
- Census blocks excluded from the offers of model-based support and the CAF Phase II auction because they were served with voice and broadband of at least 10/1 Mbps;

³ For example, in the Connect America Fund Phase II auction, service providers are required to deploy broadband-capable networks at the performance tier in which they bid to serve to at least 95% of eligible locations within specific, identified census blocks within six years of being authorized to receive support in order to continue receiving funding. See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5964, para. 40, 5966, paras. 45-46 (2016); 47 CFR § 54.310(c). Consistent with the *Rural Digital Opportunity Fund Order*, parties should not identify census blocks for the challenge process that do not meet similarly concrete standards.

⁴ *Rural Digital Opportunity Fund Order*, at para. 14.

⁵ *Id.* at para. 14 & n.32.

⁶ *Id.* at para. 12 & n.27.

⁷ *Id.* at para. 10; see also *Wireline Competition Bureau Announces Connect America Phase II Support Amounts Offered to Price Cap Carriers to Expand Rural Broadband*, Public Notice, 30 FCC Rcd 3905, 3905-06 (WCB 2015) (adopting CAM v4.3).

⁸ *Rural Digital Opportunity Fund Order*, FCC 20-5, at para. 13 & n.30 (defining unsubsidized competitor).

⁹ *Id.* at para. 12 & n.23 (excluding areas served by price cap carriers in Alaska, Puerto Rico, and the U.S. Virgin Islands).

- Census blocks served by both price cap carriers and rate-of-return carriers to the extent that the census block is in the price cap carrier's territory,¹⁰ using the most recent study area boundary data filed by rate-of-return carriers to identify their service areas and determine the portion of each census block that is outside this service area;¹¹
- Any unserved census blocks that are outside of price cap carriers' service areas where there is no certified high-cost eligible telecommunications carrier (ETC) providing service, such as the Hawaiian Homelands,¹² and any other populated areas unserved by either a rate-of-return or price cap carrier.

At this time, the preliminary list of census blocks *excludes* the following:

- Census blocks where a winning bidder in the CAF Phase II auction is obligated to deploy voice and broadband service;¹³
- Census blocks where a Rural Broadband Experiment support recipient is obligated to offer at least 25/5 Mbps service over networks capable of delivering 100/25 Mbps;¹⁴
- The portions of any census blocks substantially overlapped by an award funded through the U.S. Department of Agriculture's ReConnect Program.¹⁵

The Bureau will release the final list of eligible blocks prior to the short-form application deadline. Between now and then, we expect to update the list to reflect any comments received identifying areas for exclusion or inclusion consistent with the three categories identified above.

The Commission has sought comment on whether to use census block groups or tracts as the minimum geographic unit for bidding.¹⁶ If census block groups are the minimum geographic unit for bidding, parties will be required to bid on all of the locations within eligible census blocks of a census block group. Similarly, if census tracts are the minimum geographic unit, parties will be required to bid on all of the locations within eligible census blocks of a census tract. We emphasize the preliminary list that we publish today is not the final list of areas that will be in the Rural Digital Opportunity Fund Phase I auction, and parties should not assume that support ultimately will be made available in all of these areas.

The Commission has decided that it will use the CAM to set reserve prices for the Rural Digital Opportunity Fund Phase I auction, the reserve price for each minimum biddable unit will be no greater than the CAM-calculated support amount for the eligible census blocks in the minimum geographic unit,

¹⁰ *See id.* at para. 12 & n.24.

¹¹ We will include those price cap areas that are currently served by a rate-of-return carrier due to a transfer of control. *See id.* at para. 12 & n.25.

¹² *See id.* at para. 12 & n.26 (noting that since 2015, the Hawaiian Public Utilities Commission has not certified Sandwich Isles Communications per section 54.314(a), making it ineligible for high-cost support).

¹³ *Id.* at para. 12 & n.28; *see also Connect America Fund Phase II Auction (Auction 903) Closes; Winning Bidders Announced; FCC Form 683 Due October 15, 2018*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 33 FCC Rcd 8257 (WTB and WCB 2018); *Auction 903 Closing Public Notice*, 33 FCC Rcd at 8257, para. 1; *Connect America Fund; ETC Annual Reports and Certifications*, WC Docket Nos. 10-90, 14-58, Order, 32 FCC Rcd 968 (2017). Any areas within a pending CAF Phase II long-form application that have not yet been authorized to receive support at this time are excluded from eligibility for the Rural Digital Opportunity Fund.

¹⁴ *Rural Digital Opportunity Fund Order*, FCC 20-5, at para. 12 & n.29.

¹⁵ *Id.* at para. 13 & n.31; *see also* U.S. Dept. of Agriculture, Rural Development Broadband ReConnect Program, <https://www.usda.gov/reconnect>.

¹⁶ *Rural Digital Opportunity Fund Comment PN*, FCC 20-21, at paras. 9-11.

and a cap will be imposed in the amount of support per location provided to extremely high-cost census blocks.¹⁷ For high-cost census blocks, CAM calculates a reserve price equal to the cost-per-location for all locations in the census block minus the funding threshold of \$40.00 per location, or \$30.00 per location in Tribal areas or areas lacking 10/1 Mbps.¹⁸ For extremely high-cost census blocks, support-per-location was capped at \$212.50, or \$222.50 in Tribal areas or areas lacking 10/1.¹⁹ We emphasize that the support amounts published are merely illustrative, and available support may be different based on changes in the final list.

For each census block, the preliminary list identifies the relevant state abbreviation, county name and the census block identification number (15-digit Federal Information Processing Standard (FIPS) code). For each census block group or census tract, the list identifies the census block group or census tract identification number, the relevant state abbreviation, the county name, the number of locations that are eligible for Rural Digital Opportunity Fund Phase I support, and the reserve price rounded to the nearest dollar.²⁰ These model-calculated amounts are provided for illustrative purposes.

The Bureau will not entertain challenges from parties seeking to establish that a census block is unserved if the census block is reported as served on a certified Form 477 as of June 30, 2019 or later.²¹ Phase II of the Rural Digital Opportunity Fund will target unserved locations within areas that data demonstrates are only partially served, as well as areas not won in Phase I.

Interested parties may file comments **on or before April 10, 2020**.

All filings are to reference **WC Docket No. 19-126**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.²²

- *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- *Paper Filers*: Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

¹⁷ *Id.*

¹⁸ *Rural Digital Opportunity Fund Order*, FCC 20-5, at paras. 15-16.

¹⁹ *Id.*

²⁰ Census block groups or census tracts that have an annual reserve price of less than \$0.50 are not included. See *Comment Sought on Competitive Bidding Procedures and Certain Program Requirements for the Rural Digital Opportunity Fund Auction (Auction 904)*, AU Docket No. 20-34, WC Docket No. 19-126, WC Docket No. 10-90, FCC 20-21, para. 13 (Mar. 2, 2020) (proposing to round the reserve price for each area to the nearest dollar, consistent with the CAF II auction).

²¹ *Rural Digital Opportunity Fund Order*, FCC 20-5, at para. 14.

²² See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1999).

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

In addition, we request that one copy of each pleading be sent to each of the following:

- (1) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-A452, Washington, DC 20554; e-mail: Charles.Tyler@fcc.gov.
- (2) ConnectAmerica@fcc.gov.

The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.²³ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the *Commission’s ex parte* rules.

For further information, please contact Katie King, Telecommunications Access Policy Division, Wireline Competition Bureau, at (202) 418-7400 or TTY (202) 418-0484.

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²³ 47 CFR §§ 1.1200 et seq.