



# PUBLIC NOTICE

**Federal Communications Commission**  
**445 12th St., S.W.**  
**Washington, D.C. 20554**

**News Media Information 202 / 418-0500**  
**Internet: <http://www.fcc.gov>**  
**TTY: 1-888-835-5322**

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## NOTICE TO ENTITIES FILING FORM 477 DATA

### Re: Release of Form 477 Data to General Accounting Office

The U.S. Government Accounting Office (GAO) is examining broadband deployment across the nation as part of a review required by The Internet Tax Nondiscrimination Act, Pub. L. 108-435, which was enacted in December 2004. In connection with this examination of broadband deployment, GAO has requested access to data that the Commission has collected through its Form 477 filings. In particular, GAO has requested information, as of December 31, 2004, submitted to the Commission in the Cover Page section and in Parts I-III of Form 477, and also information submitted by broadband providers in Part V of the form. Our regulations permit disclosure of records submitted to the Commission in confidence to the Comptroller General (*i.e.*, GAO) without prior notification and that parties shall be notified of the disclosure of those records to GAO. 47 C.F.R. § 0.442(d)(3). Accordingly, this notice is being provided to entities that have submitted data in response to the Form 477.

GAO's request for the survey data is made pursuant to 31 U.S.C. § 716, under which federal agencies must provide GAO with access to records held by such agencies. GAO notes in its request that it is required by that section to maintain the same level of confidentiality for records provided as is required of the head of the agency from which they are obtained, and that GAO is precluded by 18 U.S.C. § 1905 from disclosing confidential business information. Although the statutory proscription is not applicable to disclosures to Congress, GAO explains that it is GAO's policy to respect business confidential information and to protect the competitive positions of individual companies in a manner consistent with its reporting responsibilities. GAO also indicates that, as a general matter, it excludes proprietary and confidential business information from its congressional reports. If transmittal of that information becomes necessary, GAO states that it will transmit any such information separately and alert the recipient in Congress to the sensitivity of the information and advise that release of it may be prohibited by 18 U.S.C. § 1905. Finally, GAO states that it does not disclose to the public any records in its files that originate in another agency and that it will refer any such requests to the originating agency.

Commission regulations provide that proprietary and commercially sensitive information will be withheld from public disclosure, subject to the public's right to seek disclosure under the Freedom of Information Act, 5 U.S.C. § 552.<sup>1</sup> Consistent with our regulations and Form 477 submitters' expectations that information submitted to the Commission with a request for confidential treatment not be made publicly available, we have requested that the GAO not disclose confidential information contained in the Form 477 responses. If you have any questions, please contact Thomas J. Beers in the Wireline Competition Bureau at 202-418-0952.

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<sup>1</sup> See 47 C.F.R. § 0.457(d), 0.459(d). See also *Local Competition and Broadband Reporting*, CC Docket No. 99-301, Report and Order, 15 FCC Rcd 7717 (2000) (*Data Gathering Order*).