



PUBLIC NOTICE

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

News Media Information: 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

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May 14, 2018

CONNECT AMERICA FUND PHASE II AUCTION STATUS OF SHORT-FORM APPLICATIONS TO PARTICIPATE IN AUCTION 903; CORRECTIONS DUE JUNE 5, 2018

AU Docket No. 17-182
WC Docket No. 10-90

1. By this Public Notice, the Rural Broadband Auctions Task Force, Wireless Telecommunications Bureau, and Wireline Competition Bureau announce the status of the 277 short-form applications received for Auction 903. The auction, which is scheduled to begin on Tuesday, July 24, 2018, will award up to \$1.98 billion over 10 years to service providers that commit to offer voice and broadband services to fixed locations in unserved high-cost areas.¹ This Public Notice also provides important information regarding the modification and resubmission of short-form applications and reminds applicants of certain procedures the Commission adopted for this auction.

I. SHORT-FORM APPLICATIONS

A. Status of Short-Form Applications

2. The short-form applications for Auction 903 (FCC Forms 183) have been reviewed and classified into the categories listed below.

Complete	47 applications
Incomplete	230 applications

3. **Complete Applications.** Attachment A to this Public Notice lists the short-form applications for Auction 903 that are accepted for filing and complete. Each of these applicants will become a qualified bidder in *all* the states it selected for *all* the performance tier and latency combinations it selected, provided that it maintains the accuracy of its short-form application as required by section 1.65 of the Commission's rules.²

4. Designation of an application as complete indicates that the applicant has provided the certifications and basic information concerning its qualifications that are required by the Commission's competitive bidding rules and has been determined to be financially and operationally qualified to

¹ See *Connect America Fund Phase II Auction Scheduled for July 24, 2018; Notice and Filing Requirements and Other Procedures for Auction 903*, Public Notice, 33 FCC Rcd 1428 (2018) (*Auction 903 Procedures Public Notice*).

² 47 CFR § 1.65. Each applicant in competitive bidding proceedings must furnish additional or corrected information within five days of a significant occurrence or amend its short-form application no more than five days after the applicant becomes aware of the need for amendment.

participate in the auction. Under the Commission's two-phased auction application process, after the close of the auction, a winning bidder must submit a long-form application and meet various other requirements that are fully explained in the *Auction 903 Procedures Public Notice*.³ Thus, a determination that a short-form application is complete is not determinative of an applicant's qualifications to receive Connect America Fund Phase II support. In the event that an applicant does not become authorized to receive Connect America Fund Phase II support for any reason, it will be liable for any obligations incurred as a result of its participation in the auction.⁴

5. **Incomplete Applications.** Attachment B to this Public Notice lists the short-form applications for Auction 903 that are accepted for filing but found to be incomplete or otherwise deficient. That is, each of these applications does not provide the certifications and basic information required by the Commission's competitive bidding rules for participation in the auction, and/or the applicant has not been determined to be financially and/or operationally qualified to bid in all the states or for all the performance tier and latency combinations it selected. These applicants will each receive a letter identifying the deficiency(ies) in its application. This letter will be sent via overnight delivery to the contact person and contact address listed in the application, along with a copy of this Public Notice.

6. Each applicant whose application for Auction 903 has been identified as incomplete must address the identified deficiencies in its application during the resubmission window, which will open at 10:00 a.m. ET on May 15, 2018. Corrected applications must be filed **prior to 6:00 p.m. ET on Tuesday, June 5, 2018**. Any short-form application corrections must be made electronically using the Auction Application System. This will be the only opportunity to cure application deficiencies. Late resubmissions will not be accepted. If an application is incomplete or otherwise deficient after the resubmission deadline has passed, the applicant will not be qualified to participate in bidding.⁵

7. When the resubmission window opens on May 15, non-confidential portions of all submitted applications will be publicly available through the application search feature, which can be accessed through the application tab on the Auction 903 web page.⁶ In addition, each applicant will be able to access its submitted application and view the initial eligibility determination for each selected performance tier and latency combination directly in the Auction Application System on the *View Eligibility Determinations* page.⁷ Applicants with incomplete applications should contact the

³ See *Auction 903 Procedures Public Notice*, 33 FCC Rcd at 1512-20, paras. 289-313.

⁴ See generally *id.* at 1520-22, paras. 314-17.

⁵ Any applicant that submits a short-form application but fails to become a qualified bidder for any reason, will retain its status as an applicant in Auction 903 and will remain subject to the Commission's rule prohibiting certain communications, 47 CFR § 1.21002. Any such unqualified applicant will not, however, be eligible to bid.

⁶ <https://www.fcc.gov/auction/903>.

⁷ The *View Eligibility Determinations* screen will display a view-only (i.e., non-editable) "Initial Eligibility Determinations" table showing: (1) each of the state, performance tier, latency, and technology combination(s) that the applicant selected; (2) a calculation of the T+L Weight associated with each performance tier and latency combination; (3) a "Tier-Latency-Technology Eligibility" column with a determination of whether a performance tier, latency, and technology combination is, after initial review, eligible, as indicated by the term "Yes" (for eligible) or "No" (for ineligible); (4) a "State Eligibility" column with a determination of whether a state is, after initial review, eligible based on an impermissible overlapping state issue, as indicated by the term "Yes" (for eligible) or "No" (for ineligible); and (5) an "Overall Eligibility" column with an initial overall eligibility status for each performance tier/latency combination entered for a given state, as indicated by the term "Eligible" or "Ineligible." Whether a state, performance tier, latency, and technology combination is deemed overall eligible depends on the determinations in both the "Tier-Latency-Technology Eligibility" and "State Eligibility" columns. For example, if an applicant is deemed eligible to bid on a performance tier, latency and technology combination (represented by a "Yes" under the "Tier-Latency-Technology Eligibility" column), but is deemed ineligible to bid

Commission staff member identified in the letter sent by overnight delivery to discuss any questions about their incomplete status or application deficiencies. To become a qualified bidder, each applicant must correct any deficiencies and resubmit its application by June 5, 2018, as described below. Each applicant must also maintain the accuracy of its short-form application as required by section 1.65 of the Commission's rules.⁸ All changes are subject to review by Commission staff.

B. Short-Form Application Changes and Resubmission

8. During the resubmission window, all applicants may make minor changes to their applications. The electronic FCC Form 183 will not permit an applicant to make changes to certain data fields in its application after the short-form application filing deadline (March 30, 2018), including the applicant name, legal classification, or the certifying official. Administrative and minor changes can be made, however. These would include, for example, deletion and addition of authorized bidders (to a maximum of three), revision of addresses and telephone numbers of the applicant and its contact person, and changes to responsible party. An applicant may also attach amended documents to its application, including revisions or additions to its financial statements and network information and spectrum access attachments. Originally filed attachments cannot be removed from the application. We recommend that the revised attachments be red-lined or that changes be otherwise highlighted if they are not too extensive, so that Commission staff can easily discern the differences between the original and revised documents.

9. An applicant may, with certain limits, modify its initial state, performance tier, latency, and technology combination(s) (including, if applicable, the spectrum band(s) and bandwidth) during the resubmission filing window.⁹ An applicant will be permitted to remove any state and remove or modify any performance tier, latency, and technology (including, if applicable, the spectrum band(s)/bandwidth) combination(s). An applicant will also be permitted to add new combinations. However, an applicant will not be able to add any new states.

10. While changes can also be made to the ownership and agreement information, we remind each applicant that any changes must comply with the Commission's rule prohibiting major modifications of an application.¹⁰ Any major modification to an application (e.g., certain changes in ownership that would constitute an assignment or transfer of control of the applicant) will not be permitted.¹¹ If any application is changed to effect a major amendment, the major amendment will not be accepted and may result in the dismissal of the application.

11. We remind applicants that section 1.65 of the Commission's rules require an applicant to maintain the accuracy and completeness of information furnished in its pending short-form application.¹² Each applicant should amend its short-form application to furnish additional or corrected information

on the state because of an impermissible overlapping state issue (represented by a "No" under the "State Eligibility" column), the applicant will be deemed overall ineligible to bid on that combination.

⁸ 47 CFR § 1.65.

⁹ If an applicant modifies a combination, the eligibility status for that combination will change to "Pending" on the *State and Performance Tier/Latency Selection* screen. However, the eligibility status for that combination will not change to "Pending" on the *View Eligibility Determinations* screen – i.e., the *View Eligibility Determinations* screen will maintain a static view of the eligibility determination(s) for the combination(s).

¹⁰ See 47 CFR § 1.21001(d)(4).

¹¹ We remind any applicant that has a transaction pending before the Commission that any such transaction effecting an assignment or transfer of control if consummated, would, absent a waiver of section 1.21001(d)(4) of the Commission's rules, constitute a major amendment of the application and disqualify any affected applicant from participation in the bidding.

¹² *Id.* § 1.65.

within five days of a significant occurrence, or no more than five days after the applicant becomes aware of the need for amendment.¹³ To the extent that changes may be made directly in the electronic FCC Form 183 at the time of the amendment, an applicant must modify its short-form application electronically. An applicant seeking to report changes outside of the resubmission window must submit a summary of the changes by email to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, at the following address: auction903@fcc.gov. Questions about changes should be directed to the Auctions and Spectrum Access Division at (202) 418-0660.

12. For any change to be submitted and considered by the Commission, an applicant must click on the CERTIFY & SUBMIT button in the Auction Application System. Any application amendment(s) and related statements of fact must be certified by an authorized representative of the applicant with authority to bind the applicant. The submission of any such amendment or related statement of fact constitutes a representation by the person certifying that he or she is an authorized representative with such authority, and that the contents of the amendment or statement of fact are true and correct.

II. OTHER IMPORTANT AUCTION 903 INFORMATION

13. **Announcement of Qualified Bidders.** Following Commission review of resubmitted short-form applications, a public notice listing all applicants qualified to bid in Auction 903 will be released.¹⁴ The same public notice will also include bidding schedules for both the mock auction and the first day of bidding.

14. **Prohibition of Certain Communications.** We remind applicants that the rule prohibiting certain communications set forth in section 1.21002 of the Commission's rules applies to each applicant that filed a short-form application in Auction 903.¹⁵ Section 1.21002 provides that, subject to specified exceptions, after the deadline for filing a short-form application, an applicant "is prohibited from communicating with any other applicant in any manner the substance of its own, or one another's, or any competing applicant's bids or bidding strategies, until after the post-auction deadline for winning bidders to submit applications for support."¹⁶

15. This prohibition took effect as of the short-form application filing deadline, i.e., March 30, 2018, at 6:00 p.m. ET, and extends until the long-form application deadline. As discussed in the *Auction 903 Procedures Public Notice*, long-form applications will be due within 10 business days after release of the Auction 903 closing public notice, unless otherwise provided by public notice.¹⁷

16. **This prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid.**¹⁸ We also emphasize that, for purposes of this prohibition, an

¹³ *Id.*

¹⁴ The *View Eligibility Determinations* screen will again be displayed to applicants in the Auction Application System, and the applicant will be able to view a "Final Eligibility Determinations" table with the Commission's final determinations about the applicant's eligibility to bid in the state(s) and for the performance tier and latency combination(s) it initially selected and/or added or modified during the resubmission filing window.

¹⁵ 47 CFR § 1.21002.

¹⁶ *Id.* § 1.21002(b).

¹⁷ See *Auction 903 Procedures Public Notice*, 33 FCC Rcd at 1512, para. 290.

¹⁸ A party that submits an application becomes an "applicant" under the rule at the application filing deadline and that status does not change based on subsequent developments. See, e.g., *Star Wireless, LLC v. FCC*, 522 F.3d 469 (D.C. Cir. 2008) (section 1.2105(c) applies to applicants regardless of whether they are qualified to bid). Thus, an auction applicant that does not correct deficiencies in its application or does not otherwise become qualified,

“applicant” includes the entity filing the application, each party capable of controlling the applicant, and each party that may be controlled by the applicant or by a party capable of controlling the applicant.¹⁹

17. The prohibition of “communicating in any manner” includes public disclosures as well as private communications and indirect or implicit communications, as well as express statements of bids and bidding strategies.²⁰ Consequently, an applicant must take care to determine whether its auction-related communications may reach another applicant.

18. **Disclosure Obligations.** Section 1.21002(c) provides that any applicant that makes or receives a communication that appears to violate section 1.21002 must report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs.²¹ An applicant’s obligation to make such a report continues until the report has been made.²²

19. **Reporting Prohibited Communications.** Parties must file only a single report concerning a prohibited communication and must file that report with the Commission personnel expressly charged with administering the Commission’s auctions.²³ This rule is designed to minimize the risk of inadvertent dissemination of information in such reports.²⁴ Any reports required by section 1.21002(c) must be filed consistent with the instructions set forth in the *Auction 903 Procedures Public Notice*.²⁵ In particular, such reports for Auction 903 must be filed with Margaret W. Wiener, the Chief of the Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, by the most expeditious means available. Any such report should be submitted by email to Ms. Wiener at the following email address: auction903@fcc.gov. If you choose instead to submit a report in hard copy, any such report must be delivered only to: Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW, Room 6-C217, Washington, DC 20554.

20. A party seeking to report such a prohibited communication should consider submitting its

remains an “applicant” for purposes of the rule and remains subject to the prohibition on certain communications until the long-form application filing deadline.

¹⁹ 47 CFR § 1.21002(a).

²⁰ *Id.*; see generally *Updating Part 1 Competitive Bidding Rules*, Report and Order et al., 30 FCC Rcd 7493, 7577, para. 199 (2015) (explaining that similar section 1.2105(c) language prohibiting communicating bids or bidding strategies “in any manner” bars “communicating bids or bidding information, either directly or indirectly”); *Cascade Access, L.L.C.*, Forfeiture Order, 28 FCC Rcd 141, 144, para. 7 (EB 2013) (rejecting argument that the communication was not prohibited because it did not reveal the “substance” of Cascade’s bids or bidding strategies).

²¹ 47 CFR § 1.21002(c).

²² *Id.*

²³ *Procedural Amendments to Commission Part 1 Competitive Bidding Rules*, Order, 25 FCC Rcd 521, 522, para. 4 (2010). This process differs from filing procedures used in connection with other Commission rules and processes, which may call for submission of filings to the Commission’s Office of the Secretary or ECFS. Filing through the Office of Secretary or ECFS could allow the report to become publicly available and might result in the communication of prohibited information to other auction applicants.

²⁴ A party reporting any prohibited communication must take care to ensure that any report of a prohibited communication does not itself give rise to a violation of section 1.21002. For example, a party’s report of a prohibited communication could violate the rule by communicating prohibited information to other applicants through the use of Commission filing procedures that would allow such materials to be made available for public inspection.

²⁵ See *Auction 903 Procedures Public Notice*, 33 FCC Rcd at 1484-85, paras. 159-61.

report with a request that the report or portions of the submission be withheld from public inspection by following the procedures specified in section 0.459 of the Commission's rules.²⁶ We encourage such parties to coordinate with the Auctions and Spectrum Access Division staff about the procedures for submitting such reports.

21. Any applicant found to have violated section 1.21002 of the Commission's rules is subject to sanctions.²⁷ In addition, we remind applicants that they are subject to the antitrust laws.²⁸ If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, it may be subject to forfeiture and may be prohibited from participating in future Commission auctions, among other sanctions.²⁹

22. **Ex Parte Rules.** Applicants should also be aware that the Commission has generally treated mutually exclusive short-form applications to participate in the auctions process as exempt proceedings and, therefore, not subject to the *ex parte* prohibitions that pertain to restricted proceedings.³⁰ This same treatment will apply to the mutually exclusive short-form applications in this proceeding.

23. **Mock Auction.** All qualified bidders will be eligible to participate in a mock auction during the week of July 16, 2018. We encourage all qualified bidders to take advantage of this opportunity to become familiar with the CAF II Bidding System and to practice submitting bids prior to the auction. In the public notice announcing the qualified bidders, we will announce the bidding schedule for the mock auction.

24. **Post-Auction Procedures.** Shortly after bidding in Auction 903 has ended, a public notice will be released that declares the auction closed, identifies the winning bidders, and establishes deadlines for filing the long-form application. Further filing instructions will be provided to auction winners at the close of the auction.

III. CONTACT INFORMATION

25. For specific questions about an applicant's incomplete status or its application deficiencies, the applicant should contact the Commission staff member identified in the correspondence sent to the applicant by overnight mail. Commission staff will communicate only with an applicant's contact person or certifying official, as designated on the applicant's FCC Form 183, unless the applicant's certifying official or contact person notifies Commission staff in writing that another representative is authorized to speak on the applicant's behalf. Authorizations may be sent by email to

²⁶ See 47 CFR § 0.459. Filers requesting confidential treatment of documents must be sure that the cover page of the filing prominently displays that the documents seek confidential treatment. For example, a filing might include a cover page stamped with "Request for Confidential Treatment Attached" or "Not for Public Inspection." Any such request must cover all the material to which the request applies. See *id.* § 0.459(a).

²⁷ See, e.g., *id.* § 1.2109(d).

²⁸ See *Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures*, Third Further Notice of Proposed Rulemaking, 14 FCC Rcd 21558, 21560-61, para. 4 & n.17 (1999), quoting *Competitive Bidding Memorandum Opinion and Order*, 9 FCC Rcd at 7689, para 12 (1994) ("[W]e wish to emphasize that all applicants and their owners continue to be subject to existing antitrust laws. Applicants should note that conduct that is permissible under the Commission's Rules may be prohibited by the antitrust laws."); *Implementation of Section 309(j) of the Communications Act – Competitive Bidding*, Fourth Memorandum Opinion and Order, 9 FCC Rcd 6858, 6869 n.134 (1994) ("[A]pplicants will also be subject to existing antitrust laws.").

²⁹ See 47 CFR § 1.2109(d); see also *Implementation of Section 309(j) of the Communications Act—Competitive Bidding*, Second Report and Order, 9 FCC Rcd 2348, 2388, para. 226 (1994).

³⁰ See *Commission Announces that Mutually Exclusive "Short-Form" Applications (Form 183) to Participate in Competitive Bidding Process ("Auctions") Are Treated as Exempt for Ex Parte Purposes*, Public Notice, 9 FCC Rcd 6760 (1994). See also 47 CFR § 1.1202(d)(1) Note 1.

auction903@fcc.gov and the Commission staff member identified in the correspondence sent to the applicant.

26. For further information concerning Auction 903, contact:

General Auction Information

General Auction Questions

FCC Auctions Hotline

(888) 225-5322, option two; or
(717) 338-2868

Auction 903 Process and Procedures

Bidding Procedures
Auction Schedule

Auctions and Spectrum Access Division

Auctions Hotline 717-338-2868

Auction 903 Legal Information

Auction Rules, Policies, Regulations, Including
Reports of Section 1.2105(c) Violations and
Application Modifications

Rural Broadband Auctions Task Force

Chelsea Fallon, (202) 418-7991
Kirk Burgee, (202) 418-1599
Nathan Eagan, (202) 418-0991

**Wireless Telecommunications Bureau
Auctions and Spectrum Access Division**

Mark Montano
Angela Kung
(202) 418-0660

General Universal Service Questions

**Wireline Competition Bureau
Telecommunications Access Policy Division**

Alex Minard
Heidi Lankau
Katie King
(202) 418-0660

Technical Support

Electronic Filing
Auction Application System and CAF II Bidding
System (Hardware/Software Issues)

FCC Auctions Technical Support Hotline

(877) 480-3201, option nine; or (202) 414-1250
(202) 414-1255 (TTY)
Hours of service: 8:00 a.m. – 6:00 p.m. ET,
Monday through Friday

FCC Email & Webpages

Auction903@fcc.gov
<http://www.fcc.gov>
<https://www.fcc.gov/connect-america-fund-phase-ii-auction>

Press Information

Mark Wigfield, (202) 418-0253
Charles Meisch, (202) 418-2943

FCC Forms

(800) 418-3676 (outside Washington, DC)
(202) 418-3676 (in the Washington area)
<http://www.fcc.gov/formpage.html>

Accessible Formats

Braille, large print, electronic files, or audio format for people with disabilities

Consumer and Governmental Affairs Bureau

(202) 418-0530 or (202) 418-0432 (TTY)

fcc504@fcc.gov

Small Businesses

Additional information for small and disadvantaged businesses

Office of Communications Business**Opportunities**

(202) 418-0990

<http://www.fcc.gov/ocbo/>

Tribal Issues

Additional information for entities seeking to provide service to Tribal lands and Tribal governments

Office of Native Affairs and Policy

(202) 418-2930

native@fcc.gov

27. To request materials in accessible formats (Braille, large print, electronic files, audio format) for people with disabilities, send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-0432 (TTY).

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