



PUBLIC NOTICE

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RURAL BROADBAND AUCTIONS TASK FORCE ANNOUNCES INTENT TO PUBLICLY RELEASE LIST OF HANDSETS SELECTED TO BE USED IN MOBILITY FUND PHASE II CHALLENGE PROCESS SPEED TESTS

WC Docket No. 10-90
WT Docket No. 10-208

1. The Rural Broadband Auctions Task Force (Task Force), in conjunction with the Wireline Competition Bureau and the Wireless Telecommunications Bureau (Bureaus), provides notice of its intent to publicly release a list of the handsets designated by each mobile wireless provider in the Mobility Fund Phase II (MF-II) challenge process for challengers to use when conducting speed tests in areas deemed presumptively ineligible for MF-II support. Currently, this information is available only through the Universal Service Administration Company (USAC) challenge portal, which challengers may access only after agreeing to keep the information confidential.¹ We believe that making this information public would cause no competitive harm to the providers and could assist those challengers that are governmental entities in assessing whether they wish to engage in the challenge process and register for the USAC challenge portal.

2. When submitting standardized coverage data on qualified 4G LTE service for use in the MF-II challenge process,² each mobile wireless provider also submitted a list of readily-available handset models that challengers could use to test such coverage.³ Because providers considered the coverage data to be competitively sensitive or proprietary, the Commission required that challengers access such data only through the USAC portal after agreeing to keep the information obtained through the portal confidential.⁴ Because the provider handset lists were submitted with the coverage data, they currently are available only through the USAC portal and subject to the same confidentiality agreement.

3. In the *MF-II Challenge Process Order*, the Commission concluded that government entities (state, local, and Tribal) and all service providers required to file Form 477 data with the Commission could participate in the challenge process and obtain access to the USAC challenge portal.⁵ We find that making public the handset lists submitted by providers will facilitate the ability of parties without access to the challenge process portal to assess whether they wish to participate in the challenge process.

¹ *Mobility Fund Phase II Initial Eligible Areas Map Available; Challenge Window Will Open March 29, 2018*, Public Notice, 33 FCC Rcd 2041 (2018). See *Procedures for the Mobility Fund Phase II Challenge Process*, Public Notice, 33 FCC Rcd 1985 (2018) (*MF-II Challenge Process Procedures PN*).

² *Connect America Fund; Universal Service Reform – Mobility Fund*, Order on Reconsideration and Second Report and Order, 32 FCC Rcd 6282, 6296, para. 28 (2017) (*MF-II Challenge Process Order*).

³ See *MF-II Challenge Process Order*, 32 FCC Rcd at 6302, 6308, paras. 39, 50.

⁴ See *MF-II Challenge Process Order*, 32 FCC Rcd at 6297, para. 29 n.82; *MF-II Challenge Process Procedures PN*, 33 FCC Rcd at 1989, para. 8 & n. 24.

⁵ *MF-II Challenge Process Order*, 32 FCC Rcd at 6304, para 43 & n. 115. The Commission also stated that if a consumer, organization, or business believes that its interests cannot be met through its state, local, or Tribal government entity, and it wishes to participate in the process as a challenger, it is free to file a waiver with the Commission for good cause shown, either on its own or with the assistance of an organization. *Id.*

Further, we believe that the public release of the handsets selected by the providers is unlikely to cause those providers any competitive harm. The selected handsets are a subset of the handsets that providers already make available to the public and are likely shown on the providers' websites, as well as in their advertisements, promotional materials, and retail establishments. We therefore believe it is in the public interest to make the list of selected handsets available to the public rather than keeping the list of handsets confidential.

4. Providers were not required to include with their handset list submissions a request that such information be withheld from public inspection pursuant to Section 0.459(b) of the Commission's rules.⁶ Accordingly, we afford providers that filed an opportunity to request confidentiality now, along with the justification for nondisclosure, as required by our rules. Any provider that wishes to oppose the release of a list of its selected handsets must file an objection and explain why release of the list will reveal information not already made available to the public and will harm it competitively. Any such provider must include a description of the extent of that harm, as well as provide all other information and support for its request for confidentiality under Section 0.459(b). **Such requests for confidential treatment must be submitted no later than June 4, 2018.**⁷ All filings should refer to WC Docket No. 10-90, WT Docket No. 10-208, and this Public Notice. **We will release a list of the selected handsets by provider on June 5, 2018, for each provider from which we have not received a confidentiality request.** Objections and responses may be filed using the Commission's Electronic Comment Filing System (ECFS).⁸

5. This action is taken pursuant to Sections 4(i) and 4(j) of the Communications Act, 47 U.S.C. § 154(i), § 154(j), Section 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), and authority delegated under section 0.331 of the Commission's rules, 47 CFR § 0.331, and is effective upon its adoption.

6. For further information, contact Jonathan McCormack, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, at Jonathan.McCormack@fcc.gov or (202) 418-0660.

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⁶ 47 CFR § 0.459(b).

⁷ 47 CFR § 0.459(b). In the case of any request for confidentiality that is denied, the provider may file an application for review by the Commission in accordance with 47 CFR § 0.459(g). Materials will be accorded confidential treatment until the Commission acts on any timely applications for review, and until a court acts on any timely motion for stay of such an order denying confidential treatment. *Id.*

⁸ <https://www.fcc.gov/ecfs/>