



PUBLIC NOTICE

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

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

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ENFORCEMENT BUREAU PROVIDES GUIDANCE FOR DUE DILIGENCE CHECKS

Licensees of the Federal Communications Commission (FCC or Commission) and their designated attorneys routinely request information from the Enforcement Bureau (Bureau) concerning pending matters that might adversely impact proposed licensee-related transactions, including assignments, transfers of control, renewals, mergers, public stock offerings, and others. In a February 2000 Public Notice, as further clarified in a September 2003 Public Notice,¹ the Bureau provided guidance regarding the submission of requests for due diligence review relating to pending matters before the Bureau from outside parties. Since release of the above-referenced Public Notice, the Bureau has processed thousands of such due diligence requests. The Bureau's aim in the due diligence process is to provide parties with the information they need in a timely manner, while protecting its investigatory processes and the non-public information of the parties involved with the Bureau's investigations. With these goals in mind, the Bureau has reviewed its existing procedures to find ways to improve the due diligence process. In this Public Notice, the Bureau clarifies the way it will process due diligence requests going forward, to provide service to the public that is as transparent, consistent, efficient, and as timely as possible.

Parties should only submit due diligence requests to inquire about matters pending before the Bureau. The Bureau cannot provide information concerning matters pending before other FCC bureaus and offices. In order to allow Bureau staff to respond as quickly as possible to due diligence requests, staff will not routinely provide, as part of the due diligence report, information regarding past enforcement action (e.g., Notices of Apparent Liability, Forfeiture Orders, or Citations). Such historical information can be obtained from the Commission's Reference Information Center (Center), located at 445 12th Street, SW, Room CY- A257, Washington, DC 20554. The Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m., and from 8:00 a.m. to 11:30 a.m. on Fridays. Interested parties may also be able to access responsive documents online, using legal research tools and on the Commission's EDOCs website by searching here: <https://www.fcc.gov/edocs>

In response to due diligence requests, the Bureau will confirm whether there are any pending enforcement cases, investigations, or formal or informal complaints against a particular station or company that have resulted in enforcement investigations. To avoid potential interference with the Bureau's ongoing investigations or the inadvertent release of non-public

¹ *Enforcement Bureau Procedures for Due Diligence Checks*, Public Notice, 15 FCC Rcd 4464 (EB 2000); *Clarification of Enforcement Bureau Guidance for Due Diligence Checks*, Public Notice, 18 FCC Rcd 19276 (EB 2003).

information, the Bureau will only provide due diligence information to the licensee itself or its designated attorneys. That is, the due diligence process will not provide information about Commission licensees or stations to third parties, such as lenders or prospective station buyers. In addition, the Bureau's response to a due diligence request will not include the nature of any pending case or the current status of our review of the case. If the subject of a pending case or ongoing investigation (or a principal or attorney of such an entity) seeks additional information regarding such case or investigation, the licensee or attorney should directly contact the Bureau staff that is handling the matter in question. Such inquiries should be made independent of the due diligence process.

To facilitate *bona fide* due diligence requests (*i.e.*, those submitted in connection with a *bona fide* transaction, such as a station sale, financing or public offering), the attorney for a requesting entity (or a principal of the entity) should submit a letter to the Bureau requesting a due diligence review. The Bureau will not routinely handle, through the due diligence process, requests from licensees for information about themselves in connection with the preparation of renewal applications.

The Bureau can more easily respond to requests that conform to the above parameters and that provide the following information in the request:

- (1) name of licensee/company that is the subject of request;
- (2) reason for the request;
- (3) current call sign (and any other call sign by which the facility has been identified since the beginning of the current license term);
- (4) facility identification number;
- (5) community of license/market/market number;
- (6) radio service (*e.g.*, AM, FM, TV, PCS); and
- (7) name, address, telephone number and e-mail address of requesting party.

Due diligence requests should be submitted via e-mail to ebduedil@fcc.gov. The message must include, as an attachment, a PDF file containing an image of a signed letter in the form and contain the information outlined above. Requests that fail to provide the information outlined above may be subject to processing delays. The Bureau will not accept due diligence requests by telephone or fax. The Bureau will notify parties of the results of the due diligence review by e-mail and will endeavor to do so within seven (7) business days of the Bureau's receipt of the request.

For further information concerning this Public Notice, please contact Karen Richardson of the Enforcement Bureau, Investigations and Hearings Division, by telephone, at: (202) 418-1421, or, by e-mail at: ebduedil@fcc.gov.

By the Chief, Investigations and Hearings Division, Enforcement Bureau.

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