



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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WIRELINER COMPETITION BUREAU ANNOUNCES APPLICATIONS SUBMITTED TO PARTICIPATE IN UNIENDO A PUERTO RICO FUND AND CONNECT USVI FUND STAGE 2 FIXED COMPETITIVE PROPOSAL PROCESS

WC Docket No. 18-143
WC Docket No. 10-90
WC Docket No. 14-58

1. **Introduction.** By this Public Notice, the Wireline Competition Bureau (Bureau) announces the applications received for the Uniendo a Puerto Rico and Connect USVI Funds Stage 2 Fixed Competitive Proposal Process (Stage 2 Competitive Process). This Public Notice also provides important information regarding certain procedures the Commission adopted for this process.

2. In the *Stage 2 Procedures Public Notice*, the Bureau stated it would issue a public notice identifying each applicant.¹ The deadline to submit an application (FCC Form 5634) for the Stage 2 Competitive Process was September 3, 2020.² The Bureau received a total of seven complete applications from eligible entities for the Stage 2 Competitive Process, as listed below in Table A. Designation of an application as complete indicates that the applicant has provided the certifications and basic information concerning its qualifications that are required in the *Stage 2 Competition Procedures PN* to participate in the competitive proposal process.³ This designation, however, is not determinative of an applicant's qualifications to receive Uniendo a Puerto Rico Fund or Connect USVI Fund support. Each eligible applicant whose application for the Stage 2 Competitive Process has been identified as complete must promptly address any requests for further information from Commission staff.⁴

¹ *Uniendo a Puerto Rico Fund and Connect USVI Fund Notice and Filing Requirements and Other Procedures for Stage 2 Fixed Competitive Proposal Process*, Public Notice, WC Docket Nos. 18-143, 10-90, 14-58, 35 FCC Rcd 218, 228, 251, paras. 29, 122 (Feb. 5, 2020) (*Stage 2 Procedures Public Notice*).

² *Wireline Competition Bureau Announces Application Window for Stage 2 of the Uniendo a Puerto Rico Fund and Connect USVI Fund*, Public Notice, WC Docket Nos. 18-143, 10-90, DA 20-844 (Aug. 6, 2020) (*Stage 2 Application Window Public Notice*).

³ See *Stage 2 Competition Procedures PN*, 35 FCC Rcd at paras. 225-251 (Section II. Applying to Compete in the Stage 2 Competition).

⁴ See *id.* at 228, 251, paras. 29, 121.

Table A – Applications Received⁵

Territory	Entity Name
Puerto Rico	Aeronet Wireless Broadband LLC
Puerto Rico	Critical Hub Networks, Inc.
Puerto Rico	Data@ccess Communication, Inc.
Puerto Rico	Liberty Communications of Puerto Rico
Puerto Rico	Puerto Rico Telephone Company, Inc.
USVI	Broadband VI, LLC
USVI	Virgin Islands Telephone Company d/b/a Viya

3. **Communications during the Competitive Process.** Commission staff will communicate only with an applicant’s contact person or certifying official, as designated on the applicant’s FCC Form 5634, 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.⁶ Authorizations may be sent by email to ConnectAmerica@fcc.gov.

4. **Minor Changes.** In general, qualified applicants may make minor changes to their applications.⁷ These would include, for example, revision of addresses and telephone numbers of the applicant and its contact person, and changes to the 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, to the extent that any new information in an amended document does not constitute a major modification of the application.⁸ We recommend that the revised attachments be red-lined or that changes be otherwise clearly indicated, so that Commission staff can easily discern the differences between the original and revised documents.

5. 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.⁹ 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.¹⁰ If any

⁵ Although Blackburn Technologies II, LLC (Blackburn) submitted an application, it has been found to be ineligible for the Stage 2 Competitive Process. Blackburn has a pending petition for reconsideration of the decision. Petition for Reconsideration of Blackburn Technologies II LLC, WC Docket No. 18-143 (filed Aug. 26, 2020). By filing an application, Blackburn is still subject to the same prohibition against certain communications as other applicants, as explained below.

⁶ In no event, however, will the Commission send application materials to anyone other than the contact person listed on the applicant’s FCC Form 5634 or respond to a request for materials from anyone other than the authorized applicant, contact person, or certifying official listed on the applicant’s Form 5634. See *Stage 2 Procedures Public Notice*, 35 FCC Rcd at 241-43, paras. 82-86 (Section II.D. Procedures for Limited Disclosure of Application Information).

⁷ See *id.* at 229-30, paras. 35-37.

⁸ *Id.*

⁹ See 47 CFR § 1.21001(d)(4). See also *Stage 2 Procedures Public Notice*, 35 FCC Rcd at 230, paras. 38-41.

¹⁰ See *Stage 2 Procedures Public Notice*, 35 FCC Rcd at 229-30, para. 37. We remind any applicant that has a transaction pending before the Commission that any such transaction effecting an assignment or transfer of control,

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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

6. 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. In the event that a winning bidder does not become authorized to receive support for any reason, it will be subject to a forfeiture.¹²

7. **Duty to Maintain Accurate Information in Applications.** We remind applicants of their duty to maintain the accuracy and completeness of information furnished in their pending application to participate in the Stage 2 Competitive Process.¹³ Each applicant must amend its application to furnish additional or corrected information within five business days of a significant occurrence, or no more than five business days after the applicant becomes aware of the need for amendment.¹⁴ All changes are subject to review by Commission staff. Changes must be submitted by email to ConnectAmerica@fcc.gov.

8. **Prohibition of Certain Communications.** We remind applicants that the rule prohibiting certain communications, consistent with section 1.21002 of the Commission's rules, applies to each applicant that filed an application in the Stage 2 Competitive Process.¹⁵ The rule prohibits an applicant from cooperating or collaborating with any other applicant with respect to its own, or one another's, or any other competing applicant's applications or application strategies, and from communicating with any other applicant in any manner the substance of its own, or one another's, or any other competing applicant's applications or application strategies during the prohibition period.¹⁶

9. This prohibition took effect as of the application filing deadline on September 3, 2020, at 6:00 p.m. ET, and extends until the winning applicants are authorized to receive Stage 2 support.¹⁷ **This prohibition applies to all applicants regardless of whether such applicants become qualified applicants or actually win support.**¹⁸ We also emphasize that, for purposes of this prohibition, an "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

10. The prohibition on "communicating in any manner" includes public disclosures as well as private communications and indirect or implicit communications, express statements of bids and bidding

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if consummated, would, constitute a major amendment of the application and disqualify any affected applicant from participation in the bidding, absent a waiver of section 1.21001(d)(4) of the Commission's rules.

¹¹ See *id.*

¹² See *Stage 2 Procedures Public Notice*, 35 FCC Rcd at 228, 255-56, paras. 28, 136-39.

¹³ See *id.* at 230, paras. 38-41.

¹⁴ See *id.* at 230, para. 38.

¹⁵ *Id.* at 243-50, paras. 87-114 (Section II.E. Prohibited Communication and Compliance with Antitrust Laws); see 47 CFR § 1.21002.

¹⁶ *Id.* at 243, para. 87; see 47 CFR § 1.21002.

¹⁷ *Stage 2 Procedures Public Notice*, 35 FCC Rcd at 245, para. 93.

¹⁸ *Id.* at 244, para. 89. 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 47 CFR § 1.21001(a).

¹⁹ *Stage 2 Procedures Public Notice*, 35 FCC Rcd at 244, para. 90; 47 CFR § 1.21002(a).

strategies.²⁰ Consequently, an applicant must take care to determine whether its competition-related communications may reach another applicant.²¹

11. *Disclosure Obligations for Prohibited Communications.* Consistent with section 1.21002(c), any applicant that makes or receives a communication that appears to violate the prohibited communications rule must report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs.²² An applicant's obligation to make such a report continues until the report has been made.²³

12. *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.²⁴ This rule is designed to minimize the risk of inadvertent dissemination of information in such reports.²⁵ Any reports required by the rule must be filed consistent with the instructions set forth in the *Stage 2 Procedures Public Notice*. In particular, such reports must be filed with Ryan Palmer, the Chief of the Telecommunications Access Policy Division, Wireline Competition Bureau, by the most expeditious means available, such as via email to ConnectAmerica@fcc.gov.²⁶

13. A party seeking to report such a prohibited communication should consider submitting its 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. We encourage such parties to coordinate with staff about the procedures for submitting such reports.²⁷

14. Any applicant found to have violated the prohibited communications rule is subject to sanctions.²⁸ In addition, we remind applicants that they are subject to the antitrust laws.²⁹ If an applicant

²⁰ *Id.* at 244-45, para. 91.

²¹ *Id.* The Commission has long warned that applicants should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become a conduit for the communication of non-public information relating to auctions, such as bids and bidding strategies. *See Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction*, Public Notice, 13 FCC Rcd 341, 347-48 (WTB 1998) ("Public statements can give rise to collusion concerns. This has occurred in the antitrust context, where certain public statements can support other evidence which tends to indicate the existence of a conspiracy.").

²² *Stage 2 Procedures Public Notice*, 35 FCC Rcd at 244-45, para. 106; 47 CFR § 1.21002(c).

²³ *Id.*

²⁴ *Id.* at 247-48, paras. 109-111. 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.

²⁵ *Id.* at 248, para. 110. 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 the rule. 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.

²⁶ *Id.*

²⁷ *Id.* at 248, para. 111; 47 CFR § 0.459. Filers requesting confidential treatment of documents must be sure that the cover page of the filing prominently displays the request for 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).

²⁸ *Stage 2 Procedures Public Notice* at 247, paras. 104-105; *see, e.g.*, 47 CFR § 1.2109(d).

²⁹ *See Stage 2 Procedures Public Notice* at 249, para. 114, n. 174.

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 this and future Commission competitions, among other sanctions.³⁰

15. **Limited Information Procedures.** We remind applicants that, under the limited information procedures in effect for the Stage 2 Competitive Process, the Commission is withholding from public release, until after the close of competing in the Stage 2 Competitive Process, any information that may indicate specific applicants' interests in the competition—including, among other things, the performance and latency tiers that applicants have proposed, operational information, letters of interest, and confidential financial information.³¹ Applicants should take care not to publicly disclose such information.

16. **Submission of State 2 Competitive Process Related Filings.** A party wishing to submit a request, a complaint, or other information concerning the Stage 2 Competitive Process should, in addition to following other procedures prescribed by the Commission's rules, send a copy by email to ConnectAmerica@fcc.gov to the attention of the Chief of the Telecommunications Access Policy Division, Wireline Competition Bureau. The Commission will not investigate any complaints or allegations that are not accompanied by full contact information, including name, address, and telephone number for the complaining party or parties.

17. **Contact Information.** For further information concerning the Stage 2 Competitive Process, contact:

FCC Email & Webpages

ConnectAmerica@fcc.gov
<http://www.fcc.gov>

General Uniendo a Puerto Rico Fund and Connect USVI Fund Questions

**Wireline Competition Bureau
Telecommunications Access Policy Division**
Alex Minard
Dangkhoa Nguyen
Rebekah Douglas
Christian Hoefly
Theodore Burmeister
(202) 418-7400

Press Information

Office of Media Relations, (202) 418-0500

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

³⁰ *Id.* at 250, para. 115.

³¹ See *Stage 2 Procedures Public Notice*, 35 FCC Rcd at 241-43, paras. 82-86.

Small Businesses

Additional information for small and disadvantaged businesses

Office of Communications Business**Opportunities**

(202) 418-0990

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

18. 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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