

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Procedures to Identify and Resolve Location) WC Docket No. 10-90
Discrepancies in Eligible Census Blocks)
Within Winning Bid Areas)

To: Chief, Wireline Competition Bureau

**REPLY COMMENTS OF
THE WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION**

The Wireless Internet Service Providers Association (“WISPA”), pursuant to Sections 1.415 and 1.419 of the Commission’s Rules, hereby replies to certain initial Comments filed in this proceeding in response to the *Public Notice* released by the Wireline Competition Bureau (“Bureau”) regarding procedures to identify and resolve discrepancies in “locations” eligible for Connect America Fund (“CAF”) Phase II support.¹

As is demonstrated below, the views of numerous commenters – on topics including the need for flexibility in participant selection of location data methodologies; correctly defining “relevant stakeholders;” and extending the timeframe for participants to reply to stakeholder challenges – echoed those of WISPA in its initial Comments.

Reliability and Validity of Data

Many commenters agreed that, with respect to ensuring the reliability and validity of location data submitted by participants, it is critical for the Bureau to “adopt an approach grounded in flexibility.”² Commenters agreed that grant participants should have wide latitude

¹ See *Public Notice*, “Wireline Competition Bureau Seeks Comment on Procedures to Identify and Resolve Location Discrepancies in Eligible Census Blocks Within Winning Bid Areas,” WC Docket No. 10-90, DA 18-929 (rel. Sept. 10, 2018) (“*Public Notice*”).

² Comments of ITTA, WC Docket 10-90 (filed Oct. 29, 2018) (“ITTA Comments”) at 1; see also *id.* at 5 (“The principle of flexibility . . . should guide the Bureau’s implementation of procedures to identify and

to determine suitable methodologies for their individual situations, as long as participants adequately explain the chosen methodologies in a narrative format sufficiently detailed so as to permit the Bureau, and stakeholders, to evaluate the reliability of the “source data, application, or geocoding methods . . . used.”³ No commenter suggested that the Bureau should limit participants’ ability to rely on reasonable and explained methodologies.

The *Public Notice* noted three generally accepted methods of geolocation utilized by USAC. WISPA and other commenters agree that these methods are instructive and may assist certain participants in preparing their data submissions. But the Bureau should not limit participants to these USAC-endorsed methodologies, nor should it “impose overly-prescriptive requirements.”⁴ If a participant chooses to employ one of the USAC methodologies, because in its judgment that methodology adequately captures its location data, the participant should not be required to “submit additional evidence beyond that which goes into the USAC-accepted methodology.”⁵ Moreover, the Bureau should recognize that “there are many [other] ways to go about identifying the geocoordinates or addresses of eligible locations,”⁶ and that “[a] support recipient may need to use various sources of location data and various geocoding methods to complete a comprehensive review of its funded census blocks.”⁷ The Bureau should also acknowledge that “[p]roviders are not cartographers, and they should be allowed to reasonably

resolve location discrepancies.”), Comments of USTelecom, WC Docket 10-90 (filed Oct. 29, 2018) (“USTelecom Comments”) at 3 (“USTelecom supports allowing a participant sufficient flexibility”), Comments of Verizon, WC Docket 10-90 (filed Oct. 29, 2018) (“Verizon Comments”) at 3 (“The Bureau should give support recipients . . . flexibility.”)

³ Verizon Comments at 3.

⁴ *Id.*

⁵ USTelecom Comments at 4.

⁶ Comments of California Internet, L.P. DBA GeoLinks, WC Docket 10-90 (filed Oct. 29, 2018) (“GeoLinks Comments”) at 2.

⁷ Verizon Comments at 3. *See also* GeoLinks Comments at 2 (“a combination of methodologies may be the most effective strategy for some areas (e.g. those with difficult terrain or heavy vegetation.”)

rely upon desktop geolocation or automated address geocoding”⁸ and/or other methodologies such as visual evidence, web-based aerial imagery, E911 location records, and property tax assessment data, that are appropriately determinative of location data in each provider’s unique circumstances.⁹

In sum, the record makes clear that the Commission should not prescribe, or proscribe, the particular methodologies that are available to participants to conduct comprehensive reviews of their funded areas. As GeoLinks correctly summarized, “[a] broadband provider should be able to select the methodology that it believes to be the most accurate for verifying locations within an eligible area so long as it is able [to] provide a narrative that sufficiently explains said methodology and the results.”¹⁰

Optional Inclusion of Prospective Developments as Actual Locations

WISPA agrees with commenters such as Verizon and USTelecom that the Bureau “should not *require* support recipients to count as actual locations any prospective developments.”¹¹ As WISPA stated in its comments, “requiring such locations to be included would, in some cases, be difficult to obtain and/or be inconsequential if the result is an increase in the actual ‘locations’ above the amount estimated by the Commission.”¹² WISPA shares

⁸ USTelecom Comments at 4.

⁹ See Comments of WISPA, WC Docket 10-90 (filed Oct. 29, 2018) (“WISPA Comments”) at 4-5. WISPA also agrees with USTelecom that requiring “location” geocoding to the sixth decimal place – an accuracy range of four inches – is irrational, especially in rural areas where “locations” are more sparsely distributed. See USTelecom Comments at 4.

¹⁰ GeoLinks Comments at 2.

¹¹ Verizon Comments at 4 (emphasis added, internal quotations and citations omitted); USTelecom Comments at 2 (“*Requiring* a provider to gamble on the completion of projects or risk being out of compliance...is an unfair burden.”) (emphasis added).

¹² WISPA Comments at 3.

Verizon’s concern that “[prospective] development[s] could still be abandoned”¹³ or modified, making judgments about future locations imprecise.

However, WISPA believes that participants should have the *option* to include future developments in the location data they submit, *if* “they can provide specific information that shows that specific locations are more likely than not to be constructed and inhabited within the six-year build-out period.”¹⁴ The choice of whether to include data about prospective developments, like participants’ decisions about the appropriate methodologies to employ generally, should be guided by the principle of flexibility. The Bureau should neither mandate nor preclude submission of such data, but rather should leave to each participant’s discretion, based on its own judgment about the accuracy and reliability of available information, whether or not to include data about future developments.

Defining “Relevant Stakeholders”

Several commenters echoed WISPA’s recommendation that “relevant stakeholders” should be limited to “state and local authorities and Tribal governments, as well as individuals and potential customers, *in the relevant supported area*.”¹⁵ As USTelecom explained, this requirement will ensure that “the stakeholder has a legitimate interest in the proceeding based upon either the geography they serve (for governmental stakeholders) or having a property interest in the relevant territory and thus, becoming a ‘potential customer.’”¹⁶ WISPA agrees with GeoLinks that the Bureau should “require that any such commenter provide proof that the individual (or represented individual) resides in the support area,”¹⁷ preferably in the form of a mandatory certificate signed under penalty of perjury. Such a requirement will “strike[] the

¹³ Verizon Comments at 4.

¹⁴ WISPA Comments at 3.

¹⁵ *Id.* at 6 (emphasis in original).

¹⁶ USTelecom Comments at 5.

¹⁷ GeoLinks Comments at 3.

right balance between an open process and ensuring that providers are not burdened with challenges from parties with no standing in the matter,”¹⁸ that is, from parties that plainly are not “relevant” to the proceeding.

WISPA also agrees with GeoLinks’ recommendation that a stakeholder that challenges a participant’s location data submission should be required “to provide a narrative that sufficiently explains how a CAF II recipient’s location data is inaccurate or incomplete and the methodology used to make that determination.”¹⁹ Moreover, WISPA supports the Bureau’s proposal that stakeholders should be required to submit the same type of evidence required of participants, such as “latitude and longitude coordinates and addresses (or geographic markets if addresses are unavailable), as well as some additional evidence supporting the existence and placement of the location.”²⁰ WISPA also believes that the Bureau should require that such evidence be accompanied by an explanation demonstrating why that evidence should be preferred over both the Commission’s estimate and the participant’s showing.

Requirements for Stakeholder Submissions and Replies to Those Submissions

Several commenters shared WISPA’s concern about the brevity of the Bureau’s proposed time frame during which participants could submit replies to putative rebuttal evidence filed by relevant stakeholders. The Bureau proposes allowing relevant stakeholders 90 days to submit their evidence, with participants receiving only 15 days in which to reply. As commenters pointed out, this is an unrealistic and imbalanced timetable.

ITTA, like WISPA, supports a 30-day reply period, noting that a participant may “need to send personnel to the disputed sites, compile analysis results, and have a reasonable opportunity

¹⁸ USTelecom Comments at 5.

¹⁹ GeoLinks Comments at 3.

²⁰ *Public Notice* at 6.

to draft a compelling argument in reply.”²¹ Verizon agrees that additional time would be required “in order to give support recipients enough time to review the diverse forms of evidence and, if necessary, conduct field research to determine whether the additional addresses submitted by commenters meet the Commission’s definition of a ‘location.’”²² The concerns of ITTA and Verizon are well taken. The proposed 15-day reply period “simply may not afford participants a fair opportunity to present their best cases.”²³ As WISPA noted in its comments, “it would be daunting, if not impossible, for a participant, especially a small provider, to respond in 15 days to contrary methodologies and evidence filed by different parties for a large number of its supported census blocks.”²⁴ WISPA encourages the Bureau to bring balance to the proposed timetable, and to permit participants at least 30 days in which to reply to stakeholder challenges.

²¹ ITTA Comments at 4-5.

²² Verizon Comments at 5. Verizon would go further than ITTA and WISPA, recommending a 45-day reply window. WISPA does not oppose this longer reply period.

²³ ITTA Comments at 5; *see also id.* at 4 (“To the extent that such rebuttal sends the participant ‘back to the drawing board’ in assessing the challenged data, 15 days pales in comparison to the 90 that its putative opponent had to present its case.”)

²⁴ WISPA Comments at 9.

Conclusion

The Bureau should fine tune the proposals set forth in the *Public Notice* by adopting the refinements offered herein and in WISPA's initial Comments.

Respectfully submitted,

**WIRELESS INTERNET SERVICE
PROVIDERS ASSOCIATION**

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November 13, 2018