

may be submitted during the subsequent 15-day period to August 2, 2010.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230-0002, and in the "Reading Room" section of the Board's Web site, which is accessible via <http://www.trade.gov/ftz>. For further information, contact Claudia Hausler at [Claudia.Hausler@trade.gov](mailto:Claudia.Hausler@trade.gov) or (202) 482-1379.

Dated: May 11, 2010.

**Andrew McGilvray**,  
Executive Secretary.

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## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

[Docket No.: 0907141137-0222-10]

RIN 0660-ZA28

### Broadband Technology Opportunities Program

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice of Funds Availability; Reopening of Application Filing Window for Broadband Technology Opportunities Program Comprehensive Community Infrastructure Projects.

**SUMMARY:** The National Telecommunications and Information Administration (NTIA) announces the limited reopening of the Comprehensive Community Infrastructure (CCI) application filing window for the Broadband Technology Opportunities Program (BTOP) that the agency established pursuant to the American Recovery and Reinvestment Act of 2009 (Recovery Act). Entities that have received waiver authority from the Federal Communications Commission (FCC) to use the 763-768/793-798 MHz (700 MHz) public safety broadband spectrum by the date of this Notice are invited to file a BTOP application and request BTOP funding.

**DATES:** All applications for funding CCI projects under this Notice must be submitted between June 1, 2010, at 8 a.m. Eastern Daylight Time (EDT) and July 1, 2010, at 5 p.m. EDT.

**ADDRESSES:** All applicants are required to submit their applications electronically at <https://>

[applyonline.broadbandusa.gov](http://applyonline.broadbandusa.gov). See **SUPPLEMENTARY INFORMATION** for more details. The CCI application package for electronic submissions is available at <http://www.ntia.doc.gov/broadbandusa/>.

**FOR FURTHER INFORMATION CONTACT:** For general inquiries regarding BTOP, contact Anthony G. Wilhelm, PhD, Director, BTOP, Office of Telecommunications and Information Applications, NTIA, U.S. Department of Commerce, 1401 Constitution Avenue, NW., HCHB, Room 4887, Washington, DC 20230; BTOP Help Desk e-mail: [btop@ntia.doc.gov](mailto:btop@ntia.doc.gov); BTOP Help Desk telephone: 1-202-482-2048. Additional information regarding BTOP, including information regarding compliance issues, may be obtained at <http://www.ntia.doc.gov/broadbandusa/>.

**Authority:** This Notice is issued pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, 123 Stat. 115 (2009).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

###### A. Second Round of BTOP Funding

On January 22, 2010, NTIA published a Notice of Funds Availability and Solicitation of Applications (Second NOFA) in the **Federal Register** announcing general policy and application procedures for the second round of BTOP funding.<sup>1</sup> The filing deadline for CCI applications under the Second NOFA closed on March 26, 2010.<sup>2</sup> Under the Recovery Act, one of the core purposes of BTOP is to fund the advancement of broadband initiatives to support public safety agencies.<sup>3</sup> The Recovery Act also provides that the Assistant Secretary for Communications and Information may make competitive grants to "construct and deploy broadband facilities that improve public safety broadband communications services."<sup>4</sup> While NTIA received a limited number of public safety-related applications in the second round, some applicants may have been deterred from filing because, *inter alia*, they lacked the legal authority to use the 700 MHz public safety broadband spectrum.

<sup>1</sup> Notice of Funds Availability and Solicitation of Applications, 75 FR 3792 (Jan. 22, 2010).

<sup>2</sup> Notice of Funds Availability; Extension of Application Closing Deadline for Comprehensive Community Infrastructure (CCI) Projects, 75 FR 10464 (Mar. 8, 2010); Notice of Funds Availability; Extension of Application Closing Deadline for Comprehensive Community Infrastructure (CCI) Projects, 75 FR 14131 (Mar. 24, 2010).

<sup>3</sup> American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, § 6001(b), 123 Stat. 115, 512-13 (2009) (Recovery Act).

<sup>4</sup> *Id.* § 6001(g)(5), 123 Stat. at 514.

###### B. Reopening the Application Window

On May 11, 2010, the FCC adopted an order authorizing the early deployment of public safety broadband networks in the 700 MHz public safety broadband spectrum for a number of entities that had petitioned for waiver authority for such relief.<sup>5</sup> To further the objectives of the Recovery Act and to help ensure that the core statutory purposes of BTOP are achieved, NTIA finds that, given these extraordinary circumstances, a limited reopening of the CCI application filing window is in the best interest of the federal government.<sup>6</sup> Accordingly, NTIA reopens the CCI application filing window to those entities that meet the eligibility criteria in the Second NOFA and that have received authority from the FCC by the date of this Notice to seek to use the 700 MHz public safety broadband spectrum to deploy a public safety broadband system.<sup>7</sup> NTIA is limiting eligibility under this Notice to this group of entities to help ensure that all BTOP grant funds can be obligated by the statutory deadline of September 30, 2010;<sup>8</sup> to provide the public safety community with the opportunity to obtain funding for an initial set of networks to support current NTIA efforts to test new standards and technologies that eventually will support a nationwide interoperable public safety broadband network; and to provide an opportunity to submit an application to entities that may have been discouraged from applying for BTOP funding because they did not have the legal authority to use the 700 MHz spectrum. Entities that received a FCC waiver and that already have applied for the second round of BTOP funding are *not* required to reapply during this new window.

###### C. 700 MHz Public Safety Broadband Network

A public safety broadband network utilizing the 700 MHz public safety broadband spectrum will increase the nationwide interoperable broadband communications capabilities of first responders and public safety agencies by improving the ability of public safety entities to utilize applications made

<sup>5</sup> Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, Order, PS Dkt. No. 06-229, FCC 10-79 (adopted May 11, 2010) (Waiver Order), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-10-79A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-79A1.pdf).

<sup>6</sup> In the Second NOFA, NTIA anticipated that it might wish to reopen the application window at some point in the future and specifically put applicants on notice that there may be another solicitation. See Second NOFA, 75 FR at 3799.

<sup>7</sup> See Waiver Order, at Appendix A.

<sup>8</sup> See Recovery Act § 6001(d)(2), 123 Stat. at 513.

possible by broadband technologies. It also will improve public safety communications by providing dedicated broadband capacity for public safety uses and creating a statutorily required interoperability framework for use across the United States. The FCC's National Broadband Plan recognized that broadband technologies have the potential to revolutionize emergency response wireless mobile communications and outlined recommendations for moving 700 MHz spectrum activities forward.<sup>9</sup> Consistent with the FCC's recommendation, NTIA and the National Institute of Standards and Technology (NIST) are working on a joint initiative, the Public Safety 700 MHz Demonstration Network within the Public Safety Communications Research (PSCR) program, to provide a platform to test and evaluate systems and to help enable deployment of a nationwide interoperable public safety broadband network.<sup>10</sup> This limited reopening of the BTOP CCI application filing window will help support the efforts of NTIA and NIST and the testing, development, and implementation of a 700 MHz public safety broadband network.

Pursuant to the eligible cost provisions set forth in the Second NOFA, NTIA may award grants that will fund critical expenditures related to the deployment of a 700 MHz public safety broadband network, including the acquisition of broadband radio access network components (such as antennas, base station nodes, transceivers, amplifiers, and remote radio heads) and costs associated with the hardening of existing cell sites (such as installing backup power and enhancing security measures).<sup>11</sup> Grant awards also may be used to fund costs to lease wireline or wireless network infrastructure from existing commercial infrastructure to facilitate broadband connectivity for a 700 MHz public safety broadband network, including backhaul from cell sites and any associated installation charges paid to a vendor.

By facilitating the expansion of broadband communications services to public safety agencies, BTOP advances the objectives of the Recovery Act to increase economic efficiency by spurring technological advances, to invest in infrastructure that will provide long-term economic benefits, and to

support stabilization of state and local government budgets in an effort to avoid reductions in essential services.

Deployment of a public safety broadband network in the 700 MHz band also will enhance emergency response capabilities through support of broadband-enabled applications, including: streaming video (surveillance, remote monitoring); digital imaging; automatic vehicle location; computer-aided dispatching; electronic mail; mapping and GPS; remote database access; report management system access; text messaging; telemetry/remote diagnostics; and Web access.

Moreover, the 700 MHz public safety broadband network will support applications that existing narrowband and wideband data technologies cannot support. The network will allow public safety personnel to exchange mission-critical information in real time on a common operating platform, enhancing incident response and first-responder safety.

#### *D. FCC 700 MHz Waiver Order*

In 2007, the FCC chose the Public Safety Spectrum Trust Corporation (PSST) as the Public Safety Broadband Licensee for the 10 MHz of 700 MHz public safety broadband spectrum.<sup>12</sup> On May 11, 2010, the FCC adopted an order that permits certain state and local governmental entities to deploy public safety broadband systems using the 700 MHz spectrum licensed to the PSST.<sup>13</sup> The FCC's order now allows these entities to expeditiously enter into leases with the PSST for use and development of public safety broadband networks. Applicants filing under this Notice are subject to the provisions of the FCC's order and any subsequent rules adopted by the FCC regarding the use of 700 MHz spectrum, including those rules that are designed to ensure compatibility and interoperability of public safety networks.<sup>14</sup>

By reopening the CCI application window only to eligible entities that have received waiver authority from the FCC to enter into a lease to use 700 MHz spectrum, NTIA acknowledges that these entities may have been discouraged from filing a BTOP application during the first two BTOP

funding rounds because they did not have the legal authority to use the spectrum before the filing deadlines. Because applicants filing under this Notice will be subject to the same general policies and terms as other CCI applicants in the second round, this limited reopening will not advantage or disadvantage either those entities eligible under this Notice or those that have filed applications earlier under the Second NOFA.

## **II. Application and Submission Information**

### *A. Second NOFA Requirements*

All applicants submitting BTOP applications pursuant to this Notice are subject to the requirements set forth in the Recovery Act and the Second NOFA. In addition, applicants should review the application guidance, workshop presentations, and "Frequently Asked Questions" located at <http://www.ntia.doc.gov/broadbandusa/> to help them submit their applications and understand BTOP requirements. As required by the CCI application, applicants must provide documentation that their request for a waiver authorizing use of the 700 MHz public safety spectrum has been granted by the FCC. NTIA will reject applications from entities other than those who are authorized to use the 700 MHz public safety broadband spectrum.

### *B. Filing Deadline*

The application window will be open for filing between June 1, 2010, at 8 a.m. EDT and July 1, 2010, at 5 p.m. EDT. NTIA recognizes that this is a short application window given the complexity of CCI projects, particularly if they include a 700 MHz component. Nevertheless, to ensure that NTIA can fairly administer the program, comply with the requirements set forth in the Second NOFA, and obligate funds before September 30, 2010, NTIA will limit the filing window to this period.

### *C. Filing Instructions*

As stated in the Second NOFA, electronic submissions of applications will allow for the expeditious review of an applicant's proposal consistent with the goals of the Recovery Act. As a result, all applicants are required to submit their applications electronically at <https://applyonline.broadbandusa.gov>. The electronic application system will provide a date-and-time-stamped confirmation number that will serve as proof of submission. Please note that applications will not be accepted via paper, facsimile machine transmission,

<sup>9</sup> Federal Communications Commission (FCC) National Broadband Plan, ch. 16 (March 17, 2010), available at <http://download.broadband.gov/plan/national-broadband-plan-chapter-16-public-safety.pdf>.

<sup>10</sup> See Public Safety Communications Research, Projects, at <http://www.pscr.gov/projects/broadband/700mhz/700mhz.php>.

<sup>11</sup> See Second NOFA, 75 FR at 3799.

<sup>12</sup> Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, Order, 22 F.C.C. Rcd. 20453 (2007).

<sup>13</sup> See Waiver Order.

<sup>14</sup> *Id.* at 12–13. For example, the FCC requires the entities subject to the order to adhere to the technical criteria that the Emergency Response Interoperability Center will establish through rules adopted by the FCC or the Public Safety and Homeland Security Bureau.

electronic mail, or other media format. Applicants, however, may request a waiver of these filing instructions pursuant to Section X.N. of the Second NOFA,<sup>15</sup>

Dated: May 13, 2010.

**Anna M. Gomez,**

*Acting Assistant Secretary for  
Communications and Information.*

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## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

[Docket No.: PTO-P-2010-0040]

#### Electronic Filing System—Web (EFS- Web) Contingency Option

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Patent and Trademark Office (USPTO) is increasing the availability of its patent electronic filing system, Electronic Filing System—Web (EFS-Web) by providing a new contingency option when the primary portal to EFS-Web has an unscheduled outage. Previously, the entire EFS-Web system is not available to the users during such an outage. The contingency option in EFS-Web will permit users to sign-on as unregistered EFS-Web users to file new applications, national stage submissions under the Patent Cooperation Treaty (PCT) submitted with the basic national fee necessary to enter the national stage, requests for reexamination, and certain petitions, during an unscheduled outage of the primary portal to EFS-Web.

**DATES:** *Effective Date:* May 19, 2010.

**FOR FURTHER INFORMATION CONTACT:** Joni Y. Chang, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Associate Commissioner for Patent Examination Policy, by telephone at 571-272-7720, or by mail addressed to: Mail Stop Comments Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Inquiries regarding EFS-Web and other USPTO information technology (IT) systems may be directed to the Patent Electronic Business Center (Patent EBC), by telephone: 1-866-217-

9197 (toll-free) and 571-272-4100, or by e-mail: [ebc@uspto.gov](mailto:ebc@uspto.gov).

Inquiries regarding IT policy for U.S. national patent applications may be directed to Mark Polutta, Senior Legal Advisor, Office of Patent Legal Administration, by telephone at 571-272-7709.

Inquiries regarding IT policy for international patent applications may be directed to Tamara Graysay, Special Program Examiner, Office of Patent Cooperation Treaty (PCT) Legal Administration, by telephone at 571-272-6728.

**SUPPLEMENTARY INFORMATION:** The USPTO is increasing the availability of EFS-Web by providing a new contingency option in EFS-Web when the primary portal to EFS-Web has an unscheduled outage. Currently, approximately eighty-seven percent of new patent applications are being electronically filed via EFS-Web. Applicants experience many benefits from filing their applications and follow-on documents electronically. For example, applicants promptly receive an electronic acknowledgment receipt of their electronic submissions and have the ability to review their applications or documents via the Patent Application Information Retrieval (PAIR) system within an hour after the USPTO receives the electronic submissions. Furthermore, independent inventors and other small entity applicants who file their applications electronically via EFS-Web receive a discount on the basic filing fee. Previously, when the primary portal to EFS-Web is unavailable during an unscheduled outage, the entire EFS-Web system is unavailable to users. The new contingency option in EFS-Web will minimize any inconvenience to users who wish to file a new application during an unscheduled outage of the primary portal to EFS-Web.

#### I. EFS-Web Contingency Option

Effective immediately, the USPTO will provide EFS-Web Contingency Option to users to file new applications, national stage submissions under 35 U.S.C. 371, requests for reexamination, and certain petitions when the primary portal to EFS-Web is unavailable during an unscheduled outage. The USPTO will post a notification of any unscheduled outage of the primary portal to EFS-Web and provide the link to EFS-Web Contingency Option on the EFS-Web Internet page (<http://www.uspto.gov/patents/process/file/efs/index.jsp>). The EFS-Web Contingency Option will have the same functionality as EFS-Web for unregistered e-filers (<https://sportal.uspto.gov/secure/portal/efs-unregistered>). It will permit users to

sign on as unregistered EFS-Web users to file new applications, national stage submissions under 35 U.S.C. 371 submitted with the basic national fee necessary to enter the national stage, requests for reexamination, and certain petitions. However, other follow-on documents and fee payments filed after the initial submission of the application or reexamination request (*e.g.*, amendments and replies to Office actions) cannot be filed using EFS-Web Contingency Option.

Specifically, EFS-Web Contingency Option will only permit users to electronically file the following items as unregistered EFS-Web users:

1. Provisional patent applications under 35 U.S.C. 111(b);
2. Nonprovisional utility patent applications under 35 U.S.C. 111(a) (including reissue utility patent applications);
3. Nonprovisional design patent applications under 35 U.S.C. 171 (including reissue design patent applications);
4. International applications under PCT Article 11 for filing in the United States Receiving Office;
5. National stage submissions under 35 U.S.C. 371 submitted with the basic national fee necessary to enter the national stage;
6. Requests for *ex parte* reexamination under 35 U.S.C. 302 for utility or design patents;
7. Requests for *inter partes* reexamination under 35 U.S.C. 311 for utility or design patents;
8. Petitions to make special based on age under 37 CFR 1.102(c) when filed as an e-petition using the EFS-Web SB130 form, for the automatic processing of the e-petition (for more information see [http://www.uspto.gov/ebc/portal/efs/sb130\\_instructions.doc](http://www.uspto.gov/ebc/portal/efs/sb130_instructions.doc));
9. Petitions to accept an unintentionally delayed payment of maintenance fee under 37 CFR 1.378(c) when filed as an e-petition using the EFS-Web SB66 form, for the automatic processing of the e-petition (for more information see [http://www.uspto.gov/ebc/portal/efs/sb0066e\\_fill.doc](http://www.uspto.gov/ebc/portal/efs/sb0066e_fill.doc)); and
10. Petition to make special under the accelerated examination program (must be filed with a nonprovisional utility patent application under 35 U.S.C. 111(a)).

Documents filed via EFS-Web Contingency Option as part of the submissions listed above must meet the same file format requirements established for EFS-Web, *e.g.*, file size and PDF embedded-font requirements. The same file validation performed in EFS-Web will be performed in EFS-Web Contingency Option. Similar to EFS-

<sup>15</sup> Additional guidance for seeking a waiver of the electronic filing requirements can be found in the CCI Grant Guidance at <http://www.ntia.doc.gov/broadbandusa/>. Note that the CCI Grant Guidance includes key submission dates. These dates have been superseded by the dates contained in this Notice.