January 9, 2018

FCC FACT SHEET\*

Connect America Fund Phase II Auction (Auction 903)

Public Notice – AU Docket No. 17-182

Background: In this proposed Public Notice, the Commission would adopt final bidding procedures for

the Connect America Fund Phase II auction (Phase II auction), which will award up to $1.98 billion over

10 years to service providers that commit to offer voice and broadband services to fixed locations in

unserved high-cost areas. This auction will be the first time the FCC has awarded ongoing high-cost

universal service support through competitive bidding in a multiple-round, reverse auction. Use of this

auction mechanism will maximize the value the American people receive for the universal service dollars

we spend, balancing higher-quality services with cost efficiencies.

What the Public Notice Would Do:

• Timeline. Schedule the auction to commence on July 24, 2018, and establish a short-form

application deadline of March 30, 2018.

• Minimum geographic area for bidding. Adopt census block groups as the minimum geographic

area in which areas eligible for support can be grouped for bidding in the auction.

• Short-form application. Adopt procedures to collect information in the pre-auction short-form

application to ensure applicants are technically and financially qualified to participate in the

auction.

• Long-form application. Adopt procedures to collect information from winning bidders in a

long-form application demonstrating that the winning bidders are technically and financially

qualified to meet the relevant Phase II auction public interest obligations in the areas where they

will be awarded support.

• Reserve prices. Calculate reserve prices using the Connect America Cost Model (CAM) to

ensure that no high-cost census block will receive more Phase II support than the CAM

calculates is necessary. Also cap the amount of support per location provided to extremely high-

cost census blocks.

• Bidding procedures. Adopt a simplified multi-round, descending clock auction. As the clock

descends, bidders will indicate whether they will bid to provide service to an area at a given

performance tier and latency. Support will be assigned to no more than one bidder per area.

The auction will end after the aggregate support amount of all bids is less than or equal to the

total budget and there is no longer competition for support in any area.

\* This document is being released as part of a “permit-but-disclose” proceeding. Any presentations or views on the

subject expressed to the Commission or its staff, including by email, must be filed in AU Docket No. 17-182, which

may be accessed via the Electronic Comment Filing System (https://www.fcc.gov/ecfs). Before filing, participants

should familiarize themselves with the Commission’s ex parte rules, including the general prohibition on

presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to

the Commission’s meeting. See 47 CFR § 1.1200 et seq.

PUBLIC NOTICE

Federal Communications Commission

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CONNECT AMERICA FUND PHASE II AUCTION SCHEDULED FOR JULY 24, 2018

NOTICE AND FILING REQUIREMENTS AND OTHER PROCEDURES FOR AUCTION 903\*

AU Docket No. 17-182

WC Docket No. 10-90

By the Commission:

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\* This document has been circulated for tentative consideration by the Commission at its January 2018 open

meeting. The issues referenced in this document and the Commission’s ultimate resolution of those issues remain

under consideration and subject to change. This document does not constitute any official action by the

Commission. However, the Chairman has determined that, in the interest of promoting the public’s ability to

understand the nature and scope of issues under consideration, the public interest would be served by making this

document publicly available. The FCC’s ex parte rules apply and presentations are subject to “permit-but-disclose”

ex parte rules. See, e.g., 47 C.F.R. §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize

themselves with the Commission’s ex parte rules, including the general prohibition on presentations (written and

oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s

meeting. See 47 CFR §§ 1.1200(a), 1.1203.

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I. GENERAL INFORMATION

A. Introduction

1. By this Public Notice, we establish procedures for the Connect America Fund Phase II

auction (Phase II auction, auction, or Auction 903), thus furthering our progress toward closing the digital

divide for all Americans, including those in rural areas of our country. The Phase II auction will award

up to $198 million annually for 10 years to service providers that commit to offer voice and broadband

services to fixed locations in unserved high-cost areas.1 The auction is scheduled to begin on July 24,

2018.

2. Auction 903 will be the first auction to award ongoing high-cost universal service support

using a multiple-round, reverse auction.2 Through this auction, we intend to maximize the value the

American people receive for the universal service dollars we spend, balancing higher-quality services

with cost efficiencies. Therefore, the auction is designed to select bids from providers that would deploy

high-speed broadband and voice services in unserved communities for lower relative levels of support.

The bidding procedures we adopt, including some modifications to our proposals, will be implemented

through the Auction 903 bidding system, which will enable a bidder to express in a simple and orderly

way the amount of support it needs to provide a specified level of service to a specified set of eligible

areas.

B. Background and Relevant Authority

3. In the USF/ICC Transformation Order, the Commission comprehensively reformed and

modernized the high-cost program within the universal service fund and the intercarrier compensation

system to focus support on networks capable of providing voice and broadband services.3 The

Commission created the Connect America Fund and concluded that support in price cap areas would be

provided through a combination of “a new forward-looking model of the cost of constructing modern

multi-purpose networks” and a competitive bidding process (Phase II).4 Specifically, the Commission

offered support based on a forward-looking cost model to incumbent price cap carriers serving certain

high-cost areas in exchange for committing to offer voice and broadband services meeting certain

requirements in those areas. In the areas of the states where the incumbent price cap carrier declined

model-based support, the Commission decided to award support through a competitive bidding process.

The Commission sought comment on proposed rules governing the Phase II competitive bidding process,

including options regarding basic auction design and the application process.5 Since 2011, the

Commission has made several decisions regarding the auction and sought additional comment.6

1 See Connect America Fund et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd

17663, 17692-94, 17695, paras. 77-83, 86 (2011) (USF/ICC Transformation Order and/or FNPRM), aff’d sub nom.

In re: FCC 11-161, 753 F.3d 1015 (10th Cir. 2014) (defining “voice telephony service” as the supported service and

requiring Connect America recipients to offer broadband as a condition of receiving support).

2 In prior Mobility Fund and Tribal Mobility Fund auctions, the Commission awarded one-time universal service

support using a single-round, reverse auction. USF/ICC Transformation Order, 26 FCC Rcd at 17773-824, paras.

301-492.

3 See generally USF/ICC Transformation Order, 26 FCC Rcd 17663.

4 Id. at 17725, para. 156. In this Public Notice, Phase II support refers to Phase II auction-based, rather than model-

based, support unless otherwise specified. Areas served by rate-of-return carriers are supported by other Connect

America Fund support mechanisms. See Connect America Fund et al., Report and Order et al., 31 FCC Rcd 3087

(2017).

5 USF/ICC Transformation FNPRM, 26 FCC Rcd at 18085-108, paras. 1189-295.

6 Comment Sought on Competitive Bidding Procedures and Certain Program Requirements for the Connect

America Fund Phase II Auction (Auction 903), Public Notice, 32 FCC Rcd 6238, 6240-41, paras. 5-11 (2017) (CAF

II Auction Comment Public Notice); see also Connect America Fund et al., Report and Order et al., 29 FCC Rcd

(continued….)

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4. In the Phase II Auction Order, the Commission expressed its preference for a multi-round

auction to award Phase II funding.7 According to the Commission, “a multiple-round bid auction would

enable bidders . . . to make adjustments in their bidding strategies to facilitate a viable aggregation of

geographic areas in which to construct networks and enable competition to drive down support

amounts.”8 Consistent with prior practice, the Commission left the specific details of the auction to be

developed as part of the pre-auction process,9 which the Commission commenced with the Phase II

Comment Public Notice in August 2017.10 We now announce the procedures for the Phase II auction.

5. We urge prospective applicants to review carefully the Commission’s orders and public

notices relating to the Connect America Fund cited above. Prospective applicants in Auction 903 should

also familiarize themselves with the Commission’s general universal service rules, contained in 47 CFR

Part 54; the rules for the Connect America Fund specifically, contained in 47 CFR §§ 54.302-54.321; and

the specific competitive bidding rules for universal service support contained in 47 CFR §§ 1.21000-

1.21004. Additionally, prospective Auction 903 bidders may find it helpful to familiarize themselves

with the Commission’s general competitive bidding rules, including recent amendments and

clarifications, as well as Commission decisions in proceedings regarding competitive bidding procedures,

application requirements, and obligations of Commission licensees and authorization holders.11 Copies of

Phase II auction-related Commission documents, including public notices, can be retrieved from the

Commission’s Phase II auction website at http://www.fcc.gov/connect-america-fund-phase-ii-auction.

Additionally, documents are available at the Commission’s headquarters, located at 445 12th Street, SW,

Washington, DC 20554, during normal business hours.

6. The terms contained in the Commission’s rules, relevant orders, and public notices are not

negotiable. The Commission may amend or supplement the information contained in its public notices at

any time and will issue public notices to convey any new or supplemental information to applicants. It is

the responsibility of all applicants to remain current with all Commission rules and with all public notices

pertaining to this auction.

7051, 7060-66, paras. 29-47 (2014) (April 2014 Connect America Order and/or FNPRM); Connect America Fund et

al., Report and Order, 29 FCC Rcd 15644 (2014) (December 2014 Connect America Order); Connect America Fund

et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949 (2016) (Phase II Auction

Order and/or FNPRM); Connect America Fund; ETC Annual Reports and Certifications, Order, 32 FCC Rcd 968

(2017) (New York Auction Order) (conditionally waiving the Phase II auction program rules to allocate Phase II

support in Connect America-eligible areas in New York in coordination with New York’s New NY Broadband

Program); Connect America Fund; ETC Annual Reports and Certifications, Report and Order and Order on

Reconsideration, 32 FCC Rcd 1624 (2017) (Phase II Auction FNPRM Order).

7 Phase II Auction Order, 31 FCC Rcd at 5978-79, para. 88.

8 Id.

9 Id.

10 CAF II Auction Comment Public Notice, 32 FCC Rcd 6238.

11 See, e.g., 47 CFR §§ 1.2101-1.2114; Amendment of Part 1 of the Commission’s Rules – Competitive Bidding

Procedures, Order on Reconsideration of the Third Report and Order et al., 15 FCC Rcd 15293 (2000), modified by

Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures, Erratum, DA 00-2475 (rel.

Nov. 3, 2000); Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures, Seventh Report

and Order, 16 FCC Rcd 17546 (2001); Amendment of Part 1 of the Commission’s Rules – Competitive Bidding

Procedures, Eighth Report and Order, 17 FCC Rcd 2962 (2002); Amendment of Part 1 of the Commission’s Rules –

Competitive Bidding Procedures, Second Order on Reconsideration of the Third Report and Order and Order on

Reconsideration of the Fifth Report and Order, 18 FCC Rcd 10180 (2003); Amendment of Part 1 of the

Commission’s Rules – Competitive Bidding Procedures, Second Order on Reconsideration of the Fifth Report and

Order, 20 FCC Rcd 1942 (2005).

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C. Auction Specifics

1. Auction Title and Start Date

7. The auction will be referred to as “Auction 903 – Connect America Fund Phase II.”

8. Bidding in Auction 903 will begin on July 24, 2018.

9. The initial schedule for bidding rounds will be announced by public notice approximately one

week before the start of the auction.

2. Auction 903 Dates and Deadlines

10. The following dates and deadlines apply:

Auction Application Tutorial Available (via Internet) ...... By March 8, 2018

Short-Form Application (FCC Form 183)

Filing Window Opens ....................................................... March 19, 2018; 12:00 noon ET

Short-Form Application (FCC Form 183)

Filing Window Deadline .................................................. March 30, 2018; 6:00 p.m. ET

Auction Bidding Tutorial Available (via Internet)............ By June 28, 2018

Mock Auction Begins ....................................................... During week of July 16, 2018

Auction Begins.................................................................. July 24, 2018

3. Requirements for Participation

11. Those wishing to participate in this auction must:

• Submit a short-form application (FCC Form 183) electronically prior to 6:00 p.m. ET, March

30, 2018, following the electronic filing procedures that will be provided in a public notice to

be released in advance of the opening of the short-form application filing window; and

• Comply with all provisions outlined in this Public Notice and applicable Commission rules.

D. Public Interest Obligations

12. Each winning bidder that is authorized to receive Phase II support after the close of the

auction will be required to offer voice and broadband services meeting the relevant performance

requirements to fixed locations.12 It must make these services available to the required number of

locations associated with the eligible census blocks for which it is the winning bidder.13 The number of

locations that a support recipient is required to serve in the eligible census blocks is aggregated to the

census block group (CBG) level, which is the geographic area that will be used for bidding in the auction.

In the auction, the Commission will accept bids for service at one of four performance tiers, each with its

own minimum download and upload speed and usage allowance, and for either high or low latency

service, as shown in the tables below. Winning bidders that become authorized to receive Phase II

12 A support recipient will be required to offer service to fixed locations, regardless of the technology to be

employed. Each Phase II auction support recipient must meet certain public interest obligations as a condition of

receiving Phase II support. This section is a high-level summary of various rules, orders, and public notices that

describe the public interest obligations for Connect America Fund recipients generally and Phase II auction

recipients more specifically. Each prospective applicant is strongly encouraged to review the relevant underlying

rules and documents and has the obligation to conduct due diligence prior to the auction to ensure that it will be able

to meet the relevant public interest obligations if authorized to receive Phase II support. See supra Section [[I.B]]

(Background and Relevant Authority); infra Section [[II.E.5]] (Due Diligence Certification).

13 For purposes of this Public Notice, we may also refer to winning bidders (or their designated operating

companies) that are so authorized as support recipients.

(continued….)

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support must deploy broadband service that meets the performance tier and latency requirements

associated with their winning bids. The performance requirements for authorized winning bidders are

described in more detail in the Phase II Auction Order and Phase II Auction FNPRM Order:14

Performance Tier Speed

Monthly Usage

Allowance

Weight

Minimum ? 10/1 Mbps15

? 150 gigabytes

(GB)

65

Baseline ? 25/3 Mbps

? 150 GB or U.S.

median, whichever

is higher

45

Above Baseline ? 100/20 Mbps ? 2 terabytes (TB) 15

Gigabit ? 1 Gbps/500 Mbps ? 2 TB 0

Latency Requirement16 Weight

Low Latency ? 100 ms 0

High Latency

? 750 ms &

MOS ? 417

25

13. Phase II support recipients are permitted to offer a variety of broadband service offerings as

long as they offer at least one standalone voice plan and one service plan that provides broadband at the

relevant performance tier and latency requirements, and these plans must be offered at rates that are

reasonably comparable to rates offered in urban areas.18 For voice service, a support recipient will be

required to certify that the pricing of its service is no more than the applicable reasonably comparable rate

benchmark that the Commission’s Wireline Competition Bureau (WCB) releases each year.19 For

14 Phase II Auction Order, 31 FCC Rcd at 5956-63, paras. 14-37; Phase II Auction FNPRM Order, 32 FCC Rcd at

1651, paras. 71-73; see also 47 CFR § 54.309(a)(2). The Wireline Competition Bureau, Wireless

Telecommunications Bureau, and the Office of Engineering and Technology released a public notice in November

seeking to update the record regarding performance testing methodologies and parameters for high-cost recipients,

including Phase II auction support recipients. Comment Sought on Performance Measures for Connect America

High-Cost Universal Service Support Recipients, WC Docket No. 10-90, Public Notice, DA 17-1085 (WCB, WTB,

OET Nov. 6, 2017) (CAF Performance Measures Public Notice).

15 The speeds listed for each performance tier are the required minimum downstream/upstream speeds.

16 For the latency requirement, at least 95 percent or more of all peak period measurements of roundtrip latency must

be at or below 100 milliseconds (ms) (low latency) or 750 ms (high latency). Phase II Auction Order, 31 FCC Rcd

at 5960-61, paras. 30-31.

17 With respect to voice performance, bidders placing high latency bids must also commit to demonstrate a score of

four or higher using the Mean Opinion Score (MOS). Id. at 5960-61, para. 30

18 Each Connect America support recipient must offer voice as a standalone service, but may separately bundle its

broadband offerings with a voice service. USF/ICC Transformation Order, 26 FCC Rcd at 17693, para. 80.

19 47 CFR § 54.313(a)(3); USF/ICC Transformation Order, 26 FCC Rcd at 17693-94, paras. 81, 84; see Wireline

Competition Bureau Announces Results of 2017 Urban Rate Survey for Fixed Voice and Broadband Services,

Posting of Survey Data and Explanatory Notes, and Required Minimum Usage Allowances for ETCs Subject to

Broadband Public Interest Obligations, Public Notice, 32 FCC Rcd 1358 (WCB 2017) (Reasonably Comparable

(continued….)

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broadband services, a support recipient will be required to certify that the pricing of a service that meets

the required performance tier and latency performance requirements is no more than the applicable

reasonably comparable rate benchmark, or that it is no more than the non-promotional price charged for a

comparable fixed wireline broadband service in the state or U.S. territory where the eligible

telecommunication carrier (ETC) receives support.20

14. The Commission has adopted specific service milestones that require each winning bidder

authorized to receive Phase II support to offer service to a portion of the number of locations associated

with the eligible census blocks included in its authorized winning bids in a state.21 Specifically, each

support recipient must complete construction and begin commercially offering service to 40 percent of the

requisite number of locations in a state by the end of the third year of funding, and to an additional 20

percent in each subsequent year, with 100 percent by the end of the sixth year.22 A support recipient is

deemed to be commercially offering voice and/or broadband service to a location if it provides service to

the location or could provide it within 10 business days upon request.23

15. Compliance will be determined at the state-level. The Commission will verify that the

support recipient offers the required service to a total number of locations across all the eligible census

blocks included in all the support recipient’s authorized bid areas (CBGs) in a state.24 If a support

recipient is authorized to receive support in a state for different performance tier and latency

combinations, it will be required to demonstrate that it is offering service meeting the relevant

performance requirements to the required number of locations for each performance tier and latency

Rate Public Notice). Phase II support recipients, like all ETCs, have annual reporting and certification obligations.

See, e.g., 47 CFR §§ 54.313, 54.314, 54.316.

20 47 CFR § 54.313(a)(3); December 2014 Connect America Order, 29 FCC Rcd at 15686-88, paras. 120-23; see

also Reasonably Comparable Rate Public Notice, 32 FCC Rcd at 1359. The reasonably comparable broadband

benchmark varies, depending on the supported service’s download and upload bandwidths and usage allowance. A

support recipient must offer service at a rate that is no more than the benchmark that corresponds at a minimum with

the required speeds and usage for the performance tier and latency combinations applicable to its authorized bids.

So, if a support recipient has an authorized bid in the Minimum performance tier, it must at a minimum offer service

meeting the relevant performance requirements to the number of locations it has committed to serve at the Minimum

performance tier at rates that do not exceed the benchmark for 10/1 Mbps broadband speeds and a 150 Gbps

monthly data usage allowance. See Request for Clarification or Partial Reconsideration of Southern Tier Wireless,

Inc., WC Docket No. 10-90 et al., at 4 (filed July 20, 2016) (seeking clarification on whether it would be in

compliance if it was authorized for support for a winning bid in one performance tier, but offered a service that

complied with standards of another performance tier at rates that did not exceed the benchmark for that performance

tier rather than the performance tier applicable to its authorized bid).

21 The number of locations per census block was determined by the Connect America Cost Model (CAM). The

location totals include housing units and small businesses (i.e., businesses to which mass market services have been

made available). The CAM Methodology describes how the CAM identified locations in each census block.

CostQuest Associates, Inc., Connect America Cost Model: Model Methodology 12-15 (Dec. 22, 2014),

https://transition.fcc.gov/wcb/CAM v.4.2 Methodology.pdf (CAM Methodology). For guidance on location

reporting, see Wireline Competition Bureau Provides Guidance to Carriers Receiving Connect America Fund

Support Regarding their Broadband Location Reporting Obligations, Public Notice, 31 FCC Rcd 12900 (WCB

2016) (Location Guidance Public Notice).

22 47 CFR § 54.310(c); Phase II Auction Order, 31 FCC Rcd at 5964, paras. 40-41.

23 WCB Location Guidance Public Notice, 31 FCC Rcd at 12902.

24 Support recipients are required to deploy service to the number of locations listed with the final eligible areas—

aggregated to the state level if a recipient becomes authorized to serve multiple CBGs in a state—regardless of

whether the number of actual, on-the-ground locations has changed over time. Winning bidders must use Phase II

support to deploy service to locations only in the eligible census blocks, not to the other, ineligible census blocks

within a CBG won in the auction.

(continued….)

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combination within that state.25 The Commission also decided that a support recipient that faces

unforeseen challenges may take advantage of the flexibility of serving at a minimum 95 percent of the

required number of locations in a state.26 Support recipients that offer service to at least 95 percent of

locations but fewer than 100 percent of locations must refund support based on the number of locations

left unserved in the state.27

16. To monitor each support recipient’s compliance with the Phase II auction public interest

obligations, the Commission has adopted reporting requirements described in detail in the Phase II

Auction Order.28 These include reporting a list of geocoded locations each year to which the support

recipient is offering the required voice and broadband services,29 making a certification when the support

recipient has met service milestones,30 and submitting the annual FCC Form 481 report.31 A support

recipient that fails to offer service to the required number of locations by a service milestone will be

subject to non-compliance measures.32 A support recipient will also be subject to any non-compliance

measures that are adopted in conjunction with a methodology for high-cost support recipients to measure

and report network performance.33

25 The required number of locations for each performance tier and latency combination will be determined by adding

up the locations in all the eligible census blocks in the state covered by authorized winning bids specifying the

particular performance tier and latency combination. For example, assume a bidder had (1) winning bids for the

Minimum performance tier and low latency for eight census block groups (CBGs) in a state, which have a total of 20

locations in their eligible census blocks, and (2) winning bids for the Baseline performance tier and low latency for

10 CBGs in a state, which have a total of 30 locations in their eligible census blocks. If the bidder is authorized to

receive support for all the winning bids, it will be required to demonstrate by the end of the six-year build-out period

that it has offered service to 50 total locations within the eligible census blocks across the state, that it is offering to

20 of those locations service that at a minimum meets the Minimum performance tier and low latency performance

requirements, and that it is offering to 30 of those locations service that at a minimum meets the Baseline

performance tier and low latency performance requirements. For interim service milestones, we will monitor the

support recipient’s overall progress in meeting its service milestones, rather than a support recipient’s progress in

meeting the requirements for each relevant performance tier and latency combination.

26 Phase II Auction Order, 31 FCC Rcd at 5965-66, paras. 44-47. Support recipients are required to meet each

interim service milestone (e.g., 40 percent of locations by the end of the third year of support, 60 percent of

locations by the end of the fourth year, and 80 percent of locations by the end of the fifth year), but for the final

service milestone, support recipients have the flexibility to serve a minimum of 95 percent of locations, rather than

100 percent of locations.

27 The amount refunded will be based on one-half the average support for the top five percent of the highest cost

model-funded locations nationwide (i.e., the average support per location in the state times 1.89). 47 CFR §

54.310(c)(2); Phase II Auction Order, 31 FCC Rcd at 5966, para. 45.

28 47 CFR §§ 54.313, 54.314, 54.316; Phase II Auction Order, 31 FCC Rcd at 6010-16, paras. 172-87.

29 47 CFR § 54.316(a)(4). Each support recipient is required to submit its locations to the Commission’s High Cost

Universal Service Broadband (HUBB) portal and is encouraged to do so on a rolling basis. Phase II Auction Order,

31 FCC Rcd at 6011, para. 173.

30 47 CFR § 54.316(b)(4).

31 47 CFR § 54.313.

32 47 CFR §§ 54.315(c)(4), 54.320; Phase II Auction Order, 31 FCC Rcd at 6016-18, paras. 189-94; December 2014

Connect America Order, 29 FCC Rcd at 15694-700, paras. 142-54.

33 Phase II Auction Order, 31 FCC Rcd at 6018, para. 194. A recipient will be required to test its networks for

compliance and certify and report the results on an annual basis once a methodology has been adopted for this

testing. 47 CFR § 54.313(a)(6); see also CAF Performance Measures Public Notice.

(continued….)

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E. Eligible Areas

17. As directed by the Commission,34 WCB released a list of the eligible census blocks for

Auction 903 in December 2017 based on December 31, 2016 FCC Form 477 data.35 The list contains two

tables. The first table identifies the CBGs eligible for bidding in the Phase II auction and lists the CBG

identification number (the 12-digit Census code), the relevant state abbreviation, the county name, the

number of locations that are eligible for Phase II support, and the reserve price (on an annual basis)

rounded to the nearest dollar. The second table identifies the eligible census blocks within the CBGs that

are eligible for bidding in the Phase II auction. This table lists the census block identification number (the

15-digit Census code), the relevant state abbreviation, the county name, and the CBG identification

number. All the eligible census blocks within a CBG will be aggregated for bidding purposes.36 The

table includes approximately 214,000 census blocks that are within approximately 30,300 CBGs, located

in 50 states and territories.37

34 Phase II Auction Order, 31 FCC Rcd at 5974, para. 73.

35 See Wireline Competition Bureau Releases List and Map of Eligible Census Blocks for the Connect America Fund

Phase II Auction (Auction 903), Public Notice, 32 FCC Rcd ---- (WCB 2017) (Eligible Census Block List). The list

of census blocks can be found at https://www.fcc.gov/files/caf2auctionpublishblockcsv. The list of census block

groups can be found at https://www.fcc.gov/files/caf2auctionpublishcbgcsv.

36 See infra Section [[IV.A.2]] (Minimum Geographic Area for Bidding). In this Public Notice, the census block

group-level aggregations of eligible census blocks are interchangeably called “CBGs” or “areas.”

37 We decline to make eligible for the Phase II auction certain census blocks in areas where price cap carriers

accepted Phase II model-based support. See West Virginia Broadband Enhancement Council Comments at 2

(requesting that the Commission make eligible census blocks where price cap carriers accepted Phase II model-

based support but that lack “construction activity,” “higher-quality services with cost efficiencies,” and “minimum

level of service” as required by Phase II rules); Institute for Local Self-Reliance et al. (ILSR et al.) Reply at 10-11.

This request is effectively an untimely petition for reconsideration because it would require us to reconsider the

service milestones the Commission adopted for recipients of Phase II model-based support. December 2014

Connect America Order, 29 FCC Rcd at 15657-58, para. 36 (adopting the Phase II model-based support service

milestones); 47 CFR 1.429(d) (stating that a petition for reconsideration must be filed “within 30 days from the date

of public notice” of the relevant action). Such Phase II model-based support recipients must offer service meeting

the relevant requirements to 100 percent of the required number of locations in each state by the end of six years of

support (2020), and must meet evenly spaced interim service milestones — 40 percent by the end of the third year of

support (2017), 60 percent by the end of the fourth year of support (2018), and 80 percent by the end of the fifth year

of support (2019). December 2014 Connect America Order, 29 FCC Rcd at 15657-58, para. 36. The exact

deployment schedule is determined by the price cap carrier. Price cap carriers may still be in compliance with the

Phase II model-based support requirements if they have not built out to or upgraded service in particular census

blocks, because they will have only had to certify that they offer service meeting the relevant performance

requirements to 40 percent of their required number of locations in a state prior to the start of the auction. See Letter

from Elena Kilpatrick, Senior Vice President, Operations, Frontier Communications, to Marlene H. Dortch,

Secretary, FCC, AU Docket No. 17-182, WC Docket No. 10-90, at 3 (filed Oct. 17, 2017) (claiming that the West

Virginia Broadband Enhancement Council’s proposal would “fundamentally undermine any company accepting

Commission funding in exchange for buildout”).

For the same reasons, we decline to make eligible for the Phase II auction those census blocks that Frontier has

identified in its FCC Form 477 data that it is serving with broadband at speeds of 10/1 Mbps. Illinois Electronic

Cooperative Reply at 4-5 (citing Frontier Communications Corporation Comments). This request is effectively an

untimely petition for reconsideration of the Commission’s decisions to exclude from the Phase II auction those

census blocks served by price cap carriers at speeds of at least 10/1 Mbps and to rely on the most recent publicly

available FCC Form 477 data. 47 CFR § 1.429; Phase II Auction Order, 31 FCC Rcd at 5970, 5972-74, paras. 58,

70-73; December 2014 Connect America Order, 29 FCC Rcd at 15674, para. 80.

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II. APPLYING TO PARTICIPATE IN AUCTION 903

A. General Information Regarding Short-Form Applications

18. An application to participate in Auction 903, referred to as a short-form application or FCC

Form 183, provides information used to determine whether the applicant has the legal, technical, and

financial qualifications to participate in a Commission auction for universal service support.38 The short-

form application is the first part of the Commission’s two-phased auction application process. In the first

phase, an entity seeking to participate in the auction must file a short-form application in which it

certifies, under penalty of perjury, its qualifications.39 Eligibility to participate in the Phase II auction is

based on an applicant’s short-form application and certifications. A potential applicant must take

seriously its duties and responsibilities and carefully determine before filing a short-form application that

it is able to meet the public interest obligations associated with Phase II support if it ultimately becomes a

winning bidder in the auction. The Commission’s determination that an applicant is qualified to

participate in Auction 903 does not guarantee that the applicant also will be deemed qualified to receive

Phase II support if it becomes a winning bidder. In the second phase of the process, each winning bidder

must file a more comprehensive long-form application (FCC Form 683), which the Commission will

review to determine if a winning bidder should be authorized to receive support for its winning bids.

19. An entity seeking to participate in Auction 903 must file a short-form application

electronically via the FCC’s Auction Application System prior to 6:00 p.m. ET on March 30, 2018.

Among other things, an applicant must submit operational and financial information demonstrating that it

can meet the service requirements associated with the performance tier and latency combination(s) for

which it intends to bid. Below we describe more fully the information disclosures and certifications

required in the short-form application. An applicant that files a short-form application is subject to the

Commission’s rule prohibiting certain communications. An applicant is subject to the prohibition

beginning at the deadline for filing short-form applications.40

20. An applicant bears full responsibility for submitting an accurate, complete, and timely short-

form application. An applicant should consult the Commission’s rules to ensure that, in addition to the

materials described below, all required information is included in its short-form application. To the

extent the information in this Public Notice does not address a potential applicant’s specific operating

structure, or if the applicant needs additional information or guidance concerning the following disclosure

requirements, the applicant should review the educational materials for Auction 903 and/or use the

contact information provided in this Public Notice to consult with Commission staff to better understand

the information it must submit in its short-form application.

21. The same entity may not bid based on more than one auction application, i.e., as more than

one applicant. Therefore, an entity may not submit more than one short-form application for Auction

903. If an entity submits multiple short-form applications, only one application may be the basis for that

entity to become qualified to bid.

22. An applicant should note that submitting a short-form application (and any amendments

thereto) constitutes a representation by the certifying official that he or she is an authorized representative

of the applicant, that he or she has read the form’s instructions and certifications, and that the contents of

the application, its certifications, and any attachments are true and correct. As more fully explained

below, an applicant is not permitted to make major modifications to its application after the short-form

application filing deadline.41 Submitting a false certification to the Commission may result in penalties,

38 47 CFR §§ 1.21001, 54.315.

39 Id.

40 See infra Section [[II.G]] (Prohibited Communications and Compliance with Antitrust Laws).

41 47 CFR § 1.21001(d)(4).

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including monetary forfeitures, the forfeiture of universal service support, license forfeitures, ineligibility

to participate in future auctions, and/or criminal prosecution.

23. After the initial short-form application filing deadline, Commission staff will review all

timely submitted applications to determine whether each application complies with the application

requirements and has provided all required information concerning the applicant’s qualifications for

bidding.42 After this review is completed, a public notice will be released announcing the status of

applications and identifying the applications that are complete and those that are incomplete because of

minor defects that may be corrected. This public notice also will establish an application resubmission

filing window, during which an applicant may make permissible minor modifications to its application to

address identified deficiencies.43 The public notice will include the deadline for resubmitting modified

applications.44 After the review of resubmitted applications is complete, a public notice will be released

identifying the applicants that are qualified to bid.

B. Disclosure of Agreements and Bidding Arrangements

24. An applicant must identify in its short-form application all real parties in interest to any

agreements relating to the participation of the applicant in the competitive bidding for Phase II support.45

This disclosure requirement applies to any arrangements with parties that are applying to participate in

Auction 903 as well as parties that are not. We adopt the proposal to require an applicant that discloses

any such agreement(s) to provide in its short-form application a brief description of each agreement.46

25. An applicant must certify under penalty of perjury in its short-form application that it has

disclosed all real parties in interest to any agreements involving the applicant’s participation in the

competitive bidding for Phase II support.47 We adopt the proposal to require an applicant also to certify

under penalty of perjury that it has not entered into any explicit or implicit agreements, arrangements, or

understandings of any kind related to the support to be sought through the Phase II auction, other than

those disclosed in its application.48 For purposes of making the required agreement disclosures, if parties

agree in principle on all material terms prior to the application filing deadline, each party should provide a

brief description of, and identify the other party or parties to, the agreement on its respective FCC Form

183, even if the agreement has not been reduced to writing. If an applicant has had discussions, but has

not reached an agreement by the close of the initial filing window, it should not include the names of

parties to the discussions on its application and may not continue such discussions with any applicants

after the close of the initial filing window until after the auction closes.49

C. Ownership Disclosure Requirements

26. Each applicant must comply with the ownership disclosure requirements in sections

1.2112(a) and 54.315(a)(1) of the Commission’s rules.50 Specifically, in completing the short-form

42 See id. § 1.21001(d)(1).

43 See id. § 1.21001(d)(5).

44 Id.

45 47 CFR § 1.21001(b)(3).

46 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6246, para. 25. This requirement is consistent with

the agreement disclosure requirements for short-form applications to participate in our spectrum auctions. See 47

CFR § 1.2105(a)(2)(viii).

47 47 CFR § 1.21001(b)(4).

48 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6246, para. 26.

49 See infra Section [[II.G]] (Prohibited Communications and Compliance with Antitrust Laws).

50 See 47 CFR §§ 1.2112(a), 54.315(a)(1) (requiring the disclosure on the short-form application of the applicant’s

ownership information as set forth in 47 CFR § 1.2112(a)).

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application, an applicant must fully disclose information regarding the real party- or parties-in-interest in

the applicant or application and the ownership structure of the applicant, including both direct and indirect

ownership interests of 10 percent or more, as prescribed in section 1.2112(a) of the Commission’s rules.51

Each applicant is responsible for ensuring that information submitted in its short-form application is

complete and accurate.

27. In certain circumstances, an applicant may have previously filed an FCC Form 602

ownership disclosure information report or filed an auction application for a previous auction in which

ownership information was disclosed. The most current ownership information contained in any FCC

Form 602 or previous auction application on file with the Commission that used the same FRN the

applicant is using to submit its FCC Form 183 will automatically be pre-filled into certain ownership

sections on the applicant’s FCC Form 183 if such information is in an electronic format compatible with

FCC Form 183. Each applicant must carefully review any ownership information automatically entered

into its FCC Form 183, including any ownership attachments, to confirm that all information supplied on

FCC Form 183 is complete and accurate as of the application filing deadline for Auction 903. Any

information that needs to be corrected or updated must be changed directly in FCC Form 183.

D. Specific Universal Service Certifications

28. An applicant must certify that it is in compliance with all statutory and regulatory

requirements for receiving the universal service support it seeks.52 Alternatively, if expressly allowed by

the rules specific to a high-cost support mechanism, an applicant may certify that it acknowledges that it

must be in compliance with such requirements before being authorized to receive Phase II support.53

29. In addition, an applicant must certify that it will make any default payment that may be

required pursuant to section 1.21004,54 and that it is aware that if its application is shown to be defective,

the application may be dismissed without further consideration and penalties may apply.55

E. Specific Phase II Eligibility Requirements and Certifications

1. State Selections and Impermissible State Overlaps

30. We adopt the proposal to require an applicant to select the specific state(s)56 in which it

wishes to bid when submitting its short-form application.57 An applicant will be able to place bids for

eligible areas only in the state(s) identified in its short-form application and for which it is deemed

eligible to bid. An applicant should take appropriate steps to ensure that the states it selects fully reflect

its bidding intentions because an applicant may not select any additional state(s) in which to bid after the

initial short-form application filing window closes. However, an applicant will be permitted to remove

any state(s) it selected on its short-form application during the application resubmission filing window.

31. In addition, to discourage coordinated bidding that may disadvantage other bidders, we adopt

the proposal to prohibit separate applicants that are commonly controlled or are parties to a joint bidding

51 47 CFR § 1.2112(a).

52 Id. § 1.21001(b)(6).

53 Id.

54 Id. § 1.21001(b)(7).

55 Id. § 1.21001(d).

56 For purposes of the short-form application, the term “state” shall also include the District of Columbia and U.S.

territories to the extent they contain eligible areas.

57 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6243, para. 19. The only commenter that addressed

the proposal—Hughes—expressed support for the state selection requirement and the prohibition of commonly

controlled entities or parties to a joint bidding arrangement bidding in the same state. See Hughes Comments at 5-6.

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arrangement58 from bidding in any of the same states.59 Knowing the specific state(s) for which an

applicant intends to bid, as well as its ownership and bidding arrangement information, all of which is

collected on the short-form application, will help us ensure that applicants comply with this prohibition.

32. Commonly controlled applicants are those in which the same individual or entity either

directly or indirectly holds a controlling interest. To identify commonly controlled applicants, as

proposed, we define a “controlling interest” for purposes of the Phase II auction as an individual or entity

with positive or negative de jure or de facto control of the applicant.60 In addition, consistent with the

proposal, we define “joint bidding arrangements” as those that (i) relate to any eligible area in the Phase II

auction and (ii) address or communicate bids or bidding strategies, including arrangements regarding

Phase II support levels (i.e., bidding percentages) and specific areas on which to bid, as well as any

arrangements relating to the post-auction market structure in an eligible area.61

33. We emphasize that entities that are commonly controlled or are parties to a joint bidding

arrangement have two options for submitting short-form applications to avoid our restriction on state

overlaps. It is important that such entities carefully consider these options prior to the short-form

application filing deadline. At the deadline, the prohibition of certain communications begins,62 and after

that time, only minor amendments or modifications to applications will be permitted.63

34. First, such entities may submit a single short-form application and qualify to bid as one

applicant in a state.64 To facilitate the identification of such applications, we adopt the proposal to require

an applicant to indicate whether it is submitting the application on behalf of one or more existing

operating companies, and if so, to identify such companies.65 Similarly, parties to a joint bidding

arrangement may form a consortium or a joint venture and submit a single short-form application that

identifies each party to the consortium or joint venture.66 At least one related entity, affiliate, or member

of the holding or parent company, consortium, or joint venture identified in the short-form application

must demonstrate that it meets the operational and financial requirements of section 54.315(a)(7).67

35. As proposed, if a holding/parent company or a consortium/joint venture is announced as a

winning bidder in Auction 903, the entity may designate at least one operating company controlled by the

holding/parent company or by a member of (or an entity controlled by a member of) the consortium/joint

venture that will be authorized to receive Phase II support for the winning bids in a state.68 While we will

58 While joint bidding arrangements are permitted in auctions for universal service support, we caution that

arrangements that are permissible under the Commission’s rules may nonetheless be prohibited by the antitrust laws.

See infra Section [[II.G.10]] (Antitrust Laws).

59 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6243-44, para. 20.

60 See id. at 6244, para. 21; 47 CFR § 1.2105(a)(4)(i). “In the case of a consortium, each member of the consortium

shall be considered to have a controlling interest in the consortium.” 47 CFR § 1.2105(a)(4)(i).

61 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6244, para. 21.

62 See 47 CFR § 1.21002(b).

63 See id. § 1.21001(d)(4)-(5).

64 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6245, para. 23.

65 See id.

66 To the extent entities choose to form a consortium or joint venture, all real parties in interest to any agreements

must be disclosed in the short-form application. 47 CFR § 1.21001(b)(3). The consortium or joint venture must

also be consistent with antitrust laws and must not otherwise be prohibited by law. Compliance with our agreement

disclosure requirement will not insulate a party from enforcement of the antitrust laws.

67 47 CFR § 54.315(a)(7).

68 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6245, para. 24.

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permit more than one operating company to be designated in a state, an operating company must be

identified for each winning bid, whether the bid covers one CBG or a package of CBGs. Thus, a winning

bidder cannot apportion either eligible census blocks within a winning bid for a CBG or separate CBGs

within a winning package bid among multiple operating companies.69 The operating company that seeks

authorization for Phase II support must file the long-form application in its own name.70 Because the

operating company is the entity that will be required to meet the associated Phase II public interest

obligations, we conclude the operating company should be the entity making the required certifications in

the long-form application about its technical and financial qualifications and that it will meet the public

interest obligations.71 We expect a holding/parent company or a consortium/joint venture short-form

applicant that intends to form a new operating company if it is named as a winning bidder to take

whatever steps are necessary to form the operating company in advance of the long-form application

filing deadline. As proposed, the identified operating company must also be the entity that is designated

as the ETC by the relevant state(s) in the areas covered by the winning bid(s) and is named in the letter of

credit applicable to the specific winning bids for which it becomes authorized for support.72

36. The second way commonly controlled entities or parties to a joint bidding arrangement can

participate is by submitting short-form applications and qualifying to bid independently, though not in the

same state. Such applicants must exercise due diligence to confirm prior to submitting their respective

short-form applications that no other commonly controlled entity or party to a joint bidding arrangement,

or an entity that controls any party to such an arrangement, has indicated its intent to bid in any of the

same states that each of the applicants has selected. To that end, we require an applicant to certify in its

short-form application that it acknowledges that it cannot place any bids in the same state as (i) another

commonly controlled entity, (ii) another party to a joint bidding arrangement related to Phase II support

that it is a party to, or (iii) any entity that controls a party to such an arrangement.73 And, as noted above,

to help identify any impermissible state overlaps, we adopt the proposal to require an applicant to provide

in its short-form application a brief description of any bidding arrangements that are required to be

disclosed.74

37. If, during short-form application review, applicants that are commonly controlled and/or

parties to a joint bidding arrangement are found to have selected the same state(s) in their respective

applications, all such applications will be deemed to be incomplete on initial review, as proposed.75 The

69 See id.

70 We therefore decline to adopt the proposal to allow the operating company to be identified after the long-form

application is filed. See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6245, para. 24. Entities filing the

long-form application must be operating companies or consortium/joint venture members that were named in the

short-form application or newly formed entities that are controlled by the applicant or one or more of its members.

We caution applicants to be mindful of the Commission’s rules prohibiting major modifications to applications

when identifying the operating company. See 47 CFR § 54.315(b)(6)(iv); infra Section [[II.J]] (Modifications to

FCC Form 183). However, as proposed, we classify the designation of an operating company that is controlled by

the applicant or a member of a consortium/joint venture during the long-form application process as a pro forma

transaction that we will not consider to be a major modification. See CAF II Auction Comment Public Notice, 32

FCC Rcd at 6245 n.43.

71 See 47 CFR § 54.315(b). As noted above, for simplicity, throughout this Public Notice, we refer to the entity that

is authorized to receive Phase II support and required to meet the Phase II public interest obligations as the “support

recipient”. In this context, those terms shall also encompass the operating company(ies) that files the long-form

application.

72 Id. § 54.315(c); CAF II Auction Comment Public Notice, 32 FCC Rcd at 6245-46, para. 24.

73 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6246, para. 25.

74 See supra Section [[II.B]] (Disclosure of Agreements and Bidding Arrangements).

75 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6246-47, para. 27.

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WCB and the Wireless Telecommunications Bureau (WTB) (collectively, the Bureaus) will inform each

affected applicant of the identity of each of the other applicants with which it has an impermissible state

overlap and the specific overlapping state(s). To the extent that an affected applicant has disclosed a joint

bidding arrangement with one or more of the other affected applicants, these applicants must decide

amongst themselves which applicant (if any) will bid in each overlapping state. Then, the applicants must

revise their short-form applications during the application resubmission window, as appropriate, so that

only one of the applications includes the overlapping state and thus only one of the applicants can be

deemed eligible to bid on that particular state. However, if the overlapping state(s) remain listed in more

than one of the affected applicants’ applications after the close of the resubmission filing window, none of

the affected applicants will be eligible to bid in the overlapping state(s). Any affected applicant that has

not entered into a joint bidding arrangement with the other affected applicants (including commonly

controlled entities) and disclosed that arrangement on its short-form application will be barred by the

Commission’s prohibited communications rule from discussing the overlap with any of the other affected

applicants.76 As a result, such applicants will be prohibited from bidding in any state(s) where there is an

overlap after the close of the resubmission filing window.77 After the Auction 903 qualified bidders are

announced, each applicant will be able to view its final eligibility determination for each state in the

Auction Application System. The bidding system will be configured to permit a qualified bidder to bid

only in the state(s) for which that qualified bidder has been deemed eligible to bid.

2. Operational History and Submission of Financial Statements

38. In the Phase II Auction Order, the Commission established two pathways for an applicant to

demonstrate its operational experience and financial qualifications to participate in the Phase II auction.

These pathways vary depending on whether the applicant has at least two years of operational

experience.78 In addition, all applicants are required to provide the information described in sections

II.B.3 and II.B.4 below, regardless of whether they have two years of operational experience.

39. With the first pathway, an applicant can certify, if applicable, on its FCC Form 183 that it has

provided voice, broadband, and/or electric distribution or transmission services for at least two years prior

to the short-form application filing deadline (or that the applicant is the wholly owned subsidiary of an

entity that has done so), specify the number of years it has been operating, and identify the services it has

provided.79 An applicant will be deemed to have started providing a service on the date it began

commercially offering that service to end users.

40. If an applicant certifies that it has been providing voice and/or broadband services for at least

two years, it must certify that it (or its parent company, if it is a wholly owned subsidiary) has filed FCC

Form 477s as required during that time period. And it must identify the FRNs it (or its parent company)

used to file the FCC Form 477s for the relevant filing periods.80 The relevant FCC Form 477 filing

periods include data as of June 30, 2016; December 31, 2016; and June 30, 2017. If the applicant certifies

that it has been providing only electric distribution or transmission services for at least two years (i.e., it

has not also been providing voice or broadband service for at least two years), it must submit with its

76 47 CFR § 1.21002(b).

77 Id. (exempting applicants that “are members of a joint bidding arrangement” that is disclosed in the short-form

application).

78 See Phase II Auction Order, 31 FCC Rcd at 5982-86, paras. 100-09.

79 47 CFR § 54.315(a)(7)(i).

80 47 CFR § 54.315(a)(7)(i)(A). If the applicant is making this certification as a wholly owned subsidiary of a parent

company that has provided service for at least two years, it must also identify the parent company’s name in the

short-form application. If the applicant is a holding company, it must make this certification on behalf of one of the

operating companies that is identified in the application. If the applicant is a consortium or joint venture, it must

make this certification on behalf of one of the entities that is part of the consortium or joint venture.

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short-form application qualified operating or financial reports that it (or its parent company, if it is a

wholly owned subsidiary) filed with the relevant financial institution in 2016 and 2017 that demonstrate

that the applicant (or its parent company) has been operating for at least two years. The applicant also

must submit a certification that the submission is a true and accurate copy of the forms that were

submitted to the relevant financial institution.81 We will accept the Rural Utilities Service (RUS) Form 7,

Financial and Operating Report Electric Distribution; the RUS Form 12, Financial and Operating Report

Electric Power Supply; the National Rural Utilities Cooperative Finance Corporation (CFC) Form 7,

Financial and Statistical Report; the CFC Form 12, Operating Report; the CoBank Form 7; or the

functional replacement of one of these reports.82

41. If an applicant that meets the foregoing requirements and it (or its parent company) is audited

in the ordinary course of business, the applicant must also submit its (or its parent company’s) financial

statements from the prior fiscal year, including balance sheets, net income, and cash flow, that were

audited by an independent certified public accountant.83 Because the short-form filing window opens in

the first quarter of 2018, we require that an applicant submit its (or its parent company’s) 2016 audited

financial statements. However, an applicant may, and is encouraged to, instead submit its fiscal year-end

2017 audited financial statements if they are finalized before the short-form application deadline.

42. If an applicant (or its parent company) is not audited in the ordinary course of business and

the applicant does not submit its audited financial statements with the short-form application, it must

certify that the long-form applicant will submit its (or its parent company’s) audited financial statements

from the prior fiscal year within 180 days after being announced as a winning bidder.84 We also adopt the

proposal to require such an applicant to submit its (or its parent company’s) fiscal year-end 2016

unaudited financial statements with its short-form application, including balance sheet, net income, and

cash flow.85 An applicant that certifies in its short-form application that it will submit audited financial

statements during the long-form application process, but then ultimately fails to submit such statements,

will be deemed to be in default and subject to a forfeiture.86

43. An applicant that does not have at least two years of operational experience must submit with

81 47 CFR§ 54.315(a)(7)(i)(B). If the applicant is a holding company or consortium/joint venture, it must submit the

electric distribution or transmission documents of the operating company that is the subject of the at least two-year

operational certification.

82 A report will be considered a functional replacement if it is a report that RUS or CFC has adopted to replace one

of the reports identified. Phase II Auction Order, 31 FCC Rcd at 5982-83, para. 100. Given that these forms will be

disclosed publicly absent a request for confidentiality that is filed pursuant to section 0.459 of the Commission’s

rules, portions of these reports may be redacted so that only relevant operating data is provided. See 47 CFR §

0.459; infra Section [[II.F]] (Procedures for Limited Disclosure of Application Information); Letter from C. Douglas

Jarrett, Counsel to the National Rural Electric Cooperative Association and Utilities Telecom Counsel, to Marlene

H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed Oct. 5, 2015) (identifying the relevant operating sections of

these forms).

83 47 CFR § 54.315(a)(7)(i). If the applicant is a holding company, it must submit its own audited financial

statements. If the applicant is a consortium or a joint venture, it must submit the audited financial statements of the

entity that is the subject of the at least two-year operational certification. If the applicant is a wholly owned

subsidiary and has certified that its parent company has provided service for at least two years, it must submit the

audited financial statements of its parent company.

84 47 CFR § 54.315(a)(7)(i).

85 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6256, para. 56 (seeking comment on this

requirement); ACA Comments at 8 (stating that it is not “opposed” to requiring such applicants to file unaudited

financial statements). An applicant is encouraged to submit fiscal year-end 2017 unaudited financial statements

instead if available before the short-form application deadline.

86 See Phase II Auction Order, 31 FCC Rcd at 5984-85, para. 104.

(continued….)

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its short-form application its (or its parent company’s) financial statements that are audited by an

independent certified public accountant from the three most recent fiscal years (i.e., 2014, 2015, and

2016), including balance sheets, net income, and cash flow.87 Such an applicant must also submit with its

short-form application a letter of interest from a qualified bank stating that the bank would provide a letter

of credit to the applicant if the applicant becomes a winning bidder and is selected for bids of a certain

dollar magnitude.88 The letter should include the maximum dollar amount for which the bank would be

willing to issue a letter of credit to the applicant and a statement that the bank would be willing to issue a

letter of credit that is substantially in the same form as set forth in the model letter of credit provided in

Appendix B of the Phase II Auction Order.89

3. Financial Qualifications

44. We adopt the proposal to require all applicants to report on their short-form application

certain metrics from their financial statements (audited or unaudited) from the prior fiscal year being

submitted with the applications.90 These metrics are meant to demonstrate that an applicant has sufficient

financial qualifications to participate in the Phase II auction to minimize the number of winning bidders

that default because they are unable to meet the long-form application requirements.91 Winning bidders

will be required to provide additional, more specific evidence of their financial qualifications at the long-

form application stage to demonstrate that they have the financial qualifications to meet the Phase II

public interest obligations.92

45. These metrics must be reported in the short-form application and will be scored using a five-

point scale described below.93 As stated in the CAF II Auction Comment Public Notice,94 the five-point

scale will be used to score one yes/no question and four other common financial metrics.95 These metrics

are based on information already contained in the financial statements that must be submitted with the

87 47 CFR § 54.315(a)(7)(ii). Given the lack of operating history of such bidders, the Commission did not extend

the option of submitting audited financial statements during the long-form application stage to bidders that qualify

pursuant to this second set of eligibility standards. See Phase II Auction Order, 31 FCC Rcd at 5985, para. 106,

n.210. If the applicant is a holding company, it must submit its own audited financial statements. If the applicant is

a consortium or joint venture, it must submit the audited financial statements of one of the entities that is part of the

consortium/joint venture. If the applicant is an operating company, it may submit its own audited financial

statements or the financial statements of its parent company. An applicant is encouraged to instead submit fiscal

year-end 2015, 2016, and 2017 audited financial statements if the 2017 audited financial statements are finalized in

time to submit them before the short-form application deadline.

88 The bank issuing the letter of credit must meet the requirements set forth in 47 CFR § 54.315(c)(2).

89 Phase II Auction Order, 31 FCC Rcd at 6045-49, Appx. B.

90 An applicant that is required to submit three years’ audited financial statements with its short-form application

need only identify the metrics from the most recent audited financial statements.

91 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6255-57, paras. 55-61. Applicants should note that even

if an applicant is able to demonstrate that it has sufficient financial qualifications to participate in the auction, it may

not ultimately be authorized to receive Phase II support based on its long-form application if it becomes a winning

bidder.

92 47 CFR § 54.315(b)(2)(v), (vi), (c).

93 See Rural Coalition Reply at 14-15 (noting the “importance of such a screening measure”); Rural Coalition Nov.

21, 2017 Ex Parte Letter at 6-7 (noting that the financial screen “allow[s] the Commission to make a reasonable

initial assessment of each bidder’s financial health and well-being” and that such screens “are necessary to preserve

auction integrity and prevent against default”).

94 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6256, para. 58.

95 Financial metrics refer to the financial information that is scored using the five-point scale, including the question

asking whether an audited applicant received an unmodified (non-qualified) opinion.

(continued….)

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short-form application. The five-point scale provides a streamlined process for assessing, efficiently and

objectively, whether an applicant has sufficient financial qualifications or requires further financial

review. An applicant that scores at least three points will be deemed to have sufficient financial

qualifications to participate in the auction if it has submitted the required financial information with its

short-form application.96

46. The objective financial metrics that we adopt for this five-point scale will not necessarily

provide a full picture of an applicant’s financial qualifications. Therefore, a score of less than three points

will warrant a review of the full set of financial statements submitted with the short-form application, as

well as other information submitted with the application and/or information submitted to the Commission

in other contexts (e.g., financials filed with a FCC Form 481, revenues reported in FCC Form 499, etc.).

To the extent this information does not sufficiently demonstrate that an applicant is financially qualified,

the application will be deemed incomplete and the Commission may request further information from the

applicant during the application resubmission period.97

47. The first point on the five-point scale is based on a yes/no question. Specifically, an

applicant that submits audited financial statements will be asked whether it received an unmodified, non-

qualified opinion from the auditor; an applicant will receive one point for a “yes” answer.98 An applicant

must also enter the following metrics from the most recent financial statements submitted with the short-

form application: (1) latest operating margins (i.e., operating revenue less operating expenses excluding

depreciation), where an operating margin greater than zero will receive one point; (2) Times Interest

Earned Ratio (TIER), where a TIER ((net income plus interest expense) divided by interest expense)

greater than or equal to 1.25 will receive one point; (3) current ratio (current assets divided by current

liabilities), where a ratio greater than or equal to 2 will receive one point; and (4) equity ratio (total equity

divided by total capital), where a result greater than or equal to 0.5 will receive one point. This scoring

methodology is summarized in the table below:

Short -Form Application Financial Five-Point Scale

96 Below, we explain that an applicant can seek confidential treatment of the financial metrics, the individual score

for each financial metric, and the financial statements that an applicant submits with its short-form application (but

not the applicant’s total financial score) pursuant to a section 0.459 abbreviated process, although requests that we

withhold financial data that is elsewhere disclosed to the public will not be granted. See infra Section [[II.F]]

(Procedures for Limited Disclosure of Application Information); 47 CFR § 0.459(a)(4).

97 See infra Section [[III.C]] (Application Processing and Minor Modifications).

98 An applicant submitting unaudited financial statements will not be asked this question, but will still be required to

obtain a score of at least three for the four other metrics to avoid further review. Given that such an applicant’s

unaudited financial metrics will be assessed in such situations, we conclude that it serves the public interest to

subject such an applicant to a stricter screening process. See ACA Comments at 8 (suggesting that the Commission

“recognize that the financial information provided by these applicants may not indicate that they have in fact

sufficient financial capability to be a viable provider”). But see WISPA Comments at 23 (claiming that the

“Commission should neither favor nor disfavor any applicant, whether it provides audited financial statements as

part of the short-form application or whether it certifies that it will provide audited financial statements post-

auction”).

(continued….)

Financial Metric Response or

Threshold

Score

If the applicant has audited financial statements,

did it receive an unmodified (non-qualified)

opinion?

Yes +1

Operating margin > 0 +1

Times Interest Earned Ratio (TIER) ? 1.25 +1

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48. As the Commission explained in the CAF II Auction Comment Public Notice,99 the question

regarding an applicant’s audit opinion measures both the applicant’s financial condition and operations.

The metric for operating margin measures core profitability, and the metrics for current ratio and equity

ratio measure the applicant’s short- and long-term financial condition, respectively. TIER measures the

ability to pay interest on outstanding debt.

49. We decline to adopt different financial metrics or lower thresholds for those metrics as

suggested by some commenters. For example, we decline to replace operating margin with Earnings

Before Interest, Taxes, Depreciation, and Amortization (EBITDA).100 Operating margin provides a more

useful measure of the profitability of an applicant’s core operations, whereas EBITDA is generally a

measure of cash flow.

50. We also reject proposals to eliminate TIER or replace TIER with other metrics. The use of

TIER addresses both interest coverage and cash flow, and the capital-intensive nature of certain

applicants is measured through their TIER and equity ratios.101 First, we are not persuaded that we should

replace TIER with another interest coverage ratio (EBITDA over interest expense)102 because TIER is a

measure of a company’s ability to honor its debt payments, and it is used by banks, bond rating agencies

and the RUS.103 Given TIER may be calculated as either Earnings Before Interest and Taxes (EBIT) or

EBITDA divided by the total-interest-expense, a form of EBITDA (i.e., earnings before interest) is

considered with TIER. Second, we decline to replace TIER with the ratio of a company’s previous year’s

income to its total retained earnings.104 A metric of previous year’s income to total retained earnings

would reflect an applicant’s return on investment, which is already addressed by requiring an applicant’s

equity ratio.105

51. We also decline to eliminate the current ratio and the equity ratio metrics.106 We disagree

with suggestions that these metrics do not have a “place in a capital-intensive industry.”107 Instead, such

metrics play an integral role in an effective screening mechanism because they are useful indicators of an

99 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6257, para. 60.

100 WISPA Comments at 23. Further, applicants must exclude depreciation expense from their operating margin.

101 See Roger A. Morin, New Regulatory Finance 91 (Public Utilities Reports, Inc. 2006) (“The equity capital acts as

a cushion or buffer to absorb losses, and enables a company to weather business cycle volatility without violating its

contractual debt obligations.”).

102 WISPA Comments at 23.

103 Connect America Fund et al., Wireline Competition Bureau Staff Report, 28 FCC Rcd 7123, 7169, 7172-73

paras. 119, 129-30 (WCB 2013); see also Leonardo R. Glacchino & Jonathan A. Lesser, Principles of Utility

Corporate Finance 108 (Public Utilities Reports, Inc. 2011) (“An ICR [Interest Coverage Ratio] of less than one is

an obvious indicator of financial distress. Generally, rating agencies like to see ICR values of at least 1.5.”).

104 Sacred Wind Communications Comments at 8-9; see also ILSR et al. Reply at 9 (opposing using TIER as a

metric).

105 See Morin, supra note [[101]], at 445 (“To assess the reasonableness of the allowed return on equity, the

coverage ratio that results from a given allowed equity return can be computed and compared to norms of

reasonableness and to that of peer groups.”).

106 BEK Communications Comments at 2-3; WISPA Comments at 23-24; Rural Coalition Reply at 16.

107 WISPA Comments at 23-24.

(continued….)

Current Ratio (Ratio current assets/current

liabilities)

? 2 +1

Equity Ratio (Total equity/total capital (total

equity plus total liabilities))

? 0.5 +1

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applicant’s general financial health. The current ratio metric is used to measure an applicant’s liquidity

(i.e., its ability to pay its short-term obligations). The equity ratio metric is an indicator of the level of

leverage used by an applicant; it measures the proportion of the total assets that are financed by

stockholders, as opposed to creditors. We also are not persuaded that we should lower the scoring

thresholds for the equity ratio or the current ratio as proposed by some commenters.108 We conclude that

the scoring thresholds for these metrics are reasonable indicators for assessing whether to require further

review of an applicant’s financial qualifications for participating in Auction 903.109

52. While we decline to make the changes discussed above, we adopt a modification to the

proposal in the Phase II Auction Comment Public Notice regarding which financial results will trigger

further review of the applicant’s financial qualifications. In particular, we will consider an applicant with

a total score of three points or greater (i.e., a score of one for at least three of the metrics) to have

sufficient financial qualifications to participate in Auction 903, regardless of the applicant’s score for any

specific metric. This modification of the Commission’s original proposal no longer places added

emphasis on an applicant’s score for the final two metrics (current ratio and equity ratio). We thus

acknowledge the concerns expressed by commenters that those two thresholds are difficult for certain

providers, including small providers, to meet in light of the extensive capital expenditures required in the

telecommunications industry.110 Our modification is expected to result in more established providers

(including existing universal service support recipients) demonstrating that they have sufficient financial

qualifications at the short-form application stage without the need for further review, which may

encourage participation in the auction and will preserve Commission resources by avoiding additional

reviews.111

53. At the same time, we are mindful that not every applicant may have the financial

qualifications required to bid in the Phase II auction, and we do not want to allow those applicants to

avoid review and participate in the auction. We therefore decline to adopt other suggestions in the record

that might subject fewer applicants to further financial review, such as automatically deeming certain

classes of applicants to have sufficient financial qualifications. For example, we are not persuaded that

applicants that are existing, compliant universal service support recipients or applicants that have at least

two years of operating history and/or an unmodified, unqualified opinion from an auditor are necessarily

financially qualified to take on additional Phase II obligations.112 The Commission decided to collect the

audited financial statements of such applicants to assess their financial qualifications despite their

108 ITTA Comments at 4; WISPA Comments at 24; USTelecom Comments at 3; BEK Comments at 1-3; GeoLinks

Reply at 2-3; ILSR et al. Reply at 9; Rural Coalition Reply at 15-16.

109 See Glacchino & Lesser, supra note [[103]], at 101 (“While current ratios by industries will differ, a general rule

of thumb is that a current ratio of 2.0 is satisfactory.”). For the equity ratio, the Commission has previously used

equity ratios as high as 0.75, where the staff report used data from a “wide spectrum of carriers,” including Regional

Bell holding companies, mid-size companies, and publicly traded rural local exchange carriers. See Connect

America Fund et al., Report and Order, 29 FCC Rcd 3964, 4041, paras. 104, 106, & n.325 (WCB 2014) (CAM

Inputs Order).

110 See, e.g., WISPA Comments at 21-23; ITTA Comments at 4; BEK Communications Comments at 1-3;

USTelecom Comments at 3; GeoLinks Reply at 2-3; ACA Reply at 16; Verizon Reply at 3-4; ILSR et al. Reply at 9;

Rural Coalition Reply at 16.

111 WISPA Comments at 21 (stating that “[i]f the Commission were to apply its proposed test, it would be less quick

and less efficient because Commission staff would almost always be required to undertake the ‘more in-depth

review of the full set of financial statements’”) (emphasis deleted).

112 ITTA Comments at 5; USTelecom Comments at 2-3; WISPA Reply at 15; GeoLinks Reply at 3; ACA Reply at

15-16; AT&T Reply at 18-19; Verizon Reply at 3-4.

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operational or universal service history.113 Moreover, while an auditor’s opinion helps assess an

applicant’s financial health because the auditor develops a detailed understanding of the applicant’s

internal controls environment and conducts in-depth validations of financial transactions posted to the

general ledger,114 the auditor’s opinion by itself does not provide as broad an insight into an applicant’s

financial condition as the metrics we have adopted.115

54. Some commenters argue that it is not necessary to collect additional financial information for

experienced applicants because the Commission acknowledged that an applicant demonstrating at least

two years of operational history would give “reasonable assurance” of the entity’s financial health.116 We

disagree with such commenters. The Commission made that statement when it decided to require an

applicant not audited in the ordinary course of business to submit its audited financials in the long-form

application, balancing the interest in having applicants that are not audited in the ordinary course of

business participate in the auction against the potential for defaults.117 Such balancing is consistent with

our use of the information submitted in the short-form application to make an informed assessment of an

applicant’s financial condition, further reducing the possibility of potential defaults that could leave

consumers without broadband service. The criteria we adopt here are intended to provide applicants with

further clarity about how they can demonstrate their financial qualifications.118

55. We disagree that our decision to adopt a mechanism for reviewing the financial statements

submitted with short-form applications is inconsistent with our decision not to adopt a similar process for

price cap carriers accepting Phase II model-based support.119 For Phase II model-based support, we

offered a set support amount to each price cap carrier in exchange for fulfilling specific voice and

broadband service obligations within its existing area in areas where it already had plant in service and an

existing customer base so there was already a revenue stream available to help support the upgrades of

such networks. We knew how much support each price cap carrier would receive and the number of

locations it would be required to serve. By contrast, for the Phase II auction, many auction participants

will be building out new networks in areas where they do not have an existing customer base so we need

to be able to verify that they will be able to secure the necessary capital to construct and sustain new

networks. We do not know where Phase II bidders will bid, how much support they will request, or how

113 Phase II Auction Order, 31 FCC Rcd at 5983, para. 101 (stating that the Commission is collecting audited

financial statements because “[t]he need to ensure that every Phase II auction recipient is in good financial health is

critical”).

114 Id.

115 See Rural Coalition Nov. 21, 2017 Ex Parte Letter at 7 (urging the Commission to “not dispense altogether with a

reasonably tailored financial screen of all those applying to participate” in the Phase II auction).

116 Phase II Auction Order, 31 FCC Rcd at 5984, para. 102; ITTA Comments at 2-3; GeoLinks Reply at 3; ACA

Reply at 15 n.66; AT&T Reply at 17-18.

117 Phase II Auction Order, 31 FCC Rcd at 5984, para. 102. Similarly, the Commission’s statement that the

requirement that an applicant has operated any voice, broadband, or electric distribution or transmission network

will provide “sufficient assurance” that an applicant is “qualified to bid” was made in the context of denying a

request that the Commission also consider if an applicant is an existing high-cost support recipient. Phase II

Auction Order, 31 FCC Rcd at 5983, para. 100, n.200; ITTA Comments at 2-3. It is clear from the Commission’s

decision to require applicants to submit additional information, including audited financial statements, that the

Commission did not intend that an applicant’s operating history would be the only criterion in determining an

applicant’s eligibility to participate in the auction. See 47 CFR §§ 1.21001(b), 54.315(a).

118 The Commission did not discuss in the Phase II Auction Order what standards it would use to review the

submitted audited financial statements, nor did it state that collection of the financial statements without further

review beyond the audit opinion would be sufficient. Contra ITTA Comments at 2-3 (suggesting that the

Commission is “upping the ante . . . with additional hurdles”).

119 See, e.g., WISPA Comments at 21; ITTA Comments at 3-4; ACA Reply at 15.

(continued….)

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much support will ultimately be provided to serve a particular location. Therefore, we conclude that it

serves the public interest to require all applicants to make the same demonstration that they have the

financial qualifications to participate in the Phase II auction.

56. We are also not persuaded that we should focus on one financial metric in lieu of applying

our five-point scale. For example, focusing only on an applicant’s EBITDA would provide information

only on an applicant’s cash flow, whereas the five-point scale is intended to provide broader information

on an applicant, including assets, liabilities, equity, operations, and cash flow.120 Eliminating one or more

of these financial components would give a less than complete view of an applicant’s full financial status.

For similar reasons, we are not persuaded that, in lieu of TIER, the current ratio, and the equity ratio, we

should require an applicant to certify that it “will not bid for annual support exceeding 50 percent of its

average annual GAAP operating cash flow from the prior two fiscal years.”121 Such an approach may not

be an adequate proxy for assessing an applicant’s financial status and would add complexity to bidding

for both bidders and the Commission in ensuring that the maximum support amount for each applicant is

not exceeded.122

57. We emphasize that a failure to score at least three does not indicate that an applicant lacks the

financial qualifications to participate in the auction. Rather, it indicates that further review is required.

During this further review, an applicant’s operating cash flow and EBITDA will be considered, as these

metrics may provide a useful context for assessing an applicant’s financial status.123

58. Although we will consider these additional metrics, as well as other information, in the

further review process, we decline to adopt specific parameters for that process that would apply to all

applicants that score less than three. Several commenters suggest that if the Commission does not adopt

such parameters, entities will be dissuaded from participating in the auction.124 However, because each

applicant’s financial circumstances differ, the further review is intended to be tailored to an applicant’s

full financial statements to determine whether it has the financial qualifications to participate in the Phase

II auction even though it scored less than three. If an applicant is unable to demonstrate that it has

sufficient financial qualifications based on the information submitted with the short-form application and

information submitted to the Commission in other contexts, Commission staff will be able to ask the

applicant questions and request additional information during the resubmission filing window.

59. Finally, we are not persuaded that whether an applicant has received state support should be

120 WISPA Comments at 24-25 (proposing that the Commission conduct an in-depth review if an applicant’s

EBITDA margin is less than 10 percent, in lieu conducting such review where an applicant scores less than three on

the five-point scale). WISPA later revised its proposal to suggest that the Commission deem an applicant as having

sufficient financial qualifications to participate in the Phase II auction if it can make the EBITDA showing or if the

applicant submits “audited financial statements from the prior fiscal year with an unmodified, non-qualified

auditor’s opinion.” WISPA Reply at 15-16. Above, we discuss why an unmodified, non-qualified auditor’s opinion

does not provide sufficient insight into an applicant’s full financial condition. See Rural Coalition Reply at 15

(stating that EBITDA margin “is not a meaningful or sufficient substitute for a more robust screen that takes into

account not only current margins but also some other measures of debt obligations and access to capital”).

121 USTelecom Comments at 4-5; AT&T Reply at 19. But see WISPA Reply at 15 (noting that this proposal “favors

large companies with greater cash flow over smaller entities”); Rural Coalition Reply at 15 (suggesting that

USTelecom has not demonstrated that this test “sufficiently capture[s] the level of scrutiny needed to ensure the

sustainability of a firm in a capital-intensive business”).

122 See Rural Coalition Nov. 21, 2017 Ex Parte Letter at 7 (noting that these proposals “miss the mark in focusing

solely on the one-time act of deployment, and failing to consider ongoing sustainability”) (emphasis deleted).

123 USTelecom Comments at 5; WISPA Comments at 23.

124 WISPA Comments at 21; ACA Reply at 16.

(continued….)

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considered as part of an applicant’s demonstration of its financial qualifications.125 Such an approach

would require that Commission staff become familiar with each relevant state’s procedures for assessing

an applicant’s financial qualifications, potentially prolonging the time it takes to review each short-form

application. Moreover, the fact that a state deemed an applicant to have sufficient financial qualifications

for its own program at a certain point in time would not necessarily show that an applicant has sufficient

qualifications at the time of the Phase II auction.

4. Eligibility to Bid for Performance Tier and Latency Combinations

60. For the reasons discussed in the CAF II Comment Public Notice,126 we adopt the general

proposal to require an applicant to demonstrate its eligibility to bid for the performance tier and latency

combination(s) it selects in its application in advance of the start of bidding in the auction. Pursuant to

the Commission’s rules and consistent with the proposals in the CAF II Comment Public Notice, an

applicant must submit high-level operational information in its short-form application to complete its

operational showing. It is our objective to safeguard consumers from situations where bidders unable to

meet the specified service requirements divert support from bidders that can meet the Phase II public

interest obligations, and we believe the short-form application we adopt can accomplish this purpose.

However, a determination at the short-form stage that an applicant is eligible to bid for a given

performance tier and latency combination and has sufficient access to spectrum, if applicable, does not

preclude a determination at the long-form application stage that a long-form applicant lacks the requisite

technical qualifications or access to spectrum, and thus should not be authorized to receive Phase II

support for that eligible area.

a. Selecting Performance Tier and Latency Combinations

61. As required by the Commission’s rules, each applicant must select in its short-form

application the performance tier and latency combination(s) for which it intends to bid in each state where

it seeks support.127 For each tier and latency combination, an applicant must indicate the technology or

technologies it intends to use to meet the associated requirements.128 If an applicant intends to use

spectrum, it must also indicate the spectrum band(s) and total amount of uplink and downlink bandwidth

(in megahertz) that it has access to for the last mile for each performance tier and latency combination it

selected in each state.129

b. Operational Information

62. As proposed in the CAF II Auction Comment Public Notice,130 we will require an applicant to

submit in its short-form application sufficient operational information regarding its experience providing

voice, broadband, and/or electric distribution or transmission service and its plans for provisioning service

if awarded support. Such information will demonstrate whether an applicant has the technical

qualifications to bid for specific performance tier and latency combinations. Specifically, we adopt the

proposal that an applicant must submit high-level operational information to complete its operational

showing and demonstrate that it can be expected to be reasonably capable of meeting the public interest

obligations (e.g., speed, usage, latency, and service milestones) for each performance tier and latency

125 ILSR et al. Reply at 9.

126 CAF II Comment Public Notice, 32 FCC Rcd at 6247-48, paras. 31-32.

127 47 CFR § 54.315(a)(4).

128 Id. An applicant may propose to use different technologies within a state and use hybrid networks to meet its

Phase II public interest obligations.

129 The last mile refers to the portion of the network that transmits services to end-users.

130 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6248, 6277, paras. 33-35, Appx. A.

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combination selected.131 We also make several clarifying changes to the short-form application

operational questions proposed in the CAF II Auction Comment Public Notice, and reject proposals to

require applicants to submit additional evidence with their short-form applications.

63. Eligibility to bid for specific tier and latency combinations will be determined on a state-by-

state basis. Accordingly, for each selected performance tier and latency combination, an applicant will be

required to demonstrate that it is reasonably capable of meeting the relevant public interest obligations for

each state it selects and to explain how it intends to provision service if awarded support. We decline to

make such determinations on a nationwide basis for each performance tier and latency combination

selected because state-level review provides more granular information on an applicant’s capabilities and

may reduce the risk of default.132 Because compliance with the service obligations will be determined on

a state-level basis and some applicants may propose to deploy hybrid networks, it will be useful to

understand how an applicant selecting multiple performance tier and latency combinations within a state

intends to meet the requirements for each combination in the state. Some parties have suggested in the

Phase II proceeding that we should only require additional information from, and conduct an eligibility

review for, applicants that select certain performance tier and latency combinations.133 Instead, to reduce

the risk of defaults, we will evaluate the combination(s) selected by an applicant to determine its

eligibility to bid for any such combination(s).

64. An applicant must answer the questions listed in Appendix [[A]] for each state it selects in its

application. The questions are intended to elicit short, narrative responses from the applicant regarding its

experience in providing voice, broadband, and/or electric distribution or transmission service, and the

network(s) it intends to use to meet its Phase II public interest obligations. The questions are designed to

confirm that the applicant has developed a preliminary design or business case for meeting the public

interest obligations for its selected performance tier and latency combinations. They ask the applicant to

identify the information it could make available to support the assertions in its application. We do not

anticipate that it will be unduly burdensome to respond to these questions because at a minimum, each

applicant will need to have started planning at a high-level how it intends to meet the relevant Phase II

public interest obligations as part of its obligation to conduct due diligence prior to the auction. We

recognize that because a short-form applicant will not know where it might be authorized to receive

support and will have six years to build out or upgrade its network, the information submitted may be

based on a preliminary network design, which may be modified once the winning bids are announced and

as the network is built out.

65. We decline to revise these questions so that they elicit only yes or no responses.134 This

approach would provide little insight into whether an applicant has given appropriate consideration to

how it will meet its Phase II obligations if it becomes authorized to receive Phase II support. Instead, we

have revised the originally proposed questions to clarify that we expect concise descriptions from

131 See Verizon Reply at 4 (generally supporting the Commission’s “proposed technical qualifications

requirements”); IEC Reply at 3 (supporting the Commission’s “proposal to collect high-level operational

information from each applicant to complete its operational showing and enable [Commission] staff to determine

whether the applicant is expected to be reasonably capable of meeting the public interest obligations”).

132 WISPA Comments at 8 n.22.

133 See Letter from Rebekah P. Goodheart, Counsel for the Association of Missouri Electric Cooperatives, Midwest

Energy Cooperative, HomeWorks, Alger Delta & Great Lakes Energy et al., to Marlene H. Dortch, Secretary, FCC,

WC Docket No. 10-90 et al., at 7-8 (filed Jan. 19, 2017) (Rural Coalition Jan. 19, 2017 Ex Parte Letter) (suggesting

that only entities that want to bid in the Above Baseline and Gigabit performance tiers be required to submit

additional documentation establishing their eligibility to bid in these tiers). But see Letter from Thomas Cohen,

Counsel for the American Cable Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 et al., at

11 (filed Jan. 30, 2017) (ACA Jan. 30, 2017 Ex Parte Letter) (suggesting that unqualified bidders will not only bid

in the “two upper tiers”).

134 WISPA Comments at 9-10.

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applicants. We will implement the Commission’s usual procedures for reviewing auction applications to

help ensure that eligibility determinations are made consistently across all applications by, among other

things, leveraging the expertise of engineers and/or other subject matter experts.135

66. We also are not persuaded that we should revise these questions to require an applicant to

describe the information it could provide in its long-form application if it is deemed a winning bidder,

rather than require an applicant to describe the information that it could make available during the short-

form application stage to support its responses to the questions.136 Requiring an applicant to demonstrate

that it could submit sufficient evidence during the short-form application stage if requested will encourage

the applicant to carefully and thoughtfully select the performance tier and latency combination(s) for

which it intends to bid on the basis of being reasonably capable of meeting the public interest obligations

associated with those combination(s). This approach will minimize situations where a bidder that is

unable to meet the specified service requirements diverts support from bidders that can meet the service

requirements.

67. We likewise decline to revise the question regarding an applicant’s potential vendors,

integrators, and other partners, and the question regarding how the network will be maintained and

services provisioned.137 We recognize that until an applicant knows where it will be awarded support and

how many locations it will be required to serve, it may not have made all its decisions regarding how it

will meet its Phase II obligations.138 However, an applicant is required to certify that it has performed the

necessary due diligence to participate in the Phase II auction. This includes making sure that the

applicant will be able to build and operate facilities that will fully comply with all applicable

requirements. Accordingly, we conclude that it is reasonable to expect that an applicant will have

developed a preliminary plan for how it will meet its Phase II obligations if awarded support. If an

applicant has not demonstrated that it is reasonably capable of meeting the relevant public interest

obligations based on the information submitted in the short-form application, the applicant will be asked

to submit evidence during the resubmission filing window to demonstrate that it has developed a

preliminary plan.

(i) Modifications to Proposed Operational Questions

68. In response to comments, we have made some modifications to the originally proposed

operational questions to provide greater clarity on how an applicant should respond to them.

69. First, we retain the question about the total number of subscribers an applicant has served

with voice and broadband because the size of a service provider’s current operations provides useful

insight into how an applicant has scaled its network in the years it has been operating. However, we do

135 Id. at 9 (suggesting that the Commission make edits to the questions “to avoid disparate interpretations of

descriptive responses”); see also Hughes Reply at 9 (urging “the Commission to review its proposed short-form

questions to ensure that the Commission can assess them in an objective an[d] equitable way”).

136 WISPA Comments at 9-10.

137 Id. at 8-10.

138 Id. at 9. The short-form application asks an applicant that does not intend to use internally developed systems to

provision and maintain service about its use of outside systems. This question gives an opportunity for such an

applicant to demonstrate that it has developed a preliminary plan for meeting its Phase II obligations if awarded

support. It is not intended to signal that an applicant that intends to use internally developed systems will be

preferred over an applicant that uses external systems; both types of applicants will need to describe concisely the

information and sources of the information that they could make available. See id. at 9-10 (claiming that the

question as proposed “appears to favor applicants that have internally developed operations systems . . . over an

applicant that chooses to rely on externally developed operations systems and would need to prepare more detailed

information”). An eligible telecommunications carrier is permitted to offer the supported service “either using its

own facilities or a combination of its own facilities and resale of another carrier’s services.” 47 U.S.C. §

214(e)(1)(A).

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clarify that an applicant can provide an estimate and should provide the current total number of

subscribers (as of the short-form application filing deadline).139 If an applicant is no longer providing

service in any state, we require the applicant to estimate the number of customers that were served at the

beginning of the last full year that it did provide service.

70. Second, we retain the question asking an applicant to identify the relevant industry standards

for the last-mile technologies it intends to use to meet its Phase II obligations if it becomes a winning

bidder and is authorized to receive support. This question will give an applicant the opportunity to

demonstrate that it has started planning how it will meet the Phase II obligations and that it intends to use

technologies that are generally accepted as having the capabilities to meet the relevant performance

standards.140 However, we clarify that an applicant is not precluded from proposing to use non-standards

based technology.141 So that an applicant intending to use such technology can demonstrate that the

technology has suitable capabilities for meeting the applicable performance requirements, we will require

such an applicant to identify the vendors and the products it is considering using, and to provide links to

the vendors’ websites and to publicly available technical specifications of the products.142 If the technical

specifications are not publicly available, the applicant may submit them with its application.

71. Third, we eliminate the question asking an applicant to identify the assumptions it intends to

make regarding subscription rate and peak period data usage.143 We find that it is more appropriate to

undertake an inquiry about such assumptions at the long-form application stage. At the long-form

application stage, more information will be available regarding the reasonableness of a winning bidder’s

assumptions because at that point we will know how many locations the winning bidder will be required

to serve and the winning bidder will have provided more detailed information about its intended network

design.144

72. We emphasize that we will treat the responses to the questions in Appendix [[A]] and any

associated supporting documentation as confidential and will withhold them from routine public

inspection.145 Accordingly, there is no need for an applicant to submit a section 0.459 confidentiality

request to seek protection of this information from public disclosure.146

139 See WISPA Comments at 8 (explaining that requiring an applicant to specify how many subscribers were

“served” would require an applicant to “calculate the total number of subscribers in a state that it has served since

the provider began offering service, including those that may have disconnected years ago”). But see Verizon Reply

at 4 (noting that “an applicant’s experience in the provision of broadband services is clearly relevant to an

assessment of the applicant’s technical qualifications”).

140 See WISPA Comments at 8-9 (requesting that the Commission eliminate this question). But see Verizon Reply at

4-5 (supporting the inclusion of this question).

141 WISPA Comments at 8-9 (arguing that the proposed question “implie[d] that an applicant relying on non-

standards-based equipment could be found to be unqualified”).

142 We also revise the question to ask “[w]hat capabilities of this technology and proposed network will enable

performance tier, latency, and voice service requirements to be met?” in response to WISPA’s comment that asking

about the “features” of this technology was “vague.” WISPA Comments at 9.

143 WISPA Comments at 9.

144 But see Verizon Reply at 5 (supporting the inclusion of this question in the short-form application).

145 We will treat short-form applicants that submit this information as having made a request to treat this information

as confidential trade secrets and/or commercial information. See 47 CFR § 0.459(a)(4). If a request for public

inspection under section 0.461 is made, however, the short-form applicant will be notified and will be required to

justify confidential treatment of its request if the short-form applicant has any objections to disclosure. 47 CFR §

0.461.

146 WISPA Comments at 8 (suggesting that an applicant would have to submit a section 0.459 confidentiality request

to protect its subscribership information from public disclosure).

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(ii) Additional Information

73. We are not persuaded that we should require applicants to submit additional information with

their short-form applications as suggested by some parties in response to the Phase II Comment Public

Notice. First, we decline to require an applicant that intends to use spectrum to submit propagation maps

with its short-form application.147 Each applicant is required to perform the necessary due diligence to

ensure that it will be able to offer service to the required number of locations to meet the performance tier

and latency public interest obligations if it becomes a winning bidder and is authorized to receive Phase II

support. Nevertheless, because an applicant will not know if or where it will be awarded support and has

some flexibility to change the areas for which it will bid during the auction, we anticipate that it would be

burdensome to require each such applicant proposing to use spectrum to meet the relevant Phase II public

interest obligations to submit propagation maps of every area in which it might potentially win support.148

Moreover, it would be burdensome for reviewers to examine the propagation maps of all applicants that

intend to use spectrum, particularly given the maps may not be relevant if an applicant does not become

qualified or does become qualified but does not win support in that area. For the same reason, we decline

to require an applicant that intends to use wireline networks to submit network maps with its short-form

application.149

74. Instead, we intend to rely on an applicant’s responses to the operational questions and other

information submitted in the application regarding an applicant’s experience and spectrum access at the

short-form application stage and will require more detailed network information at the long-form

application stage once winning bidders know exactly where they have been assigned Phase II support.150

147 Rural Coalition Comments at 19; Rural Coalition Nov. 21, 2017 Ex Parte Letter at 1-4.

148 See Verizon Reply at 5-6 (noting that this proposal “would apparently limit an applicant to bidding on only those

areas for which the applicant has submitted a map with its short-form application, which would further complicate

the auction design and impose significant costs on applicants”); AT&T Reply at 19-20 (“[A] ‘preliminary’

propagation map produced before the wireless provider completes its full network design and analysis would not be

a reliable indicator of the services that could be provided at specific locations within the mapped area and thus

would be of little value to Commission reviewers.”); WISPA Reply at 4 (“Applicants would be required to spend

countless hours preparing additional detailed exhibits with no countervailing benefit for the Commission.”); Letter

from Stephen E. Coran, Counsel to the Wireless Internet Service Providers Association, to Marlene H. Dortch,

Secretary, FCC, AU Docket No. 17-182 et al., at 1-2 (filed Dec. 5, 2017) (WISPA Dec. 5, 2017 Ex Parte Letter)

(“requiring submission of propagation maps, conceivably for every possible compilation of spectrum bands and

census block groups, would be impractical, unfair, and inefficient”); CTIA Reply at 3-4; GeoLinks Reply at 6; RWA

Reply at 11-12.

149 WISPA Reply at 4-5. But see Rural Coalition Nov. 21, 2017 Ex Parte Letter at 2 (noting that it “does not oppose

a requirement that fiber-based applicants submit in their short-form applications maps of proposed deployment

routes of main-line fiber optic cable to demonstrate fiber availability inside of eligible census block locations”).

150 We disagree that the New York’s New NY Broadband Program is an appropriate comparison for determining

whether this requirement would be burdensome for applicants or Commission staff. See Rural Coalition Nov. 21,

2017 Ex Parte Letter at 4 (noting that “[t]he Commission approved the New York Broadband Program

requirements, and there is nothing to suggest that those requirements have been burdensome for providers, or that

the network map requirement specifically has deterred participation”); New York State, New NY Broadband

Program: Phase 3 Requests for Proposal Guidelines, at 46 (2017), available at

https://nysbroadband.ny.gov/sites/default/files/broadband\_-\_phase\_3\_rfp\_guidelines-final\_0.pdf (noting that

applicants would be required to submit “detailed information concerning their projects, proposed Service Areas,

management and financial capabilities . . . .”). Unlike the Phase II auction, New York’s auction does not have a

two-step application process or a separate bidding process. Accordingly, New York requires applicants to submit

detailed technical information with their bids. New York applicants can thus tailor their network information to the

exact areas covered by their bids in New York state; New York reviewers will only have to review the information

relevant to winning bids; and reviewers could allot an appropriate amount of time to review the information without

having concerns about delaying the start of the auction. By contrast, the Phase II auction is nationwide and an

applicant that is deemed eligible to bid in the Phase II auction has some flexibility to change the areas that are

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As we have discussed, we expect that the information that an applicant must submit at the short-form

application stage will be sufficient to demonstrate it is reasonably capable of meeting the relevant Phase II

public interest obligations. If the information submitted by certain applicants is insufficient for such a

demonstration, that applicant may be asked to submit more information during the application

resubmission period. We conclude that this approach achieves a reasonable balance between assessing an

applicant’s technical qualifications prior to the auction, minimizing burdens on applicants, and avoiding

unreasonable delay in commencing the auction.

75. Second, we decline to require a satellite service provider to identify the total number of

locations it can serve in a given service tier based on its total capacity and to limit its bidding to only that

many locations.151 Such an approach is unnecessary, would add complexity, and would require further

development to the bidding software, potentially delaying the Phase II auction.152 We conclude that there

are already adequate safeguards in place that collectively will encourage bidders to bid to serve only the

number of locations that they will have enough capacity to serve. For example, we already request that a

satellite service provider submit in its short-form application information regarding its total available

capacity and the methods it intends to use to assign bandwidth and capacity for each spot beam,153 which

will give a satellite service provider the opportunity to demonstrate that it is proposing to deploy a

network that is reasonably scalable to meet the relevant Phase II public interest obligations. A satellite

service provider may also be asked to submit additional information during the application resubmission

period if the information initially submitted by the provider is insufficient to make a determination.

76. As described below,154 we also will require an applicant to make certain minimum

operational assumptions about its subscription rate and the number of locations it will be serving when

determining whether it can meet the Phase II public interest obligations if it becomes a winning bidder

and is authorized to receive Phase II support. Moreover, an applicant should be aware that each bid

during the auction represents a commitment, should the applicant become a winning bidder, that it or its

designated operating company (i) will serve the number of locations across all its winning bids (or will be

subject to a default if the long-form applicant is not ultimately authorized to receive support),155 and (ii) as

a support recipient will be subject to non-compliance measures if it defaults or is ultimately unable to

meet the requirements.156

c. Operational Assumptions

77. We also adopt certain assumptions that an applicant will need to make about network usage

and subscription rates when determining, for purposes of its short-form application, whether it can meet

covered by its bids. As noted above, for the propagation map requirement to be meaningful, a Phase II applicant

would need to submit propagation maps for any area where it might potentially bid and win support, possibly for a

number of states. Reviewers would also not have the benefit of knowing in which areas the applicant will bid or win

support, so all submitted maps would likely have to be reviewed for the information to be useful. This could

potentially prolong the short-form application review period and delay the start of the Phase II auction.

151 Rural Coalition Comments at 20-21; ILSR et al. Reply at 7. But see Hughes Reply at 8 (claiming that the “Rural

Coalition’s assertion that satellite providers are ‘unique’ in facing a trade-off in speed and capacity with increasing

numbers of users on their networks is incorrect”).

152 Hughes Reply at 8 (“[I]t is unclear how the Commission would enforce such a limit in the bidding process even if

it required this information from bidders.”).

153 See infra Appendix [[A]], question [[6]].

154 See infra Section [[II.E.4.c]] (Operational Assumptions).

155 See infra Section [[IV.B.4.a.i]] (Bid Processing in the Clearing Round—Assignment).

156 See, e.g., 47 CFR § 54.320; Phase II Auction Order, 31 FCC Rcd at 6000, paras. 143-145.

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the public interest obligations for its selected performance tier and latency combination(s) if it becomes a

winning bidder and is authorized to receive Phase II support.

78. First, as proposed in the CAF II Auction Comment Public Notice,157 we require that an

applicant assume it will offer service to at least 95 percent of the required number of locations across its

bids in each state by the end of the six-year build-out period.158 This assumption is consistent with the

requirement that each winning bidder submit with its long-form application a network diagram with a

certification by a professional engineer that the network would deliver, to at least 95 percent of the

required number of locations in each relevant state, voice and broadband service that meets the relevant

performance requirements.159 While we reiterate that Phase II support recipients should plan to offer

service to 100 percent of the required number of locations and take advantage of the flexibility to offer

service to 95 percent of the required number of locations only in unforeseen circumstances,160 we

conclude that an assumption by an applicant that it will offer service to 95 percent of locations will

provide reasonable assurance that the applicant will engineer its network so that it is reasonably capable

of meeting the relevant public interest obligations for the required number of locations. While each

winning bidder that is authorized to receive Phase II support will be required to offer service only in areas

where it is authorized to receive support,161 we caution that, after the close of a round, each bid represents

an irrevocable offer to meet the terms of the bid if it becomes a winning bid.162 Accordingly, an applicant

that becomes a qualified bidder should assume for each round of the auction that it could be required to

offer service meeting the relevant requirements to the number of locations across all the bids that it places

in each state.

79. Second, consistent with assumptions made in the CAM,163 we will require an applicant to

assume that it will have at least a 70 percent subscription rate for its voice and broadband services by the

time it will meet the final service milestone if it becomes authorized to receive support.164 Because it may

take time for an applicant that becomes a winning bidder and is authorized to receive Phase II support to

obtain customers as it builds out its network, we will permit applicants to factor this into their engineering

and make reasonable assumptions about how the subscription rate will scale during the build-out term.165

157 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6249, para. 36.

158 WISPA Comments at 11-12; GeoLinks Comments at 1-2; WISPA Reply at 9-10.

159 47 CFR § 54.315(b)(2)(iv); see also WISPA Comments at 11-12.

160 Rural Coalition Jan. 19, 2017 Ex Parte Letter at 8; ILSR Comments at 1-2; ILSR et al. Reply at 3-5; see also

Phase II Auction Order, 31 FCC Rcd at 5965, para. 44. We decline to “only consider bids that cannot cover all

premises in the event that there is no bidder that can connect all premises.” ILSR et al. Reply at 5. This request is

essentially an untimely petition for reconsideration of the Commission’s decision to give Phase II support recipients

the flexibility of serving 95 percent of the required number of location due to unforeseen circumstances. 47 CFR §

1.429(d) (requiring that petitions for reconsideration “be filed within 30 days from the date of public notice of such

action”); Phase II Auction Order, 31 FCC Rcd at 5965-66, paras. 44-47; see also WISPA Reply at 10.

161 Hughes Comments at 6; Hughes Reply at 7 (suggesting that the “relevant question” is “whether an applicant will

be able to serve all customers who wish to subscribe in the areas where the applicant is the winning bidder”).

162 This is consistent with other Commission auctions. See, e.g., 47 CFR §§ 1.21004, 1.1.2104(g)(2); Rural

Coalition Reply at 12-13 (noting that “every bidder must be willing and able to serve every location in which it

bids”).

163 Connect America Fund et al., Report and Order, 29 FCC Rcd 3964, 4040, para. 179 (WCB 2014) (CAM Inputs

Order); see also Phase II Auction Order, 31 FCC Rcd at 5988, para. 114 n.227 (“An entity that engineers its

network based on the assumption that only 40 percent of the customer base in the relevant area will subscribe will

not be authorized.”).

164 See Rural Coalition Comments at 21-23; ILSR et al. Reply at 5 (supporting a 70 percent subscription rate).

165 WISPA Comments at 13-14; IEC Comments at 4; Letter from Jennifer A. Manner, Senior Vice President,

Regulatory Affairs, Hughes Network Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, at 1-2

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Regardless of the assumptions an applicant makes about its subscription rate when engineering its

network, the applicant must keep in mind that its network must be capable of scaling to meet demand.

That is, if a Phase II support recipient reports in the High Cost Universal Service Portal that a location is

served,166 it must be capable of providing service meeting the relevant performance requirements to that

location within 10 business days after receiving a request.167

80. We clarify that an applicant, if it becomes a winning bidder and is authorized to receive Phase

II support, will not be required to demonstrate that it has achieved at least a 70 percent subscription rate

once it has deployed to the required number of locations. Instead, we require an applicant to assume for

purposes of its short-form application that it will achieve at least a 70 percent subscription rate when

engineering its network. We recognize that some Phase II support recipients will achieve at least a 70

percent subscription rate in the areas where they are authorized to receive support and others will not.

However, requiring an applicant to make a specific assumption will give the Commission reasonable

assurance that an applicant is engineering a network that can be scaled to meet potential demand. Given

that subscription rates are likely to vary from area to area and over the 10-year period, we conclude that

the most objective way to minimize defaults and verify that an applicant is making reasonable

assumptions about its subscription rate is to require all applicants to make the same assumption about the

minimum subscription rate at the end of the build-out period. By adopting a minimum 70 percent

subscription rate, we are also providing applicants some additional clarity for how they can demonstrate

that they are technically qualified to participate in the Phase II auction.168 These benefits would not be

achieved by simply presuming that an applicant will have the incentive to make reasonable subscription

assumptions because the applicant will ultimately be subject to network testing requirements and non-

compliance measures if it becomes a winning bidder and is authorized to receive Phase II support, as

suggested by some commenters.169

81. By requiring an applicant to assume a minimum subscription rate of 70 percent, we are

balancing the reality that not all consumers in a given area may subscribe to the Phase II-funded service

with the requirement that Phase II support recipients provide the required service to consumers living at a

funded location within 10 business days of a request.170 While we acknowledge that some commenters

suggest a lower subscription rate would be more appropriate,171 in our predictive judgment, a 70 percent

(filed July 28, 2017); AT&T Reply at 25. We disagree with the suggestion that our decision to permit an applicant

to make reasonable assumptions about how its subscription rate will scale is inconsistent with the approach WCB

took when adopting a 70 percent subscription rate for the offer of Phase II model-based support. See Rural

Coalition Comments at 23; Rural Coalition Reply at 17-18. Instead, the Commission acknowledged “[i]t is

reasonable to expect that it will take some time to upgrade facilities in these areas and, therefore, take time to

achieve a 70 percent subscription rate for these newly built facilities” and concluded that the “Bureau’s prediction

that 70 percent of locations will subscribe over five years” was reasonable. Connect America Fund et al.,

Memorandum Opinion and Order, 29 FCC Rcd 14092, 14096-97, para. 11 (2014) (emphasis added).

166 See 47 CFR § 54.316 (describing the Phase II location reporting requirements).

167 WCB Location Guidance Public Notice, 31 FCC Rcd at 12902-03; see also Rural Coalition Reply at 17-18

(noting that if an applicant were permitted to assume a take rate lower than 70 percent, “winning bidders may not be

able to serve all locations, leaving certain locations stranded and, paradoxically, worse off than they were prior to

the [a]uction”).

168 47 CFR § 54.315(a)(2).

169 See AT&T Reply at 22-23 (claiming that “[t]he Commission’s existing requirements are sufficient to address

concerns about the adequacy of a [Phase] II auction recipient’s network”).

170 WCB Location Guidance Public Notice, 31 FCC Rcd at 12902.

171 See AT&T Reply at 24 (claiming that the subscription rate assumption should be lower than 70 percent and citing

FCC Form 477 data as of June 2016 that show that the national subscription rate for 10/1 Mbps was 63 percent and

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subscription rate is a reasonable assumption for engineering a network when taking into account (i) that

existing subscription rates, which in some cases are lower than 70 percent, may not reflect actual demand

over the 10-year support term, which we would expect to increase as data usage increases and higher

speeds are made available, and (ii) in the high-cost areas where the Phase II support recipient will be

deploying its network, it is more likely to be the only broadband provider, which may increase adoption

rates.172 We acknowledge there is a risk that this requirement may result in an increase in costs and could

potentially lead to an applicant engineering a network that is capable of serving more locations than

actually request service.173 However, we conclude that this potential harm is outweighed by the risk that a

support recipient could engineer a network that is incapable of meeting demand and may leave consumers

unserved if the Commission does not take proactive measures to ensure that a support recipient is making

reasonable assumptions about its potential subscription rate.174

82. Finally, the record lacks any specific proposals for assumptions an applicant should make

concerning per-subscriber data usage.175 Therefore, we will require each winning bidder to provide

detailed information regarding its peak period data usage assumptions during the long-form application

stage once the bidders know the number of locations they will be required to serve. We intend to review

each winning bidder’s response on a case-by-case basis to ensure that it is making reasonable assumptions

given the required data usage allowances for the performance tiers for which it has been named a winning

bidder.176

d. Specific Information Required from Applicants Proposing to Use

Spectrum to Provide Service

83. An applicant that intends to use radiofrequency spectrum to offer its voice and broadband

services must submit information regarding whether the spectrum to which it has access will enable the

applicant to meet the public interest obligations for each performance tier and latency combination that it

selects in its application.

84. The Commission’s Phase II auction rules require an applicant that plans to use spectrum to

demonstrate that it has (i) the proper spectrum use authorizations, if applicable; (ii) access to operate on

the spectrum it intends to use; and (iii) sufficient spectrum resources to cover peak network usage and

meet the minimum performance requirements to serve the fixed locations in eligible areas.177 Consistent

for 25/3 Mbps was 47 percent, and also citing data that demonstrate that “adoption rates in rural areas lag behind

urban areas”).

172 See CAM Inputs Order, 29 FCC Rcd at 4039, paras. 177-79.

173 AT&T Reply at 23.

174 See also Rural Coalition Reply at 18 (suggesting that if providers were able to make their own assumptions they

“could face competitive pressure to lower take-rate assumptions in order to win support, leading to a race to the

bottom”).

175 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6249-50, para. 36 (seeking comment on “whether we

should specify the assumptions an applicant should make concerning per-subscriber data usage to ensure that its

network is sufficient to support peak usage busy hour offered load, accounting for the monthly data usage allowance

associated with the performance tier(s) the applicant selects in its short-form application”); see also WISPA

Comments at 14 (noting that “[f]ixed wireless networks are not designed to accommodate all users simultaneously

using the fastest speed to download large data files during peak usage periods” and that “operators make certain

assumptions based on their experience to determine the number (or percentage) of subscribers that are likely to be

downloading and uploading material to the Internet at a given time at a given speed, and design their systems

according to reasonable usage assumptions based on their experience”).

176 See infra Appendix [[A]], question [[3]].

177 47 CFR § 54.315(a)(6); see Hughes Reply at 9 (stating that it “has no objection to identifying the licenses that it

currently holds, spacecraft it currently uses, and other spectrum bands that it may use in the term of support” but that

review of such information should be “appropriately circumscribed”). Commenters that suggest that the

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with the Commission’s approach in the Mobility Fund Phase I auction, for the described spectrum access

to be sufficient, the applicant must have obtained any necessary approvals from the Commission for the

spectrum, if applicable,178 by the short-form application filing deadline, subject to the exceptions

described below. The Phase II auction short-form rules also require an applicant to certify that it will

retain such authorizations for at least 10 years.179

85. A number of parties sought clarification on how an applicant can demonstrate that it has

access to sufficient spectrum resources.180 We clarify that an applicant that intends to use licensed or

unlicensed spectrum must in its short-form application (i) identify the spectrum band(s) it will use for the

last mile, backhaul, and any other parts of the network;181 (ii) describe the total amount of uplink and

downlink bandwidth (in megahertz) that it has access to in each spectrum band for the last mile; (iii)

describe the authorizations (including leases) it has obtained to operate in the spectrum, if applicable;182

and (iv) list the call signs and/or application file numbers associated with its spectrum authorizations, if

applicable. For the reasons discussed in the CAF II Comment Public Notice,183 we also require any

applicant that intends to provide service using satellite technology to describe in its short-form application

its expected timing for applying for earth station licenses if it has not already obtained these licenses.

Moreover, because an applicant can apply to obtain a microwave license at any time,184 we will permit an

applicant that intends to obtain microwave license(s) for backhaul to meet its Phase II public interest

obligations to describe in its short-form application its expected timing for applying for such license(s), if

it has not already obtained them.

86. This spectrum information, combined with the operational and financial information

submitted in the short-form application, will allow an applicant to demonstrate that it has sufficient

spectrum resources and is reasonably capable of meeting the public interest obligations required by its

Commission should not be collecting information about an applicant’s spectrum usage at the short-form application

stage are effectively seeking reconsideration of the rule that was adopted in the Phase II Auction Order. See CTIA

Reply at 2-3; 47 CFR § 54.315(a)(6) (requiring that each applicant “demonstrate . . . that the spectrum resources will

be sufficient to cover peak network usage and deliver the minimum performance requirements”); Phase II Auction

Order, 31 FCC Rcd at 5981-82, para. 98. Yet petitions for reconsideration must “be filed within 30 days from the

date of public notice of such action,” and that period has long since passed. 47 CFR § 1.429(d).

178 See 47 CFR § 54.315(a)(6); Phase II Auction Order, 31 FCC Rcd at 5981-82, para. 98 (requiring that an

applicant “demonstrate it has the proper authorizations, if applicable, and access to operate on the spectrum it

intends to use”); Mobility Fund Phase I Auction Scheduled for September 27, 2012; Notice and Filing Requirements

and Other Procedures for Auction 901, Public Notice, 27 FCC Rcd 4725, 4754-55, para. 96 (WTB 2012) (Mobility

Fund Phase I Auction Public Notice). A pending request for such an approval does not satisfy this requirement.

179 47 CFR § 54.315(a)(6).

180 See, e.g., ViaSat Petition for Reconsideration at 5-7 (proposing how satellite providers can demonstrate they have

the proper authorizations and access to sufficient spectrum); Oppositions to Petitions for Reconsideration of the

Wireless Internet Service Providers Association, WC Docket No. 10-90 et al., at 3-6 (filed Sept. 2, 2016) (requesting

that the Commission “clarify the requirements for terrestrial spectrum use” and “provide examples so that bidders

will have greater certainty before the auction on those types of spectrum solutions that would be in a ‘safe harbor’ of

permissibility”).

181 An applicant may propose to use more than one spectrum band to meet its Phase II obligations. See WISPA

Comments at 15-16; GeoLinks Reply at 6-7; RWA Reply at 12; Microsoft Reply at 4. Each applicant must identify

for which part of the network (e.g., last mile, backhaul, etc.) it intends to use each spectrum band.

182 If the licensee is a different party than the applicant, the licensee’s name should be provided and its relationship

to the applicant should be described. If the applicant is leasing spectrum, the lease number should be provided along

with the license information.

183 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6251, para. 41.

184 See, e.g., 47 CFR § 101.21(f) (describing the steps an applicant must take to obtain a microwave license).

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selected performance tier and latency combination(s). If a license, lease, or other authorization is set to

expire prior to the end of the 10-year support term, the Commission will infer that the authorization will

be able to be renewed when determining at the short-form application stage whether an applicant has

sufficient access to spectrum.185 However, this inference will in no way influence or prejudge our

resolution of any future renewal application, and if the authorization is not renewed during the support

term and the Phase II support recipient is unable to meet its Phase II obligations, that support recipient

will be in default and subject to any applicable non-compliance measures.

87. In Appendix [[B]], we identify the spectrum bands that we anticipate could be used for the

last mile to meet Phase II obligations and indicate whether the spectrum bands are licensed or unlicensed.

We have updated this chart to reflect most of the additional bands that commenters have suggested in

response to the CAF II Auction Comment Public Notice.186 We would expect that a service provider

operating in these bands could, at a minimum, offer service meeting the requirements for the Minimum

performance tier provided that the service provider is using sufficient bandwidth in the spectrum band(s)

and a technology that can operate on these spectrum bands consistent with applicable U.S. and

international rules and regulations.

88. We decline to add two spectrum bands proposed by WISPA to Appendix [[B]]. First, we

decline to add spectrum in the 3650-3700 MHz Band licensed pursuant to Part 90 of the Commission’s

rules.187 Because Part 90 licenses in the 3650-3700 MHz Band will sunset in April 2020,188 an applicant

that intends to operate on this band using only its Part 90 license to meet its Phase II public interest

obligations would not be able to demonstrate that it will have sufficient access to spectrum for the 10-year

support term.189 Second, we decline to add the 37.0 to 37.6 GHz band.190 The Commission has

announced that it intends to work with the National Telecommunications and Information Administration

to implement a federal/non-federal sharing regime in this band.191 It would unnecessarily complicate

these proceedings if we were to say that we expect that Phase II support recipients could use spectrum in

this band to meet their Phase II public interest obligations, particularly given that no non-federal

incumbent licensees currently provide commercial service using this band.

89. We also are not persuaded that we should exclude TV White Spaces or the 70/80/90 GHz

bands from Appendix [[B]] because they are the subject of “ongoing Commission proceedings,” as

suggested by the Rural Coalition.192 There is nothing in the Spectrum Frontiers proceeding or the post-

incentive auction repacking process cited by the Rural Coalition that would definitively bar an entity from

obtaining access to these frequencies to provide service. Instead, an applicant proposing to operate on

these bands to meet the Phase II public interest obligations will be subject to any service rule changes that

185 See, e.g., WISPA Comments at 16-17; RWA Reply at 12.

186 See WISPA Comments at 17-18; Microsoft Comments at 4-9; Hughes Comments at 7-8; SpaceX Comments at

10; RWA Reply at 12-13; SpaceX Reply at 4; MicroSoft Reply at 2-3.

187 WISPA Comments at 17.

188 See 47 CFR § 90.1338.

189 An applicant could propose to use spectrum in the 3650-3700 MHz Band licensed under the Part 90 rules until

2020 and then either transition to operation under the Part 96 rules or use other spectrum band(s) (either licensed or

unlicensed) after 2020 to meet its performance obligations; however, the applicant must sufficiently demonstrate

that it has access to such spectrum for the entire 10-year period.

190 WISPA Comments at 17.

191 Use of Spectrum Bands Above 24 GHz for Mobile Radio Services at al., Report and Order and Further Notice of

Proposed Rulemaking, 31 FCC Rcd 8014, 8170-74, paras. 446-64 (2016).

192 Rural Coalition Reply at 20-21.

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result from ongoing or future proceedings and any final determinations in the post-incentive auction

repacking process.

90. We emphasize, however, that Appendix [[B]] is a non-exhaustive list of spectrum bands that

an applicant could potentially use to meet its performance obligations.193 An applicant is not precluded

from proposing to use a spectrum band that is not included in Appendix [[B]], provided that the applicant

can demonstrate that it is reasonably capable of meeting the performance requirements over the 10-year

support term for the selected performance tier and latency combination(s) using that spectrum. We also

note that an applicant that selects a spectrum band listed in Appendix [[B]] for a particular performance

tier and latency combination may not necessarily be deemed eligible to bid for that combination. Such a

showing depends on the technology the applicant intends to use and whether such use is consistent with

applicable U.S. and international rules and regulations, the performance tier and latency combination(s)

selected, the bandwidth to which the applicant has access in the band(s), and the authorizations the

applicant has, if applicable, to access the spectrum.194 Because these factors will vary for each applicant,

we decline to designate specific spectrum bands as “safe harbors” based on whether providers have

historically met the relevant requirements for certain performance tier and latency combinations using

those spectrum bands.195

91. We decline to require an applicant that intends to deploy a wireline network to demonstrate

its access to “rights-of-way, poles and other necessary infrastructure access components used in the

technical design of the network for which funding is sought” in response to comments suggesting that we

should require all applicants—not just those applicants intending to use spectrum—to demonstrate they

have some form of access.196 We expect that an applicant will plan ahead and make reasonable

preparations to secure access to the necessary infrastructure so that, if it becomes a winning bidder and is

authorized to receive Phase II support, it can meet service milestones by the relevant deadlines. However,

we recognize that the applicant will not know if it will be deemed a winning bidder, let alone in which

CBGs it will be authorized to receive support, and in some cases a support recipient may not build out its

network in areas where it does receive support until later in the support term.197 Accordingly, we

conclude that the burdens, such as the time and costs involved in obtaining all rights-of-way and other

access to infrastructure prior to the auction, outweigh the benefits, particularly given that the access might

be meaningless if the applicant is not authorized to receive support in the area where it has obtained

access.

92. We disagree that it violates the Commission’s commitment to technology neutrality to require

that each applicant proposing to use wireless technologies demonstrate sufficient access to spectrum prior

to the auction, while not imposing similar requirements on each applicant proposing to use wireline

technologies.198 Access to spectrum, which substantially affects overall network costs, varies

193 See WISPA Comments at 17; SpaceX Comments at 9-10.

194 WISPA Comments at 17; Space X Comments at 9-10; WISPA Reply at 9; RWA Reply at 13; SpaceX Reply at 4;

Microsoft Reply at 3.

195 See WISPA Comments at 15; GeoLinks Reply at 5-6; RWA Reply at 11 (requesting that the Commission

designate specific spectrum bands as safe harbors). We also decline to adopt a mechanism that would allocate

dedicated spectrum to Phase II auction support recipients. GeoLinks Comments at 2-4 (asking the Commission to

“craft a spectrum licensing regime associated with the Phase II Auction”); GeoLinks Reply at 5. This request is

outside of the scope of this Public Notice, which addresses application and bidding procedures, not spectrum policy.

196 WISPA Comments at 14-15; see also Hughes Reply at 9 (“The short-form showings required must demonstrate a

consistent degree of skepticism in applicants using all types of technologies.”).

197 December 2014 Connect America Order, 29 FCC Rcd at 15658, para. 36 (recognizing that “[r]ecipients of

support . . . will likely . . . proceed incrementally, route by route, working to complete construction evenly over the

course of the term required for deployment”).

198 WISPA Comments at 14-15; RWA Reply at 10-11; CTIA Reply at 2-3.

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dramatically among potential support recipients and differs across geographic areas. Therefore, we find

that whether an applicant has secured the required authorizations, if applicable, and has access to

sufficient spectrum prior to the auction is a necessary inquiry for determining whether an applicant is

reasonably capable of meeting the relevant Phase II obligations. In contrast, we expect that a wireline

support recipient would be able to adjust its network deployments if it is unable to secure a planned right-

of-way or access to specific infrastructure. In short, spectrum access is indispensable to wireless

providers, while specific infrastructure access elements are more readily available for wireline providers

because they are not as likely to be subject to the same licensing requirements, bandwidth considerations,

and allocation processes. Recognizing that crucial distinction does not violate the Commission’s

commitment to technology neutrality.

e. Collection of Identifiers Associated with Information Submitted to

the Commission in Other Contexts

93. In addition to information provided in a short-form application, any relevant information that

an applicant has submitted to the Commission in other contexts may be considered during application

review for purposes of determining whether the applicant is expected to be reasonably capable of meeting

the public interest obligations for its selected performance tier and latency combination(s) if it becomes a

winning bidder and is authorized to receive Phase II support. As proposed in the CAF II Auction

Comment Public Notice,199 this other information would include the following: data reported in FCC

Form 477 Local Telephone Competition and Broadband Report (FCC Form 477), FCC Form 481 Carrier

Annual Reporting Data Collection Form (FCC Form 481), and FCC Form 499-A Annual

Telecommunications Reporting Worksheet (FCC Form 499-A), including non-public information. For

example, whether an applicant already offers service that meets the public interest obligations associated

with its selected performance tier and latency combination(s) and the number of subscribers to that

service may be considered.

94. Specifically, as discussed in the CAF II Auction Comment Public Notice,200 applicants must

submit in the short-form application any FCC Registration Numbers (FRNs) that an applicant or its parent

company—and in the case of a holding company applicant, the operating companies identified in its

application—has used to submit its FCC Form 477 data during the past two years.201 Because the short-

form application deadline is March 30, 2018, we will collect FCC Form 477 FRNs that were used for the

filings for [[data as of June 30, 2017, data as of December 31, 2016, and data as of June 30, 2016]].202

Requiring submission of the FRNs that an applicant has used for FCC Form 477, will allow reviewers to

cross-reference FCC Form 477 data that an applicant (or a related entity) has filed during the past two

years.

95. For the reasons discussed in the CAF II Auction Comment Public Notice, an applicant must

also submit in the short-form application any study area codes (SACs) indicating that the applicant (or its

199 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6251-53, paras. 42-48.

200 Id. at 6252, paras. 44-45.

201 If an applicant is a consortium or joint venture, it should provide all the FRNs that were used by its members to

submit FCC Form 477 data during the past two years, if applicable.

202 Twice a year, in FCC Form 477, (1) all facilities-based providers of broadband connections to end users and

facilities-based providers of terrestrial mobile wireless broadband must file broadband deployment and subscription

data; (2) all incumbent or competitive local exchange carriers and providers of interconnected VoIP must file voice

subscription data; and (3) all facilities-based mobile voice providers must file voice deployment and subscription

data. 47 CFR §§ 1.7001, 1.7002; FCC, FCC Form 477: Local Telephone Competition and Broadband Reporting

Instructions at 5-9, https://transition.fcc.gov/form477/477inst.pdf. Because the March 1st filing deadline for FCC

Form 477 data as of December 31, 2017 is immediately before the short-form application filing deadline and WCB

will need time to process this data, we will not collect FCC Form 477 FRNs that were used for the data as of

December 31, 2017.

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parent company/subsidiaries) is an existing ETC.203 A holding-company applicant must submit the SACs

of its operating companies identified in the application. An applicant is required by the Commission’s

Phase II short-form application rules to disclose its status as an ETC if applicable.204

96. Finally, for the reasons discussed in the CAF II Auction Comment Public Notice, applicants

must submit in the short-form application any FCC Form 499 filer identification numbers that the

applicant or its parent company and, in the case of a holding company, its operating companies identified

in the application have used to file an FCC Form 499-A in the past year, if applicable.205 Because the

short-form filing deadline is March 30, 2018, applicants must submit filer identification numbers that

were used for the April 3, 2017 filing.

f. Limiting Eligibility to Bid for Certain Performance Tier and

Latency Combinations

97. As proposed in the CAF II Auction Comment Public Notice, we will preclude applicants

planning to use certain technologies to meet their Phase II obligations from becoming eligible to bid for

performance tier and latency combinations that are inconsistent with those technologies.206 Specifically,

the Auction Application System will not allow an applicant that selects low latency in combination with

any of the performance tiers to also select geostationary satellites as the technology for those performance

tier and latency combinations. The Auction Application System also will not allow an applicant that

selects the Gigabit performance tier in combination with either high or low latency in its short-form

application to also select geostationary satellites as the technology for those tier and latency

combinations.207

98. In addition, the Auction Application System will allow an applicant that selects the Gigabit

and Above Baseline performance tiers to also select the fixed wireless and/or digital subscriber line

(DSL) technologies for those performance tiers on the short-form application. However, the applicant’s

most recent publicly available FCC Form 477 deployment and subscription data, in addition to the

applicant’s operational information, will be used to determine the applicant’s eligibility to bid in those

tiers. If the FCC Form 477 data for that period do not show that the applicant offers residential Gigabit

service using fixed wireless or DSL (whichever is selected by the applicant), the applicant will not be

deemed eligible to bid in the Gigabit performance tier.208 If an applicant does not offer a fixed wireless or

203 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6252-53, para. 46. If an applicant is a consortium or

joint venture, it should provide the SACs associated with all its members, if applicable. Any time that a service

provider is designated as an ETC by a state or the Commission, the Universal Service Administrative Company

(USAC) will assign that service provider a SAC before the provider begins receiving universal service support.

204 47 CFR § 54.315(a)(3).

205 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6252-53, para. 47. If an applicant is a consortium or

joint venture, it should provide the filer identification numbers associated with all its members, if applicable.

206 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6253-54, para. 49; see also Rural Coalition Comments at

24-25; ITTA Comments at 5 (supporting the Commission’s proposal); ILSR et al. Reply at 6 (“The Commission

should ensure that bidders are proposing technologies that are capable of meeting the promises made.”).

207 We clarify that this automatic preclusion applies to any applicant intending to use geostationary satellites to meet

its obligations, but not to applicants that propose to use other satellite technologies like non-geostationary satellite

orbit (NGSO) systems. See SpaceX Comments at 3-6.

208 See Rural Coalition Comments at 26-27 (requesting that the Commission prohibit fixed wireless providers from

bidding in the Above-Baseline and Gigabit performance tiers); Rural Coalition Nov. 21, 2017 Ex Parte Letter at 5-6;

see also ITTA Comments at 6 (supporting the Commission’s proposal to limit an applicant “to bidding on

performance tier and latency combinations that [the applicant] or similar providers are currently offering”). We are

not persuaded that we should take the further step of confirming that the services are actually available in the

relevant markets. Rural Coalition Comments at 26-27 (suggesting that the Commission “construe” FCC Form 477

data “conservatively”); Rural Coalition Reply at 11-12. FCC Form 477 filers are required to certify that the data

(continued….)

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DSL service at or above 100/20 Mbps based on its FCC Form 477 data, the applicant may be deemed

eligible to bid in the Above Baseline performance tier, but that determination will be informed by its FCC

Form 477 data as well as its operational information.

99. As discussed in the CAF II Auction Comment Public Notice,209 we are not convinced that a

geostationary satellite service provider would be reasonably capable of offering broadband at speeds of 1

Gbps downstream/500 Mbps upstream and 2 TB of monthly data to consumers by the first interim service

milestone. Moreover, satellite service providers have acknowledged that geostationary satellites cannot

meet the low latency requirement that 95 percent or more of all peak period measurements of network

round trip latency are at or below 100 milliseconds due to the limitations of high earth-orbit satellites.210

We received no comments from geostationary satellite service providers or other parties disputing these

findings.211

100. We also are not convinced that an applicant proposing to use fixed wireless or DSL

technologies could demonstrate that it is reasonably capable of offering broadband at speeds of 1 Gbps

downstream/500 Mbps upstream unless the applicant currently reports such deployment to residential

consumers. Based on FCC Form 477 data as of June 30, 2016, 99 percent of fixed wireless and DSL

providers have not reported offering Gigabit speeds, and fewer than 10 percent have reported offering

speeds of 100 Mbps.212 Given the lack of reported deployment at these higher speeds, we do not find it

reasonable to expect that an applicant choosing to use either of these technologies would be able to offer

Gigabit speeds by the first service milestone, unless an applicant has reported that it is already offering

Gigabit broadband service.213 Even if an applicant has already reported deploying a fixed wireless or

DSL network offering Gigabit speeds, that applicant will not automatically be eligible to bid in the

Gigabit performance tier. The areas where an applicant currently offers such service likely are not as

they submit are accurate, and if the data reflect that an applicant has deployed Gigabit speeds, the Commission will

also consider all the information submitted in the short-form application to make an initial determination as to

whether the applicant is eligible to bid in the Gigabit performance tier.

209 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6253-54, para. 49 (describing how no geostationary

satellite provider had reported offering broadband speeds in excess of 25/3 Mbps and the record lacks specificity on

whether or when a geostationary satellite provider would be able to offer 1 Gbps/500 Mbps speeds and a minimum

monthly 2 TB data usage allowance).

210 See, e.g., Letter from John P. Janka, Counsel to ViaSat, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket

No. 10-90 et al., at 4 (filed Aug. 21, 2015) (claiming that the “100 milliseconds latency requirement” “categorically

exclude[s] satellite broadband providers that use geostationary spacecraft”); Petition for Reconsideration of Hughes

Network Systems, LLC, WC Docket No. 10-90 et al., at 9 (filed Apr. 20, 2017) (Hughes Petition for

Reconsideration) (noting “the inevitable latency resulting from the data travel time to and from a geostationary

satellite”).

211 We do not address comments that argue that satellite providers should not be permitted to participate in the Phase

II auction. See Institute for Local Self-Reliance Comments at 3; ILSR et al. Reply at 6-7. Such arguments are

effectively untimely petitions for reconsideration of the Commission’s decision in the Phase II Auction Order to

adopt technology-neutral performance requirements. 47 CFR § 1.429(d) (requiring that petitions for reconsideration

“be filed within 30 days from the date of public notice of such action”); Phase II Auction Order, 31 FCC Rcd at

5956-63, paras. 14-37.

212 FCC Form 477 June 30, 2016 data, available at https://www.fcc.gov/form-477-broadband-deployment-data-june-

2016-version-2. By contrast, nearly 20 percent of optical carrier/fiber-to-the-end-user and over 15 percent of cable

DOCSIS 3.0 providers offer broadband at 100 Mbps speeds. Id.

213 Given the lack of deployment at these high speeds across all providers of the technology, we are not persuaded

that an applicant’s experience in deploying broadband at lower speeds will provide sufficient assurance that an

applicant will be reasonably capable of offering Gigabit speeds. See WISPA Comments at 19 (urging the

Commission to “allow[] experienced providers to propose performance tier and latency combinations that they may

not have previously deployed”).

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challenging to serve as the areas eligible for the Phase II auction. In addition to the FCC Form 477 data,

the applicant’s submitted operational information must demonstrate that it is reasonably capable of

meeting the relevant public interest obligations for the Gigabit performance tier, if it selects that tier.

101. We are not convinced that we should automatically prohibit an applicant that intends to

use geostationary satellites, fixed wireless, or DSL technologies from bidding in the Above-Baseline

performance tier if the applicant does not already offer broadband at speeds of at least 100 Mbps.214

While less than 10 percent of fixed wireless and DSL providers, and no satellite service providers, have

reported offering speeds of at least 100 Mbps, we find that applicants that do not currently offer these

higher speeds may be able to do so by the first service milestone.215 Because there is widespread

availability of 25 Mbps broadband speeds using these technologies today, we are more confident that an

applicant could demonstrate the ability to engineer a network using these technologies to offer 100/20

Mbps broadband speeds even if it has not already offered such speeds.216 It is reasonable to expect that an

applicant that is planning to use a technology that has consistently achieved a broadband speed of 25

Mbps could demonstrate that it is more capable of scaling to a broadband speed of 100 Mbps than to a

much higher speed like 1 Gbps. Although we acknowledge the capacity constraints inherent in satellite

technology,217 we are requiring each applicant planning to use satellite technology to describe its total

capacity and its plans for assigning bandwidth and capacity for each spot beam it intends to use. An

applicant intending to use satellite, fixed wireless, or DSL technologies must demonstrate in its

operational information submitted in the short-form application that it is reasonably capable of meeting

the relevant public interest obligations to be deemed qualified for the Above-Baseline performance tier, if

it selects that tier.218 We balance our interest in minimizing the risk of defaults and streamlining the

short-form application review process with the potential for applicants that have not deployed 100 Mbps

speeds in the past to deploy such networks in the coming years with Phase II support.219

102. We reject claims that our decision to preclude some entities from bidding for certain

performance tier and latency combinations violates the principle of competitive neutrality.220

214 Rural Coalition Comments at 26; Rural Coalition Reply at 9-12.

215 A support recipient will have three years after it has been authorized to receive support to meet its first interim

service milestone—offering the required level of service to 40 percent of the required number of locations. Phase II

Auction Order, 31 FCC Rcd at 5964, para. 40.

216 Approximately 15 percent of asymmetric xDSL providers, nearly 20 percent of ADSL2, ADSL2 + providers,

more than 20 percent of VDSL providers, almost 10 percent of symmetric xDSL providers, nearly 30 percent of

satellite providers, and approximately 15 percent of fixed wireless providers report deploying networks capable of

offering at least 20 Mbps speeds. FCC Form 477 June 30, 2016 data.

217 Rural Coalition Comments at 25 (citing Vantage Point Solutions, Satellite Broadband Remains Inferior to

Wireline Broadband, at 8 (2017), attached to Letter from Larry Thompson, CEO, Vantage Point Solutions, to

Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed Sept. 5, 2017)); Rural Coalition Reply at 11.

218 We expect these safeguards will help prevent an applicant from bidding for performance tier and latency

combinations that have associated public interest obligations that the applicant would be unable to meet. See Rural

Coalition Nov. 21, 2017 Ex Parte Letter at 5-6 (claiming that “qualified bidders may be discouraged from

participation” in the Phase II auction if “providers are allowed to bid in unattainable tiers based on the potential for

speculative technological advances”).

219 See WISPA Comments at 18 (“a particular fixed wireless provider may have not yet deployed updated

technology but should have the ability to propose such technology in its application”).

220 See, e.g., AT&T Reply at 20-21. The principle of competitive neutrality does not require all competitors to be

treated alike, but “only prohibits the Commission from treating competitors differently in ‘unfair’ ways.” Rural

Cellular Ass’n v. FCC, 588 F.3d 1095, 1104 (D.C. Cir. 2009). Moreover, neither the competitive neutrality

principle nor the other section 254(b) principles impose inflexible requirements for the Commission’s formulation of

universal service rules and policies. Instead, the “promotion of any one goal or principle should be tempered by a

commitment to ensuring the advancement of each of the principles” in section 254(b). Federal-State Joint Board on

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Additionally, our decision to limit an applicant’s ability to select certain performance tier and latency

combinations does not negate the Commission’s decision to adopt technology-neutral performance

standards for the Phase II auction.221 Further, adopting eligibility requirements that some applicants are

unable to meet does not violate competitive and technological neutrality if those requirements are

narrowly tailored to advance the Commission’s objectives.222 The principle of competitive neutrality does

not preclude us from addressing other reasonable regulatory objectives, including ensuring that an entity

bidding in the Phase II auction is reasonably capable of meeting the relevant Phase II obligations if

awarded support. Thus, it does not violate competitive and technological neutrality to preclude an

applicant from selecting a latency standard that it is physically incapable of meeting with the technology

it proposes to use, as is the case with geostationary satellites and the low latency performance

requirements. Nor does it violate competitive and technological neutrality to rely on our predictive

judgement to restrict applicants proposing to use certain technologies from selecting the Gigabit

performance tier unless those applicants have reported deployment at that speed. Because so few

providers have reported deploying fixed wireless and DSL networks capable of higher speeds, we

conclude that it is necessary to confirm that an applicant proposing to use these technologies for the

Gigabit performance tier has experience offering Gigabit speeds.223 We are not persuaded that the

certifications an applicant must make in its short-form application and the forfeitures that we will impose

if a winning bidder defaults will alone provide adequate protection against an applicant overestimating the

capabilities of technologies that are not generally used to offer Gigabit and low latency service.224

103. Notwithstanding the preclusions we adopt above, we will not preclude applicants that

propose to use other technologies that lack historical deployment data from bidding for any specific

performance tier and latency combination if such applicants become qualified to bid.225 Without

historical deployment data, we are unable to decide categorically whether we can reasonably predict that a

new technology would generally be able to meet the relevant public interest obligations by the required

service milestones. We will consider each application proposing to use such a new technology on a case-

by-case basis, taking into account the applicant’s experience, its responses to the short-form operational

questions, its spectrum access (if applicable), and other information collected in the short-form

application. We conclude that the additional costs of having to review these technologies on a case-by-

Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8803, para. 52 (1997) (Universal

Service First Report and Order); see also Qwest Corp. v. FCC, 258 F.3d 1191, 1199 (10th Cir. 2001) (Qwest I)

(“The FCC may balance the principles against one another, but must work to achieve each one unless there is a

direct conflict between it and either another listed principle or some other obligation or limitation on the FCC’s

authority.”); Alenco Communications, Inc. v. FCC, 201 F.3d 608, 621 (5th Cir. 2000) (“We reiterate that

predictability is only a principle, not a statutory command. To satisfy a countervailing statutory principle, therefore,

the FCC may exercise reasoned discretion to ignore predictability.”); Rural Cellular, 588 F.3d at 1103 (“The

Commission enjoys broad discretion when conducting exactly this type of balancing.”).

221 See, e.g., WISPA Reply at 6-7 (arguing that “the Commission should not preclude any applicant from proposing

any technology and any performance tier”).

222 In the context of universal service, the principle of competitive neutrality includes technological neutrality. See

Universal Service First Report and Order, 12 FCC Rcd at 8802, para. 49.

223 No geostationary satellite provider reports speeds higher than 25 Mbps at this time. FCC Form 477 June 30,

2016 data.

224 AT&T Reply at 20-21.

225 See, e.g., SpaceX Comments at 3-6 (urging the Commission to permit an applicant that intends to deploy a

NGSO system to participate in the auction); WISPA Comments at 18 (“[A]n applicant should not be limited to

existing technology, but should be able to demonstrate performance based on probable product releases.”);

ADTRAN Comments at 1-2 (noting the “rapid pace of broadband technology developments”); Microsoft Reply at 3-

4.

(continued….)

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case basis are outweighed by the potential benefits to consumers if an applicant can use new technologies

to bring advanced services to unserved areas.226

104. We decline to establish a rebuttable presumption that an applicant should submit more

evidence that it can meet the relevant performance requirements if it proposes to use certain technologies

and select certain performance tier and latency combinations.227 It would be burdensome for each

applicant to submit this information with its short-form application for every area where it intends to bid

and for reviewers to analyze the information, particularly when an applicant, even if it becomes qualified

to bid, may not win support in these areas. Instead, to streamline our review process and minimize the

burden on applicants, the short-form applications will be reviewed after the initial application filing

window closes and, as described below, additional information will be requested during the resubmission

period if an applicant is unable to demonstrate it is eligible based on the information submitted with the

short-form application. Such an approach will allow Commission staff to make targeted requests for

information from an applicant designed to address the specific concerns that Commission staff have with

the information submitted by the applicant in its short-form application.

g. Standard for Evaluating Information on Performance Tier and

Latency Combinations; Initial and Final Determinations of

Eligibility to Bid on Selected Combinations

105. As proposed in the CAF II Comment Public Notice,228 the Bureaus will review the

information submitted by an applicant in its short-form application as well as any other relevant and

available information to determine whether the applicant has planned how it would provide service if

awarded support and whether it is expected to be reasonably capable of meeting the public interest

obligations for its selected performance tier and latency combination(s) in its selected state(s).229 If an

applicant demonstrates that it is reasonably capable of meeting the public interest obligations for one or

more selected tier and latency combinations in a state, the applicant will be deemed eligible to bid for

those performance tier and latency combination(s) in that state. We decline to modify this standard by

deeming an applicant ineligible only if it misrepresents its qualifications or provides incorrect

responses.230 Such an approach would not minimize defaults because an applicant may truthfully and

accurately represent its plans and qualifications, but not demonstrate that it is reasonably capable of

226 See ITTA Comments at 6-7 (noting the costs of “evaluating [an] applicant’s technological bona fides”); Rural

Coalition Nov. 21, 2017 Ex Parte Letter at 6 (noting that “Commission staff will face increased administrative

burdens”). But see Verizon Reply at 6-7 (noting that “it would be reasonable for an applicant’s plan to contemplate

technologies that are currently under development and that may reduce costs or achieve higher speeds than current-

generation technology”); SpaceX Reply at 3-4 (claiming that “[r]estricting support to only currently available

technologies unfairly favors incumbents to the detriment of Americans seeking modern broadband access” and that

“[i]t would leave no room for technologies that could truly help expand affordable broadband access to the most

remote and hard-to-reach communities”).

227 Rural Coalition Reply at 11; Rural Coalition Ex Parte Letter at 6.

228 CAF II Comment Public Notice, 32 FCC Rcd at 6254-55, paras. 52-53.

229 Phase II Auction Order, 31 FCC Rcd at 5982, para. 99.

230 See Hughes Comments at 6. We will not direct USAC to retain a third party to perform this review as one

commenter suggests. See, e.g., Rural Coalition Comments at 23-24; Rural Coalition Jan. 19, 2017 Ex Parte Letter at

9. Such an engagement would be time-consuming and unduly expensive, thus diverting scarce Universal Service

Fund resources to a third party, rather than a support recipient. See WISPA Reply at 11 (“This process will no doubt

add time, complexity, and taxpayer cost to the short-form application process . . . with no clear benefit over an

approach that relies on existing Commission staff that has expertise in various technologies based on its day-to-day

work.”). Moreover, there is no guarantee the eligibility determinations from a third-party reviewer would be any

less subjective or more well-informed that that of the Commission. We are fully confident that by leveraging

knowledge across multiple Bureaus, Commission staff has sufficient expertise to make these determinations. See

WISPA Comments at 18.

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meeting the Phase II auction public interest obligations for the performance tier and latency

combination(s) it selects.

106. If an applicant is unable to demonstrate that it is reasonably capable of meeting the

relevant public interest obligations for its selected performance tier and latency combination(s) based on

the information submitted in its short-form application and other available information, the Bureaus will

deem the application incomplete. The applicant will then have another opportunity during the application

resubmission period to submit additional information to demonstrate that it meets this standard. The

Bureaus will notify the applicant that additional information is required to assess the applicant’s

eligibility to bid for one or more of the specific performance tier and latency combination(s) selected in

its short-form application. During the application resubmission filing window, the applicant will be able

to submit additional information to establish its eligibility to bid for the relevant performance tier and

latency combination(s). An applicant will also have the option of selecting a lesser performance tier and

latency combination for which it might be more likely to meet the relevant public interest obligations.

We consider these to be permissible minor modifications of the short-form application.231 After the

Auction 903 qualified bidders are announced, each applicant will be able to view its final eligibility

determination for each performance tier and latency combination in the selected state(s) for which it is

eligible through the Auction Application System.232 An applicant must have at least one performance tier

and latency combination deemed eligible in at least one state in order to become qualified to bid. The

bidding system will be configured to permit a qualified bidder to bid only for the performance tier and

latency combination(s) for which it has been deemed eligible to bid.

h. Non-Compliance Measures

107. For the reasons described in the CAF II Auction Comment Public Notice,233 we will not

adopt any specific measures or remedies related to an applicant’s representations in its short-form or long-

form applications of its capabilities to meet its selected performance tier and latency combination(s).234

No party has convinced us that the Commission’s existing non-compliance measures collectively provide

inadequate incentives for an applicant to submit truthful and accurate evidence of its technical

qualifications.235 Because we expect that incidents involving misrepresentations are likely to involve

unique circumstances and will vary in severity, we prefer to retain the flexibility to address such incidents

on a case-by-case basis by using all of the non-compliance measures available to us rather than by

adopting a fixed approach prior to the start of the auction.236

231 See 47 CFR § 1.21001(d)(5).

232 A finding that an applicant is ineligible to bid for a performance tier and latency combination would not

necessarily mean that a potential bidder is incapable of meeting the relevant public interest obligations. Instead,

such a finding would mean that it is not in the public interest to risk awarding support to an applicant that

Commission staff believe is likely to default and divert support away from bidders that could offer the required

services to consumers.

233 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6255, para. 54.

234 See WISPA Comments at 20 (“strongly” agreeing that the Commission “should not adopt any additional non-

compliance measures”). But see Rural Coalition Jan. 19, 2017 Ex Parte Letter at 9 (suggesting that the Commission

“adopt strict ex post remedies to further discourage potential abuse” and “consider barring bidders that abuse the

process by making materially false claims as to their technical capability to deliver in a given tier from participating

in future Connect America Fund auctions”).

235 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6255, para. 54 (citing 47 CFR §§ 1.21004, 54.320;

Phase II Auction Order, 31 FCC Rcd at 6000-01, paras. 143-45).

236 See, e.g., Rural Coalition Comments at 27-28 (claiming that “without clear penalties for noncompliance set forth

in advance, auction bidders may not have the incentive to perform the due diligence necessary”). A good faith but

unsuccessful effort to establish technical qualifications during the short-form application process would not rise to

the level of a misrepresentation.

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5. Due Diligence Certification

108. Each applicant has sole responsibility for investigating and evaluating all technical and

marketplace factors that may have a bearing on the level of Phase II support for which it will seek to bid

in Auction 903 if it becomes a qualified bidder. Each qualified bidder is responsible for assuring that, if it

becomes a winning bidder and is ultimately authorized to receive Phase II support, it will be able to build

and operate facilities in accordance with the Phase II obligations and the Commission’s rules generally.

109. Applicants should be aware that Auction 903 represents an opportunity to apply for Phase

II support, subject to certain conditions and regulations. Auction 903 does not constitute an endorsement

by the Commission of any particular service, technology, or product, nor does the award of Phase II

support constitute a guarantee of business success.

110. An applicant should perform its due diligence research and analysis before proceeding, as

it would with any new business venture. In particular, we strongly encourage each applicant to review all

underlying Commission orders and to assess all pertinent economic factors relating to the deployment of

service in a particular area.

111. Each applicant should perform technical analyses or refresh its previous analyses to

assure itself that, should it become a winning bidder for Phase II support, it will be able to build and

operate facilities that fully comply with all applicable technical and legal requirements, and will advertise

and provide the service to customers. Each applicant should verify that it can identify enough locations

within the eligible census blocks that it intends to include in its bids to be able to offer service meeting the

relevant requirements to the required number of locations if it becomes a winning bidder and is authorized

to receive Phase II support. Each Phase II support recipient will be required to offer service meeting the

relevant requirements to the total number of locations across all the winning bids in each state where it is

authorized to receive support. The total number of locations where a Phase II support recipient is

required to offer service in each state is determined by adding up the number of locations the CAM has

identified in each eligible census block included in the support recipient’s winning bids in the state.237

112. We strongly encourage each applicant to conduct its own research prior to Auction 903 to

determine the existence of pending administrative or judicial proceedings that might affect its decision on

participation in the auction. The due diligence considerations mentioned in this Public Notice do not

comprise an exhaustive list of steps that should be undertaken prior to participating in this auction. As

always, the burden is on the applicant to determine how much research to undertake, depending upon

specific facts and circumstances related to its interests.

113. We also remind each applicant that pending and future judicial proceedings, as well as

certain pending and future proceedings before the Commission—including applications, applications for

modification, notices of proposed rulemaking, notices of inquiry, petitions for rulemaking, requests for

special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal

objections, and applications for review—may relate to or affect licensees or applicants for support in

Auction 903. Each prospective applicant is responsible for assessing the likelihood of the various

possible outcomes and for considering the potential impact on Phase II support available through this

auction.

114. Each applicant is solely responsible for identifying associated risks and for investigating

and evaluating the degree to which such matters may affect its ability to bid on or otherwise receive Phase

II support. Each applicant is responsible for undertaking research to ensure that any support won in this

auction will be suitable for its business plans and needs. Each applicant must undertake its own

assessment of the relevance and importance of information gathered as part of its due diligence efforts.

115. We make no representations or guarantees regarding the accuracy or completeness of

information in our databases or any third-party databases, including, for example, court docketing

237 See CAM Methodology at 12-15; Location Guidance Public Notice, 31 FCC Rcd 12900.

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systems. To the extent the Commission’s databases may not include all information deemed necessary or

desirable by an applicant, an applicant must obtain or verify such information from independent sources

or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, we make no

representations or guarantees regarding the accuracy or completeness of information that has been

provided by incumbent licensees and incorporated into our databases.

116. To confirm an applicant’s understanding of its obligations, we require the applicant to

certify under penalty of perjury in its short-form application that:

The applicant acknowledges that it has sole responsibility for investigating and evaluating

all technical, marketplace, and regulatory factors that may have a bearing on the level of

Connect America Fund Phase II support it submits as a bid, and that, if the applicant wins

support, it will be able to build and operate facilities in accordance with the Connect

America Fund obligations and the Commission’s rules generally.

This certification will help ensure that an applicant acknowledges and accepts responsibility, if it becomes

a qualified bidder, for its bids and any forfeitures imposed in the event of default,238 and that it will not

attempt to place responsibility for the consequences of its bidding activity on either the Commission or

any of its contractors.

6. Eligible Telecommunications Carrier Certification

117. An applicant must acknowledge in its short-form application that it must be designated as

an ETC for the areas in which it will receive support prior to being authorized to receive support.239 Only

ETCs designated pursuant to section 214(e) of the Communications Act of 1934, as amended (the Act)

“shall be eligible to receive specific Federal universal service support.”240 Section 214(e)(2) gives states

the primary responsibility for ETC designation.241 However, section 214(e)(6) provides that this

Commission is responsible for processing requests for ETC designation when the service provider is not

subject to the jurisdiction of any state commission.242 Support is disbursed only after the provider

receives an ETC designation and satisfies the other long-form application requirements.

118. The Commission decided that an applicant need not be an ETC as of the initial short-

form application filing deadline for Auction 903, but that it must obtain a high-cost ETC designation for

the areas covered by its winning bids within 180 days after being announced as a winning bidder.243

Absent a waiver of the deadline, a long-form applicant that fails to obtain the necessary ETC designations

by this deadline will be subject to an auction forfeiture as described below, and will not be authorized to

receive Phase II support.244 In addition to all the requirements for participating in the Phase II auction,

each applicant should be familiar with the requirements for a high-cost ETC. For example, all high-cost

ETCs are required to offer Lifeline voice and broadband service to qualifying low-income consumers

238 See Phase II Auction Order, 31 FCC Rcd at 5984-85, 6000, paras. 104, 143.

239 47 CFR § 54.315(a)(3). A Lifeline-only ETC designation is not sufficient, and the applicant must obtain a high-

cost ETC designation in areas where it seeks to be authorized to receive Phase II support.

240 47 U.S.C. § 254(e).

241 Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371,

6397, para. 61 (2005).

242 47 U.S.C. § 214(e)(6).

243 47 CFR §§ 54.310(e)(1), 54.315(b)(5); see also Phase II Auction Order, 31 FCC Rcd at 6002-05, paras. 149-56;

April 2014 Connect America Order, 29 FCC Rcd at 7064-66, paras. 40-46.

244 The Commission explained that in the event a long-form applicant is unable to obtain the necessary ETC

designations within this timeframe, it would be appropriate to waive the 180-day timeframe if the bidder is able to

demonstrate that it has engaged in good faith efforts to obtain an ETC designation, but the proceeding is not yet

complete. See Phase II Auction Order, 31 FCC Rcd at 6002, para. 152.

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pursuant to the Lifeline program rules.245 Moreover, when the requirement has been fully implemented,

each Phase II support recipient will be required to bid on category one telecommunications and Internet

access services in response to a posted FCC Form 470 seeking broadband service that meets the

connectivity targets for the schools and libraries universal service support program (E-rate) for eligible

schools and libraries located within any area in a census block where the ETC is receiving Phase II

support.246 A high-cost ETC may also be subject to state-specific requirements imposed by the state that

designates it as an ETC.

F. Procedures for Limited Disclosure of Application Information

119. Consistent with the Commission’s practice in the Mobility Fund Phase I auction (Auction

901) and recent spectrum auctions, we adopt procedures for limiting the application information that will

be disclosed to the public, as proposed in the CAF II Auction Comment Public Notice.247

120. Specifically, to help ensure anonymous bidding and to protect applicants’ competitively

sensitive information, we will withhold from the public, as well as other applicants, the following

information submitted with an Auction 903 short-form application at least until after the auction closes

and the results are announced:

• The state(s) selected by an applicant.

• The state(s) for which the applicant has been determined to be eligible to bid.

• The performance tier and latency combination(s) selected by an applicant and the associated

weight for each combination.

• The spectrum access attachment submitted with the short-form application.

• The performance tier and latency combination(s) for which the applicant has been determined to

be eligible to bid and the associated weight for each combination.

• An applicant’s responses to the questions in Appendix [[A]] and any supporting documentation

submitted in any attachment(s) that are intended to demonstrate an applicant’s ability to meet the

public interest obligations for each performance tier and latency combination that the applicant

has selected in its application.

• Any financial information contained in an applicant’s short-form application for which the

applicant has requested confidential treatment under the abbreviated process in section

0.459(a)(4) of the Commission’s rules.248

245 See 47 CFR §§ 54.101(d), 54.405(a); 47 CFR Subpart E.

246 47 CFR § 54.309(b) (such bids must be at rates reasonably comparable to rates charged to eligible schools and

libraries in urban areas for comparable offerings); see also Modernizing the E-rate Program for Schools and

Libraries et al., Second Report and Order and Order on Reconsideration, 29 FCC Rcd 15538, 15562-69, paras. 60-

76 (2014). WCB has not yet adopted reasonable comparability benchmarks to implement this requirement.

247 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6272, para. 137; 47 CFR § 1.21003(b)(1); see also

Auction of Advanced Wireless Services (AWS-3) Licenses Scheduled for November 13, 2014; Notice and Filing

Requirements, Reserve Prices, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 97,

Public Notice, 29 FCC Rcd 8386, 8428-31, paras. 149-57 (WTB 2014) (Auction 97 Procedures Public Notice);

Auction of 700 MHz Band Licenses Scheduled for January 24, 2008; Notice and Filing Requirements, Minimum

Opening Bids, Reserve Prices, Upfront Payments, and Other Procedures for Auctions 73 and 76, Public Notice, 22

FCC Rcd 18141, 18181-85, paras. 145-56 (WTB 2007); Auction of Advanced Wireless Services Licenses Scheduled

for June 29, 2006; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other

Procedures for Auction No. 66, Public Notice, 21 FCC Rcd 4562, 4600-05, paras. 140-57 (2006).

248 See 47 CFR § 0.459(a)(4). For this purpose, “financial information” includes an applicant’s financial metrics

identified in the short-form application, the individual score for each financial metric, and the financial statements

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All other application information that is not subject to a request for confidential treatment will be publicly

available upon the release of the public notice announcing the status of submitted short-form applications

after initial review.

121. In the CAF II Auction Comment Public Notice, the Commission proposed to withhold

financial information submitted by an applicant that also files financial information on FCC Form 481

pursuant to a protective order.249 The Commission also proposed to require all other applicants that seek

confidential treatment to submit a request pursuant to section 0.459.250 However, consistent with

WISPA’s comments,251 we now conclude that all applicants have an equal interest in protecting their

private financial information and thus should be treated in the same way. We will therefore permit any

applicant to use the abbreviated process under section 0.459(a)(4) to request confidential treatment of the

financial information contained in its short-form application. The abbreviated process allows all

applicants to answer a simple yes/no question on FCC Form 183 as to whether they wish their

information to be withheld from public inspection.252 We caution that requests to withhold financial data

that applicants elsewhere disclose to the public will not be granted and that information may be disclosed

in the normal course.

122. Unlike the typical section 0.459 process, which requires that an applicant submit a

statement of the reasons for withholding the information for which confidential treatment is sought from

public inspection,253 an applicant that seeks confidential treatment of the financial information contained

in its short-form application need not submit a statement that conforms with the requirements of section

0.459(b) unless and until its request for confidential treatment is challenged.254 Because we have found in

other contexts that financial information that is not otherwise publicly available could be competitively

sensitive,255 we permit applicants seeking confidential treatment of financial information to use this

abbreviated process. We will not, however, permit an applicant to seek confidential treatment of the total

financial score that it receives for its financial metrics (using the five-point scale adopted above) pursuant

to the section 0.459(a)(4) abbreviated process. Because an applicant’s total financial score will not

identify an applicant’s specific financial information, it does not raise the same competitive sensitivity

that are submitted with the short-form application. As noted above, when we reference financial metrics, we are

referring to the financial information that is scored using the five-point scale, including the question asking whether

an audited applicant received an un-modified (non-qualified) opinion. See supra Section [[II.E.3]] (Financial

Qualifications). As explained below, for purposes of the section 0.459(a)(4) abbreviated process, an applicant’s

total financial score is not considered to be financial information.

249 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6273, para. 139.

250 See id.; Connect America Fund et al., Fifth Order on Reconsideration, 27 FCC Rcd 14549, 14565-66, paras. 16-

17 (2012) (Connect America Fund Fifth Reconsideration Order); Connect America Fund et al., Protective Order, 31

FCC Rcd 2089 (WCB 2016) (protecting privately held rate-of-return carriers’ financial information from public

disclosure).

251 See WISPA Comments at 25-26.

252 47 CFR § 0.459(a)(4). We decline to apply a protective order to all privately held applicants as WISPA suggests.

See WISPA Comments at 26. We see no reason to subject applicants to provisions in a protective order governing

third-party access to the information at issue or to treat rate-of-return carriers that file their financial statements with

their FCC Form 481 pursuant to a protective order and all other applicants disparately.

253 47 CFR § 0.459(b).

254 47 CFR § 0.459(a)(4). Section 0.459(b) of the Commission’s rules cross-references section 0.459(a)(3), which

the Commission redesignated as section 0.459(a)(4) in 2011. See FCC, Commission’s Rules of Practice, Procedure,

and Organization, 76 Fed. Reg. 24383 (May 2, 2011); Modernizing the FCC Form 477 Data Program, Report and

Order, 28 FCC Rcd 9887, 9921, para. 79 (2013) (allowing for the request of confidentiality pursuant to a check-box

on the Form 477).

255 Connect America Fund Fifth Reconsideration Order, 27 FCC Rcd at 14554-56, paras. 15-17.

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concerns.

123. The section 0.459(a)(4) abbreviated process for requesting confidential treatment may not

be used by an applicant to request confidential treatment of any information in its short-form application

other than its financial information. Thus, an applicant that wishes to seek confidential treatment of any

other portion(s) of its short-form application must file a regular section 0.459 request for confidential

treatment of any such information with its short-form application (other than responses to the questions in

Appendix [[A]] and associated supporting documentation that we presume to be competitively

sensitive).256 This request must include a statement of the reasons for withholding those portions of the

application from public inspection.257 Additionally, in the event an applicant’s abbreviated request for

confidential treatment of the financial information contained in its short-form application is challenged,

the applicant must submit a request for confidential treatment of its financial information that conforms

with the requirements of section 0.459 within ten business days after receiving notice of the challenge.

124. After the auction closes and the results are announced, we no longer have a need to

preserve anonymous bidding. Accordingly, and as proposed, we will make publicly available all short-

form application information that was withheld from the public prior to and/or during the auction as set

forth in paragraph [[120]], except for (1) responses to the questions in Appendix [[A]] and any supporting

information submitted in any attachment(s) that are intended to demonstrate an applicant’s ability to meet

the public interest obligations for the performance tier and latency combination(s) that the applicant

selected in its application,258 and (2) any financial information for which the section 0.459(a)(4)

abbreviated confidential treatment process was requested and continues to be afforded. This approach is

consistent with our interest in a transparent auction process and the Commission’s practice in the Mobility

Fund Phase I auction and our typical spectrum auctions.

G. Prohibited Communications and Compliance with Antitrust Laws

125. To help protect competition in the auction, the Commission’s rules prohibit an applicant

from communicating certain auction-related information to another applicant from the auction application

filing deadline until the post-auction deadline for winning bidders to file long-form applications for

support. More specifically, section 1.21002 of the Commission’s rules prohibits an applicant in Auction

903 from cooperating or collaborating with any other applicant with respect to its own, or one another’s,

or any other competing applicant’s bids or bidding 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

bids or bidding strategies during the prohibition period.259 The rule provides an exception for

communications between applicants if those applicants identify each other on their respective applications

as members of a joint bidding arrangement and certify that the application identifies all real parties in

interest to agreements related to the applicant’s participation in the auction.260

126. This section provides guidance on the application of the rule during Auction 903,

addresses a number of questions and suggestions in the record, and clarifies certain aspects of the rule for

prospective auction applicants. As in past auctions where similar suggestions have been made, we

explain that the targeted restrictions imposed by the rule are necessary to serve the important public

interest in a fair and competitive auction.261

256 See supra para. [[72]].

257 47 CFR § 0.459(b).

258 See supra para. [[72]].

259 47 CFR § 1.21002.

260 See 47 CFR §§ 1.21001(b)(3)-(4), 1.21002; see also USF/ICC Transformation Order, 26 FCC Rcd at 17807,

para. 431.

261 See Guidance Regarding the Prohibition of Certain Communications During the Incentive Auction, Auction

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1. Entities Covered by Section 1.21002

127. Section 1.21002’s prohibition of certain communications will apply to any applicant that

submits a short-form application to participate in Auction 903. This prohibition applies to all

applicants that submit short-form applications regardless of whether such applicants become

qualified bidders or actually bid.262

128. “Applicant” for purposes of this rule 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.263

129. Subject to the exception described above, the prohibition applies to communications of

an applicant that are conveyed to another applicant.264 The prohibition of “communicating in any

manner” includes public disclosures as well as private communications and indirect or implicit

communications, as well as express statements of bids and bidding strategies.265 Consequently, an

applicant must take care to determine whether its auction-related communications may reach another

applicant, unless the exception applies.266

130. Applicants subject to section 1.21002 should take special care in circumstances where

their officers, directors, and employees may receive information directly or indirectly relating to any other

applicant’s bids or bidding strategies. Information received by a party related to the applicant may be

deemed to have been received by the applicant under certain circumstances. For example, Commission

staff have found that, where an individual serves as an officer and director for two or more applicants, the

bids and bidding strategies of one applicant are presumed conveyed to the other applicant, and, absent a

disclosed agreement that makes the rule’s exception applicable, the shared officer creates an apparent

1000, Public Notice, 30 FCC Rcd 10794 (WTB 2015) (BIA Guidance); Mobility Fund Phase I Auction Scheduled

for September 27, 2012; Notice and Filing Requirements and Other Procedures for Auction 901, Public Notice, 27

FCC Rcd 4725, 4743-44, paras. 54-55 (WCB & WTB 2012) (discussing prohibition in competitive bidding for

universal service support); Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures,

Seventh Report and Order, 16 FCC Rcd 17546, 17551-52, para. 11 (2001) (explaining that “when one bidder is

privy to a competing bidder’s strategic bidding information . . . it may use such information to manipulate the

auctions process and gain an unfair competitive advantage”).

262 See, e.g., Star Wireless, LLC, Forfeiture Order, 19 FCC Rcd 18626, 18628, para. 4 & n.19 (2004), application for

review granted in part sub nom. Star Wireless, LLC and Northeast Communications of Wisconsin, Inc., Order on

Review, 22 FCC Rcd 8943 (2007) (Star and Northeast Review Order), petition for review denied, Star Wireless,

LLC v. FCC, 522 F.3d 469 (D.C. Cir. 2008) (Section 1.2105(c) applies to applicants regardless of whether they are

qualified to bid); Letter to Robert Pettit, Wiley, Rein & Fielding, from Margaret W. Wiener, Chief, Auctions and

Industry Analysis Division, 16 FCC Rcd 10080 (2000) (declining to exempt an applicant’s controlling interest from

coverage by the communication prohibitions of section 1.2105(c), even though the applicant never made an upfront

payment for the auction and was not listed as a qualified bidder).

263 47 CFR § 1.21002(a).

264 Id. § 21002(b).

265 Id.; see generally Updating Part 1 Competitive Bidding Rules, Report and Order et al., 30 FCC Rcd 7493, 7577,

para. 199 (2015) (similar section 1.2105(c) language prohibiting communicating bids or bidding strategies “in any

manner” bars “communicating bids or bidding information, either directly or indirectly”); Cascade Access, L.L.C.,

Forfeiture Order, 28 FCC Rcd 141, 144, para. 7 (EB 2013) (rejecting argument that the communication was not

prohibited because it did not reveal the “substance” of Cascade’s bids or bidding strategies).

266 We remind applicants that they must determine whether parties with whom they are communicating are covered

by the rule once the prohibition begins at the deadline for submitting applications, even before the public notice

identifying applicants is released.

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violation of the rule.267 Commission staff have not addressed a situation where non-officers or directors

receive information regarding a competing applicant’s bids or bidding strategies and whether that

information should be presumed to be communicated to the applicant.

2. Prohibition Applies Until Long-Form Application Deadline

131. The section 1.21002 prohibition of certain communications begins at the short-form

application filing deadline and ends at the long-form application deadline. As discussed below, long-form

applications will be due within 10 business days after release of the Auction 903 closing public notice,

unless otherwise provided by public notice.268

3. Prohibited Communications

132. Section 1.21002 prohibits an applicant from communicating with another applicant only

with respect to “its own, or one another’s, or any other competing applicant’s bids or bidding

strategies.”269 Thus the prohibition does not apply to all communications between or among applicants; it

applies to any communication conveying, in whole or part, directly or indirectly, the applicant’s or a

competing applicant’s bids or bidding strategies.

133. All applicants applying to obtain support are “competing applicants” under the rule.

Parties apply to participate in Auction 903 to obtain support from a fixed budget that is insufficient to

provide support at the reserve price to all eligible areas. The bidding system determines which areas will

receive support based on the bids placed for any areas. As in the reverse auction portion of the broadcast

incentive auction, applicants are competing with one another regardless of whether each seeks to serve

different geographic areas with Phase II support.270

134. A communication must convey “bids or bidding strategies” to be covered by the

prohibition. The prohibition applies to the same subject matter included in “joint bidding arrangements,”

as defined for purposes of determining impermissible state overlaps among applicants.271 Those

arrangements (i) relate to any eligible area in the Phase II auction and (ii) address or communicate bids or

bidding strategies, including arrangements regarding Phase II support levels (i.e., bidding percentages)

and specific areas on which to bid, as well as any arrangements relating to the post-auction market

structure in an eligible area.272 Thus, covered parties should be careful to avoid direct or indirect

communications with another applicant that (i) relate to any Phase II auction eligible area(s) and (ii)

address Phase II support levels, including potential arrangements regarding the post-auction market

structure in eligible areas.

135. Business discussions and negotiations that are unrelated to bidding in Auction 903 and

that do not convey information about Phase II bids or bidding strategies are not prohibited by the rule.273

267 See, e.g., Letter to Colby M. May, TCCSA, Inc., d/b/a Trinity Broadcasting Network, from Barbara A. Kreisman,

Chief, Video Division, Media Bureau, and Margaret W. Wiener, Chief, Auctions and Spectrum Access Division,

Wireless Telecommunications Bureau, 20 FCC Rcd 14648 (2005) (finding apparent violation of communication

prohibitions of section 1.2105(c) where applicants with mutually exclusive applications reported sharing same

individual as an officer and director and reported having no bidding agreement).

268 See infra Section [[V.B (Long-Form Application: Disclosures and Certifications)]].

269 47 CFR § 1.21002(b).

270 See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, Report and

Order, 29 FCC Rcd 6567, 6738, para. 400 (2014).

271 See BIA Guidance, 30 FCC Rcd at 10806, paras. 32-33 (explaining that the definition of joint bidding

arrangements identifies the types of communications subject to the prohibited communications rule).

272 See supra Section [[II.E.1 (State Selections and Impermissible Overlaps)]].

273 See BIA Guidance, 30 FCC Rcd at 10795, para. 3.

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Moreover, not all auction-related information is covered by the prohibition. For example, communicating

merely whether a party has or has not applied to participate in Auction 903 will not violate the rule. In

contrast, communicating how a party will participate, including specific states and/or tier and latency

combinations selected, specific percentages bid, and/or whether or not the party is placing bids, would

convey bids or bidding strategies and would be prohibited.274

136. While section 1.21002 does not prohibit business discussions and negotiations among

auction applicants that are not auction related, each applicant must remain vigilant not to communicate,

directly or indirectly, information that affects, or could affect, bids or bidding strategy. Certain

discussions might touch upon subject matters that could convey cost information and bidding strategies.

Such subject areas include, but are not limited to, management, sales, local marketing agreements, and

other transactional agreements.

137. We caution applicants that bids or bidding strategies may be communicated outside of

situations that involve one party subject to the prohibition communicating privately and directly with

another such party. For example, the Commission has warned that prohibited “communications

concerning bids and bidding strategies may include communications regarding capital calls or requests for

additional funds in support of bids or bidding strategies to the extent such communications convey

information concerning the bids and bidding strategies directly or indirectly.”275 Moreover, the

Commission found a violation of the rule against prohibited communications when an applicant used the

Commission’s bidding system to disclose “its bidding strategy in a manner that explicitly invited other

auction participants to cooperate and collaborate . . . in specific markets,”276 and has placed auction

participants on notice that the use of its bidding system “to disclose market information to competitors

will not be tolerated and will subject bidders to sanctions.”277

138. Likewise, when completing short-form applications, each applicant should avoid any

statements or disclosures that may violate section 1.21002, particularly in light of the limited information

procedures in effect for Auction 903. Specifically, an applicant should avoid including any information

in its short-form applications that might convey information regarding its state selection, such as referring

to certain states or markets in describing bidding agreements, including any information in attachments

that will be publicly available that may otherwise disclose the applicant’s state selections, or, to the extent

it has an alternative option, using applicant names that refer to states or locations within a state.278

139. Applicants also should use caution in their dealings with other parties, such as members

of the press, financial analysts, or others who might become conduits for the communication of prohibited

bidding information. For example, even though communicating that it has applied to participate in the

auction will not violate the rule, an applicant’s statement to the press that it intends to stop bidding in the

auction could give rise to a finding of a section 1.21002 violation.279 Similarly, an applicant’s public

274 See id. at 10796-97, paras. 6-9.

275 Implementation of Section 309(j) of the Communications Act – Competitive Bidding, Memorandum Opinion and

Order, 9 FCC Rcd 7684, 7689, para. 12 (1994) (Competitive Bidding Memorandum Opinion and Order).

276 Mercury PCS II, LLC, Notice of Apparent Liability for Forfeiture, 12 FCC Rcd 17970, 17974, 17976, paras. 12,

17 (1997).

277 Mercury PCS II, LLC, Memorandum Opinion and Order, 13 FCC Rcd 23755, 23760, para. 11 (1998).

278 For example, if an existing ETC with a name that includes the state in which it operates wishes to apply, it need

not necessarily change that name to avoid violating section 1.21002. However, to the extent that an existing entity

wishes to apply through a new operating company, it should avoid using a location name for that new entity.

279 Cf. 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.”).

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statement of intent not to place bids during Auction 903 bidding could also violate the rule.

140. Applicants should be mindful that communicating non-public application or bidding

information publicly or privately to another applicant may violate section 1.21002 even though that

information subsequently may be made public during later periods of the application or bidding

processes.

4. Communicating with Third Parties

141. Section 1.21002 does not prohibit an applicant from communicating bids or bidding

strategies to a third-party, such as a consultant or consulting firm, counsel, or lender, provided that the

applicant takes appropriate steps to ensure that any third party it employs for advice pertaining to its bids

or bidding strategies does not become a conduit for prohibited communications to other applicants, unless

both applicants are parties to a joint bidding arrangement disclosed on their respective applications.280

For example, an applicant might require a third party, such as a lender, to sign a non-disclosure agreement

before the applicant communicates any information regarding bids or bidding strategy to the third

party.281 Within third-party firms, separate individual employees, such as attorneys or auction

consultants, may advise individual applicants on bids or bidding strategies, as long as such firms

implement firewalls and other compliance procedures that prevent such individuals from communicating

the bids or bidding strategies of one applicant to other individuals representing separate applicants.282

Although firewalls and/or other procedures should be used, their existence is not an absolute defense to

liability, if a violation of the rule has occurred.283

142. As Commission staff have explained in the context of the broadcast incentive auction, in

the case of an individual, the objective precautionary measure of a firewall is not available.284 As a result,

an individual that is privy to bids or bidding information of more than one applicant presents a greater risk

of engaging in a prohibited communication.285 We will take the same approach to interpreting the

prohibited communications rule in Auction 903. We emphasize that whether a prohibited communication

has taken place in a given case will depend on all the facts pertaining to the case, including who possessed

what information, what information was conveyed to whom, and the course of bidding in the auction.286

143. Separate Auction 903 applicants should not specify the same individual on their short-

form applications to serve as an authorized bidder.287 A violation of section 1.21002 could occur if an

individual acts as the authorized bidder for two or more applicants because a single individual may, even

unwittingly, be influenced by the knowledge of the bids or bidding strategies of multiple applicants, in his

or her actions on behalf of such applicants.288 Also, if the authorized bidders are different individuals

280 See, e.g., BIA Guidance, 30 FCC Rcd at 10798, para. 13 (describing the use of non-disclosure agreements and,

for third parties that may be advising multiple covered parties, firewalls).

281 Id.

282 See id.; Application of Nevada Wireless, Memorandum Opinion and Order, 13 FCC Rcd 11973, 11978, para. 12

(1998) (Nevada Wireless Order) (strongly encouraging applicants to implement any firewall procedures necessary

and to provide information in their auction applications regarding the procedures).

283 See, e.g., BIA Guidance, 30 FCC Rcd at 10799, para. 14; Nevada Wireless Order, 13 FCC Rcd at 11978, para.

13.

284 BIA Guidance, 30 FCC Rcd at 10800, para. 15.

285 Id.

286 Id.

287 Each applicant must specify at least one and up to three individuals (or authorized bidders) to place bids in the

bidding system on behalf of the applicant. 47 CFR § 1.21001(b)(2).

288 See BIA Guidance, 30 FCC Rcd at 10800, para. 15.

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employed by the same organization (e.g., a law firm, engineering firm, or consulting firm), a violation

similarly could occur.289 In the latter case, at a minimum, applicants should certify on their applications

that precautionary steps have been taken to prevent communication between authorized bidders, and that

the applicant and its bidders will comply with section 1.21002.290

144. Some commenters suggest that communications of bids or bidding strategies can be

completely prevented even when applicants retain the same individual counsel, consultant, or expert and

obtain bidding advice from that individual throughout the auction or that under particular circumstances

in this auction any potential for such communications should be ignored.291 As a threshold matter, we

reiterate that whether a communication is prohibited is fact dependent and determined on a case-by-case

basis. Therefore, we cannot categorically announce more “flexible” or lenient enforcement intentions or

speculate on whether hypothetical, broadly described conduct would constitute a violation of the rule, as

commenters request. Nonetheless, Commission precedent makes clear that an individual consultant hired

by multiple applicants to offer bidding advice during the auction presents a greater risk of violating

section 1.21002 than an individual consultant who estimates the costs of individual projects for multiple

applicants without weighing in on bidding strategies during the bidding.

145. While commenters propose various safeguards, such as firewalls,292 attorney ethics

rules,293 and attestations,294 we cannot conclude that such safeguards always will work in practice to

prevent the communication of bids and bidding strategies between applicants consulting the same

individual. Once an individual obtains bidding information from one applicant, any subsequent bidding

advice to a different auction participant would necessarily be informed and influenced by such

information—even if its use were not intentional or knowing. Any applicant’s attestation or attorney

ethics rules aimed at intentional or knowing disclosures would be ineffective at preventing all

communications relating to bidding and biding strategies.295 We are unwilling to overlook the risk of

potential collusion or dismiss it as “inconsequential,” as WISPA suggests.296 Accordingly, we reject the

notion that such safeguards applied to an individual advisor should provide an absolute defense against an

alleged violation of the prohibited communications rule.

146. WISPA, with support from various commenters, proposes a safe harbor from violations

for applicants that retain the same individual counsel, consultant, or expert so long as the applicants bid

289 See Nevada Wireless Order, 13 FCC Rcd at 11977-78, paras. 11-12.

290 Id.

291 See ACA Comments at 7-8; Rural Coalition Comments at 7-12; RWA Comments at 3-6; WISPA Comments at 4-

6; GeoLinks Reply at 4-5; ILSR et al. Reply at 10. By contrast, AT&T urges us to reject requests to weaken the

Commission’s long-standing anti-collusion rules, claiming that there is a “very high risk that bidders could use

resource sharing to engage in coordinated bidding, and thus undermine the integrity of the auction.” AT&T Reply at

9-11.

292 See ACA Comments at 8 (suggesting written procedures that the Commission could request); see also Rural

Coalition Reply at 9; WISPA Reply at 17.

293 See RWA Comments at 5-6 (proposing that an attorney retain any consultants or other experts because he or she

is already subject to attorney ethical rules). But see WISPA Reply at 17 (observing that not all bidders will find it

necessary to engage attorneys).

294 See Rural Coalition Comments at 11 (recommending a safe harbor attestation that applicant is not purposely

restricting competition).

295 The Rural Coalition quotes New York’s New NY Broadband Program’s attestation that refers to “knowing[]”

disclosures and “for the purposes of restricting competition.” Rural Coalition Comments at 11; see RWA Reply at

9. Similarly, RWA quotes a District of Columbia Bar rule that prohibits “knowing[]” disclosures. RWA Comments

at 5 n.14.

296 WISPA Comments at 5; see Rural Coalition Comments at 10.

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on different CBGs.297 However, the auction involves inter-area competition for a finite budget—not just

competition for specific CBGs.298 Accordingly, we do not want to sanction the sharing of bidding

information from any bidder in the auction by the same individual, even if unintentional or unknowing.

To hold otherwise would “encourage[] parties to divide up territory where the parties will not compete

against one another.”299

147. Likewise, we cannot agree with some commenters that claim we should allow bidders to

retain the same individual counsel, consultant, or expert in the auction because there is little risk of

competitive harm from such conduct.300 Communication of bids or bidding strategies between applicants

disadvantages other applicants and thereby harms the competitive bidding process, even if we were to

assume there would be no direct harm to the auction results.301 Contrary to the Rural Coalition’s claims,

applicants in Auction 903 could benefit from coordinating their bidding, just as applicants could in the

reverse auction of the broadcast incentive auction.302 In both Auction 903 and the broadcast reverse

auction, the bids each applicant places will help determine the amount that all winning bidders will

receive. As a result, it would be unwise for us to take any action that would facilitate undesirable

coordinated conduct in Auction 903.

148. We remind potential applicants that they may discuss the short-form application or bids

for specific CBGs with the counsel, consultant, or expert of their choice before the short-form application

deadline. Furthermore, the same third-party individual could continue to give advice after the short-form

deadline regarding the application, provided that no information pertaining to bids or bidding strategies,

including state(s) selected on the short-form application, is conveyed to that individual. With respect to

bidding, the same third-party individual could, before the short-form application deadline, assist more

than one potential applicant with calculating how much support the specific applicant would require to

provide service in each CBG for which it is interested in bidding.303 If such work can be completed in

advance of the short-form application deadline, it would eliminate the need for third-party bidding advice

during the auction. Finally, to the extent potential applicants can develop bidding instructions prior to the

short-form deadline that a third party could implement without changes during bidding, the third party

could follow such instructions for multiple applicants provided that those applicants do not communicate

with the third party during the prohibition period.304

149. We recognize that some potential applicants may be new to Commission auctions, and

dealing for the first time with the prohibited communications rule and the application and bidding

procedures we are adopting today. We concur with the Rural Coalition and AT&T that we should

provide further education on the auction application and bidding procedures and on the prohibited

297 See WISPA Comments at 5-6 (suggesting a safe harbor for a single consultant providing advice relating to

different CBGs); see also ACA Reply at 20; GeoLinks Reply at 5; RC Reply at 9; RWA Reply at 8-9; WISPA

Reply at 16-17.

298 See AT&T Reply at 12-13.

299 Id. at 12.

300 See Rural Coalition Comments at 7-12; RWA Comments at 3-6; WISPA Comments at 4-6.

301 See Star Wireless, LLC v. FCC, 522 F.3d 469, 475 (D.C. Cir. 2008) (rejecting the argument that communications

that did not lower auction prices caused no harm in part because “insider dealing, especially if widespread, could

reduce non-colluding parties’ incentive to participate in future auctions”).

302 See Rural Coalition Comments at 10 (asserting that coordination was more likely in the broadcast reverse auction

because applicants were more likely to overlap geographically and could easily share the cash proceeds of a winning

bid).

303 See AT&T Reply at 10-11.

304 BIA Guidance, 30 FCC Rcd at 10802, para. 20.

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communications rule,305 and we describe the Bureaus’ planned education opportunities in Section

[[III.A]]. Moreover, both before and during the application and bidding processes, as in all Commission

auctions, we will provide potential and participating bidders with secure ways to ask Commission staff

questions concerning, inter alia, application of the rules and procedures. Although the comments contain

numerous references to the “complexity” of the auction and claims that such complexity necessitates

retaining third-party advisors,306 much of what appears to be complex may be lack of familiarity with our

bidding procedures.307 Taking full advantage of the various education opportunities that will be offered

will increase parties’ familiarity with the auction procedures and assist potential bidders in developing

approaches consistent with their specific circumstances.308

5. Section 1.21001(b)(4) Certification

150. By electronically submitting a short-form application, each applicant in Auction 903

certifies its compliance with sections 1.21001(b)(4) and 1.21002.309 In particular, an applicant must

certify under penalty of perjury that the application discloses all real parties in interest to any agreements

involving the applicant’s participation in the competitive bidding for Phase II support.310 Also, the

applicant must certify that it and all applicable parties have complied with and will continue to comply

with 47 CFR § 1.21002.311

151. We caution, however, that merely filing a certifying statement as part of an application

will not outweigh specific evidence that a prohibited communication has occurred, nor will it preclude the

initiation of an investigation when warranted.312 The Commission has stated that it “intend[s] to

scrutinize carefully any instances in which bidding patterns suggest that collusion may be occurring.”313

Any applicant found to have violated section 1.21002(b) may be subject to sanctions.314

6. Duty to Report Prohibited Communications

152. Section 1.21002(c) provides that any applicant that makes or receives a communication

that appears to violate section 1.21002 must report such communication in writing to the Commission

immediately, and in no case later than five business days after the communication occurs.315 An

applicant’s obligation to make such a report continues until the report has been made.316

153. In addition, section 1.65 of the Commission’s rules requires an applicant to maintain the

accuracy and completeness of information furnished in its pending application and to notify the

305 See Rural Coalition Comments at 9-11; AT&T Reply at 10; see also ACA Reply at 21 n.92.

306 See Rural Coalition Comments at 6; RWA Comments at 3; WISPA Comments at 4. AT&T disagrees with the

parties’ claims that Auction 903 is “overly complicated.” AT&T Reply at 10.

307 We address commenters’ specific claims of complexity in the relevant sections of the bidding procedures below.

308 See AT&T Reply at 10 (claiming that further education to bidders should make clear that they “do not need to

hire . . . a full complement of consultants, experts, and attorneys to participate in any meaningful way in the

auction”).

309 47 CFR §§ 1.21001(b)(4), 1.21002.

310 47 CFR § 1.21001(b)(4).

311 47 CFR §§ 1.21001(b)(5), 1.21002.

312 Nevada Wireless Order, 13 FCC Rcd at 11978, para. 13.

313 Competitive Bidding Memorandum Opinion and Order, 9 FCC Rcd at 7689, para. 12.

314 See, e.g., 47 CFR § 1.2109(d).

315 Id. § 1.21002(c); see also Part 1 Seventh Report and Order, 16 FCC Rcd at 17553-55, paras. 13-17.

316 47 CFR § 1.21002(c).

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Commission of any substantial change that may be of decisional significance to that application.317 Thus,

section 1.65 requires an Auction 903 applicant to notify the Commission of any substantial change to the

information or certifications included in its pending short-form application. An applicant is therefore

required by section 1.65 to report to the Commission any communication the applicant has made to or

received from another applicant after the short-form application filing deadline that affects or has the

potential to affect bids or bidding strategy, unless such communication is made to or received from an

applicant that is a member of a joint bidding arrangement identified on the application pursuant to section

1.21001(b)(4).318

154. Sections 1.65(a) and 1.21002 of the Commission’s rules require each applicant in

competitive bidding proceedings to furnish additional or corrected information within five days of a

significant occurrence, or to amend its short-form application no more than five days after the applicant

becomes aware of the need for amendment.319 These rules are intended to facilitate the auction process by

making information that should be publicly available promptly accessible to all participants and to enable

the Bureaus to act expeditiously on those changes when such action is necessary.320

7. Procedure for Reporting Prohibited Communications

155. A party reporting any prohibited communication pursuant to sections 1.65, 1.21001(b), or

1.21002(c) must take care to ensure that any report of the prohibited communication does not itself give

rise to a violation of section 1.21002.321 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 allow such materials to be made available for public inspection.

156. 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.322 This rule is designed to minimize the risk of inadvertent dissemination of information in such

reports. Any reports required by section 1.21002(c) must be filed consistent with the instructions set forth

in this Public Notice.323 For Auction 903, such reports must be filed with Margaret W. Wiener, the Chief

of the Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, by the most

expeditious means available. Any such report should be submitted by e-mail to Ms. Wiener at the

following e-mail address: auction903@fcc.gov. If you choose instead to submit a report in hard copy,

any such report must be delivered only to: Margaret W. Wiener, Chief, Auctions and Spectrum Access

Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street,

SW, Room 6-C217, Washington, DC 20554.

157. 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

317 Id. § 1.65.

318 See Part 1 Seventh Report and Order, 16 FCC Rcd at 17550-51, para. 9.

319 Procedural Amendments to Commission Part 1 Competitive Bidding Rules, Order, 25 FCC Rcd 521, 523, para. 8

(2010) (Part 1 Procedural Amendments Order).

320 Id.

321 47 CFR §§ 1.65, 1.21001(b)(3)-(5), 1.21002.

322 Part 1 Procedural Amendments Order, 25 FCC Rcd at 522, para. 4. 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.

323 Id.

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following the procedures specified in section 0.459 of the Commission’s rules.324 We encourage such

parties to coordinate with the Auctions and Spectrum Access Division staff about the procedures for

submitting such reports.325

8. Winning Bidders Must Disclose Terms of Agreements

158. Each applicant that is a winning bidder may be required to disclose in its long-form

application the specific terms, conditions, and parties involved in any agreement into which it has

entered.326 This may apply to any bidding consortia, joint venture, partnership, or agreement,

understanding, or other arrangement entered into relating to the competitive bidding process, including

any agreement relating to the post-auction market structure. Failure to comply with the Commission’s

rules can result in enforcement action.

9. Additional Information Concerning Prohibition of Certain Communications

in Commission Auctions

159. Section 1.21002 is consistent with similar rules the Commission has applied in other

Commission auctions. Applicants may gain insight into the public policies underlying section 1.21002 by

reviewing information about the application of these other rules. Decisions applying these rules by courts

and by the Commission and its bureaus in other Commission auctions can be found at

http://wireless.fcc.gov/auctions/prohibited\_communications.327 Applicants utilizing these past precedents

should keep in mind the specific language of the rule applied in past decisions, as well as any differences

in the context of the applicable auctions.

10. Antitrust Laws

160. Regardless of compliance with the Commission’s rules, applicants remain subject to the

antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace.328 Compliance

with the disclosure requirements of section 1.21002 will not insulate a party from enforcement of the

antitrust laws.329 For instance, a violation of the antitrust laws could arise out of actions taking place well

before any party submits a short-form application.330 The Commission has cited a number of examples of

potentially anticompetitive actions that would be prohibited under antitrust laws: for example, actual or

324 See 47 CFR § 0.459 (requests that materials or information submitted to the Commission be withheld from public

inspection). Filers requesting confidential treatment of documents must be sure that the cover page of the filing

prominently displays that the documents seek 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).

325 See supra Section [[VI]] (Contact Information).

326 See 47 CFR § 54.315(b)(2)(viii) (applicants for Phase II support will need to provide such additional information

as the Commission may require).

327 Note that this website is not intended to—and does not—include every Commission document, judicial opinion,

or civil enforcement action that refers to the prohibition of certain communications in Commission auctions.

328 See Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures, Third Further Notice of

Proposed Rulemaking, 14 FCC Rcd 21558, 21560-61, para. 4 & n.17 (1999) (quoting Competitive Bidding

Memorandum Opinion and Order, 9 FCC Rcd at 7689, para. 12) (“[W]e wish to emphasize that all applicants and

their owners continue to be subject to existing antitrust laws. Applicants should note that conduct that is permissible

under the Commission’s Rules may be prohibited by the antitrust laws.”); Implementation of Section 309(j) of the

Communications Act – Competitive Bidding, Fourth Memorandum Opinion and Order, 9 FCC Rcd 6858, 6869 n.134

(1994) (“[A]pplicants will also be subject to existing antitrust laws.”) (Fourth Memorandum Opinion and Order).

329 See Competitive Bidding Memorandum Opinion and Order, 9 FCC Rcd at 7689, para. 12. See also Dep’t of

Justice, Press Release, Justice Department Sues Three Firms Over FCC Auction Practices (Nov. 10, 1998).

330 See, e.g., Fourth Memorandum Opinion and Order, 9 FCC Rcd at 6869 n.134.

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potential competitors may not agree to divide territories in order to minimize competition, regardless of

whether they split a market in which they both do business, or whether they merely reserve one market

for one and another market for the other.331 Similarly, Commission staff have previously reminded

potential applicants and others that “[e]ven where the applicant discloses parties with whom it has

reached an agreement on the short-form application, thereby permitting discussions with those parties, the

applicant is nevertheless subject to existing antitrust laws.”332

161. To the extent the Commission becomes aware of specific allegations that suggest that

violations of the federal antitrust laws may have occurred, the Commission may refer such allegations to

the United States Department of Justice for investigation.333 If an applicant 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 a forfeiture and may be prohibited from participating further in Auction 903

and in future auctions, among other sanctions.334

H. Red Light Rule

162. The Commission adopted rules, including a provision referred to as the “red light rule,”

that implement the Commission’s obligation under the Debt Collection Improvement Act of 1996, which

governs the collection of debts owed to the United States, including debts owed to the Commission.335

Under the red light rule, applications and other requests for benefits filed by parties that have outstanding

debts owed to the Commission will not be processed.336 Applicants seeking to participate in Auction 903

are subject to the Commission’s red light rule.337 Pursuant to the red light rule, unless otherwise expressly

provided for, the Commission will withhold action on an application by any entity found to be delinquent

in its debt to the Commission.338

163. Because robust participation is critical to the success of the Phase II auction, we find

good cause to provide a limited waiver of the red light rule for any applicant seeking to participate in

Auction 903 that is red-lighted for debt owed to the Commission at the time it timely files a short-form

application.339 Specifically, a red-lighted applicant seeking to participate in Auction 903 will have until

the close of the application resubmission filing window to pay any debt(s) associated with the red light.

No further opportunity to cure will be allowed. If an applicant has not resolved its red light issue(s) by

the close of the initial filing window, its application will be deemed incomplete. If the applicant has not

resolved its red light issue(s) by the close of the application resubmission window, Commission staff will

immediately cease all processing of the applicant’s short-form application, and the applicant will be

331 Id.

332 Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules, Public Notice, 11 FCC

Rcd 9645, 9646 (WTB 1995).

333 See Implementation of Section 309(j) of the Communications Act—Competitive Bidding, Second Report and

Order, 9 FCC Rcd 2348, 2388, para. 226 (1994).

334 See id.; 47 CFR § 1.2109(d).

335 Amendment of Parts 0 and 1 of the Commission’s Rules; Implementation of the Debt Collection Improvement Act

of 1996 and Adoption of Rules Governing Applications or Requests for Benefits by Delinquent Debtors, Report and

Order, 19 FCC Rcd 6540 (2004) (implementing Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996)) (Debt Collection

Report and Order); 47 CFR Part 1, Subpart O.

336 47 CFR § 1.1910(b)(2).

337 Parties familiar with spectrum license auctions should note that the stricter spectrum license application rules

supersede the Commission’s red light rules in the context of a spectrum license auction. See 47 CFR § 1.1902(f).

No corresponding provision applies with respect to Auction 903, however. Accordingly, the Commission’s standard

red light rules will apply.

338 47 CFR § 1.1910(b)(2).

339 47 CFR § 1.3.

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deemed not qualified to bid in the auction. As noted above, this waiver is limited. It does not waive or

otherwise affect the Commission’s right or obligation to collect any debt owed to the Commission by an

Auction 903 applicant by any means available to the Commission, including set off, referral of debt to the

United States Treasury for collection, and/or by red lighting other applications or requests filed by an

Auction 903 applicant.

164. Potential applicants for Auction 903 should review their own records, as well as the

Commission’s Red Light Display System (RLD), to determine whether they owe any non-tax debt to the

Commission and should try to resolve and pay any outstanding debt(s) prior to submitting a short-form

application. The RLD enables a party to check the status of its account by individual FCC Registration

Numbers (FRNs) and links other FRNs sharing the same Tax Identification Number (TIN) when

determining whether there are outstanding delinquent debts. The RLD is available at

http://www.fcc.gov/redlight/. Additional information is available at

https://www.fcc.gov/debt\_collection/.

165. Additionally, we recognize that an Auction 903 applicant may incur debt to the

Commission after it files its short-form application and may fail to pay that debt when due. An applicant

should note that the Commission will conduct additional red light checks prior to authorizing Phase II

auction support. We therefore encourage qualified bidders to continue to review their own records as

well as the RLD periodically during the auction and to resolve and pay all outstanding debts to the

Commission as soon as possible. The Commission will not authorize any winning bidder to receive

Phase II auction support until its red light issues have been resolved.

I. USF Debarment

166. The Commission’s rules provide for the debarment of those convicted of or found civilly

liable for defrauding the high-cost support program.340 Auction 903 applicants are reminded that those

rules apply with equal force to the Phase II auction.

J. Modifications to FCC Form 183

1. Only Minor Modifications Allowed

167. After the initial FCC Form 183 filing deadline, an Auction 903 applicant will be

permitted to make only minor changes to its application consistent with the Commission’s rules.341

Examples of minor changes include the deletion or addition of authorized bidders (to a maximum of

three) and the revision of addresses and telephone numbers of the applicant, its responsible party, and its

contact person. Major modification to an FCC Form 183 (e.g., adding a state in which the applicant

intends to bid, certain changes in ownership that would constitute an assignment or transfer of control of

the applicant, change of certifying official, change in applicant’s legal classification that results in a

change in control) will not be permitted after the initial FCC Form 183 filing deadline.342 If an

amendment reporting changes is a “major amendment,” as described in section 1.21001(d)(4), the major

340 47 CFR § 54.8.

341 See id. § 1.21001(d)(5). Minor amendments include any changes that are not major, such as correcting

typographical errors and supplying or correcting information as requested to support the certifications made in the

application.

342 See id. § 1.21001(d)(4). Contending that a change in control after the short-form application deadline should not

disqualify a bidder from the auction, WISPA proposes that the Commission entertain waiver requests of the relevant

rules prohibiting this type of major modification. See WISPA Comments at 6-7. While parties can always seek

waiver of any Commission rules, we emphasize that we would be reluctant to depart from the Commission’s well-

established precedent on this issue because a change of control would effectively allow auction participation by

parties that have not been subject to our pre-auction application review and qualification process.

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amendment will not be accepted and may result in the dismissal of the application.343

2. Duty to Maintain Accuracy and Completeness of FCC Form 183

168. Pursuant to section 1.65 of the Commission’s rules, each applicant has a continuing

obligation to maintain the accuracy and completeness of information furnished in a pending application,

including a pending application to participate in the Phase II auction.344 Consistent with the requirements

for our spectrum auctions, an applicant for Auction 903 must furnish additional or corrected information

to the Commission within five business days after a significant occurrence, or amend its FCC Form 183

no more than five business days after the applicant becomes aware of the need for the amendment.345 An

applicant is obligated to amend its pending application even if a reported change may result in the

dismissal of the application because it is subsequently determined to be a major modification.

3. Modifying an FCC Form 183

169. As noted above, an entity seeking to participate in Auction 903 must file an FCC Form

183 electronically via the FCC’s Auction Application System. During the initial filing window, an

applicant will be able to make any necessary modifications to its FCC Form 183 in the Auction

Application System. An applicant that has certified and submitted its FCC Form 183 before the close of

the initial filing window may continue to make modifications as often as necessary until the close of that

window; however, the applicant must re-certify and resubmit its FCC Form 183 before the close of the

initial filing window to confirm and effect its latest application changes. After each submission, a

confirmation page will be displayed stating the submission time and submission date.346

170. An applicant will also be allowed to modify its FCC Form 183 in the Auction

Application System, except for certain fields,347 during the resubmission filing window and after the

release of the public notice announcing the Auction 903 qualified bidders. During these times, if an

applicant needs to make permissible minor changes to its FCC Form 183, or must make changes in order

to maintain the accuracy and completeness of its application pursuant to sections 1.65, it must make the

change(s) in the Auction Application System and then re-certify and re-submit its application to confirm

and effect the change(s).

171. An applicant’s ability to modify its FCC Form 183 in the Auction Application System

will be limited between the closing of the initial filing window and the opening of the application

resubmission filing window and between the closing of the resubmission filing window and the release

of the public notice announcing the Auction 903 qualified bidders. During these periods, an applicant

343 Any change in control of an applicant—resulting from a merger, for example—will be considered a major

modification, and the application will consequently be dismissed. We reiterate that, even if an applicant’s FCC

Form 183 is dismissed, the applicant would remain subject to the communication prohibitions of 47 CFR § 1.21002

until the long-form application filing deadline, which will be established after the auction closes.

344 See 47 CFR § 1.65. For purposes of section 1.65, an applicant’s FCC Form 183 and associated attachments will

remain pending until the release of a public notice announcing the close of Auction 903. However, we remind

Auction 903 applicants that they remain subject to the section 1.21002 prohibition of certain communications until

the post-auction deadline for filing long-form applications for winning bids. An applicant’s post-auction long-form

application (FCC Form 683) is considered pending from the time it is accepted for filing by the Commission until a

Commission grant or denial of the long-form application is no longer subject to reconsideration by the Commission

or to review by any court. See 47 CFR § 1.65(a).

345 See 47 CFR §§ 1.65; 1.2105(b)(4). We remind each applicant of its duty to continuously maintain the accuracy

of information submitted in its auction application. See, e.g., Vermont Telephone Company, Inc., Notice of

Apparent Liability for Forfeiture, 26 FCC Rcd 14130 (2011).

346 We strongly advise applicants to retain a copy of this confirmation page.

347 Specifically, an applicant will not be allowed to modify electronically in the Auction Application System the

applicant’s legal classification, the applicant’s name, or the certifying official.

(continued….)

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will be able to view its submitted application, but will be permitted to modify only the applicant’s

address, responsible party address, and contact information (e.g., name, address, telephone number, etc.)

in the Auction Application System. An applicant will not be able to modify any other pages of the FCC

Form 183 in the Auction Application System during these periods. If, during these periods, an applicant

needs to make other permissible minor changes to its FCC Form 183, or changes to maintain the

accuracy and completeness of its application pursuant to section 1.65, the applicant must submit a letter

briefly summarizing the changes to its FCC Form 183 via e-mail to auction903@fcc.gov. The e-mail

summarizing the changes must include a subject line referring to Auction 903 and the name of the

applicant, for example, “Re: Changes to Auction 903 Auction Application of XYZ Corp.” Any

attachments to the e-mail must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word

documents. An applicant that submits its changes in this manner must subsequently modify, certify, and

submit its FCC Form 183 application electronically in the Auction Application System once it is again

open and available to applicants.

172. Applicants should also note that even at times when the Auction Application System is

open and available to applicants, the system will not allow an applicant to make certain other permissible

changes itself (e.g., correcting a misstatement of the applicant’s legal classification).348 If an applicant

needs to make a permissible minor change of this nature, it must submit a written request by e-mail to

auction903@fcc.gov, requesting that the Commission manually make the change on the applicant’s

behalf. Once Commission staff has informed the applicant that the change has been made in the Auction

Application System, the applicant must then recertify and resubmit its FCC Form 183 in the Auction

Application System to confirm and effect the change(s).

173. As with filing the FCC Form 183, any amendment(s) to the application and related

statements of fact must be certified by an authorized representative of the applicant with authority to

bind the applicant. Applicants should note that 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.

174. Applicants must not submit application-specific material through the Commission’s

Electronic Comment Filing System. Further, as discussed above, parties submitting information related

to their applications should use caution to ensure that their submissions do not contain confidential

information or communicate information that would violate section 1.21002 or the limited information

procedures adopted for Auction 903. An applicant seeking to submit, outside of the Auction Application

System, information that might reflect non-public information, such as an applicant’s state and/or

performance tier and latency selection(s) or specific information about bid(s), should consider including

in its e-mail a request that the filing or portions of the filing be withheld from public inspection until the

end of the prohibition of certain communications pursuant to section 1.21002.

175. Questions about FCC Form 183 amendments should be directed to the Auctions and

Spectrum Access Division at (202) 418-0660.

III. PREPARING FOR BIDDING IN AUCTION 903

A. Bidder Education

176. Prior to the deadline for applications to participate in Auction 903, detailed educational

information will be provided in various formats to would-be participants.

177. We will provide various materials on the pre-auction process in advance of the opening

of the short-form application window, beginning with the release of step-by-step instructions for

completing Form 183. In addition, we will provide an online application procedures tutorial covering

information on pre-auction preparation, completing short-form applications, the application review

348 This is the case because certain fields on the FCC Form 183 will no longer be available to/changeable by the

applicant after the initial filing window closes.

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process, and Phase II rules. Moreover, we will conduct a workshop or webinar on the pre-auction

application process, with an opportunity for participants to ask questions.

178. We will provide separate educational materials on the bidding process in advance of the

start of the mock auction, beginning with release of a user guide for the bidding system, followed by an

online bidding procedures tutorial. We will also conduct a workshop or webinar on the bidding process

with an opportunity for participants to ask questions.

179. Based on our experience with past auctions, parties interested in participating in this

auction will find these educational opportunities an efficient and effective way to further their

understanding of the application and bidding processes. The Auction 903 online tutorials will allow

viewers to navigate the presentation outline, review written notes, listen to audio of the notes, and search

for topics using a text search function. Additional features of this web-based tool include links to auction-

specific Commission releases, e-mail links for contacting Commission staff, and a timeline with deadlines

for auction preparation. The online tutorials will be accessible on the “Education” tab of the Phase II

auction website at https://www.fcc.gov/connect-america-fund-phase-ii-auction. Once posted, the tutorials

will be accessible anytime.349

180. Finally, as proposed, the Commission’s Office of Communications Business

Opportunities will engage with small providers interested in the auction process.350

B. Short-Form Applications – Due Before 6:00 p.m. ET on March 30, 2018

181. In order to be eligible to bid in this auction, applicants must first follow the procedures to

submit a short-form application (FCC Form 183) electronically via the Auction Application System,

following the instructions to be released with a public notice in advance of the opening of the filing

window. This short-form application will become available with the opening of the initial filing window

and must be submitted prior to 6:00 p.m. ET on March 30, 2018. Late applications will not be

accepted. No application fee is required.

182. Applications may be filed at any time beginning at noon ET on March 19, 2018, until the

filing window closes at 6:00 p.m. ET on March 30, 2018. Applicants are strongly encouraged to file early

and are responsible for allowing adequate time for filing their applications. There are no limits or

restrictions on the number of times an application can be updated or amended until the filing deadline on

March 30, 2018.

183. An applicant must always click on the CERTIFY & SUBMIT button on the “Certify &

Submit” screen to successfully submit its FCC Form 183 and any modifications; otherwise the application

or changes to the application will not be received or reviewed by Commission staff. Additional

information about accessing, completing, and viewing the FCC Form 183 will be provided in a separate

public notice. Applicants requiring technical assistance should contact FCC Auctions Technical Support

at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (text telephone (TTY)); hours of

service are Monday through Friday, from 8:00 a.m. to 6:00 p.m. ET. In order to provide better service to

the public, all calls to Technical Support are recorded.

C. Application Processing and Minor Modifications

1. Public Notice of Applicant’s Initial Application Status and Opportunity for

Minor Modifications

184. After the deadline for filing auction applications, the Bureaus will process all timely

submitted applications to determine whether each applicant has complied with the application

requirements and provided all information concerning its qualifications for bidding, and subsequently will

349 The Illinois Electric Cooperative expressed support for multiple types of bidder educational opportunities,

including webinars, tutorials, and in-person workshops, in its comments. See IEC Comments at 4-5.

350 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6260, para. 71.

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issue a public notice with applicants’ initial application status identifying (1) those that are complete and

(2) those that are incomplete or deficient because of defects that may be corrected. The public notice will

include the deadline for resubmitting corrected applications and a paper copy will be sent to the contact

address listed in the FCC Form 183 for each applicant by overnight delivery. In addition, each applicant

with an incomplete application will be sent information on the nature of the deficiencies in its application,

along with the name and phone number of a Commission staff member who can answer questions specific

to the application.

185. After the initial application filing deadline on March 30, 2018, applicants can make only

minor modifications to their applications.351 Major modifications (e.g., change control of the applicant,

change the certifying official, or selecting additional states in which to bid) will not be permitted.352 After

the deadline for resubmitting corrected applications, an applicant will have no further opportunity to cure

any deficiencies in its application or provide any additional information that may affect Commission

staff’s ultimate determination of whether and to what extent the applicant is qualified to participate in

Auction 903.

186. Commission staff will communicate only with an applicant’s contact person or certifying

official, as designated on the applicant’s FCC Form 183, 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.353 Authorizations may be sent by e-mail to auction903@fcc.gov.

2. Public Notice of Applicant’s Final Application Status

187. After the Bureaus review resubmitted applications, they will release a public notice

identifying applicants that have become qualified bidders. The Auction 903 Qualified Bidders Public

Notice will be issued at least 15 business days before bidding in Auction 903 begins. Qualified bidders

are those applicants with submitted FCC Form 183 applications that are deemed timely filed and

complete.

D. Auction Registration

188. All qualified bidders are automatically registered for the auction. Registration materials

will be distributed prior to the auction by overnight delivery. The mailing will be sent only to the contact

person at the contact address listed in the FCC Form 183 and will include the SecurID® tokens that will

be required to place bids and the Auction Bidder Line phone number.

189. Qualified bidders that do not receive this registration mailing will not be able to submit

bids. Therefore, any qualified bidder that has not received this mailing by noon on July 9, 2018, should

call the Auctions Hotline at (717) 338-2868. Receipt of this registration mailing is critical to participating

in the auction, and each applicant is responsible for ensuring it has received all the registration materials.

190. In the event that SecurID® tokens are lost or damaged, only a person who has been

designated as an authorized bidder, the contact person, or the certifying official on the applicant’s short-

form application may request replacements. To request replacement of these items, call the Auction

Bidder Line at the telephone number provided in the registration materials or the Auction Hotline at (717)

338-2868.

351 See supra Section [[II.J]] (Modifications to FCC Form 183).

352 47 CFR § 1.2105(b); see also Two Way Radio of Carolina, Inc., Memorandum Opinion and Order, 14 FCC Rcd

12035 (1999).

353 In no event, however, will the Commission send auction registration materials to anyone other than the contact

person listed on the applicant’s FCC Form 183 or respond to a request for replacement registration materials from

anyone other than the authorized bidder, contact person, or certifying official listed on the applicant’s FCC Form

183. See infra Section [[III.D]] (Auction Registration).

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E. Remote Electronic Bidding via the CAF II Bidding System

191. Bidders will be able to participate in Auction 903 over the Internet using the CAF II

Bidding System.354 Only qualified bidders are permitted to bid. Each authorized bidder must have his or

her own SecurID® token, which the Commission will provide at no charge. Each applicant with one

authorized bidder will be issued two SecurID® tokens, while applicants with two or three authorized

bidders will be issued three tokens. A bidder cannot bid without his or her SecurID tokens. For security

purposes, the SecurID® tokens and a telephone number for bidding questions are only mailed to the

contact person at the contact address listed on the FCC Form 183. Each SecurID® token is tailored to

a specific auction. SecurID® tokens issued for other auctions or obtained from a source other than the

FCC will not work for Auction 903. Please note that the SecurID® tokens can be recycled and the

Bureaus encourage bidders to return the tokens to the FCC. Pre-addressed envelopes will be provided to

return the tokens once the auction has ended.

192. The Commission makes no warranties whatsoever, and shall not be deemed to have

made any warranties, with respect to the CAF II Bidding System, including any implied warranties

of merchantability or fitness for a particular purpose. In no event shall the Commission, or any of

its officers, employees, or agents, be liable for any damages whatsoever (including, but not limited

to, loss of business profits, business interruption, loss of use, revenue, or business information, or

any other direct, indirect, or consequential damages) arising out of or relating to the existence,

furnishing, functioning, or use of the CAF II Bidding System. Moreover, no obligation or liability

will arise out of the Commission’s technical, programming, or other advice or service provided in

connection with the CAF II Bidding System.

193. To the extent an issue arises with the CAF II Bidding System itself, the Bureaus will take

all appropriate measures to resolve such issues quickly and equitably. Should an issue arise that is

outside the CAF II Bidding System or attributable to a bidder, including, but not limited to, a bidder’s

hardware, software, or Internet access problem that prevents the bidder from submitting a bid prior to the

end of a round, the Commission shall have no obligation to resolve or remediate such an issue on behalf

of the bidder. Similarly, if an issue arises due to bidder error using the CAF II Bidding System, the

Commission shall have no obligation to resolve or remediate such an issue on behalf of the bidder.

Accordingly, after the close of a bidding round, the results of bid processing will not be altered absent

evidence of any failure in the CAF II Bidding System.

F. Mock Auction

194. All qualified bidders will be eligible to participate in a mock auction, which will be

scheduled during the week before the first day of bidding in Auction 903. The mock auction will enable

qualified bidders to become familiar with the CAF II Bidding System and to practice submitting bids

prior to the auction. We strongly recommend that all qualified bidders, including all their authorized

bidders, participate to assure that they can log in to the bidding system and gain experience with the

bidding procedures. Participating in the mock auction may reduce the likelihood of a bidder making a

mistake during the auction. Details regarding the mock auction will be announced in the Auction 903

Qualified Bidders Public Notice.

354 In this Public Notice, the CAF II Bidding System is also referred to as the “bidding system.” Telephonic bidding

will not be available for Auction 903 because it will not be feasible given the number of eligible geographic areas

and the manner in which bids will be uploaded. However, the Auction Bidder Line will be available during the

mock auction and actual auction for bidder questions. The Auction Bidder Line telephone number will be supplied

in the registration materials sent to each qualified bidder.

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IV. BIDDING IN AUCTION 903

A. Auction Structure – Reverse Auction Mechanism

1. Multi-Round Reverse Auction Format

195. As proposed in the CAF II Auction Comment Public Notice, we will conduct Auction 903

using a multi-round, descending clock auction.355

196. At a very high level, bidding in Auction 903 works as follows: In each round of the

auction, a bidder will be asked whether it is willing to provide service to an area, at a performance tier and

latency it indicates, in exchange for a support amount that is at least as high as an amount announced by

the bidding system. In each subsequent round, the announced support amount will be less than the

amount from the previous round. To the extent that the bidder is willing to accept the announced amount,

it will so indicate by submitting a “bid” on a spreadsheet indicating the area, the tier and latency, and the

current amount that it accepts. If the current round’s announced support amount becomes too low for the

bidder, the bidder can simply stop bidding for the area or alternatively, can enter a bid that indicates the

lowest amount it will accept (an amount higher than the round’s announced amount and lower than the

last round’s announced amount) in exchange for providing the service.356

197. As set forth in the sections below, the announced support amount that the bidder responds

to in a round depends on a percentage—applicable to bidding for all areas—as well as the reserve price

for the specific area and the level of service that the bidder proposes to provide if it is assigned support for

the area. These factors are linked through a formula. However, the bidding template—the spreadsheet—

will show the support amount for a bid as well as the various factors determining that support amount in a

given bidding round. Therefore, to bid effectively, a bidder need only determine the lowest amount of

support it will accept in exchange for providing service to an area and bid for support that is at least that

amount.

198. In adopting the bidding procedures set forth below, we are mindful of the need to make

the bidding process as simple as possible, while ensuring an orderly, fair, and transparent auction. In

response to commenter input, we have modified some of our proposed bidding procedures to simplify a

bidder’s choices, as set forth below.357 Moreover, we will provide ample bidder education prior to the

auction to help ensure that all potential auction participants are confident of the bidding procedures we

adopt.

2. Minimum Geographic Area for Bidding

199. For the reasons explained in in the CAF II Auction Comment Public Notice, we will use

CBGs358 containing one or more eligible census blocks as the minimum geographic area for bidding in the

355 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6259, para. 71. The Commission expressed its

preference for a multi-round auction in the Phase II Auction Order because multiple rounds would “enable bidders .

. . to make adjustments in their bidding strategies to facilitate a viable aggregation of geographic areas in which to

construct networks and enable competition to drive down support amounts.” Phase II Auction Order, 31 FCC Rcd

at 5978-79, para. 88. No commenter disagrees. ACA endorses this auction format because it promotes “price

discovery, transparency, fairness, and efficiency.” ACA Reply at 3.

356 As addressed below, the bidding process can be simplified further if the bidder wishes to enter its “bottom-line

support amount” early in the auction, instructing the auction system to enter a proxy bid automatically in each

round, without bidding lower than the bidder’s lowest acceptable support amount. See infra Section [[IV.B.3.f]]

(Bids Placed by Proxy Bidding Instructions).

357 See infra Sections [[IV.B.3.d.ii]] (Tier and Latency Combinations) and [[IV.B.g]] (Activity Rules).

358 As noted above, we will use CBG or area to refer to the eligible census blocks within a census block group.

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auction.359 In December 2017, WCB released the final list of eligible census blocks based on December

31, 2016 FCC Form 477 data.360 This list included approximately 214,000 eligible census blocks, which

are located in approximately 30,300 CBGs.361

3. Auction Delay, Suspension, or Cancellation

200. By announcement, the auction may be delayed, suspended, or cancelled in the event of

natural disaster, technical obstacle, network disruption, evidence of an auction security breach or unlawful

bidding activity, administrative or weather necessity, or for any other reason that affects the fair and

efficient conduct of the competitive bidding.362 In such cases, the Bureaus, in their sole discretion, may

elect to resume the auction starting from the point at which the auction was suspended, or cancel the

auction in its entirety.

B. Bidding Procedures

1. Bidding Overview

201. We will use a descending clock auction to identify the providers that will be eligible to

become authorized to receive Phase II support, subject to post-auction application review.363 This auction

also will establish the amount of support that each winning bidder will be eligible to receive using a

“second-price” rule.364 Pursuant to the Phase II Auction Order, the auction assigns winning bids based on

the percentage each bid represents of its respective area’s reserve price and determines support amounts

that take into account the performance tier and latency specified in the bid.365 In the sections below, we

explain the details of the auction format and procedures that we adopt. We also direct the Bureaus to

359 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6241-42, 6263, paras. 12-14, 85 (stating that CBGs

“provide bidders with more flexibility to develop a bidding strategy that aligns with their intended network

expansion or construction”). The majority of commenters that addressed this issue expressed support for using

CBGs because census tracts would be too large and particularly problematic for small providers. See RWA

Comments at 1-2; WISPA Comments at 2-3 (agreeing with the Commission’s observation that using larger census

tracts “could be particularly problematic for smaller providers that may seek to construct smaller networks or may

seek to expand existing networks”) (citation omitted); RWA Reply at 6-7; WISPA Reply at 18.

360 See Eligible Census Block List.

361 We decline to adopt census blocks as the minimum geographic area because the large number of eligible census

blocks would greatly complicate the bidding process both for bidders and the bidding system. See Letter from

Thomas Cohen, Counsel for ACA, to Marlene H. Dortch, Secretary, FCC, AU Docket No. 17-182 et al., at 2 (filed

Nov. 21, 2017) (ACA Nov. 21, 2017 Ex Parte Letter) (arguing that allowing bids on a census block basis will allow

bidders to avoid including the extremely high-cost census blocks in a CBG for which the available support is often

insufficient for an economically viable build); see also WISPA Dec. 5, 2017 Ex Parte Letter at 2 (“Smaller sizes,

such as census blocks, would likely create more of a patchwork quilt of supported and unsupported areas in close

proximity to each other.”).

362 See generally 47 CFR § 1.2104(i).

363 As described below, before a winning bidder can receive support, the bidder will need to submit a long-form

application and letter of credit and obtain an ETC designation in the relevant areas. Commission staff will evaluate

the information submitted to determine whether an applicant has demonstrated that it is reasonably capable of

meeting the relevant Phase II auction public interest obligations in the specific areas where it has been selected as a

winning bidder.

364 A second-price rule in this context generalizes the concept that the winning bidder for an area will be awarded

support at the price (or in this case, percentage) at which the budget clears or its next closest competitor drops out of

bidding, which will be at least as high as the winning bidder’s bid price. Specific procedures are set forth below in

Sections [[IV.B.4.b (Bid Processing in the Clearing Round) and IV.B.4.c (Bids and Bid Processing in Rounds after

the Clearing Round).]]

365 Phase II Auction Order, 31 FCC Rcd at 5976-77, paras. 84-85.

(continued….)

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compile and release a guide that provides further technical and mathematical detail regarding the bidding,

assignment, and support amount determination procedures we adopt here, as well as examples for

potential bidders.366

202. The Bureaus will conduct the Phase II auction over the Internet, and bidders will upload

bids in a specified file format for processing by the bidding system. Before each bidding round, the

bidding system will announce a new base clock percentage, which will set a lower limit on the range of

percentages for which bids will be accepted during that round. The percentage specified in a bid implies

an annual support amount for the area, based on the specified performance tier and latency combination,

consistent with the approach outlined in the Phase II Auction FNPRM Order.367

203. The opening base clock percentage implies a support amount that is equal to the full

reserve price, and the base clock percentage then descends from one round to the next. In a round, a

bidder can submit a bid for a given area at any percentage that is greater than or equal to the round’s base

clock percentage and less than the previous round’s base clock percentage. As of the close of a round,

each bid represents an irrevocable offer to meet the terms of the bid if it becomes a winning bid.368 That

is, a bid indicates that the bidder is willing to provide service to the locations in the area in accordance

with its specified performance tier and latency requirements in exchange for support. The support amount

will be no less than the support amount implied by the bid percentage.

204. The base clock percentage will continue to descend in a series of bidding rounds,

implying decreasing support amounts, until the aggregate amount of support represented by the bids

placed in a round at the base clock percentage is no greater than the budget. At that point, when the

budget “clears,” the bidding system will assign support to bidders in areas where there are no competing

bids. Bidding will continue, however, for areas where there are competing bids, and the clock will

continue to descend in subsequent rounds. When there is no longer competition for any area, the auction

will end. A winning bidder may receive support in amounts at least as high, because of the second-price

rule, as the support amounts corresponding to the percentages of their winning bids.

205. The bidding procedures we adopt implement the Commission’s prior decisions on

bidding in the Phase II auction in a straightforward and simple way.369 Accordingly, to compete

effectively in the auction, a potential bidder need only determine the percentage corresponding to the

lowest amount of support it will accept to serve a given area using its chosen technology and bid in the

auction down to that percentage.370 Below we set forth the rules governing how the auction system

collects bids and determines winning bids and support amounts. We address these in detail so that

potential participants can understand exactly how the auction works. Among the bidding rules we address

are procedures for two optional variations on the basic bid submission approach, namely, procedures for

instructing the system to submit proxy bids on behalf of the bidder and procedures for a type of package

bidding. We include these options because we find that they will simplify the bidding process for those

366 This guide will be comparable to the guide the Bureaus released to further explain the proposed bidding

procedures in the CAF II Auction Comment Public Notice. See Technical Guide on Proposed Bidding Procedures

for the Connect America Fund Phase II Auction (Auction 903), Public Notice, 32 FCC Rcd 5812 (WCB/WTB

2017).

367 Phase II Auction FNPRM Order, 32 FCC Rcd at 1627-28, para. 15.

368 See supra para. [[77]].

369 As addressed in the Phase II Auction Order, the Commission determined that winning bids would be those that

accept the lowest percentage of a model-based reserve price and that support amounts would be adjusted for

different performance tiers and latencies using a schedule of weights. See Phase II Auction Order, 31 FCC Rcd at

5976-77, paras. 84-85.

370 Below and in supplementary materials, we explain how to convert an area’s reserve price, a performance tier and

latency combination, and a bidding percentage to an implied support amount.

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bidders that choose to use them, without unfairly disadvantaging bidders that do not choose to use them.

2. Reserve Prices

206. We adopt the Commission’s proposals regarding reserve prices for the reasons discussed

in the CAF II Auction Comment Public Notice.371 The reserve price for each CBG is the sum of the

amounts calculated as described below, for each eligible census block in that CBG. For all eligible high-

cost census blocks (i.e., census blocks with average costs above the funding threshold but below the

extremely high-cost threshold), we set a reserve price based on the annual support per-location calculated

by the CAM for that census block. For census blocks with average costs that exceed the extremely high-

cost threshold, we will impose a $146.10 per-location-per-month funding cap so that the reserve price will

be equal to $146.10 multiplied by the number of locations in that census block as determined by the CAM

multiplied by 12 months.372 These procedures will ensure that no census blocks will receive more Phase

II support than the CAM calculates is necessary for deploying and operating a voice and broadband-

capable network in that census block.373 The list of eligible census blocks is accompanied by the

corresponding CBG list, which identifies the reserve price, on an annual basis, for each CBG.374

207. Finally, for administrative simplicity, we round the calculated reserve prices for each

CBG (based on the sum of the reserve prices for each eligible census block in the CBG) to the nearest

dollar. For example, if the calculated annual reserve price for a CBG is $15,000.49, the reserve price will

be rounded down to $15,000 for the auction; and if a reserve price is $15,000.50, the reserve price will be

rounded up to $15,001. Thus, any CBG with a calculated annual reserve price of less than $0.50 is

ineligible for the Phase II auction.

3. Bid Collection

a. Round Structure

208. The Phase II descending clock auction will consist of sequential bidding rounds

according to an announced schedule providing the start time and closing time of each bidding round, as

proposed.375 As is typical for Commission auctions, the Bureaus retain the discretion to change the

bidding schedule—with advance notice to bidders—in order to foster an auction pace that reasonably

balances speed with giving bidders sufficient time to review round results and plan their bidding. The

Bureaus may modify the amount of time for bidding rounds, the amount of time between rounds, and/or

the number of rounds per day, depending on bidding activity and other factors.

b. Base Clock Percentage

209. Before each bidding round, the bidding system announces a base clock percentage that

371 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6258-59, paras. 65-70.

372 Phase II Auction Order, 31 FCC Rcd at 5979, para. 90 (deciding to cap the amount of support per location

provided to extremely high-cost census blocks). This cap is calculated by starting with the extremely high-cost

benchmark of $198.60 and subtracting the funding threshold of $52.50 that WCB determined could reasonably be

recovered through end-user charges. See Wireline Competition Bureau Announces Connect America Phase II

Support Amounts Offered to Price Cap Carriers to Expand Rural Broadband, Public Notice, 30 FCC Rcd 3905,

3905 n.1 (WCB 2015) (indicating that the extremely high-cost benchmark for the offer of model-based support was

$198.60); CAM Inputs Order, 29 FCC Rcd at 4033-41, paras. 164-82.

373 The Commission decided to average costs at the census block level for the Phase II auction, which differs from

the approach taken in the offer of model-based support for price cap carriers where the CAM calculated the costs

associated with each carrier, wire center, or splitter separately, on a sub-census block basis. Phase II Auction Order,

31 FCC Rcd at 5971-72, paras. 64-65.

374 As noted earlier, the list of census block groups can be found at

https://www.fcc.gov/files/caf2auctionpublishcbgcsv.

375 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6260, para. 75.

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determines the range of acceptable price point percentages for bids submitted in the round.376 Except in

Round 1, a bid may be submitted at the base clock percentage, or at any higher price point percentage up

to but not including, the base clock percentage from the previous round. In Round 1, a bid may be

submitted at the base clock percentage or at any higher price point percentage, up to and including the

opening base clock percentage.

210. A bid submitted at the base clock percentage indicates that the bidder is willing to

provide the required service in the bid area in exchange for a payment at least as large as that implied by

the base clock percentage.377 A bid submitted at a higher price point percentage indicates that the bidder

will provide service in the area at a support payment at least as great as that implied by the price point

percentage of its bid, but not at lower support amounts.

(i) Opening Base Clock Percentage

211. As proposed, the bidding system will set the opening base clock percentage at 100

percent of an area’s reserve price plus an additional percentage equal to the weight corresponding to the

largest performance tier and latency combination submitted by any qualified bidder in the auction.378 For

example, if any applicant is qualified to bid to provide service at the Minimum performance tier and high

latency—a T+L combination with an assigned weight of 90—the opening base clock percentage will be

190 percent. Starting the clock at this level will allow bidders with higher-weighted performance tier and

latency combinations to compete, for multiple bidding rounds, with bidders offering performance tier and

latency combinations with lower weights.379

(ii) Clock Decrements

212. The bidding system will decrement the base clock percentage by 10 percentage points in

each round.380 However, the Bureaus have the discretion to change that amount during the auction—

within certain limits—if it appears that a lower or higher decrement would better manage the pace of the

auction. For example, if bidding is proceeding particularly slowly, the bid decrement may be increased to

speed up the auction, with advance notice to bidders, recognizing that a bidder has the option of bidding

at an intra-round price point percentage if the base clock percentage falls to a percentage corresponding to

an amount of support that is no longer sufficient. The bidding system will use a decrement of 10 percent

at the start of the auction, and any further changes to the decrement will be limited to between 5 percent

and 20 percent.

c. Implied Support Amounts Based on Performance Tier and Latency

Weights

213. To calculate the implied annual support amount at a bid percentage, an area-specific

reserve price is adjusted for the bid percentage and the weights for the performance tier and latency

combination of the bid, set forth below, with implied support not to exceed the reserve price. This

approach is consistent with previous Commission decisions regarding the Phase II auction.381

376 A single base clock percentage applies to bidding for all areas.

377 Implied support amounts are addressed in Section [[IV.B.3.c (Implied Support Amounts Based on Performance

Tier and Latency Weights)]]. Under the second-price rule, a winning bidder will receive an annual support amount

that is at least as great as the support amount implied by the bid percentage.

378 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6267-68, para. 108.

379 At base clock percentages above 100, the implied support amounts of bids at higher performance tier and latency

combinations with lower weights may not decrease from round to round, remaining instead at the area’s full reserve

price.

380 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6268, para. 110.

381 See id. at 6261, paras. 77-78 (citing the Commission’s prior decisions on performance tiers and latency in the

Phase II Auction Order and on weights to compare bids in the Phase II Auction FNPRM Order).

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214. The base clock percentage in each round will imply, for each performance tier and

latency (T+L) combination, a total amount of annual support in dollars for each area available for

bidding. The annual support amount implied at the base clock percentage will be the smaller of the

reserve price and the annual support amount obtained by using a formula that incorporates the

performance tier and latency weights. Specifically:

Implied Annual Support Amount (at the base clock percentage) = min ???, ?

?????(??+??)

100

????

where:

?? denotes the area’s reserve price

?? denotes the tier weight

?? denotes the latency weight

???? denotes the base clock percentage

215. Minimum performance tier bids will have a 65 weight; Baseline performance tier bids

will have a 45 weight; Above Baseline performance tier bids will have a 15 weight; and Gigabit

performance tier bids will have zero weight.382 Moreover, high latency bids will have a 25 weight and

low latency bids will have zero weight added to their respective performance tier weight. The lowest

possible weight for a performance tier and latency combination is 0, and the highest possible weight is 90.

Each weight uniquely defines a performance tier and latency (T+L) combination, as shown in the table

below.

Weights for Performance Tiers and Latencies

Minimum Baseline Above Baseline Gigabit

High

Latency

Low

Latency

High

Latency

Low

Latency

High

Latency

Low

Latency

High

Latency

Low

Latency

90 65 70 45 40 15 25 0

216. As the formula indicates, the implied support amount for an area cannot exceed an area’s

reserve price. As long as the base clock percentage remains at or above 100 plus the weight for the tier

and latency combination of the bid (100+T+L), the implied annual support for a bid will be equal to the

area’s reserve price.383 Therefore, in some rounds when the base clock percentage is above 100, there

may be a bid for a given area at a tier and latency combination with implied annual support equal to the

reserve price, and another bid for the same area at a higher weighted performance tier and latency

combination, with implied support below the area’s reserve price. However, once the base clock

percentage is decremented below 100, the implied annual support for all area, performance tier, and

latency combinations will be below each area’s respective reserve price.

217. The formula above (the “implied support formula”) can be used to determine the implied

support at any price point percentage by substituting a given percentage for the base clock percentage.

218. The clock auction format we adopt today with a base clock percentage and weights for

performance tier and latency combinations implements the Commission’s prior decisions and provides a

simple way to compare bids of multiple types.

382 Id. at 6261, para. 78.

383 For example, consider a bid at the Baseline performance tier with low latency, which has a T+L weight of 45. If

the base clock percentage is 170, the implied support for the bid is equal to the lower of the reserve price for the

area, R, and {(170-45)/100}\*R, which is (125/100)\*R or 1.25\*R. Since R is less than 1.25\*R, the implied support

for the bid is equal to the reserve price. The implied support for a bid at this tier and latency combination will

continue to be equal to the reserve price as long as the base clock percentage is equal to or above 145.

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d. Acceptable Bids

219. Under the procedures we adopt, to submit a bid for support to provide service to an area

in the auction, the bidding system will require that a bidder specify the area, a performance tier and

latency combination, and a price point percentage, which will in turn correspond to an indicated implied

support amount for the bid. Such a bid is an offer to serve the eligible census blocks within the specified

CBG at the indicated performance tier and latency, for a total amount of annual support that is at least the

implied support amount of the bid. Several requirements, set forth below, will also apply to bid

submission; the bidding system will advise bidders if a bid that the bidder attempts to submit does not

meet these conditions. A bid may optionally include additional information for package bidding, as

described in the following section.

(i) One Bid per Geographic Area per Round

220. As proposed, a bidder will be able to place only one bid on a given CBG in a round, be it

a bid for only that area or a package bid including the area.384 Further, a bidder will be able to bid only

for CBGs in states for which it is qualified to bid after review of its short-form application.385

221. The restriction on overlapping bids by a single bidder will simplify bid strategies for

bidders and eliminate the need for the bidding system to use mathematical optimization to consider

multiple ways to assign winning bids to a bidder, thus simplifying bid processing. Accordingly, the

bidding system will not accept multiple bids by a bidder in a round that include the same area.

USTelecom briefly contends that allowing bidders to group the same CBG in multiple packages would

contribute to auction efficiency,386 but we disagree and, for the reasons cited, we decline to accept that

suggestion.

222. As addressed above, we also adopt application procedures prohibiting commonly

controlled applicants or applicants subject to joint bidding arrangements from selecting any of the same

states on their applications. This prohibition will ensure that such entities jointly will not be able to

submit overlapping bids for the same geographic areas.387 These application procedures, together with the

requirement that a single bidder place only a single bid on a given area in a round, will reduce the

potential for undesirable strategic bidding during the auction.388

(ii) Tier and Latency Combinations

223. We modify our proposed procedures and will not allow a bidder to change the

performance tier and latency combination in a bid for a particular area from round to round. Instead, we

adopt procedures to require that once a bidder has submitted a bid for a CBG at a particular performance

tier and latency combination, any bids in subsequent rounds by that bidder for the same CBG must

specify the same performance tier and latency combination. We find that this change to our proposal will

simplify bidding strategies without an appreciable loss in useful flexibility for bidders that are eligible to

bid for more than one performance tier and latency combination in a given area.

224. No commenters claim that such flexibility would be valuable to them, and indeed, we

acknowledge that it is unclear how many auction participants even would have been eligible to make

384 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6263, para. 86.

385 See supra Section [[II.E.1 (State Selections and Impermissible State Overlaps)]].

386 See USTelecom Comments at 8.

387 See supra Section [[II.E.1 (State Selections and Impermissible State Overlaps)]].

388 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6263, para. 87.

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changes to their T+L combinations as proposed.389 Several parties argue that the proposal to allow

changes to the T+L combination of a bid adds complexity to the auction process.390 We recognize that

allowing for such changes to the T+L combination of a bid may make it more difficult for a bidder to

understand the competitive environment of the auction, as a commenter claims.391 Accordingly, we

modify our proposal.

225. We disagree with ACA and others, however, that the proposed flexibility would have led

to undesirable strategic bidding behavior.392 Strategic opportunities using changes to T+L combinations

would be limited by our activity rules. As set forth below, a bidder’s total activity cannot increase from

round to round, so a bidder would be limited in the extent to which it could switch to tier and latency

combinations that imply higher support amounts in the areas in which it has been bidding. Nor could a

bidder use bids at T+L combinations implying high support amounts to “park” significant amounts of

eligibility, later switch to T+Ls with lower associated support, and then use the excess eligibility to bid in

other areas—as some commenters suggest bidders would do—since the switching percentage constrains

such moves.393 Finally, we see no advantage to attempting such bidding strategies.

(iii) Acceptable Bid Amounts

226. In each round, as proposed,394 a bidder may submit a bid at the base clock percentage for

the round, or at any price point percentage greater than the base clock percentage and less than the

previous round’s base clock percentage.395 The price point percentage of the bid may be specified with up

to two decimal places (e.g., 98.44%).

227. By providing bidders the option to bid at intermediate price points, we can shorten the

bidding process by using larger decrements to the base clock percentage without running the risk that a

large drop in aggregate implied support from one round to the next will leave a significant amount of the

budget unspent. The option to bid at intermediate price point percentages will also allow a bidder to

indicate more precisely the minimum amount of support it will accept for an area, and it reduces the

389 As set forth in Section [[II.E.4 (Eligibility to Bid for Performance Tier and Latency Combinations)]], in order to

be able to bid at more than one performance tier and latency combination in an area, a bidder must qualify for all

such T+Ls at the short-form application stage.

390 See, e.g., ACA Comments at 5, 7; Rural Coalition Comments at 7; WISPA Comments at 26; Letter from

Jonathan Banks, Senior Vice President Law & Policy, USTelecom, to Marlene H. Dortch, Secretary, FCC, AU

Docket No. 17-182 et al., at 2 (filed Dec. 1, 2017) (USTelecom Dec. 1, 2017 Ex Parte Letter) (“[T]he ability to

change performance tiers between rounds appeared to contribute more to views that the auction is unnecessarily

complex than to the needs of existing broadband providers.”).

391 See Rural Coalition Reply at 6 (“Allowing switching would make it more difficult for bidders to understand the

competitive environment and make informed decisions on where to enter bids, potentially deterring less

sophisticated providers from participating in the Auction.”).

392 See, e.g., ACA Comments at 7; ACA Reply at 10; IEC Reply at 3; WISPA Reply at 18-19.

393 “Parking” eligibility generally refers to strategies to hold back on bidding for desired areas while maintaining the

flexibility to bid on the areas in a later round. Our discussion of the activity rules’ limitation on switching areas is in

Section [[IV.B.3.g (Activity Rules)]].

394 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6262, para. 82.

395 In the first round of the auction only, a bidder may place a bid at the base clock percentage for the round, or at

any price point percentage greater than the base clock percentage and less than or equal to the opening base clock

percentage. See supra Section [[IV.B.3.b (Base Clock Percentage)]]. A bidder may also submit a bid at a price

point percentage less than the base clock percentage for the round. The bidding system will treat this as a bid at the

base clock percentage for the current round and proxy instructions to bid in subsequent rounds. See infra Section

[[IV.B.3.f (Bids Placed by Proxy Bidding Instructions)]].

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likelihood of ties.396

228. A bid must specify a percentage that implies a support amount that is one percent or more

of an area’s reserve price to be acceptable.397 In other words, the bidding system will only accept a bid

for a price point percentage that is at least T+L+1.398 One percent represents a sufficiently small fraction

of the model-derived reserve price to serve as a minimum acceptable bid for bidders with legitimate

support needs. We disagree with ACA that the minimum acceptable support amount should be zero. A

bidder that requires—or receives—no Phase II support to build out in an area is free to provide service in

the area if it wishes, and furthermore, it can do so without the requirements of Phase II support recipients.

Moreover, we are not convinced that tied bids would be significantly less likely to occur if the minimum

bid were zero rather than one percent of the reserve price, as ACA contends would occur,399 given that we

do not anticipate that bidders will compete for such de minimis amounts of support.

e. Bids for a Package of Areas

229. We establish procedures to give bidders the option of placing a package bid to serve

multiple CBGs. We also adopt bid processing procedures that may assign fewer than all the areas in the

bid to the bidder provided that the support associated with the assigned areas is at least equal to a bidder-

specified minimum scale percentage of the support requested for the full list.

230. Under these procedures, a bidder will specify a package bid by specifying the CBGs in

the bid, a performance tier and latency combination for each CBG, a single price point percentage for the

bid, and a minimum scale percentage no higher than 75 percent that indicates the bidder’s lowest

acceptable partial assignment of the package.400

231. Every CBG in a package bid must be in the same state, but we do not limit the total

amount of implied support that may be included in a single package.401 Different CBGs in the bid may

396 These benefits are noted by ACA. See ACA Reply at Attach. at 13.

397 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6262, para. 83.

398 For example, for a T+L weight of 45 (a Baseline bid with low latency), a bid of 45 would imply support of 0:

implied support equals the lower of the reserve price R, and {(45-45)/100}\*R, which is 0. Such a bid would not be

acceptable. A bid made at a price point percentage of 46 or higher, however, would be acceptable, since it is at least

1 percent higher than the reserve price: {(46-45)/100}\*R equals (1/100)\*R.

399 See ACA Reply at Attach. at 13-14.

400 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6264, para. 90. For example, a bidder may specify a

package of five CBGs with a minimum scale percentage of 75 percent. Assume that the total implied support for the

five CBGs is $100. The bidding system may assign any or all of the five CBGs as long as the total implied support

for the assigned CBGs is at least $75. When determining whether the minimum scale condition is met, the system

will use support amounts as implied at the bid percentage.

401 We are not persuaded by U.S. Cellular’s argument to limit packages to the county level so as to limit the ability

of larger carriers to use package bidding to engage in undesirable strategic manipulation of the auction. See U.S.

Cellular Comments at 12-14. U.S. Cellular does not describe how it believes such manipulation would take place,

and further, its frequent references to its own and other entities’ comments in other auction proceedings indicate that

it believes that the rules and dynamics of significantly different package bidding proposals are applicable here. For

example, U.S. Cellular refers to “combinatorial” bidding and claims that package bidding “drastically increases the

number of bid possibilities.” Id. at 3, 10. Under the rules that were proposed and that we adopt, no combinations of

bids are considered when assigning winning bids, and because a bidder can include a given area in at most one bid

per round, the number of bids can only decrease. We also decline to adopt USTelecom’s suggestion to limit the

number of CBGs allowed in a package to 25 in conjunction with raising the minimum scale percentage to 100

percent. See USTelecom Dec. 1, 2017 Ex Parte Letter at 1. We find that the effects of such a limit would be

extremely uneven, given the variation in the numbers of CBGs per state and in the number of locations per CBG.

And for the reasons cited below, we decline to increase the minimum scale percentage to 100 percent.

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have different performance tier and latency combinations. For a given round, a CBG can appear in at

most one bid—either a single bid or a package bid—submitted by the bidder.

232. Commenters that address our proposed package bidding procedures generally either

oppose allowing package bids or favor a stronger form of package bidding that would reduce or eliminate

the scope for assigning fewer than all of the areas in a package. After considering the arguments,

however, we adopt a minimum scale percentage slightly modified from our proposed percentage and find

that doing so correctly balances the needs of all parties and best promotes the goals of the Phase II

auction.

233. Those commenters that oppose a package bidding option argue that it adds complexity to

the auction process and/or that the proposed procedures create a strategic disadvantage for bidders with

more narrowly targeted bidding interests.402 We disagree with both assertions.

234. Regarding concerns about potential complexity, we emphasize that the use of package

bidding is optional: A bidder that is not interested in package bidding can bid for support in individual

areas just as though there were no package bidding provisions. The bidding experience for a bidder that

chooses not to use package bidding will be no more complicated than if package bidding were not an

option. Additionally, the package bidding procedures we adopt include measures that minimize

complexity. Because all bidders will be limited to placing only one bid on a CBG in a round, and because

the implied support amount of a package bid is simply the sum of the implied support amounts of the

CBGs in the package—that is, the bidding system does not have any inherent bias toward assigning

packages—the option of package bidding does not increase the number of options a bidder has to

consider. Bid options regarding packages are also simplified by a constraint on the composition of

packages after the clearing round: Once a bidder bids for a package, it can only bid on the same package

or smaller subsets of the package in subsequent rounds.

235. Moreover, and importantly, the bidder’s chances of winning support for an area cannot be

reduced if a competing bid for an area is submitted as part of a package bid rather than as an individual

area bid, as some commenters suggest would occur.403 That is, a large bidder cannot increase its chances

of winning support for an area by including the area in a package with many other areas, thereby

disadvantaging a bidder with narrower bidding interests also competing for the area. Under the bid

processing rules we adopt, bids are considered for assignment in ascending bid percentage order, so a

package bid including an area cannot win over an individual area bid at a lower bid percentage.404

Furthermore, because a bidder can include a given area in only one bid, the information available to

bidders regarding the number of bids placed for an area will accurately reflect the number of bidders for

402 See, e.g., ACA Comments at 7; U.S. Cellular Comments at 2-14; Hughes Reply at 5; Rural Coalition Comments

at 7; WISPA Comments at 26; RWA Reply at 1-6. But see ACA Nov. 21, 2017 Ex Parte Letter at 2 (supporting

package bidding if census blocks were the minimum geographic unit for bidding).

403 The particular bidding and assignment rules we adopt here are significantly different from package bidding

formats the Commission has considered in other contexts and work together to simplify the bidding process and

eliminate the potential for undesirable strategic behavior. Some commenters appear to be thinking of other package

bidding formats, such as that proposed for Auction 31, where there can be a coordination problem for bidders in

individual areas in trying to compete against a package bid, as evidenced by such comments as “to the extent larger

carriers’ package bids included rural sparsely populated rural areas, smaller carriers targeting these sparsely

populated areas would have difficulty competing against the package bids of larger carriers.” U.S. Cellular

Comments at 6-7 & n.17 (citing AWS-3 Comments); id. at 10 n.28 (referring to complexity of combinatorial

bidding in Auction 31); see also RWA Reply at 2-3; Rural Coalition Reply at 4.

404 However, it is possible that an individual bid for an area may win over a package bid (including the area) that is

submitted at a lower bid percentage if the minimum scale percentage of the package bid cannot be met when the

package bid is considered (because other areas in the package already were assigned). Bid assignment procedures

are set forth in Section [[IV.B.4 (Bid Processing)]], and the Bureaus’ forthcoming technical guide will provide

examples.

(continued….)

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the area, which eliminates any ability for a package bidder to manipulate information about competition

by including a given area in multiple packages. With package bids, a bidder can bid for no more and no

fewer areas than it can with individual area bids, so a package bidding option does not complicate bid

processing by increasing the number of bids that must be evaluated by the auction system or bidders.

236. Some commenters urge us to modify the proposed package bidding procedures to give a

bidder greater control over whether a partial package is assigned. USTelecom, AT&T, and Verizon

suggest increasing the cap on the minimum scale percentage from the proposed 80 percent to 90 percent

or even 100 percent.405 We decline to do so, however, because a higher minimum scale percentage could

prevent support from being assigned to a potentially much larger number of areas, as stated in the CAF II

Auction Comment Public Notice, thereby increasing the risk of unspent funds in the Phase II auction.406

Under the bid processing procedures we adopt, when determining the clearing percentage, the bidding

system allows for funds in the budget to cover support to assigned areas and to unassigned areas with

competing bids at the base clock percentage. If a package bid at the base clock percentage cannot be

assigned in subsequent rounds because the competing bids continue to keep the minimum scale

percentage from being met, the support amounts for the unassigned areas in the package are not used. A

high minimum scale percentage, especially one approaching 100 percent, will be harder to meet,

increasing the likelihood that the package cannot be assigned and increasing the likelihood that the

support amounts for some areas in unassigned package bids will remain unspent.

237. For this reason, another commenter suggests that even the proposed minimum scale

percentage of 80 percent creates too high a possibility of unspent funds.407 In response to this concern, we

find that a 75 percent cap on the minimum scale percentage will appropriately balance a package bidder’s

interest in ensuring an adequate scale of support for an aggregation of areas with the public interest in

distributing Phase II monies as efficiently as possible.

238. We also are not persuaded that we should adopt other suggestions to give a bidder greater

control over partial package assignments. We will not allow a bidder to specify that a package bid not be

assigned unless certain CBGs can be awarded support, as a commenter suggests.408 Such a rule would

make it more likely that a package bid could not be assigned and, as with raising the cap on the minimum

scale percentage, also increases the risk of unused funds. We further decline a suggestion to allow

package bidders to specify a minimum assigned density for a package rather than a minimum scale of

funding409 because this approach would complicate bidding and bid processing procedures.

239. To help all bidders—both large and small—understand the bidding procedures related to

package bidding, the Bureaus will provide further educational opportunities and materials well in advance

of the auction. This should help bidders determine how best to place their bids and whether to make use

of package bidding.

405 See USTelecom Comments at 6-8; AT&T Reply at 6-7; Verizon Reply at 2-3; see also USTelecom Dec. 1, 2017

Ex Parte Letter at 1 (suggesting a limit on the number of CBGs allowed in a package in conjunction with a

minimum scale percentage of 100 percent). For the reasons cited above, we decline to impose an additional limit on

the number of CBGs permitted in a package and to increase the minimum scale percentage to 100 percent.

406 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6264, para. 92 (proposing an upper limit of less than

100 percent so that small overlaps in the areas included in package bids do not prevent support from being assigned

to a potentially much larger number of areas). The Rural Coalition has expressed concern over unspent funds in this

context. See Rural Coalition Comments at 14.

407 See Rural Coalition Reply at 6.

408 See Sacred Wind Comments at 5-7; see also AT&T Reply at 7-8 (agreeing with Sacred Wind’s proposal).

409 See AT&T Reply at 8-9.

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f. Bids Placed by Proxy Bidding Instructions

240. We adopt procedures to give a bidder the option of placing bids via proxy bidding

instructions in Auction 903, as proposed in the CAF II Auction Comment Public Notice.410 These

procedures will reduce a bidder’s need to submit bids manually every bidding round and provide the

bidder with a safeguard against accidentally failing to submit a bid, as long as the bidding percentage of

the proxy instruction is below the current round’s base clock percentage.411 Proxy procedures will make

it possible for a bidder to simplify greatly its auction participation by setting its proxy instruction at the

lowest amount of support that the bidder is willing to accept, so that the bidder need not bid again in the

auction.

241. Specifically, when a bidder places a bid, the bidder may specify a price point percentage

that is below the base clock percentage for the round in which the bid is placed.412 Doing so results in

both a bid at the current round’s base clock percentage and proxy instructions for bids at lower

percentages in subsequent rounds. The bidding system will generate a bid in any subsequent bidding

round in which the percentage specified in the proxy instruction (the “proxy bid percentage”) is equal to

or below the base clock percentage for the round. If the proxy bid percentage is greater than the base

clock percentage of a round but lower than the prior round’s base clock percentage, then the bidding

system will generate a bid at the proxy bid percentage. If the proxy instruction is not subsequently

updated, this will be the last round in which the proxy instruction will automatically place a bid.

242. Bids generated according to proxy instructions will be processed in the same way as any

other bids placed in the auction. Proxy instructions may be used for bids for individual areas and for

package bids. Proxy instructions will carry forward in rounds after the clearing round for areas that have

not been assigned, as long as the proxy bid percentage is still valid.413 A bidder may override a bid

generated according to proxy instruction, cancel, or enter new proxy bidding instructions at any time

during a round.

243. Bidders are responsible for actively monitoring the status of their bids, including any

proxy instructions as well as the overall progress of the auction, using the reports and files available in the

bidding system. The Commission will not provide additional alerts to bidders that their proxy

instructions are expiring, as one commenter suggests.414 Providing bidding-related information only

through the bidding system assures that non-public information is available only to individuals that are

authorized bidders for entities that have been found qualified to bid through our pre-auction processes.

This is consistent with our anonymous bidding procedures, protects against possible misuse of bidding

information, and promotes auction integrity.

244. As the Commission proposed,415 proxy bidding instructions will be treated as confidential

information and will not be disclosed to the public at any time after the auction concludes, because they

may reveal private cost information that would not otherwise be made public (e.g., if proxy bidding

instructions are not fully implemented because the base clock percentage does not fall as low as the

410 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6265, paras. 94-95.

411 Commenters IEC, ACA, and the Rural Coalition support the availability of proxy bidding in Auction 903. See

IEC Comments at 5; ACA Reply at Attach. at 4; Rural Coalition Reply at 7.

412 A bidder may not specify a price point that is lower than T+L+1. See supra Section [[IV.B.3.d.iii (Acceptable

Bid Amounts)]].

413 As set forth below, proxy instructions will carry forward after the budget clears, including proxy instructions for

packages and any unassigned remainder areas in the package that carry forward. See infra Section [[IV.B.4.c (Bids

and Bid Processing in Rounds after the Clearing Round).]]

414 See IEC Comments at 5.

415 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6265, para. 97.

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specified proxy percentage).416

g. Activity Rules

245. We adopt activity rules to encourage bidders to express their bidding interests early and

consistently, which will generate reliable information for bidders about the level of bidding in the various

CBGs in the auction. As proposed, and for the reasons explained in the CAF II Auction Comment Public

Notice, a bidder’s overall bidding activity in a round, measured as the sum of implied support dollars for

all its bids, may not exceed the bidder’s activity from the previous round.417 We also adopt a switching

rule, slightly modified from the proposal in the CAF II Auction Comment Public Notice, to limit a

bidder’s ability in a round to switch to areas on which it did not bid at the base clock percentage of the

previous round. This switching ability is based on a certain percentage of the implied support of the

bidder’s bids at the base clock percentage in the previous round.418 We additionally adopt our proposal to

give the Bureaus discretion to change the switching percentage, with notice, during the auction, although

we do not at this time anticipate needing to do so.419

246. Instead of the uniform ten percent switching percentage proposed in the CAF II Auction

Comment Public Notice, we adopt a switching percentage of twenty percent for the second bidding round

of the auction only. Therefore, a bidder’s activity in the second round of the auction for areas on which it

did not bid at the first round’s base clock percentage may not exceed twenty percent of its total implied

support from bids at the first round’s base clock percentage. We make this change in the switching

percentage for the second round in response to several commenters that favor a higher switching

percentage to give bidders greater flexibility to shift their bidding as information is revealed about the

extent of competition for various areas.420 In this regard, the ability to switch bidding areas will be most

useful in the second round because the greatest amount of new information about bidding across CBGs

will be made available after the first round of bidding.

247. We limit the higher switching percentage to the second round, however, to encourage an

orderly bidding process that generates reliable information about aggregate cost and competition across

areas. Accordingly, for the third and subsequent rounds up until the budget has cleared, the switching

percentage will be ten percent, as proposed.421 No switching of areas is permitted after the clearing round,

since bidding in any additional round is limited to areas with bids at the previous base clock percentage

that have not been assigned.422

416 However, the amount of support associated with any assigned bid will be publicly disclosed, after the close of

bidding and announcement of auction results, regardless of whether the bid was placed by the bidder or by the

bidding system according to proxy bidding instructions.

417 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6265, para. 98.

418 Note that a bidder’s activity considers all bids at the bid percentage of each bid, which may not be the base clock

percentage, while the switching percentage is based only on the bidder’s bids at the base clock percentage.

419 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6266, para. 99.

420 USTelecom proposes a decreasing switching percentage that would start at 100 percent and be reduced in

subsequent rounds. See USTelecom Comments at 9-11. USTelecom asserts that such flexibility would be

especially useful in earlier rounds when the amount of new information is greatest. Id.at 10. Several reply

commenters support the USTelecom proposal or a version thereof. See Verizon Reply at 3; Hughes Reply at 6; see

also WISPA Reply at 19 (proposing unlimited switching if package bidding were impermissible).

421 ACA supports the proposed uniform ten percent switching percentage. See ACA Reply at 11-12.

422 If bids for additional areas were permitted after the budget cleared, there could be insufficient funds in the budget

to support them.

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4. Bid Processing

248. We adopt the bid processing procedures we proposed.423 Except as noted below, we

received little comment on these procedures.

249. Once a bidding round closes, the bidding system will consider the submitted bids to

determine whether an additional round of bidding at a lower base clock percentage is needed to bring the

amount of requested support down to a level within the Phase II auction budget.424 If the total requested

support at the base clock percentage exceeds the budget, the bidding system will initiate another bidding

round with a lower base clock percentage.

250. If, instead, the system determines that the total requested support from bids at the base

clock percentage has fallen to an amount within the budget, the just-concluded round will be deemed the

clearing round, and the bidding system will begin the process of assigning winning bids and determining

support amounts using a second price rule. If, in the clearing round, there are multiple bids for any area at

the base clock percentage, the bidding system will commence another round of bidding to resolve the

competition for support in those areas only.

251. After the clearing round, bidding rounds will continue for these areas at lower base clock

percentages until, for each of the contested areas, there is a single lowest bid. The winning bidder for an

area will then generally be assigned support at the price point percentage of the second lowest bid.425

252. As a result of these bid processing procedures, the bids that can be assigned under the

budget in the clearing round and in any later rounds will determine the areas that will be provided support

under Phase II. At most, one bid per area will be assigned support. The specifications of that bid, in turn,

determine the performance tier and latency combination at which service will be provided to the locations

in the eligible census blocks in the area.

253. The bid processing procedures we adopt fall into three categories: before, during, and

after the round in which the budget clears. We address them in order below. Additional details and

examples of bid processing will be provided in the technical guide released by the Bureaus.

a. Bid Processing in Rounds before the Clearing Round

(i) Aggregate Cost at the Base Clock Percentage

254. After each bidding round until the budget has cleared, in order to determine whether the

budget will clear in that round, the bidding system will calculate an “aggregate cost,” an estimate of what

it would cost to assign support at the base clock percentage to the bids submitted in the round.

Specifically, the aggregate cost is the sum of the implied support amounts for all the areas receiving bids

at the base clock percentage for the round, evaluated at the base clock percentage. The calculation counts

support for each area only once, even if the area receives bids, potentially including package bids, from

multiple bidders. If there are multiple bids for an area at different performance tier and latency

combinations, the calculation uses the bid with the highest implied support amount. If the aggregate cost

for the round exceeds the budget, the bidding system will implement another regular bidding round with a

lower base clock percentage.

(ii) Clearing Determination

255. The first round in which the aggregate cost, as calculated above, is less than or equal to

the overall support budget is deemed the clearing round. In the clearing round, the bidding system will

further process bids submitted in the round, to determine those areas that can be assigned and the support

423 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6266-67, paras. 102-06.

424 See infra Section [[IV.B.4.a.i]] (Aggregate Cost at the Base Clock Percentage) (discussing how requested support

in this context is calculated).

425 To clarify, the winning bidder’s T+L will be used in calculating assigned support.

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amounts winning bidders will receive. Once the clearing round has been identified, the system no longer

calculates the aggregate cost, even if there are subsequent bidding rounds.

b. Bid Processing in the Clearing Round

256. In the clearing round, the bidding system will consider bids in more detail to determine

those bids that can be assigned in that round; the “second prices” corresponding to those bids, subject to

post-auction application review; and those bids that will carry over for bidding in an additional bidding

round or rounds. We set forth our procedures for these determinations below.

257. Until the clearing round, the auction is generally driven by cross-area competition for the

budget, and implied support amounts for all areas are reduced in proportion to the reduction in the base

clock. In estimating cost, the system does not determine which of the multiple bids competing for support

in the same area will be assigned, although it does take into account that only one bid per area may be

assigned. Processing during the clearing round and subsequent rounds considers intra-area competition as

well, assigning support to bids at the lowest bid percentage for a given area, as long as any assigned

package bids meet the bid’s minimum scale percentage. Bid processing in the clearing round also

determines support amounts for assigned bids according to a second-price rule, so that bids are supported

at a price percentage at least as high as the bid percentage.

(i) Assignment

258. Once the bid processing procedures establish that the current round is the clearing round,

the bidding system will begin to assign winning bids with support to at most one bid for a given area.

The system will first assign bids made at the base clock percentage for areas not bid on by another bidder

at the base clock percentage. Any package bids at the base clock percentage that include areas bid on by

another bidder at the base clock percentage must meet the package bidder’s minimum scale percentage

without those areas in order to be assigned.

259. The system then considers all other bids submitted in the round in ascending order of

price point percentage to see if additional bids can be assigned and, considering the bids assigned so far,

to determine the highest price point percentage at which the total support cost of the assigned bids does

not exceed the budget (the “clearing price point”).426 Bids at price point percentages above the clearing

price point are not assigned.

260. As it considers bids in ascending price point percentage order, the system assigns a bid if

no other bid for the same area has already been assigned, as long as the area did not receive any bid at the

base clock percentage and the areas to be assigned in a package bid meet the bid’s minimum scale

percentage.427 The bidding system also checks to ensure that sufficient budget is available to assign the

bid.428

261. To determine whether there is sufficient budget to support a bid as it is considered for

assignment, the bidding system keeps a running sum of support costs.

262. At each ascending price point increment, starting at the base clock percentage, the

running cost calculation is the sum of support for three types of bids. First, for assigned bids for which

there were no other bids for support for their respective areas at price points lower than the currently

considered price point percentage, the system calculates the cost of providing support as the amount of

support implied by the currently considered price point. Second, for assigned bids for areas that did

426 Recall that a bid may be placed at any price point percentage equal to or greater than the current base clock

percentage and less than the previous round’s base clock percentage.

427 Ties are broken by using the highest pseudo-random numbers.

428 If the bidding system encounters a bid that cannot be supported within the remaining budget, it will skip that bid

and continue to consider other bids in ascending price point percentage order.

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receive other bids at price points lower than the currently considered price point, support is generally

calculated as the amount implied by the next-higher price point at which the area received a bid (where

next-higher is relative to the price point of the assigned bid, not the currently considered price point).429

Third, areas bid at the base clock percentage that were not assigned in the round are evaluated as they are

in the pre-clearing aggregate cost calculation: only one bid per area is included in the calculation, and if

there are bids for an area at different performance tier and latency combinations, the calculation uses the

bid with the highest implied support amount, all evaluated at the base clock percentage.

263. The bidding system continues to assign bids meeting the assignment criteria in ascending

price point order as long as the cost calculation does not exceed the budget. The highest price point at

which the running total cost will not exceed the budget is identified as the clearing price point.

(ii) Support Amount Determination

264. Bids that are assigned for areas that receive no other bids at less than the clearing price

point are supported at an amount implied by the clearing price point percentage.

265. Bids assigned in the clearing round, when there is also a bid for the area at a price point

below the clearing price point, are generally supported at an amount determined by the bid percentage of

the lowest unassigned bid for the area.430 For example, applying the second price rule, if there are two

bids for an area, the lower bid is supported at the bid price point percentage of the higher bid.

c. Bids and Bid Processing in Rounds after the Clearing Round

(i) Carried-Forward and Acceptable Bids

266. After the clearing round, there will be further bidding to resolve competition for areas

where more than one bidder is still bidding for support at the base clock percentage in the clearing round.

After the clearing round and any subsequent round, bidding will continue only for areas where there were

multiple bids at the previous round’s base clock percentage that could not be assigned. Such bids may

have been for a given unassigned area that received multiple single bids, package bids that were not

assigned because the bidder’s minimum scale percentage for the package was not met, or remainders of

package bids—unassigned areas from package bids that were partially assigned.

267. As the Commission proposed,431 bids at the base clock percentage for unassigned areas

will carry over automatically to the next bidding round at the previous round’s base clock percentage,

since the bidder had previously placed a bid at that percentage. In the round into which the bids are

carried forward, a bidder with a carried-forward bid for an area may also bid for support for these areas at

the current round’s base clock percentage or at intermediate price points. In rounds after the clearing

round, a bidder cannot switch to bidding for an area for which it did not bid in the previous round.432

268. Although a bid for an unassigned package will carry over at the previous clock

percentage, the bidder for such a package may group the bids for the areas in the package into smaller

packages and bid on those smaller packages at current round percentages.433 However, the unassigned

429 The only exception to this arises if there is a bid for the area with a bid percentage below the bid percentage of

the assigned bid for the area and the former bid cannot be assigned because it is a package bid that does not meet the

minimum scale percentage. In that case, the support is calculated as the amount implied by the bid percentage of the

assigned bid.

430 Exceptions are that if the bid percentage of the lowest unassigned bid for the area is less than (e.g., a package bid

that did not meet the minimum scale percentage) or equal to (i.e., tied with) the bid percentage of the assigned bid,

then the assigned bid is supported at its own bid percentage.

431 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6270, para. 126.

432 A commenter appears to suggest that bidders be able to switch to bidding in different areas after the clearing

round. See Hughes Comments at 8-9. As addressed above, we decline to adopt that change.

433 See USTelecom Comments at 8-9 (noting the importance of this proposal).

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remainders of assigned package bids—that is, the areas for which there are competing bids—will carry

over as individual area bids. Any bids the bidder places for the remainder areas at the new round

percentages must be submitted as individual area bids—that is, the bidder cannot create a new package of

any of the unassigned remainders.

269. If a proxy instruction is at a price point percentage below the base clock percentage of the

previous round, it will continue to apply in rounds after the clearing round under the same conditions that

apply to other bids. For package bids made by proxy that are only partially assigned because there are

multiple bids at the base clock percentage, the proxy instructions will continue to apply to the unassigned

areas in the package bid. That is, the price point percentage specified in the proxy instructions will apply

to each of the individual remainder areas.

(ii) Bid Processing in Rounds After the Clearing Round

270. As in the clearing round, in subsequent rounds, the system considers bids for assignment

and support amount determination in ascending price point percentage order. The system first considers

bids at the new round’s base clock percentage. The system will assign any bids for areas that received no

other bids at the base clock percentage as long as any package bid meets the minimum scale percentage of

the bid. The system then processes bids in ascending price point order, assigning those bids for as yet

unassigned areas, as long as any package bids meet the minimum scale condition.

271. If there is only one bid for an area in a round in addition to a carried-forward bid or bids,

the assigned bid is paid at the base clock percentage for the previous round, consistent with the second-

price rule. If an assigned bid is for an area that received more than one bid in the round, the assigned bid

is supported at the next higher price point percentage at which there is a bid for the area.434

272. If there is more than one bid for an area at the current base clock percentage, there will be

another bidding round at a lower base clock percentage, with the same restrictions on bids and following

the same assignment and pricing procedures.435

C. Availability of Bidding Information

273. As in past Commission auctions, bidders will have secure access to certain non-public

bidding information while bidding is ongoing. As proposed,436 after each round ends, and before the next

round begins, we will make the following information available to individual bidders:

• The base clock percentage for the upcoming round.

• The aggregate cost at the previous round’s base clock percentage up until the budget clears.

o The aggregate cost at the base clock percentage is not disclosed for the clearing round or

any later round.

• The bidder’s activity, based on all bids in the previous round, and activity based on bids at the

base clock percentage.

o In rounds after the clearing round, the bidder’s assigned support and the implied support

of its carried-forward bids will be available.

434 The only exception to this arises when there is a bid for the area with a bid percentage below the bid percentage

of the winning bid for the area and the former bid cannot be assigned because it is a package bid that does not meet

the minimum scale percentage. In that case, the support is calculated as the amount implied by the bid percentage of

the winning bid.

435 If all bidders for an area with carried forward bids decline to submit lower bids in a subsequent round, the bid

with the highest pseudo-random number will be considered first for assignment according to our tie breaking

procedures.

436 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6271-72, para. 135.

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• Summary statistics of the bidder’s bidding in the previous round, including:437

o The number of CBGs for which it bid, at the base clock percentage and at other price

points, and for which proxy instructions are in effect for future rounds.

o After the clearing round, CBGs and support amounts it has been assigned and those for

which it is still bidding, including a list of its carried-forward bids.

• For all eligible areas in all states, including those in which the bidder was not qualified to bid or is

not bidding, whether the number of bidders that placed bids at the previous round’s base clock

percentage was 0, 1, or 2 or more.

o The performance tier and latency combinations of the bids are not disclosed.

o For the clearing round and any subsequent round, bidders are also informed about which

areas have been assigned.

274. Prior to each round, as proposed, we will also make available to individual bidders the

implied support amounts, corresponding to the areas and performance tier and latency combinations for

which they are eligible to bid.438 These implied support amounts are calculated at the round’s base clock

percentage.

275. In adopting these proposals, we balance our interest in providing bidders with sufficient

information about the status of their own bids and bidding across all eligible areas to allow them to bid

confidently and effectively, while restricting the availability of information that may facilitate

identification of bidders placing particular bids, which could potentially lead to undesirable strategic

bidding.439

276. We adopt the proposal to withhold information on the progress of the auction from the

general public until after the close of bidding when auction results are announced.440 Accordingly, during

the auction, the public will not have access to such interim information as the current round, base clock

percentage, aggregate cost, or any summary statistics on bidding or assigned bids that may reveal or

suggest the identities of bidders associated with any specific bids. Although auction participants will

have access to information that is needed to inform their bidding, such information will be made publicly

available only after the close of the auction in order to help preserve the integrity of the auction while it is

in progress.

277. As proposed in the CAF II Auction Comment Public Notice,441 after the close of bidding

and announcement of auction results, we will make publicly available all bidding data, except for proxy

bidding instructions.442 This promotes our interest in a transparent auction process and is consistent with

the Commission’s typical practice post-auction.443

437 A bidder will also have access to a downloadable file with all its bids submitted for each round.

438 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6272, para. 136.

439 See id. at 6271, para. 135.

440 See id. at 6273, para. 140.

441 Id. at 6273, para. 141.

442 Bidding data does not include the confidential short-form application information that we address in Section

[[II.F]] (Procedures for Limited Disclosure of Application Information).

443 See, e.g., Auction 901 Procedures Public Notice, 27 FCC Rcd at 4766-67, para. 147; Auction 97 Procedures

Public Notice, 29 FCC Rcd at 8428-29, para. 149. No commenter objected to the Commission’s proposal even

though the Phase II auction bidding data released would presumably include bids for eligible areas that do not

receive Phase II support (and information about which areas did not receive bids) and that therefore may be eligible

for Remote Areas Fund (RAF) support in a subsequent auction.

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D. Closing Conditions

278. As proposed,444 the auction will end once the overall budget has cleared and there are no

longer competing bids for any areas.

279. We recognize, as some commenters observe, that the procedures we adopt in this Public

Notice may result in some fraction of the budget not being awarded. We disagree, however, with the

Rural Coalition that the particular circumstances to which they refer are likely to occur and that if they

were to occur, that they would have a significant impact on the assigned budget.445

280. Specifically, the Rural Coalition suggests that a significant fraction of bidders could drop

out of bidding between one round and the next so that requested support suddenly falls far below the

budget, leaving unspent funds.446 We find that scenario to be unrealistic for several reasons. The diverse

pool of bidders, areas, and technologies that we expect to be represented in the auction mean that bidders

will likely drop out over a wide range of price points rather than all at a given base clock percentage.

Moreover, a bidder will have an incentive to indicate precisely within the range of acceptable bid amounts

the point at which it wishes to stop bidding in order to increase its chances of being assigned support,

rather than dropping out at the base clock percentage of the previous round, as the Rural Coalition

suggests. Further, the size of the bidding decrement will be set taking into account the extent to which

aggregate cost is decreasing from round to round, providing an additional means of minimizing the

chances that such an outcome could occur.447

281. The Rural Coalition also notes that there may be unassigned funds because package bids

may not be assigned due to the minimum scale percentage not being met.448 We acknowledge that this

may occur, but only under narrow circumstances. Some funds may remain unassigned when a package

bid carries over to bidding rounds after the clearing round and ultimately is not assigned because other

bids for areas in the package, which prevent the minimum scale percentage from being met, are assigned

at lower percentages. The likelihood of these circumstances resulting in significant unspent funds is

further minimized by the 80 percent cap on the minimum scale percentage and the procedures we adopt to

allow a package bidder to bid for subsets of its original package in rounds after the clearing round.449

282. Consequently, we do not modify our bid processing procedures to take these concerns

into account. We find that the bid processing procedures we adopt will ensure that the Phase II auction

budget will be assigned in the most cost-effective way possible while minimizing any unspent funds. As

444 See CAF II Auction Comment Public Notice, 32 FCC Rcd at 6271, para. 133.

445 The Rural Coalition outlines particular bidding scenarios and conditions under which a significant portion of the

budget is unspent. See Rural Coalition Comments at 12-15. Moreover, the possible remedies the Rural Coalition

suggests may further complicate the auction and interfere with current incentives for straightforward bidding that

allow the auction system to assign the most cost-effective bids. See Letter from Rebekah P. Goodheart, Jenner &

Block LLP, Counsel to Midwest Energy Cooperative, Association of Missouri Electric Cooperatives, Arkansas

Electric Cooperatives, Inc. et al., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, at 3 (filed July 26,

2017) (Rural Coalition July 26, 2017 Ex Parte Letter).

446 See Rural Coalition Comments at 13-14; see also Rural Coalition July 26, 2017 Ex Parte Letter at 3.

447 Reducing the size of the decrement is among the remedies suggested by the Rural Coalition. See Rural Coalition

July 26, 2017 Ex Parte Letter at 3.

448 See Rural Coalition Comments at 14; Rural Coalition Reply at 5-6. Additionally, the Rural Coalition asserts that

a package bidder may “drive[] out all competition.” Rural Coalition Reply at 5. We find this statement unclear

since a bidder for an individual area that it is willing to accept a lower support amount will always win over the

package bidder. See supra Section [[IV.B.3.e]] (Bids for a Package of Areas).

449 See supra Sections [[IV.B.3.e (Bids for a Package of Areas) and IV.B.4.c.i (Carried-Forward and Acceptable

Bids)]].

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we have made clear in this proceeding, the Phase II auction is not expected to be the last universal service

proceeding for fixed voice and broadband services.450

E. Auction Announcements

283. The Bureaus will use auction announcements to report necessary information to bidders.

All auction announcements will be available by clicking a link in the CAF II Bidding System.

F. Auction Results

284. The Bureaus will determine the winning bids as described elsewhere in this Public

Notice.451 After the Bureaus announce the auction results, they will provide a means for the public to

view and download bidding and results data.

V. POST-AUCTION PROCEDURES

A. General Information Regarding Long-Form Applications

285. For the Phase II auction, the Commission adopted a two-phase auction application

process. Pursuant to section 1.21004(a), each Auction 903 winning bidder is required to file an

application for Phase II support, referred to as a long-form application, by the applicable deadline.452

Shortly after bidding has ended, the Bureaus will issue a public notice declaring the auction closed,

identifying the winning bidders, and establishing the deadline for the long-form application. Winning

bidders will use the new FCC Form 683 and the Auction Application System to submit their long-form

applications. Details regarding the submission and processing of long-form applications will be provided

in a public notice after the close of the bidding. After a long-form applicant’s application has been

reviewed and is considered to be complete, and the long-form applicant has submitted an acceptable letter

of credit and accompanying Bankruptcy Code opinion letter as described below, a public notice will be

released authorizing the long-form applicant to receive Phase II support.453

B. Long-Form Application: Disclosures and Certifications

286. Unless otherwise provided by public notice, within 10 business days after release of the

Auction 903 closing public notice, a long-form applicant must electronically submit a properly completed

long-form application (FCC Form 683) for the areas for which it (or its parent/holding company or

consortium/joint venture) was deemed a winning bidder. Further instructions and filing requirements will

be provided to winning bidders in the auction closing public notice.

1. Ownership Disclosure

287. A long-form applicant must fully disclose in its long-form application its ownership

structure as well as information regarding the real party- or parties-in-interest in the applicant or

application as set forth in section 1.2112(a).454 A long-form applicant will already have ownership

information on file with the Commission that was submitted in its short-form application during the pre-

450 See Phase II Auction Order, 31 FCC Rcd at 6018-20, 6025, paras. 195-204, 221 (discussing the Remote Areas

Fund auction, which will occur after the Phase II auction; noting that the outcome of the Phase II auction will be

observed before making final decisions on the Remote Areas Fund auction; and suggesting that ensuring adequate

service to all rural Americans may be viewed holistically).

451 See supra Section [[IV.B.4.b]] (Bid Processing in the Clearing Round).

452 47 CFR § 1.21004(a). As noted above, if the winning bidder is a holding/parent company or a consortium/joint

venture that decides to designate an operating company as the entity that will be authorized to receive Phase II

support, that operating company must file the long-form application in its own name.

453 As noted above, we refer to an authorized long-form applicant as a “support recipient.”

454 47 CFR §§ 1.2112(a), 54.315(b)(2)(i).

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auction process, which may simply need to be updated as necessary.

2. General Universal Service Certifications

288. A long-form applicant must certify in its long-form application that it is in compliance

with all statutory and regulatory requirements for receiving the universal service support that it seeks as of

the long-form application filing deadline,455 or that it will be in compliance with such requirements before

being authorized to receive Phase II support. A long-form applicant must also certify that it will comply

with all program requirements, including service milestones.456

289. In addition, a long-form applicant must certify that it is aware that if it is not authorized

to receive support based on its application, the application may be dismissed without further consideration

and penalties may apply.457

290. We also decline to require a long-form applicant to certify that it “will not use facilities

constructed to provide voice and broadband service using Phase II support in eligible areas to provide any

service in ineligible areas.”458 We conclude that such a certification is unnecessary because we already

require a long-form applicant to certify that it will “comply with all program requirements.”459 This

includes the requirement that all universal service support recipients “use that support only for the

provision, maintenance, and upgrading of facilities and services for which the support is intended.”460

Moreover, this includes the requirement that the states that designated Connect America support

recipients as ETCs (or the Connect America support recipients themselves if they were designated as

ETCs by the Commission) certify that the support was used for its intended purposes in the preceding

calendar year and will be used for its intended purposes in the coming calendar year.461

3. Financial and Technical Capability Certification

291. As in its pre-auction short-form application, a long-form applicant must certify in its

long-form application that it is financially and technically capable of meeting the relevant public interest

obligations for each performance tier and latency combination in the geographic areas in which it seeks

support.462 A long-form applicant should be aware that in making a certification to the Commission it

exposes itself to liability for a false certification. A long-form applicant should take care to review its

resources and its plans before making the required certification and be prepared to document its review, if

necessary.

4. Public Interest Obligations Certification

292. A long-form applicant must certify in its long-form application that it will meet the

relevant public interest obligations for each performance tier and latency combination for which it (or its

parent/holding company or consortium/joint venture) was deemed a winning bidder, including the

requirement that it will offer service at rates that are equal to or lower than the Commission’s reasonable

comparability benchmarks for fixed services offered in urban areas.463

455 47 CFR § 54.315(b)(2)(v).

456 Id.

457 47 CFR § 54.315(b)(6).

458 ACA Nov. 21, 2017 Ex Parte Letter at 2-3.

459 47 CFR § 54.315(b)(2)(v).

460 47 CFR § 54.7(a).

461 47 CFR § 54.314.

462 47 CFR §§ 54.310(e)(1); 54.315(b)(2)(ii); April 2014 Connect America Order, 29 FCC Rcd at 7066, para. 47.

463 47 CFR § 54.315(b)(2)(iii); Phase II Auction Order, 31 FCC Rcd at 5987-88, para. 114.

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5. Eligible Telecommunications Carrier Certification

293. A long-form applicant must acknowledge in its long-form application that it must be

designated as an ETC in the relevant areas prior to being authorized to receive Phase II support in those

areas.464 Specifically, the long-form applicant must certify that, if it has already been designated as an

ETC in the relevant areas, it has provided a certification of its status in each such area and the relevant

documentation supporting that certification in its long-form application. If the long-form applicant has

not yet been designated as an ETC in the relevant areas, the long-form applicant must certify that it will

submit a certification of its status as an ETC in each such area and the relevant documentation supporting

that certification prior to being authorized to receive such support. As described below, this certification

of ETC status and documentation must be submitted within 180 days after the release of the Auction 903

closing public notice.

6. Description of Technology and System Design

294. Pursuant to the Commission’s rules and as proposed in the CAF II Comment Public

Notice,465 each long-form applicant will be required to demonstrate that it is technically qualified to meet

the relevant Phase II public interest obligations in the areas covered by the winning bids by submitting

technical information to support the operational assertions made in the short-form application. A long-

form applicant is required to submit a detailed technology and system design description, including a

network diagram which must be certified by a professional engineer.466 The professional engineer must

certify that the network can deliver, to at least 95 percent of the required number of locations in each

relevant state, voice and broadband service that meets the requisite performance requirements.467 Because

it may take time for a long-form applicant to create a detailed technology and system design description

that is tailored to such areas, it may submit its technology and system design description in two stages.

295. Initial Overview. First, an applicant must submit with its long-form application (due

within 10 business days after the release of the Auction 903 closing public notice) an overview of its

intended technology and system design for each state in which winning bids were made. The overview

must describe at a high level how the long-form applicant will meet its Phase II public interest obligations

for the relevant performance tier and latency combination(s) using Phase II support (e.g., building a new

network or expanding an existing network, deploying new technology or existing technology). This

overview should avoid highly technical terminology or jargon unless such language is integral to the

understanding of the project. The overview will be made publicly available.

296. Detailed Description. Second, within 60 calendar days after the release of the Auction

903 closing public notice, a long-form applicant must submit, for each state in which winning bids were

made, a more detailed description of its technology and system design. This second submission must

describe the network to be built or upgraded, demonstrate the project’s feasibility, and include the

network diagram certified by a professional engineer.468 It must describe in detail a network that fully

supports the delivery of consumer voice and broadband service that meets the requisite performance

requirements to at least 95 percent of the required number of locations in each state by the end of the six-

year build-out period and for the duration of the 10-year support term, assuming a 70 percent subscription

rate by the final service milestone. It also must contain sufficient detail to demonstrate that the long-form

464 47 CFR § 54.315(b)(5).

465 CAF II Comment Public Notice, 32 FCC Rcd at 6247, 6257-58, paras. 29, 64; see also 47 CFR § 54.315(b)(iv).

466 47 CFR § 54.315(b)(2)(iv); Phase II Auction Order, 31 FCC Rcd at 5987-88, para. 114.

467 47 CFR § 54.315(b)(2)(iv); Phase II Auction Order, 31 FCC Rcd at 5987-88, para. 114.

468 A long-form applicant can submit the detailed description as early as its initial long-form application filing

deadline (i.e., within 10 business days after the release of the public notice announcing the close of Auction 903),

but no later than 60 calendar days after the public notice’s release.

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applicant can meet the interim service milestones if it becomes authorized to receive support. If a long-

form applicant submits a technology and system design description that lacks sufficient detail to

demonstrate that the long-form applicant has the technical qualifications to meet the relevant Phase II

obligations, the long-form applicant will be asked to provide further details about its proposed network.

We will treat all the information submitted with this second submission as confidential and will withhold

it from routine public inspection.469

297. Below, we provide guidance on how a long-form applicant can successfully meet the

requirement in section 54.315(b)(2)(iv) to provide a description of its technology and system design.

Specifically, we describe the types of information we would expect a long-form applicant to include, at a

minimum, in a detailed description of its technology and system design in order to demonstrate that it has

the technical qualifications to meet its Phase II obligations.470 Our guidance is informed by the types of

information that long-form applicants submitted for rural broadband experiment support during the long-

form application stage to demonstrate that they had the technical qualifications to meet the relevant rural

broadband experiment public interest obligations.471 These are also the types of information that we

expect a technically qualified long-form applicant will have made preliminary decisions about in order to

determine how much support it would need to meet the relevant Phase II auction public interest

obligations and also to begin planning how it will meet the required service milestones.

298. A long-form applicant, regardless of the technology (or technologies) it proposes to use,

is expected to:

• Describe the proposed last mile architecture(s) and technologies,472 middle mile/backhaul

topology,473 and the architecture used to provide voice service.474

• Describe the network’s scalability and features that improve reliability (such as redundancy).

• Indicate whether parts of the network will use the long-form applicant’s or another party’s

existing network facilities, including non-wireless facilities extending from the network to

customers’ locations. For non-wireless facilities that do not yet exist, the description should

indicate whether the new facilities will be aerial, buried, or underground.

• Provide technical information about the methods, “rules of thumb,” and engineering assumptions

used to size the capacity of the network’s nodes (or gateways) and links. The information

469 We will treat long-form applicants that submit this information as having made a request to treat this information

as confidential trade secrets and/or commercial information. See 47 CFR § 0.459(a)(4). If a request for public

inspection under section 0.461 is made, however, the long-form applicant will be notified and will be required to

justify confidential treatment of its request if the long-form applicant has any objections to disclosure. 47 CFR §

0.461.

470 We recognize that because a Phase II support recipient has six years to fully build out its network, the

information submitted by the long-form applicant may be based on a preliminary network design which may be

modified as the network is built out.

471 See Rural Broadband Experiments Order, 29 FCC Rcd at 8787, para. 54 (requiring rural broadband experiment

support recipients to “submit a description of the technology and system design used to deliver voice and broadband

service, including a network diagram, which must be certified by a professional engineer”).

472 Such architectures and technologies include, for example, wireless licensed or unlicensed, fiber, coaxial cable,

satellite, digital subscriber line, hybrids, etc.

473 For example, describe ring, mesh, tree and branch, and hybrid topologies.

474 This description should include the long-form applicant’s Session Initiation Protocol (SIP) proxies, session

border controllers, and various network databases. If the long-form applicant obtains these or other voice service

functions as services from another provider or providers (for example, an over-the-top VoIP provider, or an

incumbent or competitive local exchange carrier), the description should so indicate.

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provided should demonstrate how the required performance for the relevant performance tier will

be achieved during periods of peak usage, assuming a 70 percent subscription rate by the final

service milestone.475

• Provide a project plan that includes a network build-out schedule that includes but is not

restricted to plans for construction of last mile and middle mile facilities. The build-out schedule

should show the long-form applicant’s projected milestones on an annual basis, including

achievement of the interim service milestones described in section 54.310(c) of the Commission’s

rules and completion of the network by the end of the sixth year of funding authorization.476 The

project plan and included schedule should incorporate detailed information showing how the

long-form applicant plans to offer, to at least 95 percent of the required number of locations in

each relevant state, voice and broadband service meeting the relevant performance requirements

when the system is complete. The project plan and included schedule should also incorporate the

long-form applicant’s plans for monitoring and maintaining the performance of the service for the

duration of the 10-year support term.

299. The network diagram, which must be certified by a professional engineer, should:

• Identify all wireline and wireless segments of the proposed networks.

• Uniquely identify (i) major network nodes477 including their manufacturer and model, as well as

their functions, locations,478 and throughput/capacity;479 (ii) access nodes or gateways,480

including their technology, manufacturer and model, location, and throughput/capacity; and (iii)

major inter-nodal links (not last mile),481 and their throughput/capacity.

• Indicate how many locations will be offered service from each access node or from each gateway,

and which performance tier or tiers will be supported at each access node.

• Indicate what parts of the network will be new deployment and what parts will use the long-form

applicant’s or another party’s existing network facilities.

• Identify specialized nodes used in providing voice service.

• Explain how nodes or gateways are connected to the Internet backbone and Public Switched

475 We disagree with the suggestion that Commission staff should not assess the reasonableness of a long-form

applicant’s peak period usage assumptions because we are not willing to risk the potential for defaults by simply

assuming that a long-form applicant will make reasonable assumptions about its network. See WISPA Comments at

9.

476 47 CFR § 54.310(c); Phase II Auction Order, 31 FCC Rcd at 5964, para. 40.

477 Major nodes include but are not necessarily restricted to routers, SIP Proxies, softswitches, and databases used to

route Internet communications and voice calls; and Points of Interconnection with the Public Switched Telephone

Network and the Internet core.

478 A long-form applicant should provide addresses if available. To the extent latitude and longitude coordinates are

provided, a long-form applicant should include six digits after the decimal point.

479 Capacity should be measured in Gigabits per second for routers, calls per hour for SIP proxies and softswitches,

queries per minute for databases, and appropriate units for other nodes.

480 An access node connects a customer’s connection to the core of the network. Access nodes include wireless base

stations, digital subscriber line access modules, cable modem termination systems, and optical line terminations,

among others. Access nodes are sometimes referred to as aggregation nodes. When we reference gateways, we are

referring to the gateway earth stations used by satellite providers.

481 Include links that connect access nodes to the network core, among other major inter-nodal links. Each inter-

nodal link should be identified by specifying the nodes at the ends of the link.

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Telephone Network.

300. Additionally, a long-form applicant that proposes to use terrestrial fixed wireless

technologies should:

• Explain, with technical detail, how the proposed spectrum can meet or exceed the relevant

performance requirements at peak usage periods.482

• Provide the calculations used,483 for each performance tier and frequency band, to design the last

mile link budgets in both the upload and download directions at the cell edge,484 using the

technical specifications of the expected base station and customer premise equipment.

• Provide coverage maps for the planned and/or existing networks that will be used to meet the

Phase II public interest obligations, indicating where the upload and download speeds will meet

or exceed the relevant performance tier speed(s).485 The coverage maps should be provided for

each interim and final service milestone and should display the required service areas and target

locations (or a representation thereof).

• Describe the underlying propagation model used to prepare the coverage maps and how the

model incorporates the operating spectrum, antenna heights, distances, digital elevation, and

clutter resolutions.486

• Describe, for each relevant performance tier and latency combination, the base station equipment

that the long-form applicant plans to use.487

• Describe the planned customer premise equipment configuration.488

301. Additionally, a long-form applicant that proposes to use primarily satellite technologies

should:489

• Describe how many satellites that are in view simultaneously from any specific location will be

required to meet the relevant Phase II public interest obligations.

482 The justification should clearly define all relevant assumptions including, but not limited to, oversubscription

ratio, number of locations, spectrum efficiency, bandwidth, peak periods required user data rate, and peak periods

network loading.

483 This should include a description of all design assumptions, including, but not limited to, coverage reliability,

fade margins, required frame error rate, required signal-to-noise ratio, and modulation/coding scheme associated

with frame error rate and signal to noise ratio.

484 The term cell edge is commonly used to describe the edge of the base station coverage area beyond which

performance goals cannot be achieved.

485 Typically, a suitable received power figure or other technology dependent figure, is used for such coverage plots.

486 A long-form applicant should provide vendor references and publicly available publications for the utilized

model, digital elevation, and clutter data.

487 Such a description should include technology, speed, number of sectors, average number of subscribing locations

per sector, frequency band, channel bandwidth, frequency reuse, antenna gain, diversity configuration, estimated

losses, estimated height above ground, base station coordinate in NAD 83, and any other relevant information. A

long-form applicant should also include vendor specification data sheets or other supporting documents.

488 Such a description should include technology, applicable frequency band, speed options, antenna gain, diversity

scheme and modem specifications. A long-form applicant should also include vendor specification data sheets or

other supporting documents.

489 This does not include long-form applicants that intend to use satellite technologies primarily for backhaul.

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Describe how many uplink and downlink gateway antenna beams will be required on each

satellite, and the capacity of each beam in megabits per second.

• Describe how many uplink and downlink user antenna beams will be required on each satellite,

and the capacity of each beam in megabits per second.

• Describe how the gateway capacity is connected to user beams on the satellite, in terms of beams

and data capacity per beam.

• Describe whether the capacity on the uplink and downlink beams would be able to be reallocated

once a satellite commences operation, if the subscription rate is less than 70 percent in one beam

but more than 70 percent in another beam.

7. Available Funds Certification and Description

302. A long-form applicant must certify in its long-form application that it will have available

funds for all project costs that exceed the amount of Phase II support to be received for the first two years

of its support term.490 A long-form applicant must also describe how the required construction will be

funded in each state.491 The description should include the estimated project costs for all facilities that are

required to complete the project, including the costs of upgrading, replacing or otherwise modifying

existing facilities to expand coverage or meet performance requirements. The estimated costs must be

broken down to indicate the costs associated with each proposed service area at the state level, and must

specify how Phase II support and other funds, if applicable, will be used to complete the project. The

description must include financial projections demonstrating that the long-form applicant can cover the

necessary debt service payments over the life of any loans. We will treat all the information submitted

with this submission as confidential and will withhold it from routine public inspection.492

8. Spectrum Access

303. A long-form applicant that intends to use wireless technologies to meet the relevant

Phase II public interest obligations must demonstrate that it currently has sufficient access to spectrum.493

Specifically, as in its pre-auction short-form application, a long-form applicant must, in its long-form

application (i) identify the spectrum band(s) it will use for the last mile, backhaul, and any other parts of

the network;494 (ii) describe the total amount of uplink and downlink bandwidth (in megahertz) that it has

access to in each spectrum band for the last mile; (iii) describe the authorizations (including leases) it has

obtained to operate in the spectrum, if applicable;495 and (iv) list the call signs and/or application file

numbers associated with its spectrum authorizations, if applicable.496 To the extent that a long-form

490 47 CFR § 54.315(b)(2)(v); Phase II Auction Order, 31 FCC Rcd at 5989, para. 116.

491 47 CFR § 54.1005(b)(2)(vi); Phase II Auction Order, 31 FCC Rcd at 5989, para. 116.

492 We will treat long-form applicants that submit this information as having made a request to treat this information

as confidential trade secrets and/or commercial information. See 47 CFR § 0.459(a)(4). If a request for public

inspection under section 0.461 is made, however, the long-form applicant will be notified and will be required to

justify confidential treatment of its request if the long-form applicant has any objections to disclosure. 47 CFR §

0.461.

493 Phase II Auction Order, 31 FCC Rcd at 5988, para. 111.

494 A long-form applicant may propose to use more than one spectrum band to meet its Phase II public interest

obligations. Each applicant must identify for which part of the network (e.g., last mile, backhaul, etc.) it intends to

use each spectrum band.

495 If the licensee is a different party than the long-form applicant, the licensee name and the relationship to the long-

form applicant should be described. If the long-form applicant is leasing spectrum, the lease number should be

provided along with the license information.

496 As in the short-form application, an applicant that intends to provide service using satellite technology should

describe its expected timing for applying for earth station license(s) and an applicant that intends to obtain

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applicant will use licensed spectrum, it should provide details about how the licensed service area covers

its winning bid area(s) (e.g., provide a list of geographic areas that the spectrum license covers and

describe how those areas relate to the winning bid area(s)).

304. A long-form applicant must also certify that the description of the spectrum access is

accurate and that it will retain such access for at least 10 years after the date on which it is authorized to

receive support. Applications will be reviewed to assess the reasonableness of the certification.

C. Letter of Credit Commitment Letter

305. Within 60 days after the release of the Auction 903 closing public notice, a long-form

applicant must submit a letter from a bank acceptable to the Commission, as set forth in section

54.315(b)(3), committing to issue an irrevocable stand-by letter of credit, in the required form, to the

long-form applicant.497 The letter must, at a minimum, provide the dollar amount of the letter of credit

and the issuing bank’s agreement to follow the terms and conditions of the Commission’s model letter of

credit in Appendix B of the Phase II Auction Order.498

D. Documentation of ETC Designation

306. Within 180 days after the release of the Auction 903 closing public notice, a long-form

applicant is required to submit appropriate documentation of its high-cost ETC designation in all the areas

for which it will receive support.499 Appropriate documentation should include the original designation

order, any relevant modifications, e.g., expansion of service area or inclusion of wireless, along with any

name-change orders. The long-form applicant is also required to provide documentation showing that the

designated areas (e.g., census blocks, wire centers, etc.) cover the relevant winning bid areas so that it is

clear that the long-form applicant has high-cost ETC status in each winning bid area.500 Such

documentation could include maps of the long-form applicant’s ETC designation area, map overlays of

the winning bid areas, and/or charts listing designated areas. Additionally, the long-form applicant is

required to submit a letter with its documentation from an officer of the company certifying that the long-

form applicant’s ETC designation for each state covers the relevant areas where the long-form applicant

will receive support.501

E. Audited Financial Statements

307. Within 180 days after the release of the Auction 903 closing public notice, a long-form

applicant that did not submit audited financial statements in its pre-auction short-form application must

submit the financial statements from the prior fiscal year that are audited by an independent certified

public accountant.502 Any long-form applicant that fails to submit the audited financial statements as

microwave license(s) for backhaul should describe its expected timing for applying for microwave license(s) if these

licenses have not already been obtained. See supra Section [[II.E.4.d]] (Specific Information Required from

Applicants Proposing to Use Spectrum to Provide Service).

497 47 CFR § 54.315(b)(3), (c)(2). See also id. § 54.315(c); Phase II Auction Order, 31 FCC Rcd at 5989-99, paras.

119-40 (describing the letter of credit requirements).

498 47 CFR § 54.315(b)(3); Phase II Auction Order, 31 FCC Rcd at 6045-49, Appx. B.

499 47 CFR § 54.315(b)(5). A Lifeline-only ETC designation is not sufficient, the long-form applicant must obtain a

high-cost ETC designation in areas where it seeks to be authorized to receive Phase II support.

500 Phase II Auction Order, 31 FCC Rcd at 5999, para. 141.

501 47 CFR § 54.315(b)(5); Phase II Auction Order, 31 FCC Rcd at 5999, para. 141.

502 47 CFR § 54.315(b)(4). This option is only available to short-form applicants that indicated that they were not

audited in the ordinary course of business and that certified in their short-form applications that they have provided

voice, broadband, and/or electric distribution or transmission services for at least two years. Id. § 54.315(a)(7)(i);

Phase II Auction Order, 31 FCC Rcd at 5983-84, paras. 102-03.

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required by the 180-day deadline will be subject to a base forfeiture of $50,000, which will be subject to

adjustment upward or downward as appropriate based on the criteria set forth in the Commission’s

forfeiture guidelines.503

F. Letter of Credit and Bankruptcy Code Opinion Letter

308. After a long-form applicant’s application has been reviewed and is considered to be

complete, the Commission will issue a public notice identifying each long-form applicant that may be

authorized to receive Phase II support. No later than 10 business days after the release of the public

notice, a long-form applicant must obtain an irrevocable standby letter of credit at the value specified in

section 54.315(c)(1) from a bank acceptable to the Commission as set forth in section 54.315(c)(2) for

each state where the long-form applicant is seeking to be authorized.504 The letter of credit must be issued

in substantially the same form as set forth in the model letter of credit provided in Appendix B of the

Phase II Auction Order.505

309. In addition, a long-form applicant will be required to provide with the letter of credit an

opinion letter from legal counsel clearly stating, subject only to customary assumptions, limitations, and

qualifications, that, in a proceeding under the Bankruptcy Code, the bankruptcy court would not treat the

letter of credit or proceeds of the letter of credit as property of the long-form applicant’s bankruptcy

estate, or the bankruptcy estate of any other bidder-related entity requesting issuance of the letter of

credit, under section 541 of the Bankruptcy Code.506

G. Default Payment Requirements

1. Auction Forfeiture

310. Any Auction 903 winning bidder or long-form applicant will be subject to a forfeiture in

the event of a default before it is authorized to begin receiving support.507 A winning bidder or long-form

applicant will be considered in default and will be subject to forfeiture if it fails to timely file a long-form

application, fails to meet the document submission deadlines, is found ineligible or unqualified to receive

Phase II support by the Bureaus on delegated authority, and/or otherwise defaults on its winning bids or is

disqualified for any reason prior to the authorization of support.508 Any such determination by the

Bureaus shall be final, and a winning bidder or long-form applicant shall have no opportunity to cure

503 Phase II Auction Order, 31 FCC Rcd at 5984, para. 104. See also 47 U.S.C. § 503(b)(2)(B); 47 CFR §

1.80(b)(8), note to paragraph (b)(8). This forfeiture will be applied in lieu of the forfeiture we will impose for other

auction defaults and will be applied per defaulting entity rather than per bid or minimum geographic unit. Phase II

Auction Order, 31 FCC Rcd at 5984, para. 104 n.206.

504 47 CFR § 54.315(c)(1), (c)(2). A long-form applicant may obtain multiple letters of credit for a state. However,

because compliance is determined at the state-level, the Bureaus will authorize a draw on all the letters of credit

covering all the bids in a state if a support recipient defaults. Phase II Auction Order, 31 FCC Rcd at 5991, para.

122 n.242.

505 Phase II Auction Order, 31 FCC Rcd at 5991, 6045-49, para. 122, Appx. B. If any Tribal Nation or Tribally

owned and controlled long-form applicant for the Phase II auction is unable to obtain a letter of credit, it may file a

petition for a waiver of the letter of credit requirement. Such long-form applicants must show, with evidence

acceptable to the Commission, that the Tribal Nation is unable to obtain a letter of credit because of limitations on

the ability to collateralize its real estate, that Phase II support will be used for its intended purposes, and that the

funding will be used in the best interests of the Tribal Nation and will not be wasted. See Phase II Auction Order,

31 FCC Rcd at 5999, para. 140.

506 11 U.S.C. § 541; 47 CFR § 54.315(c)(3); Phase II Auction Order, 31 FCC Rcd at 5992, para. 125.

507 Phase II Auction Order, 31 FCC Rcd at 6000-01, paras. 143-45.

508 [[See Technical Guide, Section 6.4.6.4. (Identification of Winning Bids for Post-Auction Purposes)]] (explaining

what is considered to be a winning bid) [[Add a full cite if technical guide is released at the same time]].

(continued….)

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through additional submissions, negotiations, or otherwise. Agreeing to such payment in the event of a

default is a condition for participating in bidding in the Phase II auction.509

311. In the event of an auction default, we will impose a base forfeiture per violation of $3,000

subject to adjustment upward or downward based on the criteria set forth in our forfeiture guidelines, as

adopted in the Phase II Auction Order.510 A violation is defined as any form of default with respect to the

minimum geographic unit eligible for bidding. In other words, there shall be separate violations for each

CBG assigned in a bid.511 To ensure that the amount of the base forfeiture is not disproportionate to the

amount of a winning bidder’s bid, the Commission decided to limit the total base forfeiture to five percent

of the bidder’s total assigned support for the bid for the support term.512

312. ITTA proposes that, in the event of a default, we reallocate the funding amounts to the

bidder with the next lowest score, which may or may not be in the same geographic area where the

winning bidder or long-form applicant defaulted.513 We decline to do so. In the spectrum license auction

context, the Commission has long expressed a clear preference for re-auctioning a defaulted license rather

than offering it to the next highest bidder, even though a re-auction imposes some delay.514 This is

because the passage of time between the auction and the default and intervening events may have resulted

in changed circumstances for the value of the license and the next highest bidder.515 There is also a risk

that awarding a license to the next highest bidder would cause auction participants to adjust their bidding

conduct based on the probability of default, thus affecting the integrity of the auction. Because these

same concerns apply to a reverse auction for universal service support as well, we will not adopt ITTA’s

proposal.

2. Non-Compliance Measures Post-Authorization

313. A long-form applicant that has received notice from the Commission that it is authorized

to receive Phase II support will be subject to non-compliance measures once it becomes a support

509 This forfeiture payment satisfies the requirements of section 1.21004(b) of the Commission’s rules with respect

to default payments. 47 CFR § 1.21004(b).

510 Phase II Auction Order, 31 FCC Rcd at 6000, para. 143. See also 47 U.S.C. § 503(b)(2)(B); 47 CFR §

1.80(b)(8), note to paragraph (b)(8). In determining the final amount of the forfeiture, consistent with the

Commission’s rules, the Enforcement Bureau shall take into account the nature, circumstances, extent, and gravity

of the violations. 47 CFR § 1.80(b)(8).

511 A winning bidder or long-form applicant would violate the Commission’s rules for each of the CBGs assigned in

its defaulting bid. If a winning bidder or long-form applicant defaults on a bid that includes 10 CBGs, that entity

could be subject to a base forfeiture of $30,000 (10 CBGs multiplied by the base forfeiture of $3,000).

512 Phase II Auction Order, 31 FCC Rcd at 6000-01, para. 144. This would occur in situations where the dollar

amount associated with the bid is low. For example, assume Bidder A’s winning bid includes 100 CBGs for

$100,000 over the ten-year support term. We would impose a base forfeiture of $5,000 (5 percent of $100,000)

because otherwise the base forfeiture would be $300,000 ($3,000 x 100 CBGs), which is three times the entire bid

amount. In contrast, if Bidder B’s winning bid includes 100 CBGs for $7,000,000 over the support term, we would

impose a base forfeiture of $300,000 ($3,000 x 100 CBGs), which is 4.3 percent of the total bid.

513 See ITTA Comments at 7-8.

514 See Implementation of Section 309(j) of the Communications Act—Competitive Bidding, Second Report and

Order, 9 FCC Rcd 2348, 2383-84, paras. 204-05 (1994) (“We believe that, as a general rule, when an auction winner

defaults on its final payment or is otherwise disqualified after having made the required down payment, the best

course of action would be to re-auction the license.”).

515 Id.; see also Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures, Third Report

and Order and Second Further Notice of Proposed Rule Making, 13 FCC Rcd 374, 462, para. 153 (1997) (“[O]ther

parties can argue that they would pay more for the license if given the opportunity. In addition, when more than one

license is being auctioned, aggregation strategies may shift during the course of the auction, affecting the value

placed on any individual license by a particular bidder.”).

(continued….)

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recipient if it fails or is unable to meet its minimum coverage requirement, other service requirements, or

fails to fulfill any other term or condition of Phase II support.516 As described in the December 2014

Connect America Order and the Phase II Auction Order, these measures will scale with the extent of non-

compliance, and include additional reporting, withholding of support, support recovery, and drawing on

the support recipient’s letter of credit if the support recipient cannot pay back the relevant support by the

applicable deadline.517 A support recipient may also be subject to other sanctions for non-compliance

with the terms and conditions of Phase II support, including, but not limited to potential revocation of

ETC designations and suspension or debarment.518 Additionally, a support recipient will also be subject

to any non-compliance measures that are adopted in conjunction with a methodology for high-cost

support recipients to measure and report speed and latency performance to fixed locations.519

VI. PROCEDURAL MATTERS

A. Legal Authority

314. We establish procedures for the Phase II auction pursuant to the authority contained in

sections 4(i)-(j), 214, 254, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§

154(i), 214, 254, and 303(r).

B. Paperwork Reduction Act Analysis

315. This document implements the information collections adopted in the Phase II Auction

Order and does not contain any additional information collection(s) subject to the Paperwork Reduction

Act of 1995 (PRA), Public Law 104-13. The Commission is currently seeking PRA approval for

information collections related to the short-form application process and will in the future seek PRA

approval for information collections related to the long-form application process. In addition, therefore,

this document does not contain any new or modified information collection burden for small business

concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002,

Public Law 107-198.520

C. Supplemental Final Regulatory Flexibility Analysis

316. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),521 the

Commission prepared Initial Regulatory Flexibility Analyses (IRFAs) in connection with the USF/ICC

Transformation FNPRM, the April 2014 Connect America FNPRM, and the Phase II Auction FNPRM

(collectively, Phase II FNPRMs).522 A Supplemental Initial Regulatory Flexibility Analysis

(Supplemental IRFA) was also filed in the CAF II Auction Comment Public Notice in this proceeding.523

The Commission sought written public comment on the proposals in the Phase II FNPRMs and in the

CAF II Auction Comment Public Notice, including comments on the IRFAs and the Supplemental IRFA.

No comments were filed addressing the IRFAs. The Commission included Final Regulatory Flexibility

516 47 CFR §§ 54.315(c)(4), 54.320.

517 Id. §§ 54.315(c)(4), 54.320; Phase II Auction Order, 31 FCC Rcd at 6016-18, paras. 189-94; December 2014

Connect America Order, 29 FCC Rcd at 15694-701, paras. 142-57.

518 47 CFR § 54.320; Phase II Auction Order, 31 FCC Rcd at 6018, para. 194.

519 Phase II Auction Order, 31 FCC Rcd at 6018, para. 194.

520 See 44 U.S.C. 3506(c)(4).

521 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-12, has been amended by the Small Business Regulatory

Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

522 USF/ICC Transformation FNPRM, 26 FCC Rcd at 18364-95 (Appx. P, Initial Regulatory Flexibility Analysis);

April 2014 Connect America FNPRM, 29 FCC Rcd at 7216-44, (Appx. D, Initial Regulatory Flexibility Analysis);

Phase II Auction FNPRM, 31 FCC Rcd at 6078-103 (Appx. D, Initial Regulatory Flexibility Analysis).

523 CAF II Auction Comment Public Notice, 32 FCC Rcd at 6274-75, paras. 143-47.

(continued….)

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Analyses (FRFAs) in connection with the April 2014 Connect America Order, the Phase II Auction

Order, and the Phase II Auction FNPRM Order (collectively, Phase II Orders).524 This Supplemental

Final Regulatory Flexibility Analysis (Supplemental FRFA) supplements the FRFAs in the Phase II

Orders to reflect the actions taken in this Public Notice and conforms to the RFA.525

1. Need for, and Objectives of, This Public Notice

317. This Public Notice establishes procedures for the Connect America Fund Phase II auction

(Phase II auction, auction, or Auction 903). In particular, this Public Notice establishes procedures for,

among other things, how an applicant can become qualified to bid in the auction, how bidders will submit

bids, and how bids will be processed to determine winners and assign support amounts.

318. Following the release of the Phase II FNPRMs and Phase II Orders, the Commission

released the CAF II Auction Comment Public Notice.526 The CAF II Auction Comment Public Notice

proposed specific procedures for implementing the rules proposed in the Phase II FNPRMs and adopted

in the Phase II Orders. The CAF II Auction Comment Public Notice did not change matters adopted in

the Phase II Orders, but did request comment on how the proposals in the CAF II Auction Comment

Public Notice might affect the previous regulatory flexibility analyses in this proceeding.

319. This Public Notice establishes procedures for awarding Phase II support in Auction 903

through a multi-round, reverse auction, the minimum geographic area for bidding in the auction,

aggregating eligible areas into larger geographic units for bidding, setting reserve prices, capping the

amount of support per location provided to extremely high-cost census blocks, and the availability of

application and auction information to bidders and to the public during and after the auction. This Public

Notice also establishes detailed bidding procedures for conducting Auction 903 using a descending clock

auction format, including bid collection, clock prices, bid format, package bidding format, proxy bidding,

bidder activity rules, bid processing, and how support amounts are determined.

320. To implement the rules adopted by the Commission in the Phase II Orders for the pre-

auction process, this Public Notice establishes specific procedures and requirements for applying to

participate and becoming qualified to bid in Auction 903, including designating the state(s) and

performance tier/latency combinations in which an applicant intends to bid, and providing operational and

financial information designed to allow the Commission to assess the applicant’s qualifications to meet

the Phase II public interest obligations for each area for which it seeks support. This Public Notice also

sets forth information that a winning bidder will be required to submit in its post-auction long-form

application in order to become authorized to receive Phase II support.

321. Accordingly, the procedures established in this Public Notice are consistent with the

Phase II Orders and the prior regulatory flexibility analyses set forth in this proceeding, and no changes

to our earlier analyses are required.

2. Summary of Significant Issues Raised by Public Comments in Response to

the Supplemental IRFA

322. There were no comments filed that specifically addressed the proposed procedures

presented in the Supplemental IRFA.

3. Response to Comments by the Chief Counsel for Advocacy of the Small

524 April 2014 Connect America Order, 29 FCC Rcd at 7190-215 (Appx. C, Final Regulatory Flexibility Analysis);

Phase II Auction Order, 31 FCC Rcd at 6050-77 (Appx. C, Final Regulatory Flexibility Analysis); Phase II Auction

FNPRM Order, 32 FCC Rcd at 1654-64 (Appx., Final Regulatory Flexibility Analysis).

525 See 5 U.S.C. § 604.

526 See generally CAF II Auction Comment Public Notice.

(continued….)

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Business Administration

323. Pursuant to the Small Business Jobs Act of 2010,527 which amended the RFA, the

Commission is required to respond to any comments filed by the Chief Counsel of the Small Business

Administration (SBA), and to provide a detailed statement of any change made to the proposed rule(s) as

a result of those comments.

324. The Chief Counsel did not file any comments in response to the auction procedures

proposed in this proceeding.

4. Description and Estimate of the Number of Small Entities to which the

Procedures Will Apply

325. The RFA directs agencies to provide a description of and, where feasible, an estimate of

the number of small entities that may be affected by the proposed rules, if adopted herein.528 The RFA

generally defines the term “small entity” as having the same meaning as the terms “small business,”

“small organization,” and “small governmental jurisdiction.”529 In addition, the term “small business” has

the same meaning as the term “small business concern” under the Small Business Act.530 A “small

business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field

of operation; and (3) satisfies any additional criteria established by the SBA.531

326. As noted above, FRFAs were incorporated into the Phase II Orders. In those analyses,

we described in detail the small entities that might be significantly affected. In this Public Notice, we

hereby incorporate by reference the descriptions and estimates of the number of small entities from the

previous FRFAs in the Phase II Orders.532

5. Description of Projected Reporting, Recordkeeping, and Other Compliance

Requirements for Small Entities

327. The data, information and document collection required by the Phase II Orders as

described in the previous FRFAs and the Supplemental IRFA in the CAF II Auction Comment Public

Notice in this proceeding are hereby incorporated by reference.533

6. Steps Taken to Minimize the Significant Economic Impact on Small Entities,

and Significant Alternatives Considered

328. The RFA requires an agency to describe any significant alternatives that it has considered

in reaching its proposed approach, which may include the following four alternatives (among others):

“(1) the establishment of differing compliance or reporting requirements or timetables that take into

527 5 U.S.C. § 604(a)(3).

528 Id. § 603(a)(4).

529 Id. § 601(6).

530 Id. § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15

U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency,

after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public

comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and

publishes such definition(s) in the Federal Register.”

531 15 U.S.C. § 632.

532 April 2014 Connect America Order, 29 FCC Rcd at 7191-213, paras. 9-64; Phase II Auction Order, 31 FCC Rcd

at 6052-73, paras. 7-62; Phase II Auction FNPRM Order, 32 FCC Rcd at 1655-62, paras. 7-24.

533 April 2014 Connect America Order, 29 FCC Rcd at 7213, paras. 65-66; Phase II Auction Order, 31 FCC Rcd at

6073-75, paras. 63-74; Phase II Auction FNPRM Order, 32 FCC Rcd at 1662-63, paras. 25-26; see also CAF II

Auction Comment Public Notice, 32 FCC Rcd at 6274-75, paras. 143-47.

(continued….)

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account the resources available to small entities; (2) the clarification, consolidation, or simplification of

compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather

than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for small

entities.534

329. The analysis of the Commission’s efforts to minimize the possible significant economic

impact on small entities as described in the previous Phase II Orders FRFAs are hereby incorporated by

reference.535 In addition, in establishing the bidding and application procedures for Auction 903, we

anticipate the challenges faced by small entities. Specifically, the bidding procedures established in this

Public Notice are designed to facilitate the participation of qualified service providers of all kinds,

including small entities, in the Phase II program, and to give all bidders, including small entities, the

flexibility to place bids that align with their intended network construction or expansion, regardless of the

size of their current network footprints. For example, we will use census block groups (CBGs) containing

one or more eligible census blocks as the minimum geographic area for bidding in the auction in order to

provide bidders, including small providers, with flexibility to target more precisely their intended areas of

network expansion or construction without significantly complicating the bidding process. To help

ensure that all bidders–both large and small–understand the bidding procedures, including those related to

package bidding, the Bureaus will provide further educational opportunities and materials well in advance

of the auction.

330. Furthermore, the pre-auction application procedures set forth in this Public Notice are

intended to require applicants to submit enough information to permit the Commission to determine their

qualifications to participate in Auction 903, without requiring so much information that it is cost-

prohibitive for any entity, including small entities, to participate. For example, we adopt a modified

version of the proposal in the CAF II Auction Comment Public Notice regarding an applicant’s financial

qualifications that no longer places added emphasis on an applicant’s score for the current ratio and equity

ratio metrics in light of some commenters’ concerns that those two thresholds are difficult for certain

providers, including small providers, to meet.

331. Finally, recognizing that some entities may be new to Commission auctions, we

announce the types of materials and other information the Commission will make available to help

educate parties that have not previously applied to participate or bid in a Commission auction.

Specifically, the Bureaus will compile and release a guide that provides further technical and

mathematical detail regarding the bidding, assignment, and support amount determination procedures.

Two online tutorials will be available to serve as references for potential applicants and bidders, and two

workshops/webinars will be held. Additionally, a mock auction will be conducted that will enable all

qualified bidders, including small entities, to become familiar with the CAF II Bidding System and to

practice submitting bids prior to the auction. By providing these resources, the Commission seeks to

minimize any economic impact on small entities and help all entities–both large and small–fully

understand the bidding and application procedures. The Bureaus also plan to work with the

Commission’s Office of Communications Business Opportunities to engage with small providers.

7. Report to Congress

332. The Commission will send a copy of this Public Notice, including this Supplemental

FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission

will send a copy of this Public Notice, including this Supplemental FRFA, to the Chief Counsel for

Advocacy of the SBA. A copy of this Public Notice, and Supplemental FRFA (or summaries thereof)

will also be published in the Federal Register.536

534 5 U.S.C. § 603(c)(1)-(4).

535 April 2014 Connect America Order, 29 FCC Rcd at 7213-15, paras. 67-72; Phase II Auction Order, 31 FCC Rcd

at 6075-77, paras. 75-82; Phase II Auction FNPRM Order, 32 FCC Rcd at 1663, paras. 27-30.

536 See 5 U.S.C. § 604(b).

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VII. CONTACT INFORMATION

333. Contact Information Table:

General Auction 903 Information

General Auction Questions

Auction Process and Procedures

FCC Auctions Hotline

(888) 225-5322, option two; or

(717) 338-2868

FCC Email & Webpages

Auction903@fcc.gov

http://www.fcc.gov

https://www.fcc.gov/connect-america-fund-phase-ii-

auction

Auction 903 Legal Information

Auction Rules, Policies, and Regulations

Rural Broadband Auctions Task Force

Chelsea Fallon, (202) 418-7991

Kirk Burgee, (202) 418-1599

Thom Parisi, (202) 418-1356

Wireless Telecommunications Bureau

Auctions and Spectrum Access Division

Mark Montano

Angela Kung

(202) 418-0660

General Universal Service Questions

Wireline Competition Bureau

Telecommunications Access Policy Division

Alex Minard

Heidi Lankau

Katie King

(202) 418-0660

Technical Support

Electronic Filing

Auction Application System and CAF II Bidding

System (Hardware/Software Issues)

FCC Auctions Technical Support Hotline

877) 480-3201, option nine; or (202) 414-1250

(202) 414-1255 (TTY)

Hours of service: 8:00 a.m. – 6:00 p.m. ET,

Monday through Friday

Auction Bidder Line Will be furnished only to qualified bidders

Press Information Mark Wigfield, (202) 418-0253

Charles Meisch, (202) 418-2943

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

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Small Businesses

Additional information for small and

disadvantaged businesses

Office of Communications Business

Opportunities

(202) 418-0990

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

Tribal Issues

Additional information for entities seeking to provide

service to Tribal lands and Tribal governments

Office of Native Affairs and Policy

(202) 418-2930

native@fcc.gov

- FCC –

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APPENDIX A

Auction 903 Short-Form Application Operational Questions

Responses to these questions and any supporting documentation will be withheld from public disclosure.

Operational History (if applicable)

Answer on a nationwide basis:

Has the applicant previously deployed consumer broadband networks (Yes/No)? If so, identify

the date range for when broadband service was offered and in which state(s) service was offered.

What specific last mile and interconnection (backhaul) technologies were used? Provide an

estimate of how many subscribers are currently served. (If the applicant is no longer providing

service in any state, estimate the number of customers that were served at the beginning of the

last full year that the applicant did provide service.) What services (e.g., voice, video, broadband

Internet access) were provided?

Proposed Network(s) Using Funding from the Phase II Auction

Answer for each state the applicant selected in its application:

1. Which network architectures and technologies will be used in the applicant’s proposed

deployment? How will voice services be provided? How will broadband Internet access service

be provided?

2. What are the relevant industry standards, if any, for the last-mile technologies in the applicant’s

proposed deployment? If the applicant is proposing to use non-standard technologies, the

applicant should identify which vendor(s) and product(s) are being considered, and provide links

to the vendors’ websites and to publicly available technical specifications of the product(s). (If

technical specifications for the non-standard technologies are not available on a vendor’s website,

they may be submitted with this application.) Regardless of whether the applicant proposes to

use standard or non-standard technologies – what capabilities of this technology and proposed

network will enable performance tier (speed and usage allowance), latency and (where

applicable) voice service mean opinion score (MOS) requirements to be met?

3. Can the applicant demonstrate that all the network buildout requirements to achieve all service

milestones can be met (Yes/No)? The applicant will be required to submit a detailed project plan

in the long-form application if it is named as a winning bidder. Describe concisely the

information that the applicant would make available in such a detailed project plan.

4. For the proposed performance tier and latency combination, can the applicant demonstrate that

potential vendors, integrators and other partners are able to provide commercially available and

fully compatible network equipment/systems, interconnection, last mile technology and customer

premise equipment (CPE) at cost consistent with applicant’s buildout budget and in time to meet

service milestones (Yes/No)? Describe concisely the information and sources of such

information that the applicant could make available to support this response.

5. Can the applicant describe how the network will be maintained and services provisioned

(Yes/No)? Can the applicant demonstrate that it can provide internally developed operations

systems for provisioning and maintaining the proposed network including equipment and

segments, interconnections, CPE and customer services at cost consistent with applicant’s

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buildout budget and in time to meet service milestones (Yes/No)? If not, can the applicant

demonstrate that potential vendors, integrators, and other partners are able to provide

commercially available and fully compatible operations systems and tools for provisioning and

maintaining the proposed network at cost consistent with applicant’s buildout budget and in time

to meet service milestones (Yes/No)? Describe concisely the information and sources of such

information that the applicant could make available to support these responses.

6. If the applicant is using satellite technologies, describe concisely the total satellite capacity

available and possible methods the applicant will utilize to assign bandwidth and capacity for

each spot beam.

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APPENDIX B

Auction 903 Spectrum Chart

Paired Licensed Unpaired Licensed Unlicensed

Spectrum Band/Service Uplink Freq. (MHz) Downlink Freq. (MHz)

Uplink & Downlink

Freq. (MHz) Unlicensed (MHz)

600 MHz 663-698 617-652

Lower 700 MHz 698-716 728-746

716-728

(Downlink only)

Upper 700 MHz 776-787 746-757

800 MHz SMR 813.5/817-824 858.5/862-869

Cellular 824-849 869-894

Broadband PCS 1850-1915 1930-1995

AWS-1 1710-1755 2110-2155

AWS (H Block) 1915-1920 1995-2000

AWS-3 1755-1780 2155-2180

1695-1710

(Uplink only)

AWS-4

2000-2020

2180-2200

(Downlink only)

BRS/EBS 2496-2690

WCS 2305-2315 2350-2360

2315-2320

2345-2350

CBRS (3.5 GHz) 3550-3700

UMFUS (terrestrial)

27,500-28,350

38,600-40,000

70-80-90 GHz unpaired &

70-80 GHz paired

(point–to–point terrestrial)

Point-to-Point Pairs for 70-80 GHz

71,000-76,000 with 81,000-86,000

71,000-76,000

81,000-86,000

92,000-95,000

TV White Spaces

54-72

76-88

174-216

470-698

900 MHz 902-928

2.4 GHz 2400-2483.5

5 GHz

5150-5250

5250-5350

5470-5725

5725-5850

24 GHz 24,000-24,250

57-71 GHz 57,000 – 71,000

Ku Band (satellite)

12,750-13,250

14,000-14,500 10,700-12,700

Ka Band (satellite) 27,500-30,000 17,700-20,200

V Band (satellite)

47,200-50,200

50,400-52,400 37,500-42,000

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Abbreviations

AWS Advanced Wireless Services

BRS/EBS Broadband Radio Service / Education Broadband Service

CBRS Citizens Broadband Radio Service

PCS Personal Communications Service

SMR

UMFUS

Specialized Mobile Radio

Upper Microwave Flexible Use Service

WCS Wireless Communications Service

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APPENDIX C

Commenter Short Names

Short Name Name of Filer

ACA American Cable Association

ADTRAN ADTRAN, Inc.

AT&T AT&T Services, Inc.

GeoLinks California Internet, L.P. DBA GeoLinks

Hughes Hughes Network Systems, LLC

IEC Illinois Electric Cooperative

ILSR The Institute for Local Self-Reliance

ILSR et al. The Institute for Local Self-Reliance

Public Knowledge

Appalshop

Center for Rural Strategies

Access Humboldt

National Digital Inclusion Alliance,

Virginia Rural Health Association

Tribal Digital Village

Broadband Alliance of Mendocino County, California

Center for Rural Policy

Access Sonoma Broadband

The Utility Reform Network

ITTA ITTA – The Voice of America’s Broadband Providers

Microsoft Microsoft Corporation

Rural Coalition Association of Missouri Electric Cooperatives

Midwest Energy Cooperative

Great Lakes Energy

HomeWorks Tri-County Electric Cooperative

Indiana Electric Cooperatives

Alger Delta Cooperative Electric Association

Arkansas Electric Cooperatives, Inc.

National Rural Electric Cooperative Association

NTCA—The Rural Broadband Association

Utilities Technology Council

RWA Rural Wireless Association, Inc.

SpaceX Space Exploration Technologies Corp.

Sacred Wind Sacred Wind Communications, Inc.

US Cellular United States Cellular Corporation

USTelecom USTelecom Association

WISPA Wireless Internet Service Providers Association