

155. This decision on bid removal is consistent with our proposal. One commenter addressed bid removal, agreeing with our proposal.²²⁸

4. Auction Announcements

156. The Bureaus will use auction announcements to report necessary information. All auction announcements will be available by clicking a link in the FCC Auction System.

5. Auction Results

157. The Bureaus will determine the winning bids based on the lowest per-road mile bids, as described elsewhere in this Public Notice.²²⁹ After the Bureaus announce the auction results, we will provide downloadable files of the bidding and results data.

V. POST-AUCTION PROCEDURES

A. General Information Regarding Long-Form Applications

158. For the Mobility Fund Phase I auction, the Commission adopted a two-phased auction application process. Pursuant to section 54.1005(b), winning bidders for Mobility Fund Phase I support are required to file an application for support, referred to as a long-form application, no later than 10 business days after the public notice identifying them as winning bidders. Shortly after bidding has ended, the Commission 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 680 and the FCC Auction System to submit the long-form application. Details regarding the submission and processing of the long-form application will be provided in a public notice after the close of the auction.

159. In addition to the long-form application process described below, any bidder winning support for areas within Tribal lands must notify the relevant Tribal government no later than five business days after being identified by Public Notice as such a winning bidder.²³⁰ Information identifying the appropriate point of contact for the Tribal governments will be available through the Commission's Office of Native Affairs and Policy ("ONAP"), in coordination with the Wireless Bureau.

B. Long-Form Application: Disclosures and Certifications

160. Unless otherwise provided by public notice, within ten business days after release of the auction closing public notice, a winning bidder must electronically submit a properly completed long-form application (FCC Form 680) for the areas for which it submitted winning bids. A Tribally-owned or controlled provider claiming eligibility for a Tribal land bidding credit must certify as to its eligibility for the bidding credit. Further filing instructions will be provided to winning bidders in the auction closing public notice.

1. Ownership Disclosure

161. In the *USF/ICC Transformation Order*, the Commission adopted for the Mobility Fund the existing Part 1 ownership disclosure requirements that already apply to short-form applicants to participate in spectrum license auctions and long-form applicants for licenses in wireless services.²³¹

²²⁸ RTG Comments at 7.

²²⁹ See Section IV.A.3. "Winner Selection Process," above.

²³⁰ *USF/ICC Transformation Order*, 26 FCC Rcd at 17822-23 para. 489.

²³¹ *Id.* at 17808-09 para. 438.

Under these requirements, an applicant for Mobility Fund support must fully disclose its ownership structure as well as information regarding the real party- or parties-in-interest of the applicant or application.

162. US Cellular contends that it is unclear why requiring auction winners to comply with these ownership disclosure requirements is necessary and suggests that doing so would be redundant and burdensome.²³² First, we note that the Commission has already adopted the ownership requirements and that the Bureaus have no authority to revisit this decision. Furthermore, it would be inappropriate for the Commission to award Mobility Fund support to entities without having first conducted a detailed review of their ownership. As the Commission has previously noted, wireless providers that have participated in spectrum license auctions, such as US Cellular, will already be familiar with the disclosure requirements.²³³ They already will have ownership disclosure reports (in the short-form application) on file with the Commission, which may simply need to be updated. To minimize the reporting burden on winning bidders, we will allow them to use ownership information stored in existing Commission databases and update that information as necessary.²³⁴

2. Documentation of ETC Designation

163. A winning bidder is required to submit with its long-form application appropriate documentation of its ETC designation in all of the areas for which it will receive support and certify that its proof is accurate.²³⁵ 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. Any relevant information provided as an attachment to the long-form application must be designated as an “Eligible Telecommunications Carrier” attachment.

3. Financial and Technical Capability Certification

164. As in the pre-auction short-form application stage, a long-form applicant must certify that it is financially and technically capable of providing 3G or better service within the specified timeframe in the geographic areas in which it seeks support. This certification indicates that an applicant for Mobility Fund Phase I funds can provide the requisite service without any assurance of ongoing support for the areas in question after Mobility Fund Phase I support has been exhausted. An applicant should be aware that in making a certification to the Commission it exposes itself to liability for a false certification. An 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. Project Construction Schedule/Specifications

165. Applicants are required to provide in their long-form application an attachment for each winning bid with a detailed project description which describes the network, identifies the proposed technology, demonstrates that the project is technically feasible, discloses the complete project budget and describes each specific phase of the project, *e.g.*, network design, construction, deployment, and maintenance.²³⁶ A complete project schedule, including timelines, milestones and costs must be provided. Milestones should include the start and end date for network design; start and end date for drafting and

²³² US Cellular Comments at 4-5.

²³³ *USF/ICC Transformation Order*, 26 FCC Rcd at 17808-09 para. 438.

²³⁴ *Id.*

²³⁵ 47 C.F.R. § 54.1005(b)(2)(iii).

²³⁶ *See* 47 C.F.R. § 54.1005(b)(2)(iv).

posting requests for proposal (“RFPs”); start and end date for selecting vendors and negotiating contracts; start date for commencing construction and end date for completing construction; and the dates by which it will meet applicable requirements to receive the installments of Mobility Fund support.²³⁷

166. Applicants will indicate for each winning bid whether the supported network will provide third generation (3G) mobile service within the period prescribed by section 54.1006(a) or fourth generation (4G) mobile service within the period prescribed by section 54.1006(b). The description of the proposed technology should include information on whether the network will qualify as either a 3G or 4G network.

5. Spectrum Access

167. Applicants are required to provide a description of the spectrum access that the applicant will use to meet its obligations in areas for which it is the winning bidder, including whether the applicant currently holds a license for or leases the spectrum. The description should identify the license applicable to the spectrum to be accessed. The description of the license must include the type of service, e.g., AWS, 700 MHz, BRS, PCS, the particular frequency bands and the call sign. If the licensee is a different party than the applicant, the licensee name and the relationship between the applicant and the licensee that provides the applicant with the required access should be described. If the applicant is leasing spectrum the lease number should be provided along with the license information. An applicant must provide this required information relating to spectrum access in an attachment to the long-form application that is designated as a “Spectrum Access” attachment.

168. Applicants must also certify that the description of the spectrum access is accurate and that the applicant will retain such access for at least five (5) years after the date on which it is authorized to receive support. Applications will be reviewed to assess the reasonableness of the certification.

6. Letter of Credit Commitment Letter

169. Within ten business days after release of the auction closing public notice, a winning bidder must submit with its long-form application either a Letter of Credit (“LOC”) for each winning bid, or a written commitment letter from an acceptable bank to issue such an LOC. If the applicant submits a commitment letter, the letter will at a minimum provide the dollar amount of the LOC and the issuing bank’s agreement to follow the terms and conditions of the Commission’s model LOC, found in Appendix N of the *USF/ICC Transformation Order*.²³⁸ The commitment letter must be from an acceptable bank, as defined in section 54.1007(a)(1).

7. Letter of Credit and Bankruptcy Code Opinion Letter

170. After receipt and review of the long-form applications, the Commission will issue a public notice identifying each winning bidder that may be authorized to receive Mobility Fund Phase I support. Upon notice from the Commission, a winning bidder for Mobility Fund Phase I support must submit an irrevocable stand-by LOC, issued in substantially the same form as set forth in the model LOC provided in Appendix N of the *USF/ICC Transformation Order*²³⁹ by a bank that is acceptable to the Commission.²⁴⁰ An LOC must be submitted for each winning bid in an amount equal to one-third of the

²³⁷ Universal Service Reform: Mobility Fund, WT Docket No. 10-208, *Notice of Proposed Rulemaking*, FCC 10-182, 25 FCC Rcd 14716, 14740 para. 84 (2010).

²³⁸ *USF/ICC Transformation Order*, 26 FCC Rcd at 18319 Appendix N.

²³⁹ *Id.*

²⁴⁰ See 47 C.F.R. § 54.1007(a)(1).

winning bid amount, plus an additional 10 percent of the winning bid amount which shall serve as a performance default payment. The Commission's rules provide specific requirements, as defined in section 54.1007(a)(1), for a bank to be acceptable to the Commission to issue the LOC. Those requirements vary for United States banks and non-U.S. banks.

171. In addition, a winning bidder will be required to provide with the LOC 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 LOC or proceeds of the LOC as property of winning bidder's bankruptcy estate, or the bankruptcy estate of any other bidder-related entity requesting issuance of the LOC, under section 541 of the Bankruptcy Code.²⁴¹

172. We received comments and reply comments from several parties regarding the requirement that winning bidders for Mobility Fund Phase I support provide an irrevocable stand-by LOC.²⁴² Some commenters assert that they are unlikely to be able to obtain an irrevocable stand-by LOC or that there are certain cost constraints associated with meeting the requirement.²⁴³ We note that in the *USF/ICC Transformation Order*,²⁴⁴ the Commission adopted this requirement after considering comments raising similar concerns, and the LOC requirement is not one on which the Bureaus sought comment in the *Auction 901 Comment Public Notice*. All applicants for Mobility Fund Phase I support are able to factor the cost of meeting this requirement into their bid amounts, and we find that the best course of action is to apply the requirement consistently so that all applicants are subject to the same requirements and calculate their bids accordingly. In addition, we are not convinced that the commenters have explored all avenues and financial arrangements by which they might fulfill the requirement. Finally, we note that the Bureaus cannot modify the requirement for winning bidders to provide an irrevocable stand-by LOC, because the changes that the commenters advocate are beyond the scope of the Bureaus' delegated authority and the scope of this proceeding and would require action by the Commission to reconsider its determination in the *USF/ICC Transformation Order*.

8. Certification as to Program Requirements

173. The long-form application contains certifications that the applicant has available funds for all project costs that exceed the amount of support to be received and will comply with all program requirements.²⁴⁵ The requirements include the public interest obligations contained in the Commission's rules and set forth above in Section I.B.4.²⁴⁶ Applicants must certify that they will meet the applicable deadline for construction of a network meeting the coverage and performance requirements set forth in the rules, that they will comply with the Mobility Fund Phase I collocation obligations specified in the rules, and that they will comply with the voice and data roaming obligations the Commission has

²⁴¹ 11 U.S.C. § 541.

²⁴² ACS Comments at 5-6; ARC Comments at 4; Blooston Comments at 11-12; RTG Comments at 7-9; US Cellular Comments at 3-4; NTCA Reply at 3-4; Pennsylvania Commission Reply at 6-7; RTG Reply at 8; USA Coalition Reply at 4-5; US Cellular Reply at 2-3.

²⁴³ See, e.g., Blooston Comments at 11.

²⁴⁴ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17810-13 paras. 443-451.

²⁴⁵ 47 C.F.R. § 54.1005(b)(2)(vi).

²⁴⁶ 47 C.F.R. § 54.1006.

established with respect to Phase I of the Mobility Fund. With respect to demonstrating compliance with the coverage requirements, the Commission rules set forth the standards for applicable drive test data.²⁴⁷

9. Reasonably Comparable Rate Certification

174. To satisfy one of the public interest obligations that an applicant will have if it receives support, the long-form application also must contain a certification that the applicant will offer service in supported areas at rates that are within a reasonable range of rates for similar service plans offered by mobile wireless providers in urban areas for a period extending until five (5) years after the date on which it is authorized to receive support.²⁴⁸ As noted in the *Auction 901 Comment Public Notice*, the Commission delegated authority to the Bureaus to specify how support recipients could demonstrate compliance with this rate certification, in light of the fact that the voice and broadband rates survey data the Commission will collect pursuant to the *USF/ICC Transformation Order* will not be available prior to the Mobility Fund Phase I auction.²⁴⁹ The approach adopted for Phase I of the Mobility Fund in no way prejudices the approach to be taken with respect to Phase II of the Mobility Fund or the CAF generally. The appropriate approach for purposes of later phases of the Mobility Fund or other components of the CAF will be determined after review of the record developed in response to the Further Notice of Proposed Rulemaking portion of the *USF/ICC Transformation Order*.

175. The Bureaus proposed that a Mobility Fund Phase I support recipient could demonstrate compliance with the required certification that its rates are reasonably comparable if each of its service plans in supported areas is substantially similar to a service plan offered by at least one mobile wireless service provider in an urban area and is offered for the same or a lower rate than the matching urban service plan.²⁵⁰ The Bureaus expressly noted that any provider that itself offers the same service plan for the same rate in a supported area and in an urban area would meet this requirement.²⁵¹

176. The Bureaus crafted this proposal in order to provide recipients with flexibility to tailor their offerings to consumer demand while complying with the rule. Solely for purposes of Phase I of the Mobility Fund, the proposal would treat any rate equal to or less than the highest rate for a matching service charged in an urban area as reasonably comparable to, i.e., within a reasonable range of rates for similar service in urban areas. Urban areas are generally served by multiple and diverse providers offering a range of rates and service offerings in competition with one another.²⁵² Consequently, even the highest rate might be considered as “being within a reasonable range of rates for similar service in urban areas,”²⁵³ because the rates for the matching urban services reflect the effects of competition in the urban

²⁴⁷ See 47 C.F.R. § 54.1006(c). Recipients of Mobility Fund Phase I support must provide coverage of road miles and scattered site testing is not acceptable as an alternative to drive tests to demonstrate such coverage. See *id.*

²⁴⁸ 47 C.F.R. § 54.1005(b)(2)(viii).

²⁴⁹ See *Auction 901 Comment Public Notice*, 27 FCC Rcd at 547 para. 65, citing *USF/ICC Transformation Order*, 26 FCC Rcd at 17797 para. 385.

²⁵⁰ See below for a discussion of how “urban areas” should be defined for this purpose. We note that any provider that itself offers the same service plan for the same rate in a supported area and in an urban area would be able to meet this requirement.

²⁵¹ *Auction 901 Comment Public Notice*, 27 FCC Rcd at 547 n.74.

²⁵² Most consumers in the 100 most populated CMAs in the country are covered by between four to six mobile wireless providers. Commission analysis of October 2011 American Roamer coverage maps and Census 2010 block data.

²⁵³ Under this approach, the supported party must offer services at rates within the range but that do not exceed one particular rate that is presumed to be a part of that range. Previously, rates for supported services in high-cost, (continued....)

area. For purposes of this requirement, the Bureaus proposed defining “urban area” as one of the 100 most populated CMAs in the United States.²⁵⁴ Multiple providers currently serve these areas – 99.2 percent of the population in these markets is covered by between four to six operators – offering a range of different service plans at prices generally constrained by the numerous providers.²⁵⁵ Finally, the Bureaus further proposed that they would retain discretion to consider whether and how variable rate structures should be taken into account.

177. The Bureaus sought comment on all aspects of the proposal, and specifically sought comment on whether a support recipient should be required to make this comparison for all of its service plans, or just its required stand-alone voice plan and one other plan offering broadband, or a set of its plans adopted by a specified percentage of its customers. With respect to the rates for services to which supported services are to be compared, the Bureaus asked whether additional information was required to validate the assumption that an urban service rate reflects the effects of competition in the urban area — for example, whether an urban service used for matching should be required to have a certain number of subscribers or percentage of the relevant market in order to demonstrate its market acceptance. The Bureaus noted that detailed information about the number of subscribers at a particular rate might be difficult to obtain. The Bureaus further sought comment on whether parties should be required to make comparisons only to a subset of the most populated CMAs that are geographically closest to the supported area, such as the 30 or 50 of the top 100 CMAs that are closest to the supported service area. This might protect against regional economic variations distorting the range of prices useable for comparison. For example, such a restriction might cause providers to compare supported rates in Oklahoma to rates in Houston or Chicago rather than in New York City.

178. There was support among some commenters for the framework of the Bureaus’ proposal.²⁵⁶ Most commenters that addressed this issue generally favored employing as simple a standard as possible for determining whether a supported provider offered rates reasonably comparable to those in urban areas.²⁵⁷ Some parties advocated allowing supported parties to satisfy the requirement based on

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insular and rural areas served by non-rural carriers were presumed to be reasonably comparable to urban rates nationwide if they fell below the national rate benchmark, which was set at two standard deviations above the average urban rate as reported in an annual rate survey published by the Wireline Competition Bureau. *See* Federal-State Joint Board on Universal Service, High-Cost Universal Service Support, WC Docket No. 05-337, CC Docket No. 96-45, *Order on Remand and Memorandum Opinion and Order*, FCC 10-56, 25 FCC Rcd 4072, 4088, para. 8 (2010), *pet. for review den’d*, *Vermont Public Service Bd. v. F.C.C.*, 661 F.3d 54 (D.C. Cir. 2011). Thus, while the approaches differ, both serve to assure that rates for supported services are reasonably comparable to rates in urban areas.

²⁵⁴ A list of the top 100 CMAs is included in Attachment C.

²⁵⁵ Commission analysis of October 2011 American Roamer coverage maps and Census 2010 block data.

²⁵⁶ NASUCA et al. Comments at 11 (“in the absence of rate survey data, this is a reasonable approach”); RTG Comments at 9 (“RTG agrees with the FCC’s proposed reasonably comparable rates requirement”). Commenters made related observations that are not directly on point with how to satisfy this requirement that we need not address here. *See, e.g.*, NASUCA et al. Comments at 9 (regarding a minimum number of minutes per month). Finally, we note that US Cellular challenged the Commission’s authority to consider whether rates for broadband service are comparable given that broadband service is not within the definition of supported service. US Cellular Comments at 6 (arguing that broadband should be defined as a supported service). The Commission decided in the *USF/ICC Transformation Order* that the comparable rate requirement applied to broadband services offered with universal service support and we will not revisit that decision here. *See USF/ICC Transformation Order*, 26 FCC Rcd at 17708-09 paras. 113-14.

²⁵⁷ AT&T Comments at 21; US Cellular Comments at 6-7; US Cellular Reply at 5; *see* Verizon Comments at 5.

their offering the same rate, either nationwide, statewide, or in non-supported areas.²⁵⁸ We note that, to the extent a provider offers the same service at the same rate in an urban area, as the Bureaus define it for these purposes, these proposals are all consistent with the Bureaus' proposal. The commenters' proposals diverge from the Bureaus' in so far as a provider offers the same rate for the same service in an unsupported area but that unsupported area does not qualify as urban for purpose of this requirement. Two parties specifically object to the use of out-of-Alaska areas as points of comparison for service within Alaska.²⁵⁹ They both argue that, given the unique challenges of offering service anywhere in Alaska, parties offering service in supported areas in Alaska only should have to demonstrate that their rates are reasonably comparable with more urban areas of Alaska, even though those areas do not qualify as urban under the Bureaus' proposal.

179. We decline generally to alter the proposal to permit comparisons with rates for services in areas that are not within the definition of urban that the Bureaus proposed for this purpose in the *Auction 901 Comment Public Notice*. As the Bureaus explained in the *Auction 901 Comment Public Notice*, the areas proposed both meet a population-based definition of urban *and* have a degree of competition among wireless service providers that should help to assure that the rates offered are reasonable. None of the parties advocating intrastate comparisons, or reliance on comparisons between the rates a supported carrier offers in supported areas and other areas, provides a basis for concluding that the other areas proposed have a comparable level of competition. Nevertheless, in light of the distinct character of Alaska and the related costs of providing service, we will make an exception for supported parties in Alaska and allow them to demonstrate comparability by comparison with rates offered in the CMA for Anchorage, Alaska. In this regard, we note that the Anchorage CMA has a population of over 250,000 and four wireless providers, which indicates that, while reflecting the particular challenges of offering service in Alaska, competition for customers there could act to keep rates for offered services reasonable.

180. One commenter expressly supported the proposed requirement that supported providers demonstrate that all of their service plans are offered at comparable rates while another argued that providing one such plan should be sufficient.²⁶⁰ On further review, we conclude that it will be sufficient for a supported provider to demonstrate that its required stand-alone voice plan and one service plan that offers data services, presuming it offers such plans, satisfies the reasonably comparable rate requirement. We conclude that customers should have available to them other rate plans should they so choose, so long as the provider satisfies the reasonably comparable rate requirement with respect to a stand-alone voice plan and one of any plans that offer data services.²⁶¹ In addition, this will simplify the supported parties' compliance with the rule.

²⁵⁸ AT&T Comments at 21 (nationwide or statewide); US Cellular Reply at 5 (same, citing AT&T Comments); NASUCA et al. Comments at 10 ("If the winning bidder does not offer service in urban territory, the supported rate should be the same rate that applies to the service offered by the bidder in its other territory.")

²⁵⁹ ACS Comments at 7; GCI Comments at 3.

²⁶⁰ NASUCA et al. Comments at 12 ("preliminary view . . . required to offer all of their service plans at comparable rates"); US Cellular Reply at 5 ("one basic service rate plan that is reasonably comparable").

²⁶¹ In addition, we note that the Commission expects "that ETCs that offer standalone broadband service in any portion of their service territory will also offer such service in all areas that receive CAF support." *USF/ICC Transformation Order*, 26 FCC Rcd at 17695 para.86 n.127.

10. Tribal Engagement Requirements: Certification and Summary of Engagement Results

181. Beginning at the long-form application stage, and continuing throughout the term of support, Mobility Fund Phase I winning bidders are required to comply with the Tribal engagement obligations applicable to all ETCs.²⁶² As the Commission discussed in the *USF/ICC Transformation Order*, these obligations are designed to ensure that Tribal governments have been formally and effectively engaged in the planning process and that the services to be provided will advance the goals established by the Tribal government. At a minimum, such discussions must include: (1) a needs assessment and deployment planning with a focus on Tribal community anchor institutions; (2) feasibility and sustainability planning; (3) marketing services in a culturally sensitive manner; (4) rights of way processes, land use permitting, facilities siting, environmental and cultural review processes; and (5) compliance with Tribal business and licensing requirements.

182. Specific procedures and further guidance regarding the Tribal engagement process are being developed by ONAP, in coordination with the Bureaus. Winning bidders are encouraged to initiate the engagement process as soon as possible. We contemplate that, at a minimum, a long-form applicant would be required to include a certification and detailed description of its efforts to contact the relevant Tribal government(s) and initiate substantive discussions regarding the topics noted above. Any information provided as an attachment to the long-form application must be designated as a “Tribal Information” attachment. Such certification and description must also be submitted to the appropriate Tribal government official concurrent with the filing of the long-form application. Thereafter, support recipients will be obligated to demonstrate their compliance with Tribal engagement requirements on an annual basis, and prior to any disbursement of support from the Universal Service Administrative Company (USAC). We remind carriers that failure to satisfy the Tribal government engagement obligation could subject them to financial consequences, including potential reduction in support should they fail to fulfill their obligations.

C. Default Payment Requirements

183. In the *USF/ICC Transformation Order*, the Commission determined that it would impose two types of default payment obligations on winning bidders: a default payment owed by Mobility Fund winning bidders that default on their winning bids prior to approval for receiving support and a default payment owed by Mobility Fund winning bidders that apply for and are approved to receive support but subsequently fail to meet their public interest obligations or other terms and conditions of Mobility Fund support.²⁶³ Under the competitive bidding rules adopted in the *USF/ICC Transformation Order*, bidders selected by the auction process to receive USF support have a binding obligation to file a post-auction long-form application – by the applicable deadline and consistent with other requirements of the long-form application process – and failure to do so constitutes an auction default.²⁶⁴ In addition, a performance default occurs when a winning bidder that the Commission has authorized to receive support fails to meet its minimum coverage requirement or adequately comply with quality of service or any other requirements upon which support was granted.²⁶⁵

²⁶² *USF/ICC Transformation Order*, 26 FCC Rcd at 17822-23 para. 489; *see also id.* at 17868-69 paras. 636-637.

²⁶³ *USF/ICC Transformation Order*, 26 FCC Rcd at 17814 paras. 460-61; 47 C.F.R. § 1.21004(b), 47 C.F.R. § 54.1006(f).

²⁶⁴ *USF/ICC Transformation Order*, 26 FCC Rcd at 17808 para. 436; 47 C.F.R. § 1.21004(a).

²⁶⁵ 47 C.F.R. § 54.1007(c).

1. Auction Default Payment

184. Any winning bidder that fails to timely file a long-form application, is found ineligible or unqualified to receive Mobility Fund support, has its long-form application dismissed, or otherwise defaults on its bid or is disqualified for any reason after the close of the auction and prior to the authorization of support for each winning bid will be subject to an auction default payment.²⁶⁶ Agreeing to such payment in event of a default is a condition for participating in bidding.²⁶⁷ In the event of an auction default, we will assess a default payment of five percent of the total defaulted bid.

185. In the *USF/ICC Transformation Order*, the Commission determined that a default payment is appropriate to ensure the integrity of the auction process and safeguard against costs to the Commission and the USF. The Commission left it to the Bureaus to consider methodologies for determining such a payment, but specified that if the Bureaus established a default payment to be calculated as a percentage of the defaulted bid, that percentage was not to exceed 20 percent of the total amount of the defaulted bid.²⁶⁸ Accordingly, in the *Auction 901 Comment Public Notice*, the Bureaus proposed an auction default payment of five percent of the total defaulted bid.²⁶⁹ The Bureaus also sought comment on alternative methodologies, such as basing the auction default payment on the difference between the defaulted bid and the next best bid to cover the same number of road miles as without the default. The Bureaus further sought comment on whether, prior to bidding, all applicants for Auction 901 should be required to furnish a bond or place funds on deposit with the Commission in the amount of the maximum anticipated auction default payment.²⁷⁰

186. Commenters supported the Bureaus' proposal for a rate of five percent of the total defaulted bid.²⁷¹ AT&T urges the Bureaus to consider adopting a higher figure, such as ten percent, saying that if the penalty percentage is too low it will not serve as a sufficient deterrent.²⁷² Other commenters suggest a less "punitive" approach or ask the Bureaus to refrain from enforcing default payments except in cases of "egregious" failure, such as the failure to submit any long-form application.²⁷³ The Bureaus received no comments on any alternative methodologies for determining an appropriate auction default penalty.

187. We are not persuaded that we should modify our proposal to establish an auction default payment at the rate of five percent of the total defaulted bid. Such a requirement should serve to deter failures to fulfill auction obligations that might undermine the stability and predictability of the auction process and impose costs on the Commission as well as higher support costs for USF, and is yet not

²⁶⁶ 47 C.F.R. § 1.21004.

²⁶⁷ *USF/ICC Transformation Order*, 26 FCC Rcd at 17813-14 paras. 458-460.

²⁶⁸ *Id.* at 17814 para. 460.

²⁶⁹ *Auction 901 Comment Public Notice*, 27 FCC Rcd at 545-46 para. 61.

²⁷⁰ *Id.* at 546 para. 62.

²⁷¹ ACS Comments at 6; RTG Comments at 7 (suggests that it should be added to bid amount and included in LOC).

²⁷² AT&T Comments at 18-19. *See also* Verizon Comments at 4-5 (apparently conflating auction default and performance default payments, but suggesting a penalty in the 25 percent range, because a five percent penalty is too low and "unlikely to deter gamesmanship in the bidding process.")

²⁷³ ARC Comments at 5; Blooston Comments at 10. *See also* USA Coalition Reply at 5.

unduly punitive. Liability for the auction default payment will be imposed without regard to the intentions or fault of any specific defaulting bidder.²⁷⁴ We therefore adopt our proposal.

188. The Bureaus received a single comment addressing whether auction applicants should be required to furnish a bond or place funds on deposit prior to bidding. AT&T supports such a requirement, but prefers that the Bureaus require posting a bond, as it is issued “quickly and easily” and is used in the normal course of business.²⁷⁵ We think our adoption of an auction default payment will provide adequate protection against costs to the Commission and the USF, and therefore we find that establishing a bond or deposit requirement is unnecessary.

2. Performance Default Payment

189. A winning bidder that has received notice from the Commission that it is authorized to receive Mobility Fund support will be subject to a performance default payment 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 Mobility Fund Phase I support.²⁷⁶ We will assess a performance default penalty of ten percent on the total level of support for which a winning bidder is eligible.²⁷⁷

190. The Commission recognized in the *USF/ICC Transformation Order* that a Mobility Fund recipient’s failure to fulfill its obligations may impose significant costs on the Commission and higher support costs for the USF and concluded that it was necessary to adopt a default payment obligation for performance defaults.²⁷⁸ In addition to being liable for a performance default payment, the recipient will be required to repay the Mobility Fund all of the support it has received, and depending on circumstances, could be disqualified from receiving any additional Mobility Fund or other USF support.²⁷⁹ In the *Auction 901 Comment Public Notice*, we proposed to establish the performance default payment percentage at ten percent of the total level of support for which a winning bidder is eligible.²⁸⁰ Under this proposal, the irrevocable stand-by LOC that winning bidders will be required to provide would include an additional ten percent based on the total level of support for which a winning bidder is eligible.

191. We received support for our proposal.²⁸¹ Some commenters, however, urge the Bureaus to assess a lesser default payment for failure to meet performance requirements.²⁸² AT&T argues that it would be more reasonable to assess a winning bidder failing to meet one or more of the performance requirements a payment equal to some percentage of the award associated with the portion of the total build-out and coverage obligation that the provider failed to fulfill.²⁸³ RTG supports a ten percent default

²⁷⁴ *Auction 901 Comment Public Notice*, 27 FCC Rcd at 546 para. 62.

²⁷⁵ AT&T Comments at 19.

²⁷⁶ *USF/ICC Transformation Order*, 26 FCC Rcd at 17814 para. 460.

²⁷⁷ See 47 C.F.R. § 54.1006(f).

²⁷⁸ *USF/ICC Transformation Order*, 26 FCC Rcd at 17810-11 para. 446.

²⁷⁹ *Id.* at 17814 para. 461.

²⁸⁰ *Auction 901 Comment Public Notice*, 27 FCC Rcd at 546 para. 64.

²⁸¹ ACS Comments at 6.

²⁸² See, e.g., USA Coalition Reply at 5.

²⁸³ AT&T Comments at 18-19.

payment only if an awardee fails to meet an 80 percent coverage requirement.²⁸⁴ Blooston urges the Bureaus to not apply the performance default payment obligation to rural carriers.²⁸⁵ As discussed above, the Commission has already defined the conditions that constitute a performance default. Changing the terms of the performance default requirement in any way is beyond the scope of the Bureaus' delegated authority and beyond the scope of this proceeding and would require action by the Commission to reconsider its determination in the *USF/ICC Transformation Order*.

192. While both auction defaults and performance defaults may threaten the integrity of the auction process and impose costs on the Commission and the USF, an auction default occurs earlier in the process and may facilitate an earlier use of the funds that were assigned to the defaulted bid consistent with the purposes of the universal service program.²⁸⁶ We therefore proposed that the performance default payment be set at a higher percentage than the auction default payment percentage.²⁸⁷ We did not receive specific comments on our proposal to establish the performance default payment percentage at ten percent. We anticipate that a performance default payment of ten percent of the defaulted support level will be effective in encouraging those seeking support to make every effort to assure that they are capable of meeting their obligations and protecting against costs to the Commission and the USF without unduly discouraging auction participation. We therefore adopt our proposal.

VI. CONTACT INFORMATION

193. Contact Information Table:

General Auction 901 Information

General Auction Questions
Auction Process and Procedures

FCC Auctions Hotline

(888) 225-5322, option two; or
(717) 338-2868
Hours of service: 8:00 a.m. – 5:30 p.m. ET,
Monday through Friday

Auction 901 Legal Information

Auction Rules, Policies, Regulations, including
Reports of Section 1.21002 Violations and
Application Major Modifications

Wireless Telecommunications Bureau Auctions and Spectrum Access Division

Sayuri Rajapakse
Stephen Johnson
(202) 418-0660

General Universal Service Questions

Wireline Competition Bureau Telecommunications Access Policy Division

Alex Minard
(202) 418-7400

²⁸⁴ RTG Comments at 8-9, RTG Reply at 9 (also suggesting that an awardee should only have to pay back "overage" for areas not covered).

²⁸⁵ Blooston Comments at 11-12.

²⁸⁶ *Auction 901 Comment Public Notice*, 27 FCC Rcd at 547 para. 64.

²⁸⁷ *Id.*

Technical Support

Electronic Filing
FCC Auction 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

FCC Copy Contractor

Additional Copies of
Commission Documents

Best Copy and Printing, Inc
445 12th Street, SW, Room CY-B402
Washington, DC 20554
(800) 378-3160
<http://www.bcpweb.com>

Press Information

Cecila Sulhoff (202) 418-0587

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

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 Internet Sites

<http://www.fcc.gov>
<http://wireless.fcc.gov/auctions>
<http://wireless.fcc.gov/uls>

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Attachment A: Summary of Eligible Census Blocks

State/ Territory	Total Number of Eligible Blocks	Total Number of Tracts with Eligible Blocks	Total Number of Counties with Eligible Blocks	Number of CMAs with Eligible Blocks	Total Population of Eligible Blocks	Total Area (square miles) of Eligible Blocks	Qualifying Road Miles by Category						
							S1100	S1200	S1400	S1500	S1640	S1740	Total
							AK	8,146	67	29	4	84,040	339,735.5
AL	5,435	215	63	18	39,963	4,060.2	3.12	451.17	5,919.22	197.86	0.90	310.47	6,882.75
AR	3,682	100	50	14	12,058	2,746.1	0.00	339.97	4,018.98	175.45	205.14	342.22	5,081.76
AZ	11,535	124	15	8	22,787	27,268.4	12.69	477.00	23,693.63	2,900.32	50.26	609.20	27,743.10
CA	19,576	249	51	30	34,846	31,670.9	36.53	1,238.09	29,002.12	3,333.73	23.57	927.11	34,561.15
CO	10,982	150	58	14	15,966	19,706.4	0.00	885.40	15,934.08	1,537.77	140.62	790.39	19,288.25
CT	81	9	3	3	624	8.5	0.00	6.70	24.66	1.93	0.00	1.29	34.59
DE	2	2	1	1	52	0.5	0.00	0.00	1.16	0.00	0.00	0.00	1.16
FL	1,665	69	36	21	7,749	1,920.4	15.39	124.60	1,741.62	226.67	9.63	33.19	2,151.11
GA	5,255	256	115	21	40,393	3,335.5	1.46	451.11	5,564.11	130.80	36.39	343.13	6,526.99
HI	412	27	5	4	3,147	1,327.0	0.00	54.75	329.12	341.13	0.21	36.35	761.56
IA	591	47	30	10	2,966	349.0	1.13	26.43	532.81	7.99	0.00	67.54	635.90
ID	27,007	93	39	7	43,307	38,961.7	28.40	1,104.88	39,511.58	4,794.76	178.95	1,218.14	46,836.71
IL	1,260	99	55	11	9,664	752.5	0.00	57.88	1,235.40	21.14	0.00	107.76	1,422.18
IN	1,392	82	39	13	11,188	425.9	0.00	85.44	910.35	1.98	0.68	76.80	1,075.25
KS	631	39	34	13	1,481	450.0	0.00	23.26	559.42	24.17	0.00	46.38	653.23
KY	15,452	304	94	17	203,149	6,022.5	11.52	3,073.27	9,880.71	436.07	4.38	814.03	14,219.98
LA	4,030	92	42	16	22,197	3,211.1	2.84	703.54	4,411.02	191.04	34.27	171.97	5,514.68
MA	1,218	32	6	5	9,513	282.2	0.00	60.30	640.27	27.95	0.00	39.12	767.63
MD	207	16	8	6	1,067	64.6	0.01	12.05	156.22	0.00	0.01	15.01	183.29
ME	5,097	77	13	7	8,566	9,954.5	0.72	290.90	8,948.27	461.24	0.04	350.41	10,051.58
MI	12,833	167	51	14	37,276	9,729.8	2.25	454.48	13,001.17	1,402.35	9.39	1,434.41	16,304.05
MN	4,284	59	25	9	14,738	7,924.9	0.00	228.78	4,623.75	550.74	2.75	383.37	5,789.39
MO	7,627	184	87	24	41,029	4,471.1	0.00	513.34	7,136.13	187.00	0.91	724.95	8,562.33
MS	2,334	84	48	12	17,641	2,203.8	1.12	276.23	3,008.03	51.99	0.00	218.05	3,555.42
MT	20,119	116	55	12	21,871	45,171.7	34.50	1,211.16	31,485.18	12,919.54	6,732.97	2,652.47	55,035.83
NC	6,283	249	78	24	56,145	3,246.3	0.57	420.74	5,075.96	292.61	34.30	436.13	6,260.32
ND	2,398	46	38	6	1,944	2,306.1	0.00	175.76	3,239.64	526.67	0.00	250.54	4,192.61
NE	6,225	73	59	10	10,216	10,321.3	12.93	593.53	6,455.96	1,585.60	0.05	577.95	9,226.01
NH	2,685	62	10	5	14,324	1,368.8	1.88	240.19	1,832.63	75.72	6.11	192.42	2,348.94
NJ	8	2	2	2	38	4.2	0.00	0.00	6.05	0.00	0.00	0.19	6.24
NM	20,093	94	33	8	29,528	37,914.9	81.80	2,515.41	46,854.20	3,520.92	18.05	3,069.52	56,059.92
NV	8,139	43	15	7	2,464	39,463.1	1.10	943.27	30,228.92	6,113.67	16.40	177.85	37,481.21
NY	13,519	264	45	16	87,963	7,730.3	12.48	957.85	7,721.69	771.27	3.51	1,103.66	10,570.46
OH	10,161	163	44	21	91,349	2,783.5	0.01	968.86	5,601.90	83.76	1.99	401.22	7,057.73
OK	2,697	102	51	14	6,647	1,953.3	0.37	129.22	3,151.05	236.21	0.19	185.43	3,702.45
OR	30,996	161	36	10	29,911	27,399.1	0.73	1,024.23	53,047.95	2,985.63	3,783.75	555.65	61,397.94
PA	19,294	303	51	23	135,784	6,262.1	3.24	1,408.57	11,925.05	419.59	16.90	1,434.85	15,208.20
RI	1	1	1	1	26	0.6	0.00	0.00	1.13	0.00	0.00	0.00	1.13
SC	1,755	122	41	15	16,223	1,132.7	0.08	160.18	1,819.11	64.20	1.84	388.27	2,433.69
SD	1,279	31	26	7	5,216	4,863.6	0.00	198.00	2,586.72	359.42	2.71	203.62	3,350.47
TN	6,381	220	76	13	40,825	2,245.4	0.21	423.93	3,521.61	373.76	2.68	235.55	4,557.74
TX	26,296	296	166	37	81,424	39,487.7	14.05	1,777.85	62,213.46	3,131.37	12.69	3,328.10	70,477.53
UT	10,133	59	28	8	4,569	22,009.0	71.71	676.77	22,831.79	2,945.75	65.32	364.07	26,955.40
VA	10,319	236	85	22	65,377	3,498.4	19.88	777.41	6,598.95	2,974.97	2.33	973.94	11,347.48
VT	1,667	78	14	3	16,667	480.5	0.46	147.93	921.61	37.44	0.00	111.58	1,219.01
WA	15,343	160	37	17	57,159	24,267.4	5.67	1,076.69	44,397.23	4,593.63	425.02	1,050.82	51,549.04
WI	6,850	158	50	16	27,384	4,935.0	1.23	818.33	5,944.81	402.62	164.96	618.66	7,950.61
WV	34,010	227	51	12	239,292	9,955.3	25.26	1,727.35	21,357.64	2,098.09	0.59	1,652.13	26,861.06
WY	12,227	49	23	6	12,085	24,245.2	11.42	942.48	25,112.86	4,558.87	14.77	1,274.78	31,915.18
AS*	51	1	1	1	n/a	52.5	0.00	8.26	27.25	1.63	2.32	0.11	39.57

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Attachment A: Summary of Eligible Census Blocks

State/ Territory	Total Number of Eligible Blocks	Total Number of Tracts with Eligible Blocks	Total Number of Counties with Eligible Blocks	Number of CMAs with Eligible Blocks	Total Population of Eligible Blocks	Total Area (square miles) of Eligible Blocks	Qualifying Road Miles by Category						
							S1100	S1200	S1400	S1500	S1640	S1740	Total
GU*	7	2	1	1	n/a	0.3	0.00	0.00	1.77	0.00	0.00	0.10	1.87
MP*	469	8	3	1	n/a	79.3	3.16	13.93	319.69	4.41	0.00	13.77	354.96
PR*	24	5	4	4	5	22.9	0.00	0.42	4.50	35.39	0.00	0.00	40.31
Total	420,163	5,974	2,121	624	1,739,843	839,783.7	419.94	31,937.38	590,357.44	75,017.77	12,100.45	33,809.84	743,642.82

Notes: This attachment provides a summary of the list of eligible census blocks. Due to the large number of eligible blocks, the complete list will be provided in electronic format only, available as separate "Attachment A" files at <http://wireless.fcc.gov/auctions/901/>.

As described in this Public Notice, eligible census blocks will be aggregated for bidding by census tract, except in Alaska, where bidding will be on individual eligible census blocks. Furthermore, for tracts that contain some eligible blocks that are in a Tribal land and other eligible blocks that are not in a Tribal land, there will be separate aggregations of the Tribal blocks and the non-Tribal blocks. Consequently, the number of items that will be available for bidding in Auction 901 is not apparent from this summary.

The District of Columbia does not have any eligible blocks.

The total number of Cellular Market Areas (CMAs) listed above is 624, but the number of CMAs with eligible blocks is actually 605. CMAs sometimes cross state boundaries, and the above total counts each CMA once per state. Of the CMAs with eligible blocks, the following 18 CMAs contain eligible blocks in more than one state: CMA006 (MA, NH); CMA011 (IL, MO); CMA023 (IN, KY); CMA030 (OR, WA); CMA085 (TN, VA); CMA088 (GA, TN); CMA108 (GA, SC); CMA110 (KY, OH, WV); CMA122 (NY, PA); CMA141 (MN, WI); CMA153 (AL, GA); CMA156 (ME, NH); CMA165 (AR, OK); CMA178 (OH, WV); CMA200 (OH, WV); CMA209 (KY, TN); CMA240 (AR, TX); and CMA269 (MD, WV).

* The four U.S. territories included above are American Samoa (AS), the Commonwealth of the Northern Mariana Islands (MP), Guam (GU), and Puerto Rico (PR). The U.S. Virgin Islands is not included because it does not have any eligible blocks. The U.S. Census Bureau has not yet released 2010 Census block-level population data for any of the territories except Puerto Rico. Consequently, the population of the eligible blocks in territories without 2010 Census block-level data is listed above as n/a.

ATTACHMENT B

Road Categories, Descriptions, and Total Miles in Eligible Census Blocks

MTFCC	Feature Class	Feature Class Description	Total Miles
S1100	Primary Road	Primary roads are generally divided, limited-access highways within the interstate highway system or under state management, and are distinguished by the presence of interchanges. These highways are accessible by ramps and may include some toll highways.	420
S1200	Secondary Road	Secondary roads are main arteries, usually in the U.S. Highway, State Highway or County Highway system. These roads have one or more lanes of traffic in each direction, may or may not be divided, and usually have at-grade intersections with many other roads and driveways. They often have both a local name and a route number.	31,937
S1400	Local Neighborhood Road, Rural Road, City Street	Generally a paved non-arterial street, road, or byway that usually has a single lane of traffic in each direction. Roads in this feature class may be privately or publicly maintained. Scenic park roads would be included in this feature class, as would (depending on the region of the country) some unpaved roads.	590,357
S1500	Vehicular Trail (4WD)	An unpaved dirt trail where a four-wheel drive vehicle is required. These vehicular trails are found almost exclusively in very rural areas. Minor, unpaved roads usable by ordinary cars and trucks belong in the S1400 category.	75,018
S1640	Service Drive usually along a limited access highway	A road, usually paralleling a limited access highway, that provides access to structures along the highway. These roads can be named and may intersect with other roads.	12,100
S1740	Private Road for service vehicles (logging, oil fields, ranches, etc.)	A road within private property that is privately maintained for service, extractive, or other purposes. These roads are often unnamed.	33,810

743,643

Source: Appendix F – MAF/TIGER Feature Class Code (MTFCC) Definitions, pages F-186 and F-187, at <http://www.census.gov/geo/www/tiger/tgrshp2010/documentation.html> (last visited Feb. 2, 2012), and FCC analysis.

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Attachment C: Top 100 CMAs by Population

Rank	CMA Number	CMA Name	Population*
1	CMA002	Los Angeles-Long Beach/Anaheim-Santa Ana-Garden Grove/Riverside-San Bernardino-Ontario, CA	17,054,000
2	CMA001	New York, NY-NJ/Nassau-Suffolk, NY/Newark, Jersey City and Paterson-Clifton-Passaic, NJ	16,545,000
3	CMA003	Chicago, IL	8,317,000
4	CMA009	Dallas-Fort Worth, TX	6,332,000
5	CMA010	Houston, TX	5,566,000
6	CMA004	Philadelphia, PA	5,260,000
7	CMA008	Washington, DC-MD-VA	4,814,000
8	CMA005	Detroit/Ann Arbor, MI	4,641,000
9	CMA017	Atlanta, GA	4,633,000
10	CMA006	Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	4,429,000
11	CMA007	San Francisco-Oakland, CA	4,335,000
12	CMA012	Miami-Fort Lauderdale-Hollywood, FL	4,245,000
13	CMA026	Phoenix, AZ	3,817,000
14	CMA015	Minneapolis-St. Paul, MN-WI	3,112,000
15	CMA018	San Diego, CA	3,095,000
16	CMA019	Denver-Boulder, CO	2,790,000
17	CMA014	Baltimore, MD	2,663,000
18	CMA020	Seattle-Everett, WA	2,645,000
19	CMA022	Tampa-St. Petersburg, FL	2,610,000
20	CMA011	St. Louis, MO-IL	2,609,000
21	CMA091	San Juan-Caguas, PR	2,139,000
22	CMA030	Portland, OR-WA	2,066,000
23	CMA035	Sacramento, CA	1,968,000
24	CMA013	Pittsburgh, PA	1,967,000
25	CMA033	San Antonio, TX	1,955,000
26	CMA093	Las Vegas, NV	1,951,000
27	CMA060	Orlando, FL	1,837,000
28	CMA024	Kansas City, MO-KS	1,810,000
29	CMA027	San Jose, CA	1,782,000
30	CMA016	Cleveland, OH	1,776,000
31	CMA028	Indianapolis, IN	1,703,000
32	CMA023	Cincinnati, OH-KY-IN	1,631,000
33	CMA039	Salt Lake City-Ogden, UT	1,626,000
34	CMA075	Austin, TX	1,604,000
35	CMA031	Columbus, OH	1,583,000
36	CMA021	Milwaukee, WI	1,556,000
37	CMA046	Nashville-Davidson, TN	1,502,000
38	CMA051	Jacksonville, FL	1,346,000
39	CMA061	Charlotte-Gastonia, NC	1,327,000
40	CMA072	West Palm Beach-Boca Raton, FL	1,320,000

Rank	CMA Number	CMA Name	Population*
41	CMA071	Raleigh-Durham, NC	1,302,000
42	CMA047	Greensboro-Winston-Salem-High Point, NC	1,230,000
43	CMA032	Hartford-New Britain-Bristol, CT	1,212,000
44	CMA036	Memphis, TN-AR-MS	1,201,000
45	CMA045	Oklahoma City, OK	1,194,000
46	CMA025	Buffalo, NY	1,136,000
47	CMA043	Norfolk-Virginia Beach-Portsmouth, VA/NC	1,107,000
48	CMA037	Louisville, KY-IN	1,061,000
49	CMA034	Rochester, NY	1,054,000
50	CMA029	New Orleans, LA	1,046,000
51	CMA041	Birmingham, AL	1,004,000
52	CMA059	Richmond, VA	1,003,000
53	CMA077	Tucson, AZ	980,000
54	CMA038	Providence-Warwick-Pawtucket, RI	970,000
55	CMA050	Honolulu, HI	953,000
56	CMA074	Fresno, CA	930,000
57	CMA057	Tulsa, OK	922,000
58	CMA042	Bridgeport-Stamford-Norwalk-Danbury, CT	917,000
59	CMA044	Albany-Schenectady-Troy, NY	888,000
60	CMA064	Grand Rapids, MI	866,000
61	CMA049	New Haven-West Haven-Waterbury-Meriden, CT	862,000
62	CMA067	Greenville-Spartanburg, SC	855,000
63	CMA040	Dayton, OH	842,000
64	CMA097	Bakersfield, CA	840,000
65	CMA073	Oxnard-Simi Valley-Ventura, CA	823,000
66	CMA058	Allentown-Bethlehem-Easton, PA-NJ	821,000
67	CMA062	New Brunswick-Perth Amboy-Sayreville, NJ	810,000
68	CMA048	Toledo, OH-MI	803,000
69	CMA081	El Paso, TX	801,000
70	CMA055	Worcester-Fitchburg-Leominster, MA	799,000
71	CMA082	Tacoma, WA	795,000
72	CMA086	Albuquerque, NM	794,000
73	CMA128	McAllen-Edinburg-Mission, TX	775,000
74	CMA065	Omaha, NE-IA	769,000
75	CMA069	Wilmington, DE-NJ-MD	706,000
76	CMA056	Northeast Pennsylvania, PA	705,000
77	CMA363	Florida 4 - Citrus	704,000
78	CMA052	Akron, OH	703,000
79	CMA080	Baton Rouge, LA	699,000
80	CMA107	Stockton, CA	685,000
81	CMA092	Little Rock-North Little Rock, AR	671,000
82	CMA090	Charleston-North Charleston, SC	665,000
83	CMA053	Syracuse, NY	663,000
84	CMA054	Gary-Hammond-East Chicago, IN	660,000
85	CMA079	Knoxville, TN	649,000

Rank	CMA Number	CMA Name	Population*
86	CMA095	Columbia, SC	647,000
87	CMA117	Colorado Springs, CO	646,000
88	CMA070	Long Branch-Asbury Park, NJ	630,000
89	CMA063	Springfield-Chicopee-Holyoke, MA	622,000
90	CMA164	Fort Myers, FL Counties - Lee	619,000
91	CMA114	Lakeland-Winter Haven, FL	602,000
92	CMA083	Mobile, AL	595,000
93	CMA579	North Carolina 15 - Cabarrus	578,000
94	CMA551	New Jersey 2 - Ocean	577,000
95	CMA089	Wichita, KS	564,000
96	CMA111	Vallejo-Fairfield-Napa, CA	550,000
97	CMA084	Harrisburg, PA	549,000
98	CMA076	New Bedford-Fall River, MA	548,000
99	CMA137	Melbourne-Titusville-Palm Bay, FL	543,000
100	CMA102	Des Moines, IA	543,000

* Population numbers are based on 2010 Census data and rounded to the nearest thousand.

ATTACHMENT D

**Auction 901 – Mobility Fund Phase I
List of Parties Filing in AU Docket No. 12-25**

The following is a listing of parties that filed in response to the *Auction 901 Comment Public Notice*. The party name is followed by the abbreviated name of the filing as used in this Public Notice.

Initial Commenters

1. Alaska Communications Systems Group, Inc. (ACS Comments)
2. Alaska Rural Coalition (ARC Comments)
3. AT&T Inc. (AT&T Comments)
4. Belloni, Alexandre, Sandro Brusco, Giuseppe Lopomo and Leslie M. Marx (Belloni et al. Comments)
5. Blooston Rural Carriers (Blooston Comments)
6. Clearwire Corporation (Clearwire Comments)
7. General Communication, Inc. (GCI Comments)
8. Kentucky, Commonwealth of, Office of Broadband Outreach and Development (Kentucky Comments)
9. National Association of State Utility Consumer Advocates, Maine Office of the Public Advocate, the New Jersey Division of Rate Counsel and the Utility Reform Network (NASUCA et al. Comments)
10. NTCH, Inc. (NTCH Comments)
11. Pekeč, Aleksandar Saša (Pekeč Comments)
12. Rural Telecommunications Group, Inc. (RTG Comments)
13. United States Cellular Corporation (US Cellular Comments)
14. Verizon and Verizon Wireless (Verizon Comments)

Reply Commenters

1. Alaska Communications Systems Group Inc. (ACS Reply)
2. AT&T Inc. (AT&T Reply)
3. Belloni, Alexandre, Sandro Brusco, Giuseppe Lopomo and Leslie M. Marx (Belloni et al. Reply)
4. Kentucky, Commonwealth of, Office of Broadband Outreach and Development (Kentucky Reply)
5. McAdams, David (McAdams Reply)
6. Mid-Rivers Telephone Cooperative, Inc., and Cable & Communications Corporation, d/b/a/ Mid-Rivers Communications (Mid-Rivers Reply)
7. National Telecommunications Cooperative Association (NTCA Reply)
8. Pekeč, Aleksandar Saša (Pekeč Reply)
9. Pennsylvania Public Utility Commission (Pennsylvania Commission Reply)
10. Power Auctions LLC (Power Auctions Reply)
11. Rural Telecommunications Group, Inc. (RTG Reply)
12. United States Cellular Corporation (US Cellular Reply)
13. Universal Service for America Coalition (USA Coalition Reply)

***Ex Parte* and Other Filings**

1. Pangasa, Maneesh²⁸⁸
2. Pine Telephone Company, Inc. (Pine Telephone ex parte)
3. Rural Telecommunications Group, Inc. (RTG ex parte)

Initial Commenters – Eligible Census Blocks

1. AT&T (AT&T ECB Comments)
2. Bluegrass Cellular, Inc. (Bluegrass ECB Comments)
3. Carolina West Wireless, Inc. (Carolina West ECB Comments)
4. Cellular Network Partnership, LP (Cellular Network ECB Comments)
5. Commnet Wireless, LLC, NTUA Wireless, LLC, and SAL Spectrum, LLC (Commnet et al. ECB Comments)
6. Cross Valliant Cellular Partnership (Cross Valliant ECB Comments)
7. Cross Wireless, LLC (Cross Wireless ECB Comments)
8. C T Cube, LP d/b/a/ West Central Wireless (CT Cube ECB Comments)
9. Eagle Telephone System, Inc. (Eagle Telephone ECB Comments)
10. Indiana Utility Regulatory Commission, Larry S. Landis, Commissioner (Indiana Commission ECB Comments)
11. Kentucky, Commonwealth of, Office of Broadband Outreach and Development (Kentucky ECB Comments)
12. Keystone Wireless, LLC d/b/a Immix Wireless (Keystone ECB Comments)
13. Leaco Rural Telephone Cooperative, Inc. (Leaco ECB Comments)
14. Matanuska Telephone Association (Matanuska ECB Comments)
15. Mid-Rivers Telephone Cooperative, Inc., and Cable & Communications Corporation, d/b/a/ Mid-Rivers Communications (Mid-Rivers ECB Comments)
16. Minnesota Department of Commerce, Dennis Ahlers, Assistant Commissioner (Minnesota ECB Comments)
17. Nemont Communications (Nemont ECB Comments) (2 filings)
18. NNTC Wireless, LLC, subsidiary of Nucla-Naturita Telephone Company (NNTC ECB Comments)
19. Panhandle Telephone Cooperative, Inc. (Panhandle ECB Comments)
20. Pine Telephone Company, Inc. (Pine Telephone ECB Comments)
21. PTI Pacifica Inc. d/b/a IT&E (PTI Pacifica ECB Comments)
22. Public Service Wireless Services, Inc. (PSW ECB Comments)
23. Sprint Nextel Corp. (Sprint ECB Comments)
24. Texas RSA 7B3, LP d/b/a Peoples Wireless (Texas RSA ECB Comments)
25. T-Mobile USA, Inc. (T-Mobile ECB Comments)
26. VTel Wireless, Inc. (VTel ECB Comments)
27. WUE, Inc. (WUE ECB Comments)

²⁸⁸ Pangasa expresses views on a number of issues in 16 separate submissions in this docket, none of which are responsive or relevant to the proposals and questions raised in the *Auction 901 Comment Public Notice*. Pangasa has made similar filings in many other open dockets involving a range of issues under consideration by the Commission.

Reply Commenters – Eligible Census Blocks

1. Indiana Utility Regulatory Commission, Larry S. Landis, Commissioner (Indiana Commission ECB Reply)
2. Smith Bagley, Inc. (Smith Bagley ECB Reply) (2 reply filings)
3. United States Cellular Corporation (U.S. Cellular ECB Reply)
4. Verizon and Verizon Wireless (Verizon ECB Reply)
5. WUE, Inc. (WUE ECB Reply)

***Ex Parte* and Other Filings – Eligible Census Blocks**

1. Commnet Wireless, LLC, NTUA Wireless, LLC, and SAL Spectrum, LLC (Commnet et al. ECB ex parte)
2. Horry Telephone Cooperative, Inc. (Horry Telephone ECB ex parte)
3. National Telecommunications and Information Administration/Wireless Telecommunications Bureau (NTIA ex parte)
4. Pangasa, Maneesh²⁸⁹
5. Union Cellular Telephone Company d/b/a Union Wireless (Union Cellular ECB ex parte)
6. United States Department of Agriculture Rural Utilities Service (USDA RUS ex parte)
7. Smith Bagley (Smith Bagley ECB ex parte)

²⁸⁹ See note 1, above.

ATTACHMENT E

**Summary Listing of Judicial, Commission and Bureau Documents Addressing
Application of Section 1.2105(c)'s Prohibition on Certain Communications Between Auction
Applicants****A. Judicial Decisions**

Star Wireless, LLC v. FCC, 522 F.3d 469 (D.C. Cir. 2008).

High Plains Wireless, L.P. v. FCC, 276 F.3d 599 (D.C. Cir. 2002).

B. Commission Decisions

Procedural Amendments to Commission Part 1 Competitive Bidding Rules, *Order*, FCC 10-4, 25 FCC Rcd 521 (2010).

Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 06-150, *Second Report and Order*, FCC 07-132, 22 FCC Rcd 15289, 15395 ¶¶ 285-86, 15489 (2007).

Star Wireless, LLC and Northeast Communications of Wisconsin, Inc., Order on Review, FCC 07-80, 22 FCC Rcd 8943 (2007).

Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures, WT Docket No. 97-82, *Seventh Report and Order*, FCC 01-270, 16 FCC Rcd 17546 (2001).

Notice of Apparent Liability for Forfeiture of Western PCS BTA 1 Corp., *Memorandum Opinion and Order*, FCC 99-385, 14 FCC Rcd 21571 (1999); Application of Western PCS BTA I Corp., *Notice of Apparent Liability for Forfeiture*, FCC 98-42, 13 FCC Rcd 8305 (1998).

Notice of Apparent Liability for Forfeiture of US West Communications, Inc., *Order*, FCC 99-90, 14 FCC Rcd 8816 (1999); Application of US West Communications, Inc., *Notice of Apparent Liability for Forfeiture*, FCC 98-41, 13 FCC Rcd 8286 (1998).

Application of Mercury PCS II, LLC, *Memorandum Opinion and Order*, FCC 98-203, 13 FCC Rcd 23755 (1998); Applications of: Mercury PCS II, LLC, *Notice of Apparent Liability for Forfeiture*, FCC 97-388, 12 FCC Rcd 17970 (1997).

Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures, WT Docket No. 97-82, *Third Report and Order and Second Further Notice of Proposed Rule Making*, FCC 97-413, 13 FCC Rcd 374, 463-469 ¶¶ 155-166 (1997).

Commercial Realty St. Pete, Inc., *Memorandum Opinion and Order*, FCC 96-400, 11 FCC Rcd 15374 (1996); Commercial Realty St. Pete, Inc., *Notice of Apparent Liability for Forfeiture*, FCC 95-58, 10 FCC Rcd 4277 (1995).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Memorandum Opinion and Order*, FCC 94-295, 9 FCC Rcd 7684, 7687-7689 ¶¶ 8-12 (1994).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Fourth Memorandum Opinion and Order*, FCC 94-264, 9 FCC Rcd 6858, 6866-6869 ¶¶ 47-60 (1994).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Second Memorandum Opinion and Order*, FCC 94-215, 9 FCC Rcd 7245, 7253-7254 ¶¶ 48-53 (1994).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Fifth Report and Order*, FCC 94-178, 9 FCC Rcd 5532, 5570-5571 ¶¶ 91-92 (1994).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Second Report and Order*, FCC 94-61, 9 FCC Rcd 2348, 2386-2388 ¶¶ 221-226 (1994).

C. Wireless Telecommunications Bureau Decisions

Lotus Communications Corp., *Order*, DA 08-1364, 23 FCC Rcd 9107 (Wireless Telecom. Bur. 2008).

Application of Nevada Wireless, *Memorandum Opinion and Order*, DA 98-1137, 13 FCC Rcd 11973 (Wireless Telecom. Bur. 1998).

Applications of High Plains Wireless, L.P., *Memorandum Opinion and Order*, DA 97-2451, 12 FCC Rcd 19627 (Wireless Telecom. Bur. 1997).

Applications of Mercury PCS II, LLC, *Memorandum Opinion and Order on Reconsideration*, DA 97-2324, 12 FCC Rcd 18093 (Wireless Telecom. Bur. 1997); Applications of Mercury PCS II, LLC, *Memorandum Opinion and Order*, DA 97-1782, 13 FCC Rcd 5756 (Wireless Telecom. Bur. 1997).

Applications of GWI PCS, Inc., *Memorandum Opinion and Order*, DA 97-674, 12 FCC Rcd 6441 (Wireless Telecom. Bur. 1997).

Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service, MM Docket No. 94-131, *Order*, DA 95-2292, 11 FCC Rcd 9655 (Wireless Telecom. Bur. 1995).

1. Public Notices

Wireless Telecommunications Bureau Reminder of Anti-Collusion Rule Obligations, *Public Notice*, DA 04-3677, 19 FCC Rcd 22880 (Wireless Telecom. Bur. 2004).

Wireless Telecommunications Bureau Staff Provides Guidance on Completing the Short-Form Application (FCC Form 175) for Auction No. 40, Auction of Licenses for Lower and Upper Paging Bands, *Public Notice*, DA 01-2122, 16 FCC Rcd 16391 (Wireless Telecom. Bur. 2001).

Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction, *Public Notice*, DA 98-37, 13 FCC Rcd 341 (Wireless Telecom. Bur. 1998).

Wireless Telecommunications Bureau Provides Guidance on the Anti-Collusion Rule for D, E and F Block Bidders, *Public Notice*, DA 96-1460, 11 FCC Rcd 10134 (Wireless Telecom. Bur. 1996).

FCC Staff Clarifies Application of Anti-Collusion Rule to Broadband PCS "C" Block Reaction, *Public Notice*, DA 96-929, 11 FCC Rcd 7031 (Auc. Div. 1996).

Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules, *Public Notice*, DA 95-2244, 11 FCC Rcd 9645 (Wireless Telecom. Bur. 1995).

2. Letters from the Office of General Counsel, the Wireless Telecommunications Bureau and the Media Bureau

Letter to John Cooper, Aurora Communications, Inc., from Margaret W. Wiener, DA 06-157, 21 FCC Rcd 523 (Auc. Div. 2006).

Letter to Howard A. Kalmenson, Lotus Communications Corp., from Margaret W. Wiener, DA 06-156, 21 FCC Rcd 520 (Auc. Div. 2006).

Letter to Colby M. May from Barbara A. Kreisman and Margaret W. Wiener, DA 05-2445, 20 FCC Rcd 14648 (Video and Auc. Divs. 2005).

Letter to Robert Pettit from Margaret W. Wiener, DA 00-2905, 16 FCC Rcd 10080 (Auc. Div. 2000).

Letter to John Reardon, Mobex Communications, Inc., from Amy J. Zoslov, DA 98-1861, 13 FCC Rcd 17877 (Auc. Div. 1998).

Letter to Elliott J. Greenwald from Christopher J. Wright, DA 98-644, 13 FCC Rcd 7132 (Gen. Counsel 1998).

Letter to David L. Nace from Kathleen O'Brien Ham, DA 96-1566, 11 FCC Rcd 11363 (Auc. Div. 1996).

Letter to Mark Grady from Kathleen O'Brien Ham, DA 96-587, 11 FCC Rcd 10895 (Auc. Div. 1996).

Letter to Jonathan D. Blake from Kathleen O'Brien Ham, DA 95-2404, 10 FCC Rcd 13783 (Auc. Div. 1995).

Letter to Leonard J. Kennedy from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau (released December 14, 1994).

Letter to R. Michael Senkowski from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau (released December 1, 1994).

Letter to Gary M. Epstein and James H. Barker from William E. Kennard, General Counsel, Federal Communications Commission (released October 25, 1994).

Letter to Alan F. Ciamporcero from William E Kennard, General Counsel, Federal Communications Commission (released October 25, 1994).

D. Enforcement Bureau Decisions

Cascade Access, L.L.C., *Notice of Apparent Liability for Forfeiture*, DA 09-207, 24 FCC Rcd 1350 (Enf. Bur. 2009).

Application of Star Wireless, LLC, *Forfeiture Order*, DA 04-3026, 19 FCC Rcd 18626 (Enf. Bur. 2004); Application of Star Wireless, LLC, *Notice of Apparent Liability for Forfeiture*, DA 03-2722, 18 FCC Rcd 17648 (Enf. Bur. 2003).

Application of Northeast Communications of Wisconsin, Inc., *Forfeiture Order*, DA 04-3027, 19 FCC Rcd 18635 (Enf. Bur. 2004); Application of Northeast Communications of Wisconsin, Inc., *Notice of Apparent Liability for Forfeiture*, DA 03-2723, 18 FCC Rcd 17672 (Enf. Bur. 2003).

E. Civil Actions Initiated by U.S. Department of Justice

USA v. Northeast Communications of Wisconsin, Inc., No. 07-C-715, 608 F.Supp.2d 1049 (E.D.Wis. June 25, 2008).

U.S. v. Omnipoint Corp., Proposed Final Judgments and Competitive Impact Statements, Department of Justice, 63 Fed. Reg. 65,228 (Nov. 25, 1998).

“Justice Department Sues Three Firms Over FCC Auction Practices,” *Press Release*, U.S. Department of Justice (Nov. 10, 1998).

Complaint, *U.S. v. Omnipoint Corp.*, No. 1:98CV02750 (D.D.C. Nov. 10, 1998).

Complaint, *U.S. v. Mercury PCS II, L.L.C.*, No. 1:98CV02751 (D.D.C. Nov. 10, 1998).

Complaint, *U.S. v. 21st Century Bidding Corp.*, No. 1:98CV02752 (D.D.C. Nov. 10, 1998).

How to Obtain Copies of Listed Decisions

Many of the documents listed in this attachment can be retrieved from the following Commission web site: http://wireless.fcc.gov/auctions/prohibited_communications.

Additionally, all of the documents can be ordered in hard copy for a fee from the Commission’s duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (800) 378-3160, or at <http://www.bcpweb.com>.