

demonstrating mobile transmissions supporting voice and data to and from the network covering at least 85 percent of the square miles associated with the eligible areas and meeting or exceeding the thresholds in paragraphs (a)(1) and (2) of this section. A winning bidder shall also submit representative data demonstrating that its network covers at least 75 percent of every census block group or census tract for which it receives support in a state.

(e) *Coverage data.* Coverage data submitted in compliance with a recipient's public interest obligations shall demonstrate coverage of the square miles designated in the public notice announcing the final list of eligible areas for the competitive bidding that is the basis of the recipient's support. Any data submitted in compliance with a recipient's public interest obligations shall be in compliance with standards set forth in the applicable public notice.

(f) *Collocation obligations.* During the period when a recipient shall file annual reports pursuant to § 54.1019, the recipient shall allow for reasonable collocation by other providers of services that would meet the technological requirements of Mobility Fund Phase II on all newly constructed towers it owns or manages in the area for which it receives support. In addition, during this period, the recipient may not enter into facilities access arrangements that restrict any party to the arrangement from allowing others to collocate on the facilities.

(g) *Voice and data roaming obligations.* During the period when a recipient shall file annual reports pursuant to § 54.1019, the recipient shall comply with the Commission's voice and data roaming requirements that are currently in effect on networks that are built through Mobility Fund Phase II support.

(h) *Reasonably comparable rates obligations.* Beginning no later than the deadline set forth in paragraph (a) of this section and continuing throughout the remaining period when a recipient shall file annual reports pursuant to § 54.1019, the recipient shall 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.

(i) *Data allowance obligations.* Beginning no later than the deadline set forth in paragraph (a) of this section and continuing throughout the remaining period when a recipient shall file annual reports pursuant to § 54.1019, recipient shall offer at least one service plan in supported areas that includes a data allowance comparable to mid-level service plans offered by nationwide providers.

(j) *Liability for failing to satisfy public interest obligations.* A Mobility Fund Phase II support recipient's failure to comply with the public interest obligations in this paragraph or any other terms and conditions of the Mobility Fund Phase II support constitutes a performance default.

[82 FR 15450, Mar. 28, 2017, as amended at 83 FR 17942, Apr. 25, 2018]

EFFECTIVE DATE NOTE: At 82 FR 15450, Mar. 28, 2017, § 54.1015 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 54.1016 Letter of credit.

(a) Before being authorized to receive Mobility Fund Phase II support, a winning bidder shall obtain an irrevocable standby letter of credit which shall be acceptable in all respects to the Commission.

(1) Each recipient authorized to receive Mobility Fund Phase II support shall maintain the standby letter of credit or multiple standby letters of credit in an amount equal to at a minimum the amount of Mobility Fund Phase II auction support that has been disbursed and that will be disbursed in the coming year, until the Universal Service Administrative Company has verified that the recipient met the final service milestone as described in § 54.1015(d) of this chapter.

(i) Once the recipient has met its 60 percent service milestone as described in § 54.1015(b) of this chapter, it may, subject to the consent of the Universal Service Administrative Company, obtain a new letter of credit or renew its existing letter of credit so that it is valued at a minimum at 90 percent of

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the total support amount already disbursed plus the amount that will be disbursed in the coming year.

(ii) Once the recipient has met its 80 percent service milestone as described in §54.1015(c) of this chapter, it may, subject to the consent of the Universal Service Administrative Company, obtain a new letter of credit or renew its existing letter of credit so that it is valued at a minimum at 60 percent of the total support amount already disbursed plus the amount that will be disbursed in the coming year.

(2) The bank issuing the letter of credit shall be acceptable to the Commission. A bank that is acceptable to the Commission is:

(i) Any United States Bank—

(A) Whose deposits are insured by the Federal Deposit Insurance Corporation; and

(B) That has a Weiss bank safety rating of B- or higher, or

(ii) CoBank, ACB—

(A) As long as it maintains assets that would place it among the top-100 U.S. banks in terms of the amount of assets, determined on the basis of total assets as of the end of the calendar year immediately preceding the issuance of the letter of credit;

(B) Its obligations are insured by the Farm Credit System Insurance Corporation; and

(C) It has a long-term unsecured credit rating of BBB- or better from Standard & Poor's (or the equivalent from a nationally-recognized credit rating agency); or

(iii) The National Rural Utilities Cooperative Finance Corporation—

(A) As long as it maintains assets that would place it among the top-100 U.S. banks in terms of the amount of assets, determined on the basis of total assets as of the end of the calendar year immediately preceding the issuance of the letter of credit; and

(B) It has a long-term unsecured credit rating of BBB- or better from Standard & Poor's (or the equivalent from a nationally-recognized credit rating agency); or

(iv) Any non-U.S. bank that—

(A) Is among the 100 largest non-U.S. banks in the world, determined on the basis of total assets as of the end of the calendar year immediately preceding

the issuance of the letter of credit (determined on a U.S. dollar equivalent basis as of such date);

(B) Has a branch office in the District of Columbia or such other branch office agreed to by the Commission;

(C) Maintains a credit rating of BBB- or better from Standard & Poor's (or the equivalent from a nationally-recognized credit rating agency); and

(D) Issues the letter of credit payable in United States dollars.

(b) Before being authorized to receive Mobility Fund Phase II support, a winning bidder shall provide with its letter of credit an opinion letter from legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that in a proceeding under Title 11 of the United States Code, 11 U.S.C. 101 *et seq.* (the "Bankruptcy Code"), the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the winning bidder'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.

(c) Authorization to receive Mobility Fund Phase II support is conditioned upon full and timely performance of all the requirements set forth in this section, §54.1015, and any additional terms and conditions upon which the support was granted.

(1) If a Mobility Fund Phase II recipient has triggered a recovery action by USAC as set out in §54.1017 and has failed to repay the requisite amount of support within six (6) months, USAC will be entitled to draw the entire amount of the letter of credit and may disqualify the Mobility Fund Phase II recipient from the receipt of Mobility Fund Phase II auction support or additional universal service support.

(2) The default will be evidenced by a letter issued by the Chief of either the Wireless Telecommunications Bureau or Wireline Competition Bureau or their respective designees, which letter, describing the performance default and attached to a standby letter of

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credit draw certificate, shall be sufficient for a draw on the standby letter of credit.

[82 FR 15450, Mar. 28, 2017, as amended at 82 FR 16297, Apr. 4, 2017]

EFFECTIVE DATE NOTES: 1. At 82 FR 15450, Mar. 28, 2017, § 54.1016 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

2. At 83 FR 17942, Apr. 25, 2018, § 54.1016 was amended by revising paragraph (a)(1)(ii) and will not become effective until approval has been given by the Office of Management and Budget.

§ 54.1017 Compliance for Mobility Fund Phase II.

(a) Mobile eligible telecommunications carriers subject to defined build-out milestones in § 54.1015 must notify the Commission and USAC, and the relevant state, U.S. Territory, or Tribal government, if applicable, within ten (10) business days after the applicable deadline if they have failed to meet a build-out milestone.

(1) *Interim build-out milestones.* Upon notification that a mobile eligible telecommunications carrier has defaulted on an interim build-out milestone after it has begun receiving Mobility Fund Phase II support, the Wireline Competition Bureau or Wireless Telecommunications Bureau will issue a letter evidencing the default. For purposes of determining whether a default has occurred, any service a mobile eligible telecommunications carrier offers must meet the performance obligations in § 54.1015(a)(1) and (2). The issuance of this letter shall initiate reporting obligations and withholding of a percentage of the mobile eligible telecommunication carrier's total monthly Mobility Fund Phase II support, if applicable, starting the month following the issuance of the letter:

(i) *Tier 1.* If a mobile eligible telecommunications carrier has a compliance gap of at least five (5) percent but less than 15 percent of the eligible square miles that the mobile eligible telecommunications carrier is required to have covered by the relevant interim milestone at the state level, the Wireline Competition Bureau or Wireless Telecommunications Bureau will issue a letter to that effect. Starting

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three (3) months after the issuance of this letter, the mobile eligible telecommunications carrier will be required to file a report every three (3) months identifying the eligible square miles to which the mobile eligible telecommunications carrier has newly deployed facilities capable of meeting the requisite Mobility Fund Phase II requirements at the state level in the previous quarter. Mobile eligible telecommunications carriers that do not file these quarterly reports on time will be subject to support reductions as specified in § 54.1019(f). The mobile eligible telecommunications carrier must continue to file quarterly reports until the mobile eligible telecommunications carrier reports that it has reduced the compliance gap to less than five (5) percent of the eligible square miles for that interim milestone at the state level and the Wireline Competition Bureau or Wireless Telecommunications Bureau issues a letter to that effect.

(ii) *Tier 2.* If a mobile eligible telecommunications carrier has a compliance gap of at least 15 percent but less than 25 percent of the eligible square miles that the mobile eligible telecommunications carrier is required to have covered by the interim milestone at the state level, USAC will withhold 15 percent of the mobile eligible telecommunications carrier's monthly support for that state and the mobile eligible telecommunications carrier will be required to file quarterly reports. Once the mobile eligible telecommunications carrier has reported that it has reduced the compliance gap to less than 15 percent of the eligible square miles for that interim milestone at the state level, the Wireline Competition Bureau or Wireless Telecommunications Bureau will issue a letter to that effect, and the mobile eligible telecommunications carrier will then move to Tier 1 status.

(iii) *Tier 3.* If a mobile eligible telecommunications carrier has a compliance gap of at least 25 percent but less than 50 percent of the eligible square miles that the mobile eligible telecommunications carrier is required to have covered by the interim milestone at the state level, USAC will withhold