

## § 54.320

## 47 CFR Ch. I (10–1–20 Edition)

(5) In the fifth year, 15 percent of the incumbent's disaggregated support the competitive census blocks will be provided;

(6) In the sixth year and thereafter, no support shall be paid provided pursuant to subpart K of this part for any competitive census block.

(h) The Wireline Competition Bureau shall update its analysis of competitive overlap in census blocks every seven years, utilizing the current public interest obligations in § 54.308(a)(2) as the standard that must be met by an unsubsidized competitor.

[80 FR 4478, Jan. 27, 2015, as amended at 81 FR 24342, Apr. 25, 2016; 82 FR 14340, Mar. 20, 2017; 83 FR 14189, Apr. 3, 2018; 84 FR 4732, Feb. 19, 2019]

### § 54.320 Compliance and record-keeping for the high-cost program.

(a) Eligible telecommunications carriers authorized to receive universal service high-cost support are subject to random compliance audits and other investigations to ensure compliance with program rules and orders.

(b) All eligible telecommunications carriers shall retain all records required to demonstrate to auditors that the support received was consistent with the universal service high-cost program rules. This documentation must be maintained for at least ten years from the receipt of funding. All such documents shall be made available upon request to the Commission and any of its Bureaus or Offices, the Administrator, and their respective auditors.

(c) Eligible telecommunications carriers authorized to receive high-cost support that fail to comply with public interest obligations or any other terms and conditions may be subject to further action, including the Commission's existing enforcement procedures and penalties, reductions in support amounts, potential revocation of ETC designation, and suspension or debarment pursuant to § 54.8.

(d) Eligible telecommunications carriers subject to defined build-out milestones must notify the Commission and USAC, and the relevant state, U.S. Territory, or Tribal government, if applicable, within 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 an eligible telecommunications carrier has defaulted on an interim build-out milestone after it has begun receiving high-cost support, the Wireline Competition Bureau—or Wireless Telecommunications Bureau in the case of mobile carrier participants—will issue a letter evidencing the default. For purposes of determining whether a default has occurred, a carrier must be offering service meeting the requisite performance obligations. The issuance of this letter shall initiate reporting obligations and withholding of a percentage of the eligible telecommunication carrier's total monthly high-cost support, if applicable, starting the month following the issuance of the letter:

(i) *Tier 1.* If an eligible telecommunications carrier has a compliance gap of at least five percent but less than 15 percent of the number of locations that the eligible telecommunications carrier is required to have built out to or, in the case of Alaska Plan mobile-carrier participants, population covered by the specified technology, middle mile, and speed of service in the carrier's approved performance plan, by the interim milestone, the Wireline Competition Bureau or Wireless Telecommunications Bureau, will issue a letter to that effect. Starting three months after the issuance of this letter, the eligible telecommunications carrier will be required to file a report every three months identifying the geocoded locations to which the eligible telecommunications carrier has newly deployed facilities capable of delivering broadband meeting the requisite requirements with Connect America support in the previous quarter, or, in the case of Alaska Plan mobile-carrier participants, the populations to which the competitive eligible telecommunications carrier has extended or upgraded service meeting their approved performance plan and obligations. Eligible telecommunications carriers that do not file these quarterly reports on time will be subject to support reductions as specified in § 54.313(j). The eligible telecommunications carrier must continue to file

quarterly reports until the eligible telecommunications carrier reports that it has reduced the compliance gap to less than five percent of the required number of locations (or population, if applicable) for that interim milestone and the Wireline Competition Bureau or Wireless Telecommunications Bureau issues a letter to that effect.

(ii) *Tier 2.* If an eligible telecommunications carrier has a compliance gap of at least 15 percent but less than 25 percent of the number of locations that the eligible telecommunications carrier is required to have built out to or, in the case of Alaska Plan mobile-carrier participants, population covered by the specified technology, middle mile, and speed of service in the carrier's approved performance plan, by the interim milestone, USAC will withhold 15 percent of the eligible telecommunications carrier's monthly support for that support area and the eligible telecommunications carrier will be required to file quarterly reports. Once the eligible telecommunications carrier has reported that it has reduced the compliance gap to less than 15 percent of the required number of locations (or population, if applicable) for that interim milestone for that support area, the Wireline Competition Bureau or Wireless Telecommunications Bureau will issue a letter to that effect, USAC will stop withholding support, and the eligible telecommunications carrier will receive all of the support that had been withheld. The eligible telecommunications carrier will then move to Tier 1 status.

(iii) *Tier 3.* If an eligible telecommunications carrier has a compliance gap of at least 25 percent but less than 50 percent of the number of locations that the eligible telecommunications carrier is required to have built out to by the interim milestone, or, in the case of Alaska Plan mobile-carrier participants, population covered by the specified technology, middle mile, and speed of service in the carrier's approved performance plan, USAC will withhold 25 percent of the eligible telecommunications carrier's monthly support for that support area and the eligible telecommunications carrier will be required to file quarterly reports. Once the eligible telecommunications

carrier has reported that it has reduced the compliance gap to less than 25 percent of the required number of locations (or population, if applicable) for that interim milestone for that support area, the Wireline Competition Bureau or Wireless Telecommunications Bureau will issue a letter to that effect, the eligible telecommunications carrier will move to Tier 2 status.

(iv) *Tier 4.* If an eligible telecommunications carrier has a compliance gap of 50 percent or more of the number of locations that the eligible telecommunications carrier is required to have built out to or, in the case of Alaska Plan mobile-carrier participants, population covered by the specified technology, middle mile, and speed of service in the carrier's approved performance plan, by the interim milestone:

(A) USAC will withhold 50 percent of the eligible telecommunications carrier's monthly support for that support area, and the eligible telecommunications carrier will be required to file quarterly reports. As with the other tiers, as the eligible telecommunications carrier reports that it has lessened the extent of its non-compliance, and the Wireline Competition Bureau or Wireless Telecommunications Bureau issues a letter to that effect, it will move down the tiers until it reaches Tier 1 (or no longer is out of compliance with the relevant interim milestone).

(B) If after having 50 percent of its support withheld for six months the eligible telecommunications carrier has not reported that it is eligible for Tier 3 status (or one of the other lower tiers), USAC will withhold 100 percent of the eligible telecommunications carrier's monthly support and will commence a recovery action for a percentage of support that is equal to the eligible telecommunications carrier's compliance gap plus 10 percent of the ETC's support that has been disbursed to that date.

(v) If at any point during the support term, the eligible telecommunications carrier reports that it is eligible for Tier 1 status, it will have its support fully restored, USAC will repay any funds that were recovered or withheld, and it will move to Tier 1 status.

(2) *Final milestone.* Upon notification that the eligible telecommunications carrier has not met a final milestone, the eligible telecommunications carrier will have twelve months from the date of the final milestone deadline to come into full compliance with this milestone. If the eligible telecommunications carrier does not report that it has come into full compliance with this milestone within twelve months, the Wireline Competition Bureau—or Wireless Telecommunications Bureau in the case of mobile carrier participants—will issue a letter to this effect. In the case of Alaska Plan mobile carrier participants, USAC will then recover the percentage of support that is equal to 1.89 times the average amount of support per location received by that carrier over the support term for the relevant percentage of population. For other recipients of high-cost support, USAC will then recover the percentage of support that is equal to 1.89 times the average amount of support per location received in the support area for that carrier over the term of support for the relevant number of locations plus 10 percent of the eligible telecommunications carrier's total relevant high-cost support over the support term for that support area. Where a recipient is unable to demonstrate compliance with a final performance testing milestone, USAC will recover the percentage of support that is equal to 1.89 times the average amount of support per location received in the support area for the relevant number of locations for that carrier plus 10 percent of the eligible telecommunications carrier's total relevant high-cost support over the support term for that support area, the total of which will then be multiplied by the percentage of time since the carrier was last able to demonstrate compliance based on performance testing, on a quarterly basis. In the event that a recipient fails to meet a final milestone both for build-out and performance compliance, USAC will recover the total of the percentage of support that is equal to 1.89 times the average amount of support per location received by that carrier over the support term for the relevant number of locations to which the carrier failed to build out; the percentage

of support that is equal to 1.89 times the average amount of support per location received in the support area for the relevant number of locations for that carrier multiplied by the percentage of time since the carrier was last able to demonstrate compliance based on performance testing; and 10 percent of the eligible telecommunications carrier's total relevant high-cost support over the support term for that support area.

(3) *Compliance reviews.* If subsequent to the eligible telecommunications carrier's support term, USAC determines in the course of a compliance review that the eligible telecommunications carrier does not have sufficient evidence to demonstrate that it is offering service to all of the locations required by the final milestone or, in the case of Alaska Plan participants, did not provide service consistent with the carrier's approved performance plan, USAC shall recover a percentage of support from the eligible telecommunications carrier as specified in paragraph (d)(2) of this section.

[76 FR 73876, Nov. 29, 2011, as amended at 80 FR 4478, Jan. 27, 2015; 81 FR 69714, Oct. 7, 2016; 84 FR 67235, Dec. 9, 2019]

**§ 54.321 Reporting and certification requirements for Alaska Plan participants.**

Any competitive eligible telecommunications carrier authorized to receive Alaska Plan support pursuant to § 54.317 shall provide:

(a) No later than 60 days after the end of each participating carrier's first five-year term of support, a certification that it has met the obligations contained in the performance plan approved by the Wireless Telecommunications Bureau, including any obligations pursuant to a revised approved performance plan and that it has met the requisite public interest obligations contained in the Alaska Plan Order. For Alaska Plan participants receiving more than \$5 million annually in support, this certification shall be accompanied by data received or used from drive tests analyzing network coverage for mobile service covering the population for which support was