

## Federal Communications Commission

## § 54.805

BBB– or better (or an equivalent rating from another nationally recognized credit rating agency); or

(iii) The National Rural Utilities Cooperative Finance Corporation, so long as it maintains assets that place it among the 100 largest United States Banks, determined on basis of total assets as of the calendar year immediately preceding the issuance of the letter of credit and it has a long-term unsecured credit rating issued by Standard & Poor's of BBB– or better (or an equivalent rating from another nationally recognized credit rating agency); or

(iv) Any non-United States bank:

(A) That 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) Has a long-term unsecured credit rating issued by a widely-recognized credit rating agency that is equivalent to a BBB– or better rating by Standard & Poor's; and

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

(3) *Bankruptcy opinion letter.* A long-form applicant for Rural Digital Opportunity Fund support shall provide with its letter of credit an opinion letter from its 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 under section 541 of the Bankruptcy Code.

(4) *Non-compliance.* Authorization to receive Rural Digital Opportunity Fund support is conditioned upon full and timely performance of all of the requirements set forth in this section, and any additional terms and conditions upon which the support was granted.

(i) Failure by a Rural Digital Opportunity Fund support recipient to meet

its service milestones for the location totals determined by the Connect America Cost Model, or the location total that is adjusted by the Wireline Competition Bureau for those areas where there are fewer locations than the number of locations determined by the Connect America Cost Model, as required by § 54.802 will trigger reporting obligations and the withholding of support as described in § 54.320(d). Failure to come into full compliance during the relevant cure period as described in §§ 54.320(d)(1)(iv)(B) or 54.320(d)(2) will trigger a recovery action by the Universal Service Administrative Company as described in § 54.320(d)(1)(iv)(B) or § 54.806(c)(1)(i), as applicable. If the Rural Digital Opportunity Fund recipient does not repay the requisite amount of support within six months, the Universal Service Administrative Company will be entitled to draw the entire amount of the letter of credit and may disqualify the Rural Digital Opportunity Fund support recipient from the receipt of Rural Digital Opportunity Fund support or additional universal service support.

(ii) The default will be evidenced by a letter issued by the Chief of the Wireline Competition Bureau, or its respective designees, which letter, attached to a standby letter of credit draw certificate, shall be sufficient for a draw on the standby letter of credit for the entire amount of the standby letter of credit.

### § 54.805 Rural Digital Opportunity Fund public interest obligations.

(a) Recipients of Rural Digital Opportunity Fund support are required to offer broadband service with latency suitable for real-time applications, including Voice over internet Protocol, and usage capacity that is reasonably comparable to comparable offerings in urban areas, at rates that are reasonably comparable to rates for comparable offerings in urban areas. For purposes of determining reasonable comparable usage capacity, recipients are presumed to meet this requirement if they meet or exceed the usage level announced by public notice issued by the Wireline Competition Bureau. For purposes of determining reasonable comparability of rates, recipients are

presumed to meet this requirement if they offer rates at or below the applicable benchmark to be announced annually by public notice issued by the Wireline Competition Bureau, or no more than the non-promotional prices charged for a comparable fixed wireline service in urban areas in the state or U.S. Territory where the eligible telecommunications carrier receives support.

(b) Recipients of Rural Digital Opportunity Fund support are required to offer broadband service meeting the performance standards for the relevant performance tier.

(1) Rural Digital Opportunity Fund support recipients meeting the minimum performance tier standards are required to offer broadband service at actual speeds of at least 25 Mbps downstream and 3 Mbps upstream and offer a minimum usage allowance of 250 GB per month, or that reflects the average usage of a majority of fixed broadband customers as announced annually by the Wireline Competition Bureau over the 10-year term.

(2) Rural Digital Opportunity Fund support recipients meeting the baseline performance tier standards are required to offer broadband service at actual speeds of at least 50 Mbps downstream and 5 Mbps upstream and offer a minimum usage allowance of 250 GB per month, or that reflects the average usage of a majority of fixed broadband customers as announced annually by the Wireline Competition Bureau over the 10-year term.

(2) Rural Digital Opportunity Fund support recipients meeting the above-baseline performance tier standards are required to offer broadband service at actual speeds of at least 100 Mbps downstream and 20 Mbps upstream and offer at least 2 terabytes of monthly usage.

(3) Rural Digital Opportunity Fund support recipients meeting the Gigabit performance tier standards are required to offer broadband service at actual speeds of at least 1 Gigabit per second downstream and 500 Mbps upstream and offer at least 2 terabytes of monthly usage.

(4) For each of the tiers in paragraphs (b)(1) through (3) of this section,

bidders are required to meet one of two latency performance levels:

(i) Low-latency bidders will be required to meet 95 percent or more of all peak period measurements of network round trip latency at or below 100 milliseconds; and

(ii) High-latency bidders will be required to meet 95 percent or more of all peak period measurements of network round trip latency at or below 750 ms and, with respect to voice performance, demonstrate a score of four or higher using the Mean Opinion Score (MOS).

(c) Recipients of Rural Digital Opportunity Fund support are required to bid on category one telecommunications and internet access services in response to a posted FCC Form 470 seeking broadband service that meets the connectivity targets for the schools and libraries universal service support program for eligible schools and libraries (as described in § 54.501) located within any area in a census block where the carrier is receiving Rural Digital Opportunity Fund support. Such bids must be at rates reasonably comparable to rates charged to eligible schools and libraries in urban areas for comparable offerings.

**§ 54.806 Rural Digital Opportunity Fund reporting obligations, compliance, and recordkeeping.**

(a) Recipients of Rural Digital Opportunity Fund support shall be subject to the reporting obligations set forth in §§ 54.313, 54.314, and 54.316.

(b) Recipients of Rural Digital Opportunity Fund support shall be subject to the compliance measures, recordkeeping requirements and audit requirements set forth in § 54.320(a)–(c).

(c) Recipients of Rural Digital Opportunity Fund support shall be subject to the non-compliance measures set forth in § 54.320(d) subject to the following modifications related to the recovery of support.

(1) If the support recipient does not report it has come into full compliance after the grace period for its sixth year or eighth year service milestone as applicable or if 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