

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 54**

[AU Docket No. 17–182; WC Docket No. 10–90; FCC 18–6]

**Connect America Fund Phase II Auction; Notice and Filing Requirements and Other Procedures for Auction 903**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final action; requirements and procedures.

**SUMMARY:** In the document, the Federal Communications Commission (Commission) establishes the procedures for the Connect America Fund Phase II auction (Phase II auction, auction, or Auction 903). The auction will award up to \$1.98 billion over 10 years to providers that commit to offer voice and broadband services to fixed locations in unserved high-cost areas. The auction is scheduled to begin on July 24, 2018.

**DATES:** Auction 903 short-form applications must be filed prior to 6 p.m. Eastern Time (ET) on March 30, 2018. Bidding in Auction 903 is scheduled to begin on July 24, 2018.

**FOR FURTHER INFORMATION CONTACT:** Heidi Lankau or Katie King, Telecommunications Access Policy Division, Wireline Competition Bureau, (202) 418–7400 or TTY (202) 418–0484; Mark Montano or Angela Kung, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, (202) 418–0660.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission’s document in AU Docket No. 17–182; WC Docket No. 10–90; FCC 18–6, released on February 1, 2018 (*CAF II Auction Procedures Public Notice*). The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th St. SW, Washington, DC 20554 or at the following internet address: [https://](https://transition.fcc.gov/Daily_Releases/Daily_Business/2018/db0201/FCC-18-6A1.pdf)

[transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2018/db0201/FCC-18-6A1.pdf](https://transition.fcc.gov/Daily_Releases/Daily_Business/2018/db0201/FCC-18-6A1.pdf).

**I. Introduction**

1. The Commission establishes procedures for the Connect America Fund Phase II auction (Phase II auction, auction, or Auction 903), thus furthering its progress toward closing the digital divide for all Americans, including those in rural areas of the country. The Phase II auction will award up to \$198 million annually for 10 years to service providers that commit to offer voice and broadband services to fixed locations in unserved high-cost areas. The auction is scheduled to begin on July 24, 2018.

2. Auction 903 will be the first auction to award ongoing high-cost universal service support using a multiple-round, reverse auction. Through this auction, the Commission intends to maximize the value the American people receive for the universal service dollars it spends, balancing higher-quality services with cost efficiencies. Therefore, the auction is designed to select bids from providers that would deploy high-speed broadband and voice services in unserved communities for lower relative levels of support. The bidding procedures will be implemented through the Auction 903 bidding system, which will enable a bidder to express in a simple and orderly way the amount of support it needs to provide a specified level of service to a specified set of eligible areas.

**II. Auction Specifics**

3. *Auction Title and Start Date.* The auction is referred to as “Auction 903—Connect America Fund Phase II.” Bidding in Auction 903 will begin on July 24, 2018. The initial schedule for bidding rounds will be announced by public notice approximately one week before the start of the auction.

4. *Auction 903 Dates and Deadlines.* The Auction Application Tutorial will be available via the internet by March 13, 2018. The Short-Form Application (FCC Form 183) filing window opens March 19, 2018 at 12:00 noon ET. The Short-Form Application (FCC Form 183)

filing window deadline is March 30, 2018 at 6:00 p.m. ET. The Auction Bidding Tutorial will be available via the internet by June 28, 2018. The mock auction begins during the week of July 16, 2018. The auction begins on July 24, 2018.

5. *Requirements for Participation.* Those wishing to participate in this auction must submit a short-form application (FCC Form 183) electronically prior to 6:00 p.m. ET, March 30, 2018, following the electronic filing procedures that will be provided in a public notice to be released in advance of the opening of the short-form application filing window and comply with all provisions outlined in the document and applicable Commission rules.

**III. Public Interest Obligations**

6. Each winning bidder that is authorized to receive Phase II support after the close of the auction will be required to offer voice and broadband services meeting the relevant performance requirements to fixed locations. It must make these services available to the required number of locations associated with the eligible census blocks for which it is the winning bidder. The number of locations that a support recipient is required to serve in the eligible census blocks is aggregated to the census block group (CBG) level, which is the geographic area that will be used for bidding in the auction. In the auction, the Commission will accept bids for service at one of four performance tiers, each with its own minimum download and upload speed and usage allowance, and for either high or low latency service, as shown in the tables below. Winning bidders that become authorized to receive Phase II support must deploy broadband service that meets the performance tier and latency requirements associated with their winning bids. Each Connect America Fund support recipient must offer voice as a standalone service, but may separately bundle its broadband offerings with a voice service.

Performance tier	Speed	Monthly usage allowance	Weight
Minimum .....	≥10/1 Mbps .....	≥150 gigabytes (GB) .....	65
Baseline .....	≥25/3 Mbps .....	≥150 GB or U.S. median, whichever is higher .....	45
Above Baseline .....	≥100/20 Mbps .....	≥2 terabytes (TB) .....	15
Gigabit .....	≥1 Gbps/500 Mbps .....	≥2 TB .....	0

Latency	Requirement	Weight
Low Latency .....	≤100 ms .....	0
High Latency .....	≤750 ms & MOS ≥4 .....	25

7. Phase II support recipients are permitted to offer a variety of broadband service offerings as long as they offer at least one standalone voice plan and one service plan that provides broadband at the relevant performance tier and latency requirements, and these plans must be offered at rates that are reasonably comparable to rates offered in urban areas. For voice service, a support recipient will be required to certify that the pricing of its service is no more than the applicable reasonably comparable rate benchmark that the Commission's Wireline Competition Bureau (WCB) releases each year. For broadband services, a support recipient will be required to certify that the pricing of a service that meets the required performance tier and latency performance requirements is no more than the applicable reasonably comparable rate benchmark, or that it is no more than the non-promotional price charged for a comparable fixed wireline broadband service in the state or U.S. territory where the eligible telecommunication carrier (ETC) receives support.

8. The Commission has adopted specific service milestones that require each winning bidder authorized to receive Phase II support to offer service to a portion of the number of locations associated with the eligible census blocks included in its authorized winning bids in a state. Specifically, each support recipient must complete construction and begin commercially offering service to 40 percent of the requisite number of locations in a state by the end of the third year of funding and to an additional 20 percent in each subsequent year, with 100 percent by the end of the sixth year. A support recipient is deemed to be commercially offering voice and/or broadband service to a location if it provides service to the location or could provide it within 10 business days upon request.

9. Compliance will be determined at the state-level. The Commission will verify that the support recipient offers the required service to the total number of locations across all the eligible census blocks included in all of the support recipient's authorized bid areas (*i.e.*, CBGs) in a state. If a support recipient is authorized to receive support in a state for different performance tier and latency combinations, it will be required to demonstrate that it is offering service meeting the relevant performance requirements to the required number of locations for each performance tier and latency combination within that state.

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

adding up the locations in all the eligible census blocks in the state covered by authorized winning bids specifying the particular performance tier and latency combination.

11. The Commission also decided that a support recipient that faces unforeseen challenges may take advantage of the flexibility to serve, at a minimum, 95 percent of the required number of locations in a state. Support recipients that offer service to at least 95 percent of locations but fewer than 100 percent of locations must refund support based on the number of locations left unserved in the state.

12. In the event a support recipient cannot identify enough locations in the eligible census blocks in its winning bids to meet its statewide obligation, it will have one year after release of the Phase II auction closing public notice to file evidence of the total number of locations in those blocks, including geolocation data of all the locations it was able to identify. The support recipient's filing will be subject to review and comment by relevant stakeholders and an audit. If the support recipient demonstrates that the number of actual, on-the-ground locations is lower than the number estimated by the CAM, its state location total will be adjusted, and its support will be reduced on a pro rata basis. If a support recipient finds that the number of actual locations has increased, its location total and support will not be increased.

13. To monitor each support recipient's compliance with the Phase II auction public interest obligations, the Commission has adopted reporting requirements described in detail in the *Phase II Auction Order*, 81 FR 44413, July 7, 2016. These include reporting a list of geocoded locations each year to which the support recipient is offering the required voice and broadband services, making a certification when the support recipient has met service milestones, and submitting the annual FCC Form 481 report. A support recipient that fails to offer service to the required number of locations by a service milestone will be subject to non-compliance measures. A support recipient will also be subject to any non-compliance measures that are adopted in conjunction with a methodology for high-cost support recipients to measure and report network performance.

#### IV. Eligible Areas

14. The Commission will use CBGs containing one or more eligible census blocks as the minimum geographic area for bidding in the auction. WCB released a list of the eligible census blocks for Auction 903 in December

2017 based on December 31, 2016 FCC Form 477 data. The list contains two tables. The first table identifies the CBGs eligible for bidding in the Phase II auction and lists the CBG identification number (the 12-digit Census code), the relevant state abbreviation, the county name, the number of locations that are eligible for Phase II support, and the reserve price (on an annual basis) rounded to the nearest dollar. The second table identifies the eligible census blocks within the CBGs that are eligible for bidding in the Phase II auction. This table lists the census block identification number (the 15-digit Census code), the relevant state abbreviation, the county name, and the CBG identification number. All the eligible census blocks within a CBG will be aggregated for bidding purposes. The table includes approximately 214,000 census blocks that are within approximately 30,300 CBGs, located in 50 states and territories. The Commission directs WCB to release a revised map and list of eligible areas that removes census block groups with a \$0 reserve price and census blocks that overlap certain rate-of-return carrier study area boundaries.

#### V. Applying To Participate in Auction 903

15. *General Information Regarding Short-Form Applications.* An application to participate in Auction 903, referred to as a short-form application or FCC Form 183, provides information used to determine whether the applicant has the legal, technical, and financial qualifications to participate in a Commission auction for universal service support. The short-form application is the first part of the Commission's two-phased auction application process. In the first phase, an entity seeking to participate in the auction must file a short-form application in which it certifies, under penalty of perjury, its qualifications. Eligibility to participate in the Phase II auction is based on an applicant's short-form application and certifications. A potential applicant must take seriously its duties and responsibilities and carefully determine before filing a short-form application that it is able to meet the public interest obligations associated with Phase II support if it ultimately becomes a winning bidder in the auction. The Commission's determination that an applicant is qualified to participate in Auction 903 does not guarantee that the applicant will also be deemed qualified to receive Phase II support if it becomes a winning bidder. In the second phase of the

process, each winning bidder must file a more comprehensive long-form application (FCC Form 683), which the Commission will review to determine if a winning bidder should be authorized to receive support for its winning bids.

16. An entity seeking to participate in Auction 903 must file a short-form application electronically via the FCC's Auction Application System prior to 6:00 p.m. ET on March 30, 2018. Among other things, an applicant must submit operational and financial information demonstrating that it can meet the service requirements associated with the performance tier and latency combination(s) for which it intends to bid. Below the Commission describes more fully the information disclosures and certifications required in the short-form application. An applicant that files a short-form application is subject to the Commission's rule prohibiting certain communications. An applicant is subject to the prohibition beginning at the deadline for filing short-form applications.

17. An applicant bears full responsibility for submitting an accurate, complete, and timely short-form application. An applicant should consult the Commission's rules to ensure that, in addition to the materials described below, all required information is included in its short-form application. To the extent the information in the document does not address a potential applicant's specific operating structure, or if the applicant needs additional information or guidance concerning the following disclosure requirements, the applicant should review the educational materials for Auction 903 and/or use the contact information provided in the document to consult with Commission staff to better understand the information it must submit in its short-form application.

18. The same entity may not bid based on more than one auction application, *i.e.*, as more than one applicant. Therefore, an entity may not submit more than one short-form application for Auction 903. If an entity submits multiple short-form applications, only one application may be the basis for that entity to become qualified to bid.

19. An applicant should note that submitting a short-form application (and any amendments thereto) constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. As more fully explained below, an

applicant is not permitted to make major modifications to its application after the short-form application filing deadline. Submitting a false certification to the Commission may result in penalties, including monetary forfeitures, the forfeiture of universal service support, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

20. After the initial short-form application filing deadline, Commission staff will review all timely submitted applications to determine whether each application complies with the application requirements and has provided all required information concerning the applicant's qualifications for bidding. After this review is completed, a public notice will be released announcing the status of applications and identifying the applications that are complete and those that are incomplete because of minor defects that may be corrected. This public notice also will establish an application resubmission filing window, during which an applicant may make permissible minor modifications to its application to address identified deficiencies. The public notice will include the deadline for resubmitting modified applications. After the review of resubmitted applications is complete, a public notice will be released identifying the applicants that are qualified to bid.

21. *Disclosure of Agreements and Bidding Arrangements.* An applicant must identify in its short-form application all real parties in interest to any agreements relating to the participation of the applicant in the competitive bidding for Phase II support. This disclosure requirement applies to any arrangements with parties that are applying to participate in Auction 903 as well as parties that are not. An applicant that discloses any such agreement(s) must provide in its short-form application a brief description of each agreement.

22. An applicant must certify under penalty of perjury in its short-form application that it has disclosed all real parties in interest to any agreements involving the applicant's participation in the competitive bidding for Phase II support. An applicant must also certify under penalty of perjury that it has not entered into any explicit or implicit agreements, arrangements, or understandings of any kind related to the support to be sought through the Phase II auction, other than those disclosed in its application. For purposes of making the required agreement disclosures, if parties agree in principle on all material terms prior to

the application filing deadline, each applicant should provide a brief description of, and identify the other party or parties to, the agreement on its respective FCC Form 183, even if the agreement has not been reduced to writing. If an applicant has had discussions, but has not reached an agreement by the close of the initial filing window, it should not include the names of parties to the discussions on its application and may not continue such discussions with any applicants after the close of the initial filing window until after the auction closes.

23. *Ownership Disclosure Requirements.* Each applicant must comply with the ownership disclosure requirements in §§ 1.2112(a) and 54.315(a)(1) of the Commission's rules. Specifically, in completing the short-form application, an applicant must fully disclose information regarding the real party- or parties-in-interest in the applicant or application and the ownership structure of the applicant, including both direct and indirect ownership interests of 10 percent or more, as prescribed in § 1.2112(a) of the Commission's rules. Each applicant is responsible for ensuring that information submitted in its short-form application is complete and accurate.

24. In certain circumstances, an applicant may have previously filed an FCC Form 602 ownership disclosure information report or filed an auction application for a previous auction in which ownership information was disclosed. The most current ownership information contained in any FCC Form 602 or previous auction application on file with the Commission that used the same FRN the applicant is using to submit its FCC Form 183 will automatically be pre-filled into certain ownership sections on the applicant's FCC Form 183, if such information is in an electronic format compatible with FCC Form 183. Each applicant must carefully review any ownership information automatically entered into its FCC Form 183, including any ownership attachments, to confirm that all information supplied on FCC Form 183 is complete and accurate as of the application filing deadline for Auction 903. Any information that needs to be corrected or updated must be changed directly in FCC Form 183.

25. *Specific Universal Service Certifications.* An applicant must certify that it is in compliance with all statutory and regulatory requirements for receiving the universal service support it seeks. Alternatively, if expressly allowed by the rules specific to a high-cost support mechanism, an applicant may certify that it

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

26. In addition, an applicant must certify that it will make any default payment that may be required pursuant to § 1.21004, and that it is aware that if its application is shown to be defective, the application may be dismissed without further consideration and penalties may apply.

27. *Specific Phase II Eligibility Requirements and Certifications. State Selections and Impermissible State Overlaps.* An applicant must select the specific state(s) in which it wishes to bid when submitting its short-form application. For purposes of the short-form application, the term "state" shall also include the District of Columbia and U.S. territories to the extent they contain eligible areas. An applicant will be able to place bids for eligible areas only in the state(s) identified in its short-form application and for which it is deemed eligible to bid. An applicant should take appropriate steps to ensure that the state(s) it selects fully reflect its bidding intentions because an applicant may not select any additional states in which to bid after the initial short-form application filing window closes. However, an applicant will be permitted to remove any state(s) it selected on its short-form application during the application resubmission filing window.

28. In addition, to discourage coordinated bidding that may disadvantage other bidders, separate applicants that are commonly controlled or are parties to a joint bidding arrangement are prohibited from bidding in any of the same states. Knowing the specific state(s) for which an applicant intends to bid, as well as its ownership and bidding arrangement information, all of which is collected on the short-form application, will help the Commission ensure that applicants comply with this prohibition.

29. Commonly controlled applicants are those in which the same individual or entity either directly or indirectly holds a controlling interest. To identify commonly controlled applicants, the Commission defines a "controlling interest" for purposes of the Phase II auction as an individual or entity with positive or negative *de jure* or *de facto* control of the applicant. In addition, the Commission defines "joint bidding arrangements" as those that (i) relate to any eligible area in the Phase II auction and (ii) address or communicate bids or bidding strategies, including arrangements regarding Phase II support levels (*i.e.*, bidding percentages) and specific areas on which to bid, as well

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

30. Entities that are commonly controlled or are parties to a joint bidding arrangement have two options for submitting short-form applications to avoid the restriction on state overlaps. It is important that such entities carefully consider these options prior to the short-form application filing deadline. At the deadline, the prohibition of certain communications begins, and after that time, only minor amendments or modifications to applications will be permitted.

31. First, such entities may submit a single short-form application and qualify to bid as one applicant in a state. To facilitate the identification of such applications, an applicant will indicate whether it is submitting the application on behalf of itself and one or more existing operating companies, and if so, to identify such companies. Similarly, parties to a joint bidding arrangement may form a consortium or a joint venture and submit a single short-form application that identifies each party to the consortium or joint venture. At least one related entity, affiliate, or member of the holding or parent company, consortium, or joint venture identified in the short-form application must demonstrate that it meets the operational and financial requirements of § 54.315(a)(7).

32. If a holding/parent company or a consortium/joint venture is announced as a winning bidder in Auction 903, the entity may designate at least one operating company controlled by the holding/parent company or by a member of (or an entity controlled by a member of) the consortium/joint venture that will be authorized to receive Phase II support for the winning bids in a state. While more than one operating company may be designated in a state, an operating company must be identified for each winning bid, whether the bid covers one CBG or a package of CBGs. Thus, a winning bidder cannot apportion either eligible census blocks within a winning bid for a CBG or separate CBGs within a winning package bid among multiple operating companies. The operating company that seeks authorization for Phase II support must file the long-form application in its own name. Because the operating company is the entity that will be required to meet the associated Phase II public interest obligations, the operating company should be the entity that will make the required certifications in the long-form application about its technical and financial qualifications and that will

meet the public interest obligations. A holding/parent company or a consortium/joint venture short-form applicant that intends to form a new operating company if it is named as a winning bidder is expected to take whatever steps are necessary to form the operating company in advance of the long-form application filing deadline. The identified operating company must also be the entity that is designated as the ETC by the relevant state(s) in the areas covered by the winning bid(s) and is named in the letter of credit applicable to the specific winning bids for which it becomes authorized for support.

33. The second way commonly controlled entities or parties to a joint bidding arrangement can participate is by submitting short-form applications and qualifying to bid independently, though not in the same state. Such applicants must exercise due diligence to confirm prior to submitting their respective short-form applications that no other commonly controlled entity or party to a joint bidding arrangement, or an entity that controls any party to such an arrangement, has indicated its intent to bid in any of the same state(s) that each of the applicants has selected. To that end, an applicant must certify in its short-form application that it acknowledges that it cannot place any bids in the same state as (i) another commonly controlled entity, (ii) another party to a joint bidding arrangement related to Phase II support that it is a party to, or (iii) any entity that controls a party to such an arrangement. And, as noted above, to help identify any impermissible state overlaps, an applicant must provide in its short-form application a brief description of any bidding arrangements that are required to be disclosed.

34. If, during short-form application review, applicants that are commonly controlled and/or parties to a joint bidding arrangement are found to have selected the same state(s) in their respective applications, all such applications will be deemed to be incomplete on initial review. The WCB and the Wireless Telecommunications Bureau (WTB) (collectively, the Bureaus) will inform each affected applicant of the identity of each of the other applicant(s) with which it has an impermissible state overlap and the specific overlapping state(s). To the extent that an affected applicant has disclosed a joint bidding arrangement with one or more of the other affected applicants, these applicants must decide amongst themselves which applicant (if any) will bid in each overlapping state. Then, the applicants must revise their

short-form applications during the application resubmission window, as appropriate, so that only one of the applications includes the overlapping state and thus only one of the applicants can be deemed eligible to bid on that particular state. However, if the overlapping state(s) remain listed in more than one of the affected applicants' applications after the close of the resubmission filing window, none of the affected applicants will be eligible to bid in the overlapping state(s). Any affected applicant that has not entered into a joint bidding arrangement with the other affected applicant(s) (including commonly controlled entities) and disclosed that arrangement on its short-form application will be barred by the Commission's prohibited communications rule from discussing the overlap with any of the other affected applicant(s). As a result, such applicants will be prohibited from bidding in any state(s) where there is an overlap after the close of the resubmission filing window. After the Auction 903 qualified bidders are announced, each applicant will be able to view its final eligibility determination for each state in the Auction Application System. The bidding system will be configured to permit a qualified bidder to bid only in the state(s) for which that qualified bidder has been deemed eligible to bid.

35. *Operational History and Submission of Financial Statements.* The Commission has established two pathways for an applicant to demonstrate its operational experience and financial qualifications to participate in the Phase II auction. These pathways vary depending on whether the applicant has at least two years of operational experience. In addition, all applicants are required to provide financial and operational information, regardless of whether they have two years of operational experience.

36. With the first pathway, an applicant can certify, if applicable, on its FCC Form 183 that it has provided voice, broadband, and/or electric distribution or transmission services for at least two years prior to the short-form application filing deadline (or that the applicant is the wholly owned subsidiary of an entity that has done so), specify the number of years it has been operating, and identify the services it has provided. An applicant will be deemed to have started providing a service on the date it began commercially offering that service to end users.

37. If an applicant certifies that it has been providing voice and/or broadband

services for at least two years, it must certify that it (or its parent company, if it is a wholly owned subsidiary) has filed FCC Form 477s as required during that time period. It must also identify the FRNs it (or its parent company) used to file the FCC Form 477s for the relevant filing periods. The relevant FCC Form 477 filing periods include data as of June 30, 2016; December 31, 2016; and June 30, 2017. FCC Form 477 data for these periods that were on file as of February 5, 2018 will be used to validate an applicant's representation on the short-form application that it has been providing a voice and/or broadband service for at least two years. If the applicant certifies that it has been providing only electric distribution or transmission services for at least two years (*i.e.*, it has not also been providing voice or broadband service for at least two years), it must submit with its short-form application qualified operating or financial reports that it (or its parent company, if it is a wholly owned subsidiary) filed with the relevant financial institution in 2016 and 2017 that demonstrate that the applicant (or its parent company) has been operating for at least two years. The applicant also must submit a certification that the submission is a true and accurate copy of the forms that were submitted to the relevant financial institution. The Commission will accept the Rural Utilities Service (RUS) Form 7, Financial and Operating Report Electric Distribution; the RUS Form 12, Financial and Operating Report Electric Power Supply; the National Rural Utilities Cooperative Finance Corporation (CFC) Form 7, Financial and Statistical Report; the CFC Form 12, Operating Report; the CoBank Form 7; or the functional replacement of one of these reports.

38. If an applicant that meets the foregoing requirements and it (or its parent company) is audited in the ordinary course of business, the applicant must also submit its (or its parent company's) financial statements from the prior fiscal year, including balance sheets, net income, and cash flow, that were audited by an independent certified public accountant. If the applicant is a holding company, it must submit its own audited financial statements. If the applicant is a consortium or a joint venture, it must submit the audited financial statements of the entity that is the subject of the at least two-year operational certification. If the applicant is a wholly owned subsidiary and has certified that its parent company has provided service for at least two years,

it must submit the audited financial statements of its parent company. Because the short-form application filing window opens in the first quarter of 2018, the Commission requires that an applicant submit its (or its parent company's) 2016 audited financial statements. However, an applicant may, and is encouraged to, instead submit its fiscal year-end 2017 audited financial statements if they are finalized before the short-form application deadline.

39. If an applicant (or its parent company) is not audited in the ordinary course of business and the applicant does not submit its audited financial statements with the short-form application, it must certify that the long-form applicant will submit its (or its parent company's) audited financial statements from the prior fiscal year within 180 days after being announced as a winning bidder. Such an applicant must also submit its (or its parent company's) fiscal year-end 2016 unaudited financial statements with its short-form application, including balance sheet, net income, and cash flow. If an applicant certifies in its short-form application that it will submit audited financial statements during the long-form application process, but such statements are ultimately not submitted, the winning bidder or long-form applicant will be deemed to be in default and subject to a forfeiture.

40. An applicant that does not have at least two years of operational experience must submit with its short-form application its (or its parent company's) financial statements that are audited by an independent certified public accountant from the three most recent fiscal years (*i.e.*, 2014, 2015, and 2016), including balance sheets, net income, and cash flow. An applicant is encouraged to instead submit fiscal year-end 2015, 2016, and 2017 audited financial statements if the 2017 audited financial statements are finalized in time to submit them before the short-form application deadline. Such an applicant must also submit with its short-form application a letter of interest from a qualified bank stating that the bank would provide a letter of credit to the applicant if the applicant becomes a winning bidder and is selected for bids of a certain dollar magnitude. The letter should include the maximum dollar amount for which the bank would be willing to issue a letter of credit to the applicant and a statement that the bank would be willing to issue a letter of credit that is substantially in the same form as set forth in the model letter of credit provided in Appendix B of the

Phase II Auction Order, 81 FR 44413, July 7, 2016.

41. *Financial Qualifications.* All applicants must report on their short-form application certain metrics from their financial statements (audited or unaudited) from the prior fiscal year being submitted with the applications. These metrics are meant to demonstrate that an applicant has sufficient financial qualifications to participate in the Phase II auction to minimize the number of winning bidders that default because they are unable to meet the long-form application requirements. Winning bidders will be required to provide additional, more specific evidence of their financial qualifications at the long-form application stage to demonstrate that they have the financial qualifications to meet the Phase II public interest obligations.

42. These metrics must be reported in the short-form application and will be scored using a five-point scale described below. The five-point scale will be used to score one yes/no question and four other common financial metrics. These metrics are based on information already contained in the financial statements that must be submitted with

the short-form application. The five-point scale provides a streamlined process for assessing, efficiently and objectively, whether an applicant has sufficient financial qualifications or requires further financial review. An applicant that scores at least three points will be deemed to have sufficient financial qualifications to participate in the auction if it has submitted the required financial information with its short-form application.

43. The objective financial metrics for this five-point scale will not necessarily provide a full picture of an applicant's financial qualifications. Therefore, a score of less than three points will warrant a review of the full set of financial statements submitted with the short-form application, as well as other information submitted with the application and/or information submitted to the Commission in other contexts (e.g., financials filed with a FCC Form 481, revenues reported in FCC Form 499, etc.). To the extent this information does not sufficiently demonstrate that an applicant is financially qualified, the application will be deemed incomplete and the Commission may request further

information from the applicant during the application resubmission period.

44. The first point on the five-point scale is based on a yes/no question. Specifically, an applicant that submits audited financial statements will be asked whether it received an unmodified, non-qualified opinion from the auditor; an applicant will receive one point for a "yes" answer. An applicant must also enter the following metrics from the most recent financial statements submitted with the short-form application: (1) Latest operating margins (*i.e.*, operating revenue less operating expenses excluding depreciation), where an operating margin greater than zero will receive one point; (2) Times Interest Earned Ratio (TIER), where a TIER ((net income plus interest expense) divided by interest expense) greater than or equal to 1.25 will receive one point; (3) current ratio (current assets divided by current liabilities), where a ratio greater than or equal to 2 will receive one point; and (4) equity ratio (total equity divided by total capital), where a result greater than or equal to 0.4 will receive one point. This scoring methodology is summarized in the table below:

Financial metric	Response or threshold	Score
If the applicant has audited financial statements, did it receive an unmodified (non-qualified) opinion? .....	Yes	+1
Operating margin .....	>0	+1
Times Interest Earned Ratio (TIER) .....	≥1.25	+1
Current Ratio (Ratio current assets/current liabilities) .....	≥2	+1
Equity Ratio (Total equity/total capital (total equity plus total liabilities)) .....	≥0.4	+1

45. The question regarding an applicant's audit opinion measures both the applicant's financial condition and operations. The metric for operating margin measures core profitability, and the metrics for current ratio and equity ratio measure the applicant's short- and long-term financial condition, respectively. TIER measures the ability to pay interest on outstanding debt.

46. The Commission will consider an applicant with a total score of three points or greater (*i.e.*, a score of one for at least three of the metrics) to have sufficient financial qualifications to participate in Auction 903, regardless of the applicant's score for any specific metric. Failure to score at least three does not indicate that an applicant lacks the financial qualifications to participate in the auction. Rather, it indicates that further review is required. During this further review, an applicant's operating cash flow and EBITDA will be considered, as these metrics may provide a useful context for assessing an applicant's financial status.

If an applicant is unable to demonstrate that it has sufficient financial qualifications based on the information submitted with the short-form application and information submitted to the Commission in other contexts, Commission staff will be able to ask the applicant questions and request additional information during the resubmission filing window.

47. *Eligibility to Bid for Performance Tier and Latency Combinations.* The Commission requires an applicant to demonstrate its eligibility to bid for the performance tier and latency combination(s) it selects in its application in advance of the start of bidding in the auction. An applicant must submit high-level operational information in its short-form application to complete its operational showing. It is the Commission's objective to safeguard consumers from situations where bidders unable to meet the specified service requirements divert support from bidders that can meet the Phase II public interest obligations, and

the short-form application can accomplish this purpose. However, a determination at the short-form stage that an applicant is eligible to bid for a given performance tier and latency combination and has sufficient access to spectrum, if applicable, does not preclude a determination at the long-form application stage that a long-form applicant lacks the requisite technical qualifications or access to spectrum, and thus should not be authorized to receive Phase II support for that eligible area.

48. *Selecting Performance Tier and Latency Combinations.* As required by the Commission's rules, each applicant must select in its short-form application the performance tier and latency combination(s) for which it intends to bid in each state where it seeks support. For each tier and latency combination, an applicant must indicate the technology or technologies it intends to use to meet the associated requirements. If an applicant intends to use spectrum, it must also indicate the spectrum band(s) and total amount of uplink and

downlink bandwidth (in megahertz) that it has access to for the last mile for each performance tier and latency combination it selected in each state.

49. *Operational Information.* An applicant must submit in its short-form application sufficient operational information regarding its experience providing voice, broadband, and/or electric distribution or transmission service and its plans for provisioning service if awarded support. Such information will demonstrate whether an applicant has the technical qualifications to bid for specific performance tier and latency combinations. Specifically, an applicant must submit high-level operational information to complete its operational showing and demonstrate that it can be expected to be reasonably capable of meeting the public interest obligations (e.g., speed, usage, latency, and service milestones) for each performance tier and latency combination selected.

50. Eligibility to bid for specific tier and latency combinations will be determined on a state-by-state basis. Accordingly, for each selected performance tier and latency combination, an applicant will be required to demonstrate that it is reasonably capable of meeting the relevant public interest obligations for each state it selects and to explain how it intends to provision service if awarded support. Because compliance with the service obligations will be determined on a state-level basis and some applicants may propose to deploy hybrid networks, it will be useful to understand how an applicant selecting multiple performance tier and latency combinations within a state intends to meet the requirements for each combination in the state. To reduce the risk of defaults, the combination(s) selected by an applicant will be evaluated to determine its eligibility to bid for any such combination(s).

51. An applicant must answer the questions listed in Appendix A of the *CAF II Auction Procedures Public Notice* for each state it selects in its application. The questions are intended to elicit short, narrative responses from the applicant regarding its experience in providing voice, broadband, and/or electric distribution or transmission service, and the network(s) it intends to use to meet its Phase II public interest obligations. The questions are designed to confirm that the applicant has developed a preliminary design or business case for meeting the public interest obligations for its selected performance tier and latency combinations. They ask the applicant to identify the information it could make

available to support the assertions in its application. The Commission does not anticipate that it will be unduly burdensome to respond to these questions because, at a minimum, each applicant will need to have started planning at a high-level how it intends to meet the relevant Phase II public interest obligations as part of its obligation to conduct due diligence prior to the auction. Because a short-form applicant will not know where it might be authorized to receive support and will have six years to build out or upgrade its network, the information submitted may be based on a preliminary network design, which may be modified once the winning bids are announced and as the network is built out.

52. The Commission expects concise descriptions from applicants. The Commission will implement its usual procedures for reviewing auction applications to help ensure that eligibility determinations are made consistently across all applications by, among other things, leveraging the expertise of engineers and/or other subject matter experts.

53. Until an applicant knows where it will be awarded support and how many locations it will be required to serve, it may not have made all its decisions regarding how it will meet its Phase II obligations. However, an applicant is required to certify that it has performed the necessary due diligence to participate in the Phase II auction. This includes making sure that the applicant will be able to build and operate facilities that will fully comply with all applicable requirements. Accordingly, it is reasonable to expect that an applicant will have developed a preliminary plan for how it will meet its Phase II obligations if awarded support. If an applicant has not demonstrated that it is reasonably capable of meeting the relevant public interest obligations based on the information submitted in the short-form application, the applicant will be asked to submit evidence during the resubmission filing window to demonstrate that it has developed a preliminary plan.

54. *Modifications to Proposed Operational Questions.* The Commission has made some modifications to the originally proposed operational questions to provide greater clarity on how an applicant should respond to them.

55. First, the Commission retains the question about the total number of subscribers an applicant has served with voice and broadband because the size of a service provider's current operations provides useful insight into how an

applicant has scaled its network in the years it has been operating. However, an applicant can provide an estimate and should provide the current total number of subscribers (as of the short-form application filing deadline). If an applicant is no longer providing service in any state, the applicant must estimate the number of customers that were served at the beginning of the last full year that it did provide service.

56. Second, the Commission retains the question asking an applicant to identify the relevant industry standards for the last-mile technologies it intends to use to meet its Phase II obligations if it becomes a winning bidder and is authorized to receive support. This question will give an applicant the opportunity to demonstrate that it has started planning how it will meet the Phase II obligations and that it intends to use technologies that are generally accepted as having the capabilities to meet the relevant performance standards. However, an applicant is not precluded from proposing to use non-standards-based technology. So that an applicant intending to use such technology can demonstrate that the technology has suitable capabilities for meeting the applicable performance requirements, such an applicant must identify the vendors and the products it is considering using and provide links to the vendors' websites and to publicly available technical specifications of the products. If the technical specifications are not publicly available, the applicant may submit them with its application.

57. The Commission will treat the responses to the questions in Appendix A of the *CAF II Auction Procedures Public Notice* and any associated supporting documentation as confidential and will withhold them from routine public inspection. Accordingly, there is no need for an applicant to submit a § 0.459 confidentiality request to seek protection of this information from public disclosure.

58. *Operational Assumptions.* The Commission also adopts certain assumptions that an applicant will need to make about network usage and subscription rates when determining, for purposes of its short-form application, whether it can meet the public interest obligations for its selected performance tier and latency combination(s) if it becomes a winning bidder and is authorized to receive Phase II support.

59. First, an applicant must assume it will offer service to at least 95 percent of the required number of locations across its bids in each state by the end of the six-year build-out period. This

assumption is consistent with the requirement that each winning bidder submit with its long-form application a network diagram with a certification by a professional engineer that the network would deliver, to at least 95 percent of the required number of locations in each relevant state, voice and broadband service that meets the relevant performance requirements. While Phase II support recipients should plan to offer service to 100 percent of the required number of locations and take advantage of the flexibility to offer service to 95 percent of the required number of locations only in unforeseen circumstances, an assumption by an applicant that it will offer service to 95 percent of locations will provide reasonable assurance that the applicant will engineer its network so that it is reasonably capable of meeting the relevant public interest obligations for the required number of locations. While each winning bidder that is authorized to receive Phase II support will be required to offer service only in areas where it is authorized to receive support, after the close of a round, each bid represents an irrevocable offer to meet the terms of the bid if it becomes a winning bid. Accordingly, an applicant that becomes a qualified bidder should assume for each round of the auction that it could be required to offer service meeting the relevant requirements to the number of locations across all the bids that it places in each state.

60. Second, consistent with assumptions made in the CAM, an applicant must assume that it will have at least a 70 percent subscription rate for its voice and broadband services by the time it will meet the final service milestone if it becomes authorized to receive support. Because it may take time for an applicant that becomes a winning bidder and is authorized to receive Phase II support to obtain customers as it builds out its network, applicants may factor this into their engineering and make reasonable assumptions about how the subscription rate will scale during the build-out term. Regardless of the assumptions an applicant makes about its subscription rate when engineering its network, the applicant must keep in mind that its network must be capable of scaling to meet demand. That is, if a Phase II support recipient reports in the High Cost Universal Service Portal that a location is served, it must be capable of providing service meeting the relevant performance requirements to that location within 10 business days after receiving a request.

61. An applicant, if it becomes a winning bidder and is authorized to receive Phase II support, will not be required to demonstrate that it has achieved at least a 70 percent subscription rate once it has deployed to the required number of locations. Instead, an applicant must assume for purposes of its short-form application that it will achieve at least a 70 percent subscription rate when engineering its network. Some Phase II support recipients will achieve at least a 70 percent subscription rate in the areas where they are authorized to receive support and others will not. However, requiring an applicant to make a specific assumption will give the Commission reasonable assurance that an applicant is engineering a network that can be scaled to meet potential demand. Given that subscription rates are likely to vary from area to area and over the 10-year period, the most objective way to minimize defaults and verify that an applicant is making reasonable assumptions about its subscription rate is to require all applicants to make the same assumption about the minimum subscription rate at the end of the build-out period. By adopting a minimum 70 percent subscription rate, applicants are provided some additional clarity for how they can demonstrate that they are technically qualified to participate in the Phase II auction. These benefits would not be achieved by simply presuming that an applicant will have the incentive to make reasonable subscription assumptions because the applicant will ultimately be subject to network testing requirements and non-compliance measures if it becomes a winning bidder and is authorized to receive Phase II support.

62. By requiring an applicant to assume a minimum subscription rate of 70 percent, the Commission is balancing the reality that not all consumers in a given area may subscribe to the Phase II-funded service with the requirement that Phase II support recipients provide the required service to consumers living at a funded location within 10 business days of a request. In the Commission's predictive judgment, a 70 percent subscription rate is a reasonable assumption for engineering a network when taking into account (i) that existing subscription rates, which in some cases are lower than 70 percent, may not reflect actual demand over the 10-year support term, which would be expected to increase as data usage increases and higher speeds are made available, and (ii) in the high-cost areas where the Phase II support recipient

will be deploying its network, it is more likely to be the only broadband provider, which may increase adoption rates. There is a risk that this requirement may result in an increase in costs and could potentially lead to an applicant engineering a network that is capable of serving more locations than actually request service. However, this potential harm is outweighed by the risk that a support recipient could engineer a network that is incapable of meeting demand and may leave consumers unserved if the Commission does not take proactive measures to ensure that a support recipient is making reasonable assumptions about its potential subscription rate.

63. Finally, each winning bidder must provide high-level information regarding its peak period data usage assumptions during the short-form application stage and detailed information regarding its peak period data usage assumptions during the long-form application stage once the bidders know the number of locations they will be required to serve. The Commission intends to review each winning bidder's response on a case-by-case basis to ensure that it is making reasonable assumptions given the required data usage allowances for the performance tiers for which it has been named a winning bidder.

64. *Specific Information Required from Applicants Proposing to Use Spectrum to Provide Service.* An applicant that intends to use radiofrequency spectrum to offer its voice and broadband services must submit information regarding whether the spectrum to which it has access will enable the applicant to meet the public interest obligations for each performance tier and latency combination that it selects in its application.

65. The Commission's Phase II auction rules require an applicant that plans to use spectrum to demonstrate that it has (i) the proper spectrum use authorizations, if applicable; (ii) access to operate on the spectrum it intends to use; and (iii) sufficient spectrum resources to cover peak network usage and meet the minimum performance requirements to serve the fixed locations in eligible areas. Consistent with the Commission's approach in the Mobility Fund Phase I auction, for the described spectrum access to be sufficient, the applicant must have obtained any necessary approvals from the Commission for the spectrum, if applicable, by the short-form application filing deadline, subject to the exceptions described below. The Phase II auction short-form application

rules also require an applicant to certify that it will retain such authorizations for at least 10 years.

66. An applicant that intends to use licensed or unlicensed spectrum must in its short-form application (i) identify the spectrum band(s) it will use for the last mile, backhaul, and any other parts of the network; (ii) describe the total amount of uplink and downlink bandwidth (in megahertz) that it has access to in each spectrum band for the last mile; (iii) describe the authorizations (including leases) it has obtained to operate in the spectrum, if applicable; and (iv) list the call signs and/or application file numbers associated with its spectrum authorizations, if applicable. Any applicant that intends to provide service using satellite technology must describe in its short-form application its expected timing for applying for earth station licenses if it has not already obtained these licenses. Moreover, because an applicant can apply to obtain a microwave license at any time, an applicant that intends to obtain microwave license(s) for backhaul to meet its Phase II public interest obligations may describe in its short-form application its expected timing for applying for such license(s), if it has not already obtained them.

67. This spectrum information, combined with the operational and financial information submitted in the short-form application, will allow an applicant to demonstrate that it has sufficient spectrum resources and is reasonably capable of meeting the public interest obligations required by its selected performance tier and latency combination(s). If a license, lease, or other authorization is set to expire prior to the end of the 10-year support term, the Commission will infer that the authorization will be able to be renewed when determining at the short-form application stage whether an applicant has sufficient access to spectrum. However, this inference will in no way influence or prejudice the Commission's resolution of any future renewal application, and if the authorization is not renewed during the support term and the Phase II support recipient is unable to meet its Phase II obligations, that support recipient will be in default and subject to any applicable non-compliance measures.

68. In Appendix B of the *CAF II Auction Procedures Public Notice*, the Commission identifies the spectrum bands that it anticipates could be used for the last mile to meet Phase II obligations and indicate whether the spectrum bands are licensed or unlicensed. The Commission would

expect that a service provider operating in these bands could, at a minimum, offer service meeting the requirements for the Minimum performance tier provided that the service provider is using sufficient bandwidth in the spectrum band(s) and a technology that can operate on these spectrum bands consistent with applicable U.S. and international rules and regulations.

69. Appendix B of the *CAF II Auction Procedures Public Notice* is a non-exhaustive list of spectrum bands that an applicant could potentially use to meet its performance obligations. An applicant is not precluded from proposing to use a spectrum band that is not included in Appendix B, provided that the applicant can demonstrate that it is reasonably capable of meeting the performance requirements over the 10-year support term for the selected performance tier and latency combination(s) using that spectrum. An applicant that selects a spectrum band listed in Appendix B for a particular performance tier and latency combination may not necessarily be deemed eligible to bid for that combination. Such a showing depends on the technology the applicant intends to use and whether such use is consistent with applicable U.S. and international rules and regulations, the performance tier and latency combination(s) selected, the bandwidth to which the applicant has access in the band(s), and the authorizations the applicant has, if applicable, to access the spectrum. Because these factors will vary for each applicant, the Commission declines to designate specific spectrum bands as "safe harbors" based on whether providers have historically met the relevant requirements for certain performance tier and latency combinations using those spectrum bands.

70. *Collection of Identifiers Associated With Information Submitted to the Commission in Other Contexts.* In addition to information provided in a short-form application, any relevant information that an applicant has submitted to the Commission in other contexts may be considered during application review for purposes of determining whether the applicant is expected to be reasonably capable of meeting the public interest obligations for its selected performance tier and latency combination(s) if it becomes a winning bidder and is authorized to receive Phase II support. This other information would include the following: Data reported in FCC Form 477 Local Telephone Competition and Broadband Report (FCC Form 477), FCC

Form 481 Carrier Annual Reporting Data Collection Form (FCC Form 481), and FCC Form 499–A Annual Telecommunications Reporting Worksheet (FCC Form 499–A), including non-public information. For example, whether an applicant already offers service that meets the public interest obligations associated with its selected performance tier and latency combination(s) and the number of subscribers to that service may be considered.

71. Specifically, applicants must submit in the short-form application any FCC Registration Numbers (FRNs) that an applicant or its parent company—and in the case of a holding company applicant, the operating companies identified in its application—has used to submit its FCC Form 477 data during the past two years. Because the short-form application deadline is March 30, 2018, the Commission will collect FCC Form 477 FRNs that were used for the filings for data as of June 30, 2017, data as of December 31, 2016, and data as of June 30, 2016. Requiring submission of the FRNs that an applicant has used for FCC Form 477, will allow reviewers to cross-reference FCC Form 477 data that an applicant (or a related entity) has filed during the past two years.

72. An applicant must also submit in the short-form application any study area codes (SACs) indicating that the applicant (or its parent company/subsidiaries) is an existing ETC. A holding-company applicant must submit the SACs of its operating companies identified in the application. An applicant is required by the Commission's Phase II short-form application rules to disclose its status as an ETC if applicable.

73. Finally, applicants must submit in the short-form application any FCC Form 499 filer identification numbers that the applicant or its parent company and, in the case of a holding company, its operating companies identified in the application have used to file an FCC Form 499–A in the past year, if applicable. Because the short-form application filing deadline is March 30, 2018, applicants must submit filer identification numbers that were used for the April 3, 2017 filing.

74. *Limiting Eligibility to Bid for Certain Performance Tier and Latency Combinations.* The Commission will preclude applicants planning to use certain technologies to meet their Phase II obligations from becoming eligible to bid for performance tier and latency combinations that are inconsistent with those technologies. Specifically, the Auction Application System will not allow an applicant that selects low

latency in combination with any of the performance tiers to also select geostationary satellites as the technology for those performance tier and latency combinations. The Auction Application System also will not allow an applicant that selects the Gigabit performance tier in combination with either high or low latency in its short-form application to also select geostationary satellites as the technology for those tier and latency combinations.

75. In addition, the Auction Application System will allow an applicant that selects the Gigabit and Above Baseline performance tiers to also select the fixed wireless and/or digital subscriber line (DSL) technologies for those performance tiers on the short-form application. However, the applicant's most recent publicly available FCC Form 477 deployment and subscription data, in addition to the applicant's operational information, will be used to determine the applicant's eligibility to bid in those tiers. If the FCC Form 477 data for that period do not show that the applicant offers residential Gigabit service using fixed wireless or DSL (whichever is selected by the applicant), the applicant will not be deemed eligible to bid in the Gigabit performance tier. If an applicant does not offer a fixed wireless or DSL service at or above 100/20 Mbps based on its FCC Form 477 data, the applicant may be deemed eligible to bid in the Above Baseline performance tier, but that determination will be informed by its FCC Form 477 data as well as its operational information.

76. Applicants that propose to use other technologies that lack historical deployment data are not precluded from bidding for any specific performance tier and latency combination if such applicants become qualified to bid. Without historical deployment data, the Commission is unable to decide categorically whether it can reasonably predict that a new technology would generally be able to meet the relevant public interest obligations by the required service milestones. The Commission will consider each application proposing to use such a new technology on a case-by-case basis, taking into account the applicant's experience, its responses to the short-form operational questions, its spectrum access (if applicable), and other information collected in the short-form application. The additional costs of having to review these technologies on a case-by-case basis are outweighed by the potential benefits to consumers if an applicant can use new technologies to

bring advanced services to unserved areas.

77. *Standard for Evaluating Information on Performance Tier and Latency Combinations; Initial and Final Determinations of Eligibility to Bid on Selected Combinations.* The Bureaus will review the information submitted by an applicant in its short-form application as well as any other relevant and available information to determine whether the applicant has planned how it would provide service if awarded support and whether it is expected to be reasonably capable of meeting the public interest obligations for its selected performance tier and latency combination(s) in its selected state(s). If an applicant demonstrates that it is reasonably capable of meeting the public interest obligations for one or more selected tier and latency combinations in a state, the applicant will be deemed eligible to bid for those performance tier and latency combination(s) in that state.

78. If an applicant is unable to demonstrate that it is reasonably capable of meeting the relevant public interest obligations for its selected performance tier and latency combination(s) based on the information submitted in its short-form application and other available information, the Bureaus will deem the application incomplete. The applicant will then have another opportunity during the application resubmission period to submit additional information to demonstrate that it meets this standard. The Bureaus will notify the applicant that additional information is required to assess the applicant's eligibility to bid for one or more of the specific performance tier and latency combination(s) selected in its short-form application. During the application resubmission filing window, the applicant will be able to submit additional information to establish its eligibility to bid for the relevant performance tier and latency combination(s). An applicant will also have the option of selecting a lesser performance tier and latency combination for which it might be more likely to meet the relevant public interest obligations. The Commission considers these to be permissible minor modifications of the short-form application. After the Auction 903 qualified bidders are announced, each applicant will be able to view its final eligibility determination for each performance tier and latency combination in the selected state(s) for which it is eligible through the Auction Application System. An applicant must have at least one performance tier and

latency combination deemed eligible in at least one state in order to become qualified to bid. The bidding system will be configured to permit a qualified bidder to bid only for the performance tier and latency combination(s) for which it has been deemed eligible to bid.

79. *Due Diligence Certification.* Each applicant has sole responsibility for investigating and evaluating all technical and marketplace factors that may have a bearing on the level of Phase II support for which it will seek to bid in Auction 903 if it becomes a qualified bidder. Each qualified bidder is responsible for assuring that, if it becomes a winning bidder and is ultimately authorized to receive Phase II support, it will be able to build and operate facilities in accordance with the Phase II obligations and the Commission's rules generally.

80. Applicants should be aware that Auction 903 represents an opportunity to apply for Phase II support, subject to certain conditions and regulations. Auction 903 does not constitute an endorsement by the Commission of any particular service, technology, or product, nor does the award of Phase II support constitute a guarantee of business success.

81. An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, the Commission strongly encourages each applicant to review all underlying Commission orders and to assess all pertinent economic factors relating to the deployment of service in a particular area.

82. Each applicant should perform technical analyses or refresh its previous analyses to assure itself that, should it become a winning bidder for Phase II support, it will be able to build and operate facilities that fully comply with all applicable technical and legal requirements and will advertise and provide the service to customers. Each applicant should verify that it can identify enough locations within the eligible census blocks that it intends to include in its bids to be able to offer service meeting the relevant requirements to the required number of locations if it becomes a winning bidder and is authorized to receive Phase II support. Each Phase II support recipient will be required to offer service meeting the relevant requirements to the total number of locations across all the winning bids in each state where it is authorized to receive support. The total number of locations where a Phase II support recipient is required to offer service in each state is determined by

adding up the number of locations the CAM estimated for each eligible census block included in the support recipient's winning bids in the state. The Commission has adopted a process by which support recipients that cannot identify enough locations to meet their state location totals can demonstrate that the number of actual, on-the-ground locations is lower than the number estimated by the CAM. Such a demonstration must be made within one year after the release of the Auction 903 closing public notice and will be subject to review by WCB following comment by relevant stakeholders and potentially an audit. Applicants' due diligence should be informed by the availability of and requirements for this process, in addition to other factors.

83. The Commission strongly encourages each applicant to conduct its own research prior to Auction 903 to determine the existence of pending administrative or judicial proceedings that might affect its decision on participation in the auction. The due diligence considerations mentioned in the document do not comprise an exhaustive list of steps that should be undertaken prior to participating in this auction. As always, the burden is on the applicant to determine how much research to undertake, depending upon specific facts and circumstances related to its interests.

84. Pending and future judicial proceedings, as well as certain pending and future proceedings before the Commission—including applications, applications for modification, notices of proposed rulemaking, notices of inquiry, petitions for rulemaking, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal objections, and applications for review—may relate to or affect licensees or applicants for support in Auction 903. Each prospective applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on Phase II support available through this auction.

85. Each applicant is solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect its ability to bid on or otherwise receive Phase II support. Each applicant is responsible for undertaking research to ensure that any support won in this auction will be suitable for its business plans and needs. Each applicant must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

86. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third-party databases, including, for example, court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant, an applicant must obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the Commission's databases.

87. To confirm an applicant's understanding of its obligations, the applicant must certify under penalty of perjury in its short-form application that the applicant acknowledges that it has sole responsibility for investigating and evaluating all technical, marketplace, and regulatory factors that may have a bearing on the level of Connect America Fund Phase II support it submits as a bid, and that, if the applicant wins support, it will be able to build and operate facilities in accordance with the Connect America Fund obligations and the Commission's rules generally.

88. This certification will help ensure that an applicant acknowledges and accepts responsibility, if it becomes a qualified bidder, for its bids and any forfeitures imposed in the event of default, and that it will not attempt to place responsibility for the consequences of its bidding activity on either the Commission or any of its contractors.

89. *Eligible Telecommunications Carrier Certification.* An applicant must acknowledge in its short-form application that it must be designated as an ETC for the areas in which it will receive support prior to being authorized to receive support. Only ETCs designated pursuant to section 214(e) of the Communications Act of 1934, as amended (the Act), 47 U.S.C. 254 "shall be eligible to receive specific Federal universal service support." Section 214(e)(2) states the primary responsibility for ETC designation. However, section 214(e)(6) provides that the Commission is responsible for processing requests for ETC designation when the service provider is not subject to the jurisdiction of any state commission. Support is disbursed only after the provider receives an ETC designation and satisfies the other long-form application requirements.

90. The Commission decided that an applicant need not be an ETC as of the initial short-form application filing deadline for Auction 903, but that it must obtain a high-cost ETC designation for the areas covered by its winning bids within 180 days after being announced as a winning bidder. Absent a waiver of the deadline, a long-form applicant that fails to obtain the necessary ETC designations by this deadline will be subject to an auction forfeiture as described below, and will not be authorized to receive Phase II support. In addition to all the requirements for participating in the Phase II auction, each applicant should be familiar with the requirements for a high-cost ETC. For example, all high-cost ETCs are required to offer Lifeline voice and broadband service to qualifying low-income consumers pursuant to the Lifeline program rules. Moreover, when the requirement has been fully implemented, each Phase II support recipient will be required to bid on category one telecommunications and internet access services in response to a posted FCC Form 470 seeking broadband service that meets the connectivity targets for the schools and libraries universal service support program (E-rate) for eligible schools and libraries located within any area in a census block where the ETC is receiving Phase II support. A high-cost ETC may also be subject to state-specific requirements imposed by the state that designates it as an ETC.

91. *Procedures for Limited Disclosure of Application Information.* Consistent with the Commission's practice in the Mobility Fund Phase I auction (Auction 901) and recent spectrum auctions, procedures limit the application information that will be disclosed to the public.

92. Specifically, to help ensure anonymous bidding and to protect applicants' competitively sensitive information, the Commission will withhold from the public, as well as other applicants, the following information submitted with an Auction 903 short-form application at least until after the auction closes and the results are announced:

- The state(s) selected by an applicant.
- The state(s) for which the applicant has been determined to be eligible to bid.
- The performance tier and latency combination(s) selected by an applicant and the associated weight for each combination.
- The spectrum access attachment submitted with the short-form application.

- The performance tier and latency combination(s) for which the applicant has been determined to be eligible to bid and the associated weight for each combination.

- An applicant's responses to the questions in Appendix A of the *CAF II Auction Procedures Public Notice* and any supporting documentation submitted in any attachment(s) that are intended to demonstrate an applicant's ability to meet the public interest obligations for each performance tier and latency combination that the applicant has selected in its application.

- Any financial information contained in an applicant's short-form application for which the applicant has requested confidential treatment under the abbreviated process in § 0.459(a)(4) of the Commission's rules.

93. All other application information that is not subject to a request for confidential treatment will be publicly available upon the release of the public notice announcing the status of submitted short-form applications after initial review.

94. Any applicant may use an abbreviated process under § 0.459(a)(4) to request confidential treatment of the financial information contained in its short-form application. The abbreviated process allows applicants to answer a simple yes/no question on FCC Form 183 as to whether they wish their information to be withheld from public inspection. Requests to withhold financial data that applicants elsewhere disclose to the public will not be granted and that information may be disclosed in the normal course.

95. Unlike the typical § 0.459 process, which requires that an applicant submit a statement of the reasons for withholding the information for which confidential treatment is sought from public inspection, an applicant that seeks confidential treatment of the financial information contained in its short-form application need not submit a statement that conforms with the requirements of § 0.459(b) unless and until its request for confidential treatment is challenged. Because the Commission has found in other contexts that financial information that is not otherwise publicly available could be competitively sensitive, applicants seeking confidential treatment of financial information may use this abbreviated process. The Commission will not, however, permit an applicant to seek confidential treatment of the total financial score that it receives for its financial metrics (using the five-point scale adopted above) pursuant to the § 0.459(a)(4) abbreviated process. Because an applicant's total financial

score will not identify an applicant's specific financial information, it does not raise the same competitive sensitivity concerns.

96. The § 0.459(a)(4) abbreviated process for requesting confidential treatment may not be used by an applicant to request confidential treatment of any information in its short-form application other than its financial information. Thus, an applicant that wishes to seek confidential treatment of any other portion(s) of its short-form application must file a regular § 0.459 request for confidential treatment of any such information with its short-form application (other than responses to the questions in Appendix A of the *CAF II Auction Procedures Public Notice* and associated supporting documentation that the Commission presumes to be competitively sensitive). This request must include a statement of the reasons for withholding those portions of the application from public inspection. Additionally, in the event an applicant's abbreviated request for confidential treatment of the financial information contained in its short-form application is challenged, the applicant must submit a request for confidential treatment of its financial information that conforms with the requirements of § 0.459 within 10 business days after receiving notice of the challenge.

97. After the auction closes and the results are announced, the Commission no longer has a need to preserve anonymous bidding. Accordingly, the Commission will make publicly available all short-form application information that was withheld from the public prior to and/or during the auction, except for (1) responses to the questions in Appendix A of the *CAF II Auction Procedures Public Notice* and any supporting information submitted in any attachment(s) that are intended to demonstrate an applicant's ability to meet the public interest obligations for the performance tier and latency combination(s) that the applicant selected in its application, and (2) any financial information for which the § 0.459(a)(4) abbreviated confidential treatment process was requested and continues to be afforded. This approach is consistent with the Commission's interest in a transparent auction process and its practice in the Mobility Fund Phase I auction and typical spectrum auctions.

98. *Prohibited Communications and Compliance with Antitrust Laws.* To help protect competition in the auction, the Commission's rules prohibit an applicant from communicating certain auction-related information to another

applicant from the auction application filing deadline until the post-auction deadline for winning bidders to file long-form applications for support. More specifically, § 1.21002 of the Commission's rules prohibits an applicant in Auction 903 from cooperating or collaborating with any other applicant with respect to its own, or one another's, or any other competing applicant's bids or bidding strategies, and from communicating with any other applicant in any manner the substance of its own, or one another's, or any other competing applicant's bids or bidding strategies during the prohibition period. The rule provides an exception for communications between applicants if those applicants identify each other on their respective applications as members of a joint bidding arrangement and certify that the application identifies all real parties in interest to agreements related to the applicant's participation in the auction. The targeted restrictions imposed by the rule are necessary to serve the important public interest in a fair and competitive auction.

99. *Entities Covered by § 1.21002.* Section 1.21002's prohibition of certain communications will apply to any applicant that submits a short-form application to participate in Auction 903. This prohibition applies to all applicants that submit short-form applications regardless of whether such applicants become qualified bidders or actually bid.

100. "Applicant" for purposes of this section includes the entity filing the application, each party capable of controlling the applicant, and each party that may be controlled by the applicant or by a party capable of controlling the applicant.

101. Subject to the joint bidding arrangement exception, the prohibition applies to communications of an applicant that are conveyed to another applicant. The prohibition of "communicating in any manner" includes public disclosures as well as private communications and indirect or implicit communications, as well as express statements of bids and bidding strategies. Consequently, an applicant must take care to determine whether its auction-related communications may reach another applicant, unless the exception applies.

102. Applicants subject to § 1.21002 should take special care in circumstances where their officers, directors, and employees may receive information directly or indirectly relating to any other applicant's bids or bidding strategies. Information received by a party related to the applicant may

be deemed to have been received by the applicant under certain circumstances. For example, Commission staff have found that, where an individual serves as an officer and director for two or more applicants, the bids and bidding strategies of one applicant are presumed conveyed to the other applicant, and, absent a disclosed agreement that makes the rule's exception applicable, the shared officer creates an apparent violation of the rule. Commission staff have not addressed a situation where non-officers or directors receive information regarding a competing applicant's bids or bidding strategies and whether that information should be presumed to be communicated to the applicant.

103. *Prohibition Applies Until Long-Form Application Deadline.* The § 1.21002 prohibition of certain communications begins at the short-form application filing deadline and ends at the long-form application deadline. Long-form applications will be due within 10 business days after release of the Auction 903 closing public notice, unless otherwise provided by public notice.

104. *Prohibited Communications.* Section 1.21002 prohibits an applicant from communicating with another applicant only with respect to "its own, or one another's, or any other competing applicant's bids or bidding strategies." Thus, the prohibition does not apply to all communications between or among applicants; it applies to any communication conveying, in whole or part, directly or indirectly, the applicant's or a competing applicant's bids or bidding strategies.

105. All applicants applying to obtain support are "competing applicants" under the rule. Parties apply to participate in Auction 903 to obtain support from a fixed budget that is insufficient to provide support at the reserve price to all eligible areas. The bidding system determines which areas will receive support based on the bids placed for any areas. As in the reverse auction portion of the broadcast incentive auction, applicants are competing with one another regardless of whether each seeks to serve different geographic areas with Phase II support.

106. A communication must convey "bids or bidding strategies" to be covered by the prohibition. The prohibition applies to the same subject matter included in "joint bidding arrangements," as defined for purposes of determining impermissible state overlaps among applicants. Those arrangements (i) relate to any eligible area in the Phase II auction and (ii) address or communicate bids or bidding

strategies, including arrangements regarding Phase II support levels (*i.e.*, bidding percentages) and specific areas on which to bid, as well as any arrangements relating to the post-auction market structure in an eligible area. Thus, covered parties should be careful to avoid direct or indirect communications with another applicant that (i) relate to any Phase II auction eligible area(s) and (ii) address Phase II support levels, including potential arrangements regarding the post-auction market structure in eligible areas.

107. Business discussions and negotiations that are unrelated to bidding in Auction 903 and that do not convey information about Phase II bids or bidding strategies are not prohibited by the rule. Moreover, not all auction-related information is covered by the prohibition. For example, communicating merely whether a party has or has not applied to participate in Auction 903 will not violate the rule. In contrast, communicating how a party will participate, including specific states and/or tier and latency combinations selected, specific percentages bid, and/or whether or not the party is placing bids, would convey bids or bidding strategies and would be prohibited.

108. While § 1.21002 does not prohibit business discussions and negotiations among auction applicants that are not auction related, each applicant must remain vigilant not to communicate, directly or indirectly, information that affects, or could affect, bids or bidding strategy. Certain discussions might touch upon subject matters that could convey cost information and bidding strategies. Such subject areas include, but are not limited to, management, sales, local marketing agreements, and other transactional agreements.

109. Bids or bidding strategies may be communicated outside of situations that involve one party subject to the prohibition communicating privately and directly with another such party. For example, the Commission has warned that prohibited "communications concerning bids and bidding strategies may include communications regarding capital calls or requests for additional funds in support of bids or bidding strategies to the extent such communications convey information concerning the bids and bidding strategies directly or indirectly." Moreover, the Commission found a violation of the rule against prohibited communications when an applicant used the Commission's bidding system to disclose "its bidding strategy in a manner that explicitly

invited other auction participants to cooperate and collaborate . . . in specific markets," and has placed auction participants on notice that the use of its bidding system "to disclose market information to competitors will not be tolerated and will subject bidders to sanctions."

110. Likewise, when completing short-form applications, each applicant should avoid any statements or disclosures that may violate § 1.21002, particularly in light of the limited information procedures in effect for Auction 903. Specifically, an applicant should avoid including any information in its short-form application that might convey information regarding its state selection, such as referring to certain states or markets in describing bidding agreements, including any information in attachments that will be publicly available that may otherwise disclose the applicant's state selections, or, to the extent it has an alternative option, using applicant names that refer to states or locations within a state.

111. Applicants also should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become conduits for the communication of prohibited bidding information. For example, even though communicating that it has applied to participate in the auction will not violate the rule, an applicant's statement to the press that it intends to stop bidding in the auction could give rise to a finding of a § 1.21002 violation. Similarly, an applicant's public statement of intent not to place bids during Auction 903 bidding could also violate the rule.

112. Applicants should be mindful that communicating non-public application or bidding information publicly or privately to another applicant may violate § 1.21002 even though that information subsequently may be made public during later periods of the application or bidding processes.

113. *Communicating with Third Parties.* Section 1.21002 does not prohibit an applicant from communicating bids or bidding strategies to a third-party, such as a consultant or consulting firm, counsel, or lender, provided that the applicant takes appropriate steps to ensure that any third party it employs for advice pertaining to its bids or bidding strategies does not become a conduit for prohibited communications to other applicants, unless both applicants are parties to a joint bidding arrangement disclosed on their respective applications. For example, an applicant might require a third party, such as a lender, to sign a non-disclosure

agreement before the applicant communicates any information regarding bids or bidding strategy to the third party. Within third-party firms, separate individual employees, such as attorneys or auction consultants, may advise individual applicants on bids or bidding strategies, as long as such firms implement firewalls and other compliance procedures that prevent such individuals from communicating the bids or bidding strategies of one applicant to other individuals representing separate applicants. Although firewalls and/or other procedures should be used, their existence is not an absolute defense to liability, if a violation of the rule has occurred.

114. As Commission staff have explained in the context of the broadcast incentive auction, in the case of an individual, the objective precautionary measure of a firewall is not available. As a result, an individual that is privy to bids or bidding information of more than one applicant presents a greater risk of engaging in a prohibited communication. The Commission will take the same approach to interpreting the prohibited communications rule in Auction 903. Whether a prohibited communication has taken place in a given case will depend on all the facts pertaining to the case, including who possessed what information, what information was conveyed to whom, and the course of bidding in the auction.

115. Separate Auction 903 applicants should not specify the same individual on their short-form applications to serve as an authorized bidder. A violation of § 1.21002 could occur if an individual acted as the authorized bidder for two or more applicants because a single individual may, even unwittingly, be influenced by the knowledge of the bids or bidding strategies of multiple applicants, in his or her actions on behalf of such applicants. Also, if the authorized bidders are different individuals employed by the same organization (e.g., a law firm, engineering firm, or consulting firm), a violation similarly could occur. In the latter case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders, and that the applicant and its bidders will comply with § 1.21002.

116. Whether a communication is prohibited is fact dependent and determined on a case-by-case basis. Therefore, the Commission cannot categorically announce more “flexible” or lenient enforcement intentions or

speculate on whether hypothetical, broadly described conduct would constitute a violation of the rule. Nonetheless, Commission precedent makes clear that an individual consultant hired by multiple applicants to offer bidding advice during the auction presents a greater risk of violating § 1.21002 than an individual consultant who estimates the costs of individual projects for multiple applicants without weighing in on bidding strategies during the bidding.

117. Potential applicants may discuss the short-form application or bids for specific CBGs with the counsel, consultant, or expert of their choice before the short-form application deadline. Furthermore, the same third-party individual could continue to give advice after the short-form deadline regarding the application, provided that no information pertaining to bids or bidding strategies, including state(s) selected on the short-form application, is conveyed to that individual. With respect to bidding, the same third-party individual could, before the short-form application deadline, assist more than one potential applicant with calculating how much support the specific applicant would require to provide service in each CBG for which it is interested in bidding. If such work can be completed in advance of the short-form application deadline, it would eliminate the need for third-party bidding advice during the auction. Finally, to the extent potential applicants can develop bidding instructions prior to the short-form deadline that a third party could implement without changes during bidding, the third party could follow such instructions for multiple applicants provided that those applicants do not communicate with the third party during the prohibition period.

118. *Section 1.21001(b)(4) Certification.* By electronically submitting a short-form application, each applicant in Auction 903 certifies its compliance with §§ 1.21001(b)(4) and 1.21002. In particular, an applicant must certify under penalty of perjury that the application discloses all real parties in interest to any agreements involving the applicant’s participation in the competitive bidding for Phase II support. Also, the applicant must certify that it and all applicable parties have complied with and will continue to comply with 47 CFR 1.21002.

119. Merely filing a certifying statement as part of an application will not outweigh specific evidence that a prohibited communication has occurred, nor will it preclude the

initiation of an investigation when warranted. The Commission has stated that it “intend[s] to scrutinize carefully any instances in which bidding patterns suggest that collusion may be occurring.” Any applicant found to have violated § 1.21002(b) may be subject to sanctions.

120. *Duty to Report Prohibited Communications.* Section 1.21002(c) provides that any applicant that makes or receives a communication that appears to violate § 1.21002 must report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs. An applicant’s obligation to make such a report continues until the report has been made.

121. In addition, § 1.65 of the Commission’s rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission of any substantial change that may be of decisional significance to that application. Thus, § 1.65 requires an Auction 903 applicant to notify the Commission of any substantial change to the information or certifications included in its pending short-form application. An applicant is therefore required by § 1.65 to report to the Commission any communication the applicant has made to or received from another applicant after the short-form application filing deadline that affects or has the potential to affect bids or bidding strategy, unless such communication is made to or received from an applicant that is a member of a joint bidding arrangement identified on the application pursuant to § 1.21001(b)(4).

122. Sections 1.65(a) and 1.21002 of the Commission’s rules require each applicant in competitive bidding proceedings to furnish additional or corrected information within five days of a significant occurrence, or to amend its short-form application no more than five days after the applicant becomes aware of the need for amendment. These rules are intended to facilitate the auction process by making information that should be publicly available promptly accessible to all participants and to enable the Bureaus to act expeditiously on those changes when such action is necessary.

123. *Procedure for Reporting Prohibited Communications.* A party reporting any prohibited communication pursuant to § 1.65, § 1.21001(b), or § 1.21002(c) must take care to ensure that any report of the prohibited communication does not itself give rise to a violation of

§ 1.21002. For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other applicants through the use of Commission filing procedures that allow such materials to be made available for public inspection.

124. Parties must file only a single report concerning a prohibited communication and must file that report with the Commission personnel expressly charged with administering the Commission's auctions. The Commission's rule is designed to minimize the risk of inadvertent dissemination of information in such reports. Any reports required by § 1.21002(c) must be filed consistent with the instructions set forth in the document. For Auction 903, such reports must be filed with Margaret W. Wiener, the Chief of the Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, by the most expeditious means available. Any such report should be submitted by email to Ms. Wiener at the following email address: [auction903@fcc.gov](mailto:auction903@fcc.gov). If you choose instead to submit a report in hard copy, any such report must be delivered only to: Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street SW, Room 6–C217, Washington, DC 20554.

125. A party seeking to report such a prohibited communication should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection by following the procedures specified in § 0.459 of the Commission's rules. Such parties are encouraged to coordinate with the Auctions and Spectrum Access Division staff about the procedures for submitting such reports.

126. *Winning Bidders Must Disclose Terms of Agreements.* Each applicant that is a winning bidder may be required to disclose in its long-form application the specific terms, conditions, and parties involved in any agreement into which it has entered. This may apply to any bidding consortia, joint venture, partnership, or agreement, understanding, or other arrangement entered into relating to the competitive bidding process, including any agreement relating to the post-auction market structure. Failure to comply with the Commission's rules can result in enforcement action.

127. *Additional Information Concerning Prohibition of Certain Communications in Commission Auctions.* Section 1.21002 is consistent

with similar rules the Commission has applied in other Commission auctions. Applicants may gain insight into the public policies underlying § 1.21002 by reviewing information about the application of these other rules. Decisions applying these rules by courts and by the Commission and its bureaus in other Commission auctions can be found at [http://wireless.fcc.gov/auctions/prohibited\\_communications](http://wireless.fcc.gov/auctions/prohibited_communications). Applicants utilizing these precedents should keep in mind the specific language of the rule applied in past decisions, as well as any differences in the context of the applicable auctions.

128. *Antitrust Laws.* Regardless of compliance with the Commission's rules, applicants remain subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. Compliance with the disclosure requirements of § 1.21002 will not insulate a party from enforcement of the antitrust laws. For instance, a violation of the antitrust laws could arise out of actions taking place well before any party submits a short-form application. The Commission has cited a number of examples of potentially anticompetitive actions that would be prohibited under antitrust laws: For example, actual or potential competitors may not agree to divide territories in order to minimize competition, regardless of whether they split a market in which they both do business, or whether they merely reserve one market for one and another market for the other. Similarly, Commission staff have previously reminded potential applicants and others that “[e]ven where the applicant discloses parties with whom it has reached an agreement on the short-form application, thereby permitting discussions with those parties, the applicant is nevertheless subject to existing antitrust laws.”

129. To the extent the Commission becomes aware of specific allegations that suggest that violations of the federal antitrust laws may have occurred, the Commission may refer such allegations to the United States Department of Justice for investigation. If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, it may be subject to a forfeiture and may be prohibited from participating further in Auction 903 and in future auctions, among other sanctions.

130. *Red Light Rule.* The Commission adopted rules, including a provision referred to as the “red light rule,” that implement the Commission's obligation under the Debt Collection Improvement

Act of 1996, which governs the collection of debts owed to the United States, including debts owed to the Commission. Under the red light rule, applications and other requests for benefits filed by parties that have outstanding debts owed to the Commission will not be processed. Applicants seeking to participate in Auction 903 are subject to the Commission's red light rule. Pursuant to the red light rule, unless otherwise expressly provided for, the Commission will withhold action on an application by any entity found to be delinquent in its debt to the Commission.

131. Because robust participation is critical to the success of the Phase II auction, the Commission finds good cause to provide a limited waiver of the red light rule for any applicant seeking to participate in Auction 903 that is red-lighted for debt owed to the Commission at the time it timely files a short-form application. Specifically, a red-lighted applicant seeking to participate in Auction 903 will have until the close of the application resubmission filing window to pay any debt(s) associated with the red light. No further opportunity to cure will be allowed. If an applicant has not resolved its red light issue(s) by the close of the initial filing window, its application will be deemed incomplete. If the applicant has not resolved its red light issue(s) by the close of the application resubmission window, Commission staff will immediately cease all processing of the applicant's short-form application, and the applicant will be deemed not qualified to bid in the auction. As noted above, this waiver is limited. It does not waive or otherwise affect the Commission's right or obligation to collect any debt owed to the Commission by an Auction 903 applicant by any means available to the Commission, including set off, referral of debt to the United States Treasury for collection, and/or by red lighting other applications or requests filed by an Auction 903 applicant.

132. Potential applicants for Auction 903 should review their own records, as well as the Commission's Red Light Display System (RLD), to determine whether they owe non-tax debt to the Commission and should try to resolve and pay any outstanding debt(s) prior to submitting a short-form application. The RLD enables a party to check the status of its account by individual FCC Registration Numbers (FRNs) and links other FRNs sharing the same Tax Identification Number (TIN) when determining whether there are outstanding delinquent debts. The RLD is available at <http://www.fcc.gov/>

*redlight/*. Additional information is available at [https://www.fcc.gov/debt\\_collection/](https://www.fcc.gov/debt_collection/).

133. Additionally, an Auction 903 applicant may incur debt to the Commission after it files its short-form application and may fail to pay that debt when due. An applicant should note that the Commission will conduct additional red light checks prior to authorizing Phase II auction support. Qualified bidders are encouraged to continue to review their own records as well as the RLD periodically during the auction and to resolve and pay all outstanding debts to the Commission as soon as possible. The Commission will not authorize any winning bidder to receive Phase II auction support until its red light issues have been resolved.

134. *USF Debarment.* The Commission's rules provide for the debarment of those convicted of or found civilly liable for defrauding the high-cost support program. Auction 903 applicants are reminded that those rules apply with equal force to the Phase II auction.

135. *Modifications to FCC Form 183. Only Minor Modifications Allowed.* After the initial FCC Form 183 filing deadline, an Auction 903 applicant will be permitted to make only minor changes to its application consistent with the Commission's rules. Examples of minor changes include the deletion or addition of authorized bidders (to a maximum of three) and the revision of addresses and telephone numbers of the applicant, its responsible party, and its contact person. Major modification to an FCC Form 183 (e.g., adding a state in which the applicant intends to bid, certain changes in ownership that would constitute an assignment or transfer of control of the applicant, change of certifying official, change in applicant's legal classification that results in a change in control) will not be permitted after the initial FCC Form 183 filing deadline. If an amendment reporting changes is a "major amendment," as described in § 1.21001(d)(4), the major amendment will not be accepted and may result in the dismissal of the application.

136. *Duty to Maintain Accuracy and Completeness of FCC Form 183.* Pursuant to § 1.65 of the Commission's rules, each applicant has a continuing obligation to maintain the accuracy and completeness of information furnished in a pending application, including a pending application to participate in the Phase II auction. Consistent with the requirements for the Commission's spectrum auctions, an applicant for Auction 903 must furnish additional or corrected information to the

Commission within five business days after a significant occurrence, or amend its FCC Form 183 no more than five business days after the applicant becomes aware of the need for the amendment. An applicant is obligated to amend its pending application even if a reported change may result in the dismissal of the application because it is subsequently determined to be a major modification.

137. *Modifying an FCC Form 183.* As noted above, an entity seeking to participate in Auction 903 must file an FCC Form 183 electronically via the FCC's Auction Application System. During the initial filing window, an applicant will be able to make any necessary modifications to its FCC Form 183 in the Auction Application System. An applicant that has certified and submitted its FCC Form 183 before the close of the initial filing window may continue to make modifications as often as necessary until the close of that window; however, the applicant must re-certify and resubmit its FCC Form 183 before the close of the initial filing window to confirm and effect its latest application changes. After each submission, a confirmation page will be displayed stating the submission time and submission date.

138. An applicant will also be allowed to modify its FCC Form 183 in the Auction Application System, except for certain fields, during the resubmission filing window and after the release of the public notice announcing the Auction 903 qualified bidders. During these times, if an applicant needs to make permissible minor changes to its FCC Form 183, or must make changes in order to maintain the accuracy and completeness of its application pursuant to § 1.65, it must make the change(s) in the Auction Application System and then re-certify and re-submit its application to confirm and effect the change(s).

139. An applicant's ability to modify its FCC Form 183 in the Auction Application System will be limited between the closing of the initial filing window and the opening of the application resubmission filing window and between the closing of the resubmission filing window and the release of the public notice announcing the Auction 903 qualified bidders. During these periods, an applicant will be able to view its submitted application, but will be permitted to modify only the applicant's address, responsible party address, and contact information (e.g., name, address, telephone number, etc.) in the Auction Application System. An applicant will not be able to modify any other pages

of FCC Form 183 in the Auction Application System during these periods. If, during these periods, an applicant needs to make other permissible minor changes to its FCC Form 183, or changes to maintain the accuracy and completeness of its application pursuant to § 1.65, the applicant must submit a letter briefly summarizing the changes to its FCC Form 183 via email to [auction903@fcc.gov](mailto:auction903@fcc.gov). The email summarizing the changes must include a subject line referring to Auction 903 and the name of the applicant, for example, "Re: Changes to Auction 903 Auction Application of XYZ Corp." Any attachments to the email must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word documents. An applicant that submits its changes in this manner must subsequently modify, certify, and submit its FCC Form 183 application electronically in the Auction Application System once it is again open and available to applicants.

140. Applicants should also note that even at times when the Auction Application System is open and available to applicants, the system will not allow an applicant to make certain other permissible changes itself (e.g., correcting a misstatement of the applicant's legal classification). This is the case because certain fields on the FCC Form 183 will no longer be available to/changeable by the applicant after the initial filing window closes. If an applicant needs to make a permissible minor change of this nature, it must submit a written request by email to [auction903@fcc.gov](mailto:auction903@fcc.gov), requesting that the Commission manually make the change on the applicant's behalf. Once Commission staff has informed the applicant that the change has been made in the Auction Application System, the applicant must then recertify and resubmit its FCC Form 183 in the Auction Application System to confirm and effect the change(s).

141. As with filing FCC Form 183, any amendment(s) to the application and related statements of fact must be certified by an authorized representative of the applicant with authority to bind the applicant. Applicants should note that submission of any such amendment or related statement of fact constitutes a representation by the person certifying that he or she is an authorized representative with such authority and that the contents of the amendment or statement of fact are true and correct.

142. Applicants must not submit application-specific material through the Commission's Electronic Comment Filing System. Further, as discussed above, parties submitting information

related to their applications should use caution to ensure that their submissions do not contain confidential information or communicate information that would violate § 1.21002 or the limited information procedures adopted for Auction 903. An applicant seeking to submit, outside of the Auction Application System, information that might reflect non-public information, such as an applicant's state and/or performance tier and latency selection(s) or specific information about bid(s), should consider including in its email a request that the filing or portions of the filing be withheld from public inspection until the end of the prohibition of certain communications pursuant to § 1.21002.

143. Questions about FCC Form 183 amendments should be directed to the Auctions and Spectrum Access Division at (202) 418-0660.

#### **VI. Preparing for Bidding in Auction 903**

144. *Bidder Education.* Prior to the deadline for applications to participate in Auction 903, detailed educational information will be provided in various formats to would-be participants.

145. The Commission will provide various materials on the pre-auction process in advance of the opening of the short-form application window, beginning with the release of step-by-step instructions for completing Form 183. In addition, the Commission will provide an online application procedures tutorial covering information on pre-auction preparation, completing short-form applications, the application review process, and Phase II rules. Moreover, the Commission will conduct a workshop or webinar on the pre-auction application process, with an opportunity for participants to ask questions.

146. The Commission will provide separate educational materials on the bidding process in advance of the start of the mock auction, beginning with release of a user guide for the bidding system, followed by an online bidding procedures tutorial. The Commission will also conduct a workshop or webinar on the bidding process with an opportunity for participants to ask questions.

147. Based on the Commission's experience with past auctions, parties interested in participating in this auction will find these educational opportunities an efficient and effective way to further their understanding of the application and bidding processes. The Auction 903 online tutorials will allow viewers to navigate the presentation outline, review written

notes, listen to audio of the notes, and search for topics using a text search function. Additional features of this web-based tool include links to auction-specific Commission releases, email links for contacting Commission staff, and a timeline with deadlines for auction preparation. The online tutorials will be accessible on the "Education" tab of the Phase II auction website at <https://www.fcc.gov/connect-america-fund-phase-ii-auction>. Once posted, the tutorials will be accessible anytime.

148. Finally, the Commission's Office of Communications Business Opportunities will engage with small providers interested in the auction process.

149. *Short-Form Applications: Due Before 6:00 p.m. ET on March 30, 2018.* In order to be eligible to bid in this auction, applicants must first follow the procedures to submit a short-form application (FCC Form 183) electronically via the Auction Application System, following the instructions to be released with a public notice in advance of the opening of the filing window. This short-form application will become available with the opening of the initial filing window and must be submitted prior to 6:00 p.m. ET on March 30, 2018. Late applications will not be accepted. No application fee is required.

150. Applications may be filed at any time beginning at noon ET on March 19, 2018, until the filing window closes at 6:00 p.m. ET on March 30, 2018. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. There are no limits or restrictions on the number of times an application can be updated or amended until the filing deadline on March 30, 2018.

151. An applicant must always click on the CERTIFY & SUBMIT button on the "Certify & Submit" screen to successfully submit its FCC Form 183 and any modifications; otherwise, the application or changes to the application will not be received or reviewed by Commission staff. Additional information about accessing, completing, and viewing the FCC Form 183 will be provided in a separate public notice. Applicants requiring technical assistance should contact FCC Auctions Technical Support at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8:00 a.m. to 6:00 p.m. ET. In order to provide better service to the public, all calls to Technical Support are recorded.

152. *Application Processing and Minor Modifications. Public Notice of Applicant's Initial Application Status and Opportunity for Minor Modifications.* After the deadline for filing auction applications, the Bureaus will process all timely submitted applications to determine whether each applicant has complied with the application requirements and provided all information concerning its qualifications for bidding, and subsequently will issue a public notice with applicants' initial application status identifying (1) those that are complete and (2) those that are incomplete or deficient because of defects that may be corrected. The public notice will include the deadline for resubmitting corrected applications and a paper copy will be sent to the contact address listed in the FCC Form 183 for each applicant by overnight delivery. In addition, each applicant with an incomplete application will be sent information on the nature of the deficiencies in its application, along with the name and phone number of a Commission staff member who can answer questions specific to the application.

153. After the initial application filing deadline on March 30, 2018, applicants can make only minor modifications to their applications. Major modifications (e.g., change control of the applicant, change the certifying official, or selecting additional states in which to bid) will not be permitted. After the deadline for resubmitting corrected applications, an applicant will have no further opportunity to cure any deficiencies in its application or provide any additional information that may affect Commission staff's ultimate determination of whether and to what extent the applicant is qualified to participate in Auction 903.

154. Commission staff will communicate only with an applicant's contact person or certifying official, as designated on the applicant's FCC Form 183, unless the applicant's certifying official or contact person notifies Commission staff in writing that another representative is authorized to speak on the applicant's behalf. Authorizations may be sent by email to [auction903@fcc.gov](mailto:auction903@fcc.gov).

155. *Public Notice of Applicant's Final Application Status.* After the Bureaus review resubmitted applications, they will release a public notice identifying applicants that have become qualified bidders. The Auction 903 Qualified Bidders Public Notice will be issued at least 15 business days before bidding in Auction 903 begins. Qualified bidders are those applicants

with submitted FCC Form 183 applications that are deemed timely filed and complete.

156. *Auction Registration.* All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight delivery. The mailing will be sent only to the contact person at the contact address listed in the FCC Form 183 and will include the SecurID® tokens that will be required to place bids and the Auction Bidder Line phone number.

157. Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, any qualified bidder that has not received this mailing by noon on July 9, 2018, should call the Auctions Hotline at (717) 338-2868. Receipt of this registration mailing is critical to participating in the auction, and each applicant is responsible for ensuring it has received all the registration materials.

158. In the event that SecurID® tokens are lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's short-form application may request replacements. To request replacement of these items, call the Auction Bidder Line at the telephone number provided in the registration materials or the Auction Hotline at (717) 338-2868.

159. *Remote Electronic Bidding via the CAF II Bidding System.* Bidders will be able to participate in Auction 903 over the internet using the CAF II Bidding System. Only qualified bidders are permitted to bid. Each authorized bidder must have his or her own SecurID® token, which the Commission will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID® tokens, while applicants with two or three authorized bidders will be issued three tokens. A bidder cannot bid without his or her SecurID tokens. For security purposes, the SecurID® tokens and a telephone number for bidding questions are only mailed to the contact person at the contact address listed on the FCC Form 183. Each SecurID® token is tailored to a specific auction. SecurID® tokens issued for other auctions or obtained from a source other than the FCC will not work for Auction 903. Please note that the SecurID® tokens can be recycled and the Bureaus encourage bidders to return the tokens to the FCC. Pre-addressed envelopes will be provided to return the tokens once the auction has ended.

160. The Commission makes no warranties whatsoever, and shall not be

deemed to have made any warranties, with respect to the CAF II Bidding System, including any implied warranties of merchantability or fitness for a particular purpose. In no event shall the Commission, or any of its officers, employees, or agents, be liable for any damages whatsoever (including, but not limited to, loss of business profits, business interruption, loss of use, revenue, or business information, or any other direct, indirect, or consequential damages) arising out of or relating to the existence, furnishing, functioning, or use of the CAF II Bidding System. Moreover, no obligation or liability will arise out of the Commission's technical, programming, or other advice or service provided in connection with the CAF II Bidding System.

161. To the extent an issue arises with the CAF II Bidding System itself, the Bureaus will take all appropriate measures to resolve such issues quickly and equitably. Should an issue arise that is outside the CAF II Bidding System or attributable to a bidder, including, but not limited to, a bidder's hardware, software, or internet access problem that prevents the bidder from submitting a bid prior to the end of a round, the Commission shall have no obligation to resolve or remediate such an issue on behalf of the bidder. Similarly, if an issue arises due to bidder error using the CAF II Bidding System, the Commission shall have no obligation to resolve or remediate such an issue on behalf of the bidder. Accordingly, after the close of a bidding round, the results of bid processing will not be altered absent evidence of any failure in the CAF II Bidding System.

162. *Mock Auction.* All qualified bidders will be eligible to participate in a mock auction, which will be scheduled during the week before the first day of bidding in Auction 903. The mock auction will enable qualified bidders to become familiar with the CAF II Bidding System and to practice submitting bids prior to the auction. The Commission strongly recommends that all qualified bidders, including all their authorized bidders, participate to assure that they can log in to the bidding system and gain experience with the bidding procedures. Participating in the mock auction may reduce the likelihood of a bidder making a mistake during the auction. Details regarding the mock auction will be announced in the Auction 903 Qualified Bidders Public Notice.

## VII. Bidding in Auction 903

163. *Auction Structure: Reverse Auction Mechanism. Multi-Round*

*Reverse Auction Format.* The Commission will conduct Auction 903 using a multi-round, descending clock auction.

164. At a very high level, bidding in Auction 903 works as follows: In each round of the auction, a bidder will be asked whether it is willing to provide service to an area, at a performance tier and latency it indicates, in exchange for a support amount that is at least as high as an amount announced by the bidding system. In each subsequent round, the announced support amount will be less than the amount from the previous round. To the extent that the bidder is willing to accept the announced amount, it will so indicate by submitting a "bid" on a spreadsheet indicating the area, the tier and latency, and the current amount that it accepts. If the current round's announced support amount becomes too low for the bidder, the bidder can simply stop bidding for the area or alternatively, can enter a bid that indicates the lowest amount it will accept (an amount higher than the round's announced amount and lower than the last round's announced amount) in exchange for providing the service.

165. As set forth in the sections below, the announced support amount that the bidder responds to in a round depends on a percentage—applicable to bidding for all areas—as well as the reserve price for the specific area and the level of service that the bidder proposes to provide if it is assigned support for the area. These factors are linked through a formula. However, the bidding template—the spreadsheet—will show the support amount for a bid as well as the various factors determining that support amount in a given bidding round. Therefore, to bid effectively, a bidder need only determine the lowest amount of support it will accept in exchange for providing service to an area and bid for support that is at least that amount.

166. The Commission is mindful of the need to make the bidding process as simple as possible, while ensuring an orderly, fair, and transparent auction. The Commission will provide ample bidder education prior to the auction to help ensure that all potential auction participants are confident of the bidding procedures the Commission adopts.

167. *Minimum Geographic Area for Bidding.* The Commission will use CBGs containing one or more eligible census blocks as the minimum geographic area for bidding in the auction. In December 2017, WCB released a list of eligible census blocks based on December 31, 2016 FCC Form 477 data. This list included approximately 214,000 eligible

census blocks, which are located in approximately 30,300 CBGs. WCB will release a revised map and list of eligible census blocks.

168. *Auction Delay, Suspension, or Cancellation.* By announcement, the auction may be delayed, suspended, or cancelled in the event of natural disaster, technical obstacle, network disruption, evidence of an auction security breach or unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and efficient conduct of the competitive bidding. In such cases, the Bureaus, in their sole discretion, may elect to resume the auction starting from the point at which the auction was suspended or cancel the auction in its entirety.

169. *Bidding Procedures. Bidding Overview.* The Commission will use a descending clock auction to identify the providers that will be eligible to become authorized to receive Phase II support, subject to post-auction application review. This auction also will establish the amount of support that each winning bidder will be eligible to receive using a “second-price” rule. Pursuant to the *Phase II Auction Order*, 81 FR 44413, July 7, 2016, the auction assigns winning bids based on the percentage each bid represents of its respective area’s reserve price and determines support amounts that take into account the performance tier and latency specified in the bid.

170. The Bureaus will conduct the Phase II auction over the internet, and bidders will upload bids in a specified file format for processing by the bidding system. Before each bidding round, the bidding system will announce a new base clock percentage, which will set a lower limit on the range of percentages for which bids will be accepted during that round. The percentage specified in a bid implies an annual support amount for the area, based on the specified performance tier and latency combination.

171. The opening base clock percentage implies a support amount that is equal to the full reserve price, and the base clock percentage then descends from one round to the next. In a round, a bidder can submit a bid for a given area at any percentage that is greater than or equal to the round’s base clock percentage and less than the previous round’s base clock percentage. As of the close of a round, each bid represents an irrevocable offer to meet the terms of the bid if it becomes a winning bid. That is, a bid indicates that the bidder is willing to provide service to the locations in the area in accordance with its specified

performance tier and latency requirements in exchange for support. The support amount will be no less than the support amount implied by the bid percentage.

172. The base clock percentage will continue to descend in a series of bidding rounds, implying decreasing support amounts, until the aggregate amount of support represented by the bids placed in a round at the base clock percentage is no greater than the budget. At that point, when the budget “clears,” the bidding system will assign support to bidders in areas where there are no competing bids. Bidding will continue, however, for areas where there are competing bids, and the clock will continue to descend in subsequent rounds. When there is no longer competition for any area, the auction will end. A winning bidder may receive support in amounts at least as high, because of the second-price rule, as the support amounts corresponding to the percentages of their winning bids.

173. The bidding procedures implement the Commission’s prior decisions on bidding in the Phase II auction in a straightforward and simple way. Accordingly, to compete effectively in the auction, a potential bidder need only determine the percentage corresponding to the lowest amount of support it will accept to serve a given area using its chosen technology and bid in the auction down to that percentage. The Commission sets forth the rules governing how the auction system collects bids and determines winning bids and support amounts. The Commission addresses these in detail so that potential participants can understand exactly how the auction works. Among the bidding rules the Commission addresses are procedures for two optional variations on the basic bid submission approach, namely, procedures for instructing the system to submit proxy bids on behalf of the bidder and procedures for a type of package bidding. The Commission includes these options because the Commission finds that they will simplify the bidding process for those bidders that choose to use them, without unfairly disadvantaging bidders that do not choose to use them.

174. *Reserve Prices.* The reserve price for each CBG is the sum of the amounts calculated for each eligible census block in that CBG. For all eligible high-cost census blocks (*i.e.*, census blocks with average costs above the funding threshold but below the extremely high-cost threshold), a reserve price is set based on the annual support per-location calculated by the CAM for that census block. For census blocks with

average costs that exceed the extremely high-cost threshold, the Commission will impose a \$146.10 per-location-per-month funding cap so that the reserve price will be equal to \$146.10 multiplied by the number of locations in that census block as determined by the CAM multiplied by 12 months. These procedures will ensure that no census blocks will receive more Phase II support than the CAM calculates is necessary for deploying and operating a voice and broadband-capable network in that census block. The list of eligible census blocks is accompanied by the corresponding CBG list, which identifies the reserve price, on an annual basis, for each CBG.

175. Finally, for administrative simplicity, the Commission rounds the calculated reserve prices for each CBG (based on the sum of the reserve prices for each eligible census block in the CBG) to the nearest dollar. For example, if the calculated annual reserve price for a CBG is \$15,000.49, the reserve price will be rounded down to \$15,000 for the auction; and if a reserve price is \$15,000.50, the reserve price will be rounded up to \$15,001. Thus, any CBG with a calculated annual reserve price of less than \$0.50 is ineligible for the Phase II auction.

176. *Bid Collection. Round Structure.* The Phase II descending clock auction will consist of sequential bidding rounds according to an announced schedule providing the start time and closing time of each bidding round. As is typical for Commission auctions, the Bureaus retain the discretion to change the bidding schedule—with advance notice to bidders—in order to foster an auction pace that reasonably balances speed with giving bidders sufficient time to review round results and plan their bidding. The Bureaus may modify the amount of time for bidding rounds, the amount of time between rounds, and/or the number of rounds per day, depending on bidding activity and other factors.

177. *Base Clock Percentage.* Before each bidding round, the bidding system announces a base clock percentage that determines the range of acceptable price point percentages for bids submitted in the round. Except in Round 1, a bid may be submitted at the base clock percentage, or at any higher price point percentage up to but not including, the base clock percentage from the previous round. In Round 1, a bid may be submitted at the base clock percentage or at any higher price point percentage, up to and including the opening base clock percentage.

178. A bid submitted at the base clock percentage indicates that the bidder is

willing to provide the required service in the bid area in exchange for a payment at least as large as that implied by the base clock percentage. A bid submitted at a higher price point percentage indicates that the bidder will provide service in the area at a support payment at least as great as that implied by the price point percentage of its bid, but not at lower support amounts.

179. *Opening Base Clock Percentage.* The bidding system will set the opening base clock percentage at 100 percent of an area’s reserve price plus an additional percentage equal to the largest weight corresponding to the performance tier and latency combinations submitted by any qualified bidder in the auction. For example, if any applicant is qualified to bid to provide service at the Minimum performance tier and high latency—a T+L combination with an assigned weight of 90—the opening base clock percentage will be 190 percent. Starting the clock at this level will allow bidders with higher-weighted performance tier and latency combinations to compete, for multiple bidding rounds, with bidders offering performance tier and latency combinations with lower weights. At base clock percentages above 100, the implied support amounts of bids at higher performance tier and latency combinations with lower weights may not decrease from round to round, remaining instead at the area’s full reserve price.

180. *Clock Decrements.* The bidding system will decrement the base clock percentage by 10 percentage points in each round. However, the Bureaus have the discretion to change that amount during the auction—within certain limits—if it appears that a lower or higher decrement would better manage the pace of the auction. For example, if bidding is proceeding particularly slowly, the bid decrement may be increased to speed up the auction, with advance notice to bidders, recognizing that a bidder has the option of bidding at an intra-round price point percentage if the base clock percentage falls to a percentage corresponding to an amount of support that is no longer sufficient. The bidding system will use a decrement of 10 percent at the start of the auction, and any further changes to the decrement will be limited to between 5 percent and 20 percent.

181. *Implied Support Amounts Based on Performance Tier and Latency Weights.* To calculate the implied annual support amount at a bid percentage, an area-specific reserve price is adjusted for the bid percentage and the weights for the performance tier and latency combination of the bid, set forth below, with implied support not to exceed the reserve price. This approach is consistent with previous Commission decisions regarding the Phase II auction.

182. The base clock percentage in each round will imply, for each performance tier and latency (T+L)

combination, a total amount of annual support in dollars for each area available for bidding. The annual support amount implied at the base clock percentage will be the smaller of the reserve price and the annual support amount obtained by using a formula that incorporates the performance tier and latency weights. Specifically:

Implied Annual Support Amount (at the base clock percentage) =

$$\min \left\{ R, \left( \frac{BC-(T+L)}{100} \right) R \right\}$$

Where:

R denotes the area’s reserve price

T denotes the tier weight

L denotes the latency weight

BC denotes the base clock percentage

183. Minimum performance tier bids will have a 65 weight; Baseline performance tier bids will have a 45 weight; Above Baseline performance tier bids will have a 15 weight; and Gigabit performance tier bids will have zero weight. Moreover, high latency bids will have a 25 weight and low latency bids will have zero weight added to their respective performance tier weight. The lowest possible weight for a performance tier and latency combination is 0, and the highest possible weight is 90. Each weight uniquely defines a performance tier and latency (T+L) combination, as shown in the table below.

WEIGHTS FOR PERFORMANCE TIERS AND LATENCIES

Minimum		Baseline		Above baseline		Gigabit	
High latency	Low latency	High latency	Low latency	High latency	Low latency	High latency	Low latency
90	65	70	45	40	15	25	0

184. As the formula indicates, the implied support amount for an area cannot exceed an area’s reserve price. As long as the base clock percentage remains at or above 100 plus the weight for the tier and latency combination of the bid (100+T+L), the implied annual support for a bid will be equal to the area’s reserve price. Therefore, in some rounds when the base clock percentage is above 100, there may be a bid for a given area at a tier and latency combination with implied annual support equal to the reserve price, and another bid for the same area at a higher weighted performance tier and latency combination, with implied support below the area’s reserve price. However, once the base clock percentage is decremented below 100, the implied annual support for all area, performance

tier, and latency combinations will be below each area’s respective reserve price.

185. The formula above (the “implied support formula”) can be used to determine the implied support at any price point percentage by substituting a given percentage for the base clock percentage.

186. The clock auction format with a base clock percentage and weights for performance tier and latency combinations implements the Commission’s prior decisions and provides a simple way to compare bids of multiple types.

187. *Acceptable Bids.* To submit a bid for support to provide service to an area in the auction, the bidding system will require that a bidder specify the area, a performance tier and latency

combination, and a price point percentage, which will in turn correspond to an indicated implied support amount for the bid. Such a bid is an offer to serve the eligible census blocks within the specified CBG at the indicated performance tier and latency, for a total amount of annual support that is at least the implied support amount of the bid. Several requirements will also apply to bid submission; the bidding system will advise bidders if a bid that the bidder attempts to submit does not meet these conditions. A bid may optionally include additional information for package bidding, as described in the following section.

188. *One Bid per Geographic Area per Round.* A bidder will be able to place only one bid on a given CBG in a round, be it a bid for only that area or a package

bid including the area. Further, a bidder will be able to bid only for CBGs in states for which it is qualified to bid after review of its short-form application.

189. The restriction on overlapping bids by a single bidder will simplify bid strategies for bidders and eliminate the need for the bidding system to use mathematical optimization to consider multiple ways to assign winning bids to a bidder, thus simplifying bid processing. Accordingly, the bidding system will not accept multiple bids by a bidder in a round that include the same area.

190. The Commission prohibits commonly controlled applicants or applicants subject to joint bidding arrangements from selecting any of the same states on their applications. This prohibition will ensure that such entities jointly will not be able to submit overlapping bids for the same geographic areas. These application procedures, together with the requirement that a single bidder place only a single bid on a given area in a round, will reduce the potential for undesirable strategic bidding during the auction.

191. *Tier and Latency Combinations.* A bidder cannot change the performance tier and latency combination in a bid for a particular area from round to round. Instead, once a bidder has submitted a bid for a CBG at a particular performance tier and latency combination, any bids in subsequent rounds by that bidder for the same CBG must specify the same performance tier and latency combination. This restriction will simplify bidding strategies without an appreciable loss in useful flexibility for bidders that are eligible to bid for more than one performance tier and latency combination in a given area.

192. *Acceptable Bid Amounts.* In each round, a bidder may submit a bid at the base clock percentage for the round, or at any price point percentage greater than the base clock percentage and less than the previous round's base clock percentage. The price point percentage of the bid may be specified with up to two decimal places (e.g., 98.44%).

193. By providing bidders the option to bid at intermediate price points, the Commission can shorten the bidding process by using larger decrements to the base clock percentage without running the risk that a large drop in aggregate implied support from one round to the next will leave a significant amount of the budget unspent. The option to bid at intermediate price point percentages will also allow a bidder to indicate more precisely the minimum

amount of support it will accept for an area, and it reduces the likelihood of ties.

194. A bid must specify a percentage that implies a support amount that is one percent or more of an area's reserve price to be acceptable. In other words, the bidding system will only accept a bid for a price point percentage that is at least  $T+L+1$ . One percent represents a sufficiently small fraction of the model-derived reserve price to serve as a minimum acceptable bid for bidders with legitimate support needs.

195. *Bids for a Package of Areas.* Bidders have the option of placing a package bid to serve multiple CBGs. The bid processing procedures may assign fewer than all the areas in the bid to the bidder provided that the support associated with the assigned areas is at least equal to a bidder-specified minimum scale percentage of the support requested for the full list.

196. Under these procedures, a bidder will specify a package bid by specifying the CBGs in the bid, a performance tier and latency combination for each CBG, a single price point percentage for the bid, and a minimum scale percentage no higher than 75 percent that indicates the bidder's lowest acceptable partial assignment of the package.

197. Every CBG in a package bid must be in the same state, but there is no limit to the total amount of implied support that may be included in a single package. Different CBGs in the bid may have different performance tier and latency combinations. For a given round, a CBG can appear in at most one bid—either a single bid or a package bid—submitted by the bidder.

198. The use of package bidding is optional: A bidder that is not interested in package bidding can bid for support in individual areas just as though there were no package bidding provisions. The bidding experience for a bidder that chooses not to use package bidding will be no more complicated than if package bidding were not an option.

Additionally, the package bidding procedures include measures that minimize complexity. Because all bidders will be limited to placing only one bid on a CBG in a round, and because the implied support amount of a package bid is simply the sum of the implied support amounts of the CBGs in the package—that is, the bidding system does not have any inherent bias toward assigning packages—the option of package bidding does not increase the number of options a bidder has to consider. Bid options regarding packages are also simplified by a constraint on the composition of packages after the clearing round: Once

a bidder bids for a package, it can only bid on the same package or smaller subsets of the package in subsequent rounds.

199. To help all bidders—both large and small—understand the bidding procedures related to package bidding, the Bureau will provide further educational opportunities and materials well in advance of the auction. This should help bidders determine how best to place their bids and whether to make use of package bidding.

200. *Bids Placed by Proxy Bidding Instructions.* A bidder has the option of placing bids via proxy bidding instructions in Auction 903. These procedures will reduce a bidder's need to submit bids manually every bidding round and provide the bidder with a safeguard against accidentally failing to submit a bid, as long as the bidding percentage of the proxy instruction is below the current round's base clock percentage. Proxy procedures will make it possible for a bidder to simplify greatly its auction participation by setting its proxy instruction at the lowest amount of support that the bidder is willing to accept, so that the bidder need not bid again in the auction.

201. Specifically, when a bidder places a bid, the bidder may specify a price point percentage that is below the base clock percentage for the round in which the bid is placed. Doing so results in both a bid at the current round's base clock percentage and proxy instructions for bids at lower percentages in subsequent rounds. The bidding system will generate a bid in any subsequent bidding round in which the percentage specified in the proxy instruction (the "proxy bid percentage") is equal to or below the base clock percentage for the round. If the proxy bid percentage is greater than the base clock percentage of a round but lower than the prior round's base clock percentage, then the bidding system will generate a bid at the proxy bid percentage. If the proxy instruction is not subsequently updated, this will be the last round in which the proxy instruction will automatically place a bid.

202. Bids generated according to proxy instructions will be processed in the same way as any other bids placed in the auction. Proxy instructions may be used for bids for individual areas and for package bids. Proxy instructions will carry forward in rounds after the clearing round for areas that have not been assigned, as long as the proxy bid percentage is still valid. A bidder may override a bid generated according to proxy instruction, cancel, or enter new

proxy bidding instructions at any time during a round.

203. Bidders are responsible for actively monitoring the status of their bids, including any proxy instructions as well as the overall progress of the auction, using the reports and files available in the bidding system. Providing bidding-related information only through the bidding system assures that non-public information is available only to individuals that are authorized bidders for entities that have been found qualified to bid through the Commission's pre-auction processes. This is consistent with the Commission's anonymous bidding procedures, protects against possible misuse of bidding information, and promotes auction integrity.

204. Proxy bidding instructions will be treated as confidential information and will not be disclosed to the public at any time after the auction concludes because they may reveal private cost information that would not otherwise be made public (e.g., if proxy bidding instructions are not fully implemented because the base clock percentage does not fall as low as the specified proxy percentage).

205. *Activity Rules.* The Commission adopts activity rules to encourage bidders to express their bidding interests early and consistently, which will generate reliable information for bidders about the level of bidding in the various CBGs in the auction. A bidder's overall bidding activity in a round, measured as the sum of implied support dollars for all its bids, may not exceed the bidder's activity from the previous round. The Commission also adopts a switching rule to limit a bidder's ability in a round to switch to areas on which it did not bid at the base clock percentage of the previous round. This switching ability is based on a certain percentage of the implied support of the bidder's bids at the base clock percentage in the previous round. The Commission gives the Bureaus discretion to change the switching percentage, with notice, during the auction, although the Commission does not at this time anticipate needing to do so.

206. The Commission adopts a switching percentage of 20 percent for the second bidding round of the auction only. Therefore, a bidder's activity in the second round of the auction for areas on which it did not bid at the first round's base clock percentage may not exceed 20 percent of its total implied support from bids at the first round's base clock percentage. This change in the switching percentage for the second round gives bidders greater flexibility to

shift their bidding as information is revealed about the extent of competition for various areas. In this regard, the ability to switch bidding areas will be most useful in the second round because the greatest amount of new information about bidding across CBGs will be made available after the first round of bidding.

207. The Commission limits the higher switching percentage to the second round, however, to encourage an orderly bidding process that generates reliable information about aggregate cost and competition across areas. Accordingly, for the third and subsequent rounds up until the budget has cleared, the switching percentage will be 10 percent. No switching of areas is permitted after the clearing round, since bidding in any additional round is limited to areas with bids at the previous base clock percentage that have not been assigned.

208. *Bid Processing.* Once a bidding round closes, the bidding system will consider the submitted bids to determine whether an additional round of bidding at a lower base clock percentage is needed to bring the amount of requested support down to a level within the Phase II auction budget. If the total requested support at the base clock percentage exceeds the budget, the bidding system will initiate another bidding round with a lower base clock percentage.

209. If, instead, the system determines that the total requested support from bids at the base clock percentage has fallen to an amount within the budget, the just-concluded round will be deemed the clearing round, and the bidding system will begin the process of assigning winning bids and determining support amounts using a second price rule. If, in the clearing round, there are multiple bids for any area at the base clock percentage, the bidding system will commence another round of bidding to resolve the competition for support in those areas only.

210. After the clearing round, bidding rounds will continue for these areas at lower base clock percentages until, for each of the contested areas, there is a single lowest bid. The winning bidder for an area will then generally be assigned support at the price point percentage of the second lowest bid.

211. As a result of these bid processing procedures, the bids that can be assigned under the budget in the clearing round and in any later rounds will determine the areas that will be provided support under Phase II. At most, one bid per area will be assigned support. The specifications of that bid, in turn, determine the performance tier

and latency combination at which service will be provided to the locations in the eligible census blocks in the area.

212. The bid processing procedures fall into three categories: Before, during, and after the round in which the budget clears. Additional details and examples of bid processing will be provided in the technical guide released by the Bureaus.

213. *Bid Processing in Rounds Before the Clearing Round.* Aggregate Cost at the Base Clock Percentage. After each bidding round until the budget has cleared, in order to determine whether the budget will clear in that round, the bidding system will calculate an "aggregate cost," an estimate of what it would cost to assign support at the base clock percentage to the bids submitted in the round. Specifically, the aggregate cost is the sum of the implied support amounts for all the areas receiving bids at the base clock percentage for the round, evaluated at the base clock percentage. The calculation counts support for each area only once, even if the area receives bids, potentially including package bids, from multiple bidders. If there are multiple bids for an area at different performance tier and latency combinations, the calculation uses the bid with the highest implied support amount. If the aggregate cost for the round exceeds the budget, the bidding system will implement another regular bidding round with a lower base clock percentage.

214. *Clearing Determination.* The first round in which the aggregate cost, as calculated above, is less than or equal to the overall support budget is deemed the clearing round. In the clearing round, the bidding system will further process bids submitted in the round, to determine those areas that can be assigned and the support amounts winning bidders will receive. Once the clearing round has been identified, the system no longer calculates the aggregate cost, even if there are subsequent bidding rounds.

215. *Bid Processing in the Clearing Round.* In the clearing round, the bidding system will consider bids in more detail to determine those bids that can be assigned in that round; the "second prices" corresponding to those bids, subject to post-auction application review; and those bids that will carry over for bidding in an additional bidding round or rounds.

216. Until the clearing round, the auction is generally driven by cross-area competition for the budget, and implied support amounts for all areas are reduced in proportion to the reduction in the base clock. In estimating cost, the system does not determine which of the multiple bids competing for support in

the same area will be assigned, although it does take into account that only one bid per area may be assigned. Processing during the clearing round and subsequent rounds considers intra-area competition as well, assigning support to bids at the lowest bid percentage for a given area, as long as any assigned package bids meet the bid's minimum scale percentage. Bid processing in the clearing round also determines support amounts for assigned bids according to a second-price rule, so that bids are supported at a price percentage at least as high as the bid percentage.

217. *Assignment.* Once the bid processing procedures establish that the current round is the clearing round, the bidding system will begin to assign winning bids with support to at most one bid for a given area. The system will first assign bids made at the base clock percentage for areas not bid on by another bidder at the base clock percentage. Any package bids at the base clock percentage that include areas bid on by another bidder at the base clock percentage must meet the package bidder's minimum scale percentage without those areas in order to be assigned.

218. The system then considers all other bids submitted in the round in ascending order of price point percentage to see if additional bids can be assigned and, considering the bids assigned so far, to determine the highest price point percentage at which the total support cost of the assigned bids does not exceed the budget (the "clearing price point"). Recall that a bid may be placed at any price point percentage equal to or greater than the current base clock percentage and less than the previous round's base clock percentage. Bids at price point percentages above the clearing price point are not assigned.

219. As it considers bids in ascending price point percentage order, the system assigns a bid if no other bid for the same area has already been assigned, as long as the area did not receive any bid at the base clock percentage and the areas to be assigned in a package bid meet the bid's minimum scale percentage. Ties are broken by using the highest pseudo-random number. The bidding system also checks to ensure that sufficient budget is available to assign the bid. If the bidding system encounters a bid that cannot be supported within the remaining budget, it will skip that bid and continue to consider other bids in ascending price point percentage order.

220. To determine whether there is sufficient budget to support a bid as it is considered for assignment, the bidding system keeps a running sum of support costs.

221. At each ascending price point increment, starting at the base clock percentage, the running cost calculation is the sum of support for three types of bids. First, for assigned bids for which there were no other bids for support for their respective areas at price points lower than the currently considered price point percentage, the system calculates the cost of providing support as the amount of support implied by the currently considered price point. Second, for assigned bids for areas that did receive other bids at price points lower than the currently considered price point, support is generally calculated as the amount implied by the next-higher price point at which the area received a bid (where next-higher is relative to the price point of the assigned bid, not the currently considered price point). The only exception to this arises if there is a bid for the area with a bid percentage below the bid percentage of the assigned bid for the area and the former bid cannot be assigned because it is a package bid that does not meet the minimum scale percentage. In that case, the support is calculated as the amount implied by the bid percentage of the assigned bid. Third, areas bid at the base clock percentage that were not assigned in the round are evaluated as they are in the pre-clearing aggregate cost calculation: only one bid per area is included in the calculation, and if there are bids for an area at different performance tier and latency combinations, the calculation uses the bid with the highest implied support amount, all evaluated at the base clock percentage.

222. The bidding system continues to assign bids meeting the assignment criteria in ascending price point order as long as the cost calculation does not exceed the budget. The highest price point at which the running total cost will not exceed the budget is identified as the clearing price point.

223. *Support Amount Determination.* Bids that are assigned for areas that receive no other bids at less than the clearing price point are supported at an amount implied by the clearing price point percentage.

224. Bids assigned in the clearing round, when there is also a bid for the area at a price point below the clearing price point, are generally supported at an amount determined by the bid percentage of the lowest unassigned bid for the area. Exceptions are that if the bid percentage of the lowest unassigned bid for the area is less than (e.g., a package bid that did not meet the minimum scale percentage) or equal to (i.e., tied with) the bid percentage of the assigned bid, then the assigned bid is

supported at its own bid percentage. For example, applying the second price rule, if there are two bids for an area, the lower bid is supported at the bid price point percentage of the higher bid.

225. *Bids and Bid Processing in Rounds After the Clearing Round. Carried-Forward and Acceptable Bids.* After the clearing round, there will be further bidding to resolve competition for areas where more than one bidder is still bidding for support at the base clock percentage in the clearing round. After the clearing round and any subsequent round, bidding will continue only for areas where there were multiple bids at the previous round's base clock percentage that could not be assigned. Such bids may have been for a given unassigned area that received multiple single bids, package bids that were not assigned because the bidder's minimum scale percentage for the package was not met, or remainders of package bids—unassigned areas from package bids that were partially assigned.

226. Bids at the base clock percentage for unassigned areas will carry over automatically to the next bidding round at the previous round's base clock percentage, since the bidder had previously placed a bid at that percentage. In the round into which the bids are carried forward, a bidder with a carried-forward bid for an area may also bid for support for these areas at the current round's base clock percentage or at intermediate price points. In rounds after the clearing round, a bidder cannot switch to bidding for an area for which it did not bid in the previous round.

227. Although a bid for an unassigned package will carry over at the previous clock percentage, the bidder for such a package may group the bids for the areas in the package into smaller packages and bid on those smaller packages at current round percentages. However, the unassigned remainders of assigned package bids—that is, the areas for which there are competing bids—will carry over as individual area bids. Any bids the bidder places for the remainder areas at the new round percentages must be submitted as individual area bids—that is, the bidder cannot create a new package of any of the unassigned remainders.

228. If a proxy instruction is at a price point percentage below the base clock percentage of the previous round, it will continue to apply in rounds after the clearing round under the same conditions that apply to other bids. For package bids made by proxy that are only partially assigned because there are multiple bids at the base clock percentage, the proxy instructions will

continue to apply to the unassigned areas in the package bid. That is, the price point percentage specified in the proxy instructions will apply to each of the individual remainder areas.

229. *Bid Processing in Rounds After the Clearing Round.* As in the clearing round, in subsequent rounds, the system considers bids for assignment and support amount determination in ascending price point percentage order. The system first considers bids at the new round's base clock percentage. The system will assign any bids for areas that received no other bids at the base clock percentage as long as any package bid meets the minimum scale percentage of the bid. The system then processes bids in ascending price point order, assigning those bids for as yet unassigned areas, as long as any package bids meet the minimum scale condition.

230. If there is only one bid for an area in a round in addition to a carried-forward bid or bids, the assigned bid is paid at the base clock percentage for the previous round, consistent with the second-price rule. If an assigned bid is for an area that received more than one bid in the round, the assigned bid is supported at the next higher price point percentage at which there is a bid for the area. The only exception to this arises when there is a bid for the area with a bid percentage below the bid percentage of the winning bid for the area and the former bid cannot be assigned because it is a package bid that does not meet the minimum scale percentage. In that case, the support is calculated as the amount implied by the bid percentage of the winning bid.

231. If there is more than one bid for an area at the current base clock percentage, there will be another bidding round at a lower base clock percentage, with the same restrictions on bids and following the same assignment and pricing procedures. If all bidders for an area with carried forward bids decline to submit lower bids in a subsequent round, the bid with the highest pseudo-random number will be considered first for assignment according to the Commission's tie breaking procedures.

232. *Availability of Bidding Information.* As in past Commission auctions, bidders will have secure access to certain non-public bidding information while bidding is ongoing. After each round ends, and before the next round begins, the Commission will make the following information available to individual bidders:

- The base clock percentage for the upcoming round.

- The aggregate cost at the previous round's base clock percentage up until the budget clears.

- The aggregate cost at the base clock percentage is not disclosed for the clearing round or any later round.

- The bidder's activity, based on all bids in the previous round, and activity based on bids at the base clock percentage.

- In rounds after the clearing round, the bidder's assigned support and the implied support of its carried-forward bids will be available.

- Summary statistics of the bidder's bidding in the previous round, including:

- The number of CBGs for which it bid, at the base clock percentage and at other price points, and for which proxy instructions are in effect for future rounds.

- After the clearing round, CBGs and support amounts it has been assigned and those for which it is still bidding, including a list of its carried-forward bids.

- A bidder will also have access to a downloadable file with all its bids submitted for each round.

- For all eligible areas in all states, including those in which the bidder was not qualified to bid or is not bidding, whether the number of bidders that placed bids at the previous round's base clock percentage was 0, 1, or 2 or more.

- The performance tier and latency combinations of the bids are not disclosed.

- For the clearing round and any subsequent round, bidders are also informed about which areas have been assigned.

233. Prior to each round, the Commission will also make available to individual bidders the implied support amounts, corresponding to the areas and performance tier and latency combinations for which they are eligible to bid. These implied support amounts are calculated at the round's base clock percentage.

234. The Commission balances its interest in providing bidders with sufficient information about the status of their own bids and bidding across all eligible areas to allow them to bid confidently and effectively, while restricting the availability of information that may facilitate identification of bidders placing particular bids, which could potentially lead to undesirable strategic bidding.

235. The Commission will withhold information on the progress of the auction from the general public until after the close of bidding when auction results are announced. Accordingly, during the auction, the public will not

have access to such interim information as the current round, base clock percentage, aggregate cost, or any summary statistics on bidding or assigned bids that may reveal or suggest the identities of bidders associated with any specific bids. Although auction participants will have access to information that is needed to inform their bidding, such information will be made publicly available only after the close of the auction in order to help preserve the integrity of the auction while it is in progress.

236. After the close of bidding and announcement of auction results, the Commission will make publicly available all bidding data, except for proxy bidding instructions. This promotes the Commission's interest in a transparent auction process and is consistent with the Commission's typical practice post-auction.

237. *Closing Conditions.* The auction will end once the overall budget has cleared and there are no longer competing bids for any areas.

238. *Auction Announcements.* The Bureaus will use auction announcements to report necessary information to bidders. All auction announcements will be available by clicking a link in the CAF II Bidding System.

239. *Auction Results.* After the Bureaus announce the auction results, they will provide a means for the public to view and download bidding and results data.

## VIII. Post-Auction Procedures

240. *General Information Regarding Long-Form Applications.* For the Phase II auction, the Commission adopted a two-phase auction application process. Pursuant to § 1.21004(a), each Auction 903 winning bidder is required to file an application for Phase II support, referred to as a long-form application, by the applicable deadline. Shortly after bidding has ended, the Bureaus will issue a public notice declaring the auction closed, identifying the winning bidders, and establishing the deadline for the long-form application. Winning bidders will use the new FCC Form 683 and the Auction Application System to submit their long-form applications. Details regarding the submission and processing of long-form applications will be provided in a public notice after the close of the bidding. After a long-form applicant's application has been reviewed and is considered to be complete, and the long-form applicant has submitted an acceptable letter of credit and accompanying Bankruptcy Code opinion letter as described below, a public notice will be released

authorizing the long-form applicant to receive Phase II support.

**241. Long-Form Application: Disclosures and Certifications.** Unless otherwise provided by public notice, within 10 business days after release of the Auction 903 closing public notice, a long-form applicant must electronically submit a properly completed long-form application (FCC Form 683) for the areas for which it (or its parent/holding company or consortium/joint venture) was deemed a winning bidder. Further instructions and filing requirements will be provided to winning bidders in the auction closing public notice.

**242. Ownership Disclosure.** A long-form applicant must fully disclose in its long-form application its ownership structure as well as information regarding the real party- or parties-in-interest in the applicant or application as set forth in § 1.2112(a). A long-form applicant will already have ownership information on file with the Commission that was submitted in its short-form application during the pre-auction process, which may simply need to be updated as necessary.

**243. General Universal Service Certifications.** A long-form applicant must certify in its long-form application that it is in compliance with all statutory and regulatory requirements for receiving the universal service support that it seeks as of the long-form application filing deadline, or that it will be in compliance with such requirements before being authorized to receive Phase II support. A long-form applicant must also certify that it will comply with all program requirements, including service milestones.

**244.** In addition, a long-form applicant must certify that it is aware that if it is not authorized to receive support based on its application, the application may be dismissed without further consideration and penalties may apply.

**245. Financial and Technical Capability Certification.** As in its pre-auction short-form application, a long-form applicant must certify in its long-form application that it is financially and technically capable of meeting the relevant public interest obligations for each performance tier and latency combination in the geographic areas in which it seeks support. A long-form applicant should be aware that in making a certification to the Commission it exposes itself to liability for a false certification. A long-form applicant should take care to review its resources and its plans before making the required certification and be prepared to document its review, if necessary.

**246. Public Interest Obligations Certification.** A long-form applicant must certify in its long-form application that it will meet the relevant public interest obligations for each performance tier and latency combination for which it (or its parent/holding company or consortium/joint venture) was deemed a winning bidder, including the requirement that it will offer service at rates that are equal to or lower than the Commission's reasonable comparability benchmarks for fixed services offered in urban areas.

**247. Eligible Telecommunications Carrier Certification.** A long-form applicant must acknowledge in its long-form application that it must be designated as an ETC in the relevant areas prior to being authorized to receive Phase II support in those areas. Specifically, the long-form applicant must certify that, if it has already been designated as an ETC in the relevant areas, it has provided a certification of its status in each such area and the relevant documentation supporting that certification in its long-form application. If the long-form applicant has not yet been designated as an ETC in the relevant areas, the long-form applicant must certify that it will submit a certification of its status as an ETC in each such area and the relevant documentation supporting that certification prior to being authorized to receive such support. As described below, this certification of ETC status and documentation must be submitted within 180 days after the release of the Auction 903 closing public notice.

**248. Description of Technology and System Design.** Each long-form applicant will be required to demonstrate that it is technically qualified to meet the relevant Phase II public interest obligations in the areas covered by the winning bids by submitting technical information to support the operational assertions made in the short-form application. A long-form applicant is required to submit a detailed technology and system design description, including a network diagram that must be certified by a professional engineer. The professional engineer must certify that the network can deliver, to at least 95 percent of the required number of locations in each relevant state, voice and broadband service that meets the requisite performance requirements. Because it may take time for a long-form applicant to create a detailed technology and system design description that is tailored to such areas, it may submit its technology and system design description in two stages.

**249. Initial Overview.** First, an applicant must submit with its long-form application (due within 10 business days after the release of the Auction 903 closing public notice) an overview of its intended technology and system design for each state in which winning bids were made. The overview must describe at a high level how the long-form applicant will meet its Phase II public interest obligations for the relevant performance tier and latency combination(s) using Phase II support (e.g., building a new network or expanding an existing network, deploying new technology or existing technology). This overview should avoid highly technical terminology or jargon unless such language is integral to the understanding of the project. The overview will be made publicly available.

**250. Detailed Description.** Second, within 60 calendar days after the release of the Auction 903 closing public notice, a long-form applicant must submit, for each state in which winning bids were made, a more detailed description of its technology and system design. This second submission must describe the network to be built or upgraded, demonstrate the project's feasibility, and include the network diagram certified by a professional engineer. A long-form applicant can submit the detailed description as early as its initial long-form application filing deadline (i.e., within 10 business days after the release of the public notice announcing the close of Auction 903), but no later than 60 calendar days after the public notice's release. It must describe in detail a network that fully supports the delivery of consumer voice and broadband service that meets the requisite performance requirements to at least 95 percent of the required number of locations in each state by the end of the six-year build-out period and for the duration of the 10-year support term, assuming a 70 percent subscription rate by the final service milestone. It also must contain sufficient detail to demonstrate that the long-form applicant can meet the interim service milestones if it becomes authorized to receive support. If a long-form applicant submits a technology and system design description that lacks sufficient detail to demonstrate that the long-form applicant has the technical qualifications to meet the relevant Phase II obligations, the long-form applicant will be asked to provide further details about its proposed network. The Commission will treat all the information submitted with this second submission as confidential and will

withhold it from routine public inspection. As the Commission does with short-form applications, the Commission will treat long-form applicants that submit this information as having made a request to treat this information as confidential trade secrets and/or commercial information. If a request for public inspection under § 0.461 is made, however, the long-form applicant will be notified and will be required to justify confidential treatment of its request if the long-form applicant has any objections to disclosure.

251. Below, the Commission provides guidance on how a long-form applicant can successfully meet the requirement in § 54.315(b)(2)(iv) to provide a description of its technology and system design. Specifically, the Commission describes the types of information it would expect a long-form applicant to include, at a minimum, in a detailed description of its technology and system design in order to demonstrate that it has the technical qualifications to meet its Phase II obligations. The Commission recognizes that because a Phase II support recipient has six years to fully build out its network, the information submitted by the long-form applicant may be based on a preliminary network design that may be modified as the network is built out. The Commission's guidance is informed by the types of information that long-form applicants submitted for rural broadband experiment support during the long-form application stage to demonstrate that they had the technical qualifications to meet the relevant rural broadband experiment public interest obligations. These are also the types of information that the Commission expects a technically qualified long-form applicant will have made preliminary decisions about in order to determine how much support it would need to meet the relevant Phase II auction public interest obligations and also to begin planning how it will meet the required service milestones.

252. A long-form applicant, regardless of the technology (or technologies) it proposes to use, is expected to:

- Describe the proposed last mile architecture(s) and technologies (such as architectures and technologies include, for example, wireless licensed or unlicensed, fiber, coaxial cable, satellite, digital subscriber line, hybrids, etc.), middle mile/backhaul topology (*e.g.*, describe ring, mesh, tree and branch, and hybrid topologies), and the architecture used to provide voice service. This description should include the long-form applicant's Session Initiation Protocol (SIP) proxies, session

border controllers, and various network databases. If the long-form applicant obtains these or other voice service functions as services from another provider or providers (for example, an over-the-top VoIP provider, or an incumbent or competitive local exchange carrier), the description should so indicate.

- Describe the network's scalability and features that improve reliability (such as redundancy).
- Indicate whether parts of the network will use the long-form applicant's or another party's existing network facilities, including non-wireless facilities extending from the network to customers' locations. For non-wireless facilities that do not yet exist, the description should indicate whether the new facilities will be aerial, buried, or underground.
- Provide technical information about the methods, "rules of thumb," and engineering assumptions used to size the capacity of the network's nodes (or gateways) and links. The information provided should demonstrate how the required performance for the relevant performance tier will be achieved during periods of peak usage, assuming a 70 percent subscription rate by the final service milestone.

- Provide a project plan that includes a network build-out schedule that includes but is not restricted to plans for construction of last mile and middle mile facilities. The build-out schedule should show the long-form applicant's projected milestones on an annual basis, including achievement of the interim service milestones described in § 54.310(c) of the Commission's rules and completion of the network by the end of the sixth year of funding authorization. The project plan and included schedule should incorporate detailed information showing how the long-form applicant plans to offer, to at least 95 percent of the required number of locations in each relevant state, voice and broadband service meeting the relevant performance requirements when the system is complete. The project plan and included schedule should also incorporate the long-form applicant's plans for monitoring and maintaining the performance of the service for the duration of the 10-year support term.

253. The network diagram, which must be certified by a professional engineer, should:

- Identify all wireline and wireless segments of the proposed networks.
- Uniquely identify (i) major network nodes including their manufacturer and model, as well as their functions, locations, and throughput/capacity; (ii)

access nodes or gateways, including their technology, manufacturer and model, location, and throughput/capacity; and (iii) major inter-nodal links (not last mile), and their throughput/capacity.

- Indicate how many locations will be offered service from each access node or from each gateway, and which performance tier or tiers will be supported at each access node.

- Indicate what parts of the network will be new deployment and what parts will use the long-form applicant's or another party's existing network facilities.

- Identify specialized nodes used in providing voice service.

- Explain how nodes or gateways are connected to the internet backbone and Public Switched Telephone Network.

254. Additionally, a long-form applicant that proposes to use terrestrial fixed wireless technologies should:

- Explain, with technical detail, how the proposed spectrum can meet or exceed the relevant performance requirements at peak usage periods.

- Provide the calculations used, for each performance tier and frequency band, to design the last mile link budgets in both the upload and download directions at the cell edge, using the technical specifications of the expected base station and customer premise equipment.

- Provide coverage maps for the planned and/or existing networks that will be used to meet the Phase II public interest obligations, indicating where the upload and download speeds will meet or exceed the relevant performance tier speed(s). The coverage maps should be provided for each interim and final service milestone and should display the required service areas and target locations (or a representation thereof).

- Describe the underlying propagation model used to prepare the coverage maps and how the model incorporates the operating spectrum, antenna heights, distances, digital elevation, and clutter resolutions.

- Describe, for each relevant performance tier and latency combination, the base station equipment that the long-form applicant plans to use.

- Describe the planned customer premise equipment configuration.

255. Additionally, a long-form applicant that proposes to use primarily satellite technologies should:

- Describe how many satellites that are in view simultaneously from any specific location will be required to meet the relevant Phase II public interest obligations.

- Describe how many uplink and downlink gateway antenna beams will be required on each satellite, and the capacity of each beam in megabits per second.
- Describe how many uplink and downlink user antenna beams will be required on each satellite, and the capacity of each beam in megabits per second.
- Describe how the gateway capacity is connected to user beams on the satellite, in terms of beams and data capacity per beam.
- Describe whether the capacity on the uplink and downlink beams would be able to be reallocated once a satellite commences operation, if the subscription rate is less than 70 percent in one beam but more than 70 percent in another beam.

256. *Available Funds Certification and Description.* A long-form applicant must certify in its long-form application that it will have available funds for all project costs that exceed the amount of Phase II support to be received for the first two years of its support term. A long-form applicant must also describe how the required construction will be funded in each state. The description should include the estimated project costs for all facilities that are required to complete the project, including the costs of upgrading, replacing, or otherwise modifying existing facilities to expand coverage or meet performance requirements. The estimated costs must be broken down to indicate the costs associated with each proposed service area at the state level and must specify how Phase II support and other funds, if applicable, will be used to complete the project. The description must include financial projections demonstrating that the long-form applicant can cover the necessary debt service payments over the life of any loans. The Commission will treat all the information submitted with this submission as confidential and will withhold it from routine public inspection. The Commission will also treat long-form applicants that submit this information as having made a request to treat this information as confidential trade secrets and/or commercial information. If a request for public inspection under § 0.461 is made, however, the long-form applicant will be notified and will be required to justify confidential treatment of its request if the long-form applicant has any objections to disclosure.

257. *Spectrum Access.* A long-form applicant that intends to use wireless technologies to meet the relevant Phase II public interest obligations must demonstrate that it currently has

sufficient access to spectrum. Specifically, as in its pre-auction short-form application, a long-form applicant must, in its long-form application (i) identify the spectrum band(s) it will use for the last mile, backhaul, and any other parts of the network; (ii) describe the total amount of uplink and downlink bandwidth (in megahertz) that it has access to in each spectrum band for the last mile; (iii) describe the authorizations (including leases) it has obtained to operate in the spectrum, if applicable; and (iv) list the call signs and/or application file numbers associated with its spectrum authorizations, if applicable. A long-form applicant may propose to use more than one spectrum band to meet its Phase II public interest obligations. Each applicant must identify for which part of the network (e.g., last mile, backhaul, etc.) it intends to use each spectrum band. If the licensee is a different party than the long-form applicant, the licensee name and the relationship to the long-form applicant should be described. If the long-form applicant is leasing spectrum, the lease number should be provided along with the license information. As in the short-form application, an applicant that intends to provide service using satellite technology should describe its expected timing for applying for earth station license(s), and an applicant that intends to obtain microwave license(s) for backhaul should describe its expected timing for applying for microwave license(s) if these licenses have not already been obtained. To the extent that a long-form applicant will use licensed spectrum, it should provide details about how the licensed service area covers its winning bid area(s) (e.g., provide a list of geographic areas that the spectrum license covers and describe how those areas relate to the winning bid area(s)).

258. A long-form applicant must also certify that the description of the spectrum access is accurate and that it will retain such access for at least 10 years after the date on which it is authorized to receive support. Applications will be reviewed to assess the reasonableness of the certification.

259. *Letter of Credit Commitment Letter.* Within 60 days after the release of the Auction 903 closing public notice, a long-form applicant must submit a letter from a bank acceptable to the Commission, as set forth in § 54.315(b)(3), committing to issue an irrevocable stand-by letter of credit, in the required form, to the long-form applicant. The letter must, at a minimum, provide the dollar amount of the letter of credit and the issuing

bank's agreement to follow the terms and conditions of the Commission's model letter of credit in Appendix B of the *Phase II Auction Order*, 81 FR 44413, July 7, 2016.

260. *Documentation of ETC Designation.* Within 180 days after the release of the Auction 903 closing public notice, a long-form applicant is required to submit appropriate documentation of its high-cost ETC designation in all the areas for which it will receive support. 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. A long-form applicant is also required to provide documentation showing that the designated areas (e.g., census blocks, wire centers, etc.) cover the relevant winning bid areas so that it is clear that the long-form applicant has high-cost ETC status in each winning bid area. Such documentation could include maps of the long-form applicant's ETC designation area, map overlays of the winning bid areas, and/or charts listing designated areas. Additionally, a long-form applicant is required to submit a letter with its documentation from an officer of the company certifying that the long-form applicant's ETC designation for each state covers the relevant areas where the long-form applicant will receive support.

261. *Audited Financial Statements.* Within 180 days after the release of the Auction 903 closing public notice, a long-form applicant that did not submit audited financial statements in its pre-auction short-form application must submit the financial statements from the prior fiscal year that are audited by an independent certified public accountant. Any long-form applicant that fails to submit the audited financial statements as required by the 180-day deadline will be subject to a base forfeiture of \$50,000, which will be subject to adjustment upward or downward as appropriate based on the criteria set forth in the Commission's forfeiture guidelines.

262. *Letter of Credit and Bankruptcy Code Opinion Letter.* After a long-form applicant's application has been reviewed and is considered to be complete, the Commission will issue a public notice identifying each long-form applicant that may be authorized to receive Phase II support. No later than 10 business days after the release of the public notice, a long-form applicant must obtain an irrevocable stand-by letter of credit at the value specified in § 54.315(c)(1) from a bank acceptable to the Commission as set forth in

§ 54.315(c)(2) for each state where the long-form applicant is seeking to be authorized. The letter of credit must be issued in substantially the same form as set forth in the model letter of credit provided in Appendix B of the *Phase II Auction Order*, 81 FR 44413, July 7, 2016.

263. In addition, a long-form applicant will be required to provide with the letter of credit an opinion letter from legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that, in a proceeding under the Bankruptcy Code, the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the long-form applicant's bankruptcy estate, or the bankruptcy estate of any other bidder-related entity requesting issuance of the letter of credit, under section 541 of the Bankruptcy Code.

264. *Default Payment Requirements. Auction Forfeiture.* Any Auction 903 winning bidder or long-form applicant will be subject to a forfeiture in the event of a default before it is authorized to begin receiving support. A winning bidder or long-form applicant will be considered in default and will be subject to forfeiture if it fails to timely file a long-form application, fails to meet the document submission deadlines, is found ineligible or unqualified to receive Phase II support by the Bureaus on delegated authority, and/or otherwise defaults on its winning bids or is disqualified for any reason prior to the authorization of support. Any such determination by the Bureaus shall be final, and a winning bidder or long-form applicant shall have no opportunity to cure through additional submissions, negotiations, or otherwise. Agreeing to such payment in the event of a default is a condition for participating in bidding in the Phase II auction.

265. In the event of an auction default, the Commission will impose a base forfeiture per violation of \$3,000 subject to adjustment upward or downward based on the criteria set forth in the Commissions forfeiture guidelines, as adopted in the Phase II Auction Order. A violation is defined as any form of default with respect to the minimum geographic unit eligible for bidding. In other words, there shall be separate violations for each CBG assigned in a bid. To ensure that the amount of the base forfeiture is not disproportionate to the amount of a winning bidder's bid, the total base forfeiture is limited to five percent of the bidder's total assigned support for the bid for the support term.

266. *Non-Compliance Measures Post-Authorization.* A long-form applicant that has received notice from the Commission that it is authorized to receive Phase II support will be subject to non-compliance measures once it becomes a support recipient if it fails or is unable to meet its minimum coverage requirement, other service requirements, or fails to fulfill any other term or condition of Phase II support. As described in the *December 2014 Connect America Order*, 80 FR 4445, January 27, 2015, and the *Phase II Auction Order*, 81 FR 44413, July 7, 2016, these measures will scale with the extent of non-compliance, and include additional reporting, withholding of support, support recovery, and drawing on the support recipient's letter of credit if the support recipient cannot pay back the relevant support by the applicable deadline. A support recipient may also be subject to other sanctions for non-compliance with the terms and conditions of Phase II support, including, but not limited to, potential revocation of ETC designations and suspension or debarment. Additionally, a support recipient will be subject to any non-compliance measures that are adopted in conjunction with a methodology for high-cost support recipients to measure and report speed and latency performance to fixed locations.

#### *Auction 903 Short-Form Application Operational Questions*

Responses to these questions and any supporting documentation will be withheld from public disclosure.

#### *Operational History (if Applicable)*

Answer on a nationwide basis:

Has the applicant previously deployed consumer broadband networks (Yes/No)? If so, identify the date range for when broadband service was offered and in which state(s) service was offered. What specific last mile and interconnection (backhaul) technologies were used? Provide an estimate of how many subscribers are currently served. (If the applicant is no longer providing service in any state, estimate the number of customers that were served at the beginning of the last full year that the applicant did provide service.) What services (e.g., voice, video, broadband internet access) were provided?

#### *Proposed Network(s) Using Funding From the Phase II Auction*

Answer for each state the applicant selected in its application:

1. Which network architectures and technologies will be used in the applicant's proposed deployment? How

will voice services be provided? How will broadband internet access service be provided?

2. What are the relevant industry standards, if any, for the last-mile technologies in the applicant's proposed deployment? If the applicant is proposing to use non-standard technologies, the applicant should identify which vendor(s) and product(s) are being considered, and provide links to the vendors' websites and to publicly available technical specifications of the product(s). (If technical specifications for the non-standard technologies are not available on a vendor's website, they may be submitted with this application.) Regardless of whether the applicant proposes to use standard or non-standard technologies—what capabilities of this technology and proposed network will enable performance tier (speed and usage allowance), latency and (where applicable) voice service mean opinion score (MOS) requirements to be met?

3. Can the applicant demonstrate that the technology and the engineering design will fully support the proposed performance tier, latency and voice service requirements for the requisite number of locations during peak periods (Yes/No)? What assumptions about subscription rate and peak period data usage is the applicant making in this assertion? Describe concisely the information that can be made available to support this assertion.

4. Can the applicant demonstrate that all the network buildout requirements to achieve all service milestones can be met (Yes/No)? The applicant will be required to submit a detailed project plan in the long-form application if it is named as a winning bidder. Describe concisely the information that the applicant would make available in such a detailed project plan.

5. For the proposed performance tier and latency combination, can the applicant demonstrate that potential vendors, integrators and other partners are able to provide commercially available and fully compatible network equipment/systems, interconnection, last mile technology and customer premise equipment (CPE) at cost consistent with applicant's buildout budget and in time to meet service milestones (Yes/No)? Describe concisely the information and sources of such information that the applicant could make available to support this response.

6. Can the applicant describe how the network will be maintained and services provisioned (Yes/No)? Can the applicant demonstrate that it can provide internally developed operations systems for provisioning and maintaining the

proposed network including equipment and segments, interconnections, CPE and customer services at cost consistent with applicant's buildout budget and in time to meet service milestones (Yes/No)? If not, can the applicant demonstrate that potential vendors, integrators, and other partners are able

to provide commercially available and fully compatible operations systems and tools for provisioning and maintaining the proposed network at cost consistent with applicant's buildout budget and in time to meet service milestones (Yes/No)? Describe concisely the information and sources of such information that the

applicant could make available to support these responses.

7. If the applicant is using satellite technologies, describe concisely the total satellite capacity available and possible methods the applicant will utilize to assign bandwidth and capacity for each spot beam.

AUCTION 903 SPECTRUM CHART

Spectrum band/service	Paired licensed		Unpaired licensed	Unlicensed
	Uplink freq. (MHz)	Downlink freq. (MHz)	Uplink & downlink freq. (MHz)	Unlicensed (MHz)
600 MHz	663–698	617–652.		
Lower 700 MHz	698–716	728–746	716–728 (Downlink only).	
Upper 700 MHz	776–787	746–757.		
800 MHz SMR	813.5/817–824	858.5/862–869.		
Cellular	824–849	869–894.		
Broadband PCS	1,850–1,915	1,930–1,995.		
AWS–1	1,710–1,755	2,110–2,155.		
AWS (H Block)	1,915–1,920	1,995–2,000.		
AWS–3	1,755–1,780	2,155–2,180	1,695–1,710 (Uplink only).	
AWS–4			2,000–2,020, 2,180–2,200 (Downlink only).	
BRS/EBS			2,496–2,690.	
WCS	2,305–2,315	2,350–2,360	2,315–2,320, 2,345–2,350.	
CBRS (3.5 GHz)			3,550–3,700.	
UMFUS (terrestrial)			27,500–28,350, 38,600–40,000.	
70–80–90 GHz unpaired & 70–80 GHz paired (point-to-point terrestrial).	Point-to-Point Pairs for 70–80 GHz, 71,000–76,000 with 81,000–86,000.		71,000–76,000, 81,000–86,000, 92,000–95,000.	
TV White Spaces				54–72, 76–88, 174–216, 470–698.
900 MHz				902–928.
2.4 GHz				2,400–2,483.5.
5 GHz				5,150–5,250, 5,250–5,350, 5,470–5,725, 5,725–5,850.
24 GHz				24,000–24,250.
57–71 GHz				57,000–71,000.
Ku Band (satellite)	12,750–13,250, 14,000–14,500.	10,700–12,700.		
Ka Band (satellite)	27,500–30,000	17,700–20,200.		
V Band (satellite)	47,200–50,200, 50,400–52,400.	37,500–42,000.		

Abbreviations

- AWS Advanced Wireless Services
- BRS/EBS Broadband Radio Service/ Education Broadband Service
- CBRS Citizens Broadband Radio Service
- PCS Personal Communications Service/ Specialized Mobile Radio
- SMR Upper Microwave Flexible Use
- UMFUS Service
- WCS Wireless Communications Service

IX. Procedural Matters

267. *Paperwork Reduction Act Analysis.* This document seeks to implement the information collections adopted in the *Phase II Auction Order*, 81 FR 44413, July 7, 2016, and does not contain any additional information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public

Law 104–13. The Commission is currently seeking PRA approval for information collections related to the short-form application process and will in the future seek PRA approval for information collections related to the long-form application process. In addition, therefore, this document does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198.

268. *Supplemental Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission prepared Initial Regulatory Flexibility Analyses (IRFAs) in connection with the

*USF/ICC Transformation FNPRM*, 76 FR 78384, December 16, 2011, the *April 2014 Connect America FNPRM*, 79 FR 39163, July 9, 2014, and the *Phase II Auction FNPRM*, 81 FR 44413, July 7, 2016 (collectively, Phase II FNPRMs). A Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) was also filed in the *CAF II Auction Comment Public Notice*, 82 FR 40520, August 25, 2017, in this proceeding. The Commission sought written public comment on the proposals in the Phase II FNPRMs and in the *CAF II Auction Comment Public Notice*, including comments on the IRFAs and the Supplemental IRFA. No comments were filed addressing the IRFAs. The Commission included Final Regulatory Flexibility Analyses (FRFAs)

in connection with the *April 2014 Connect America Order*, 79 FR 39163, July 9, 2014, the *Phase II Auction Order*, 81 FR 44413, July 7, 2016, and the *Phase II Auction FNPRM Order*, 82 FR 14466, March 21, 2017 (collectively, Phase II Orders). This Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) supplements the FRFAs in the Phase II Orders to reflect the actions taken in the document and conforms to the RFA.

269. *Need for, and Objectives of, The Document.* The document establishes procedures for the Connect America Fund Phase II auction. In particular, the document establishes procedures for, among other things, how an applicant can become qualified to bid in the auction, how bidders will submit bids, and how bids will be processed to determine winners and assign support amounts.

270. Following the release of the Phase II FNPRMs and Phase II Orders, the Commission released the *CAF II Auction Comment Public Notice*. The *CAF II Auction Comment Public Notice* proposed specific procedures for implementing the rules proposed in the Phase II FNPRMs and adopted in the Phase II Orders. The *CAF II Auction Comment Public Notice* did not change matters adopted in the Phase II Orders, but did request comment on how the proposals in the *CAF II Auction Comment Public Notice* might affect the previous regulatory flexibility analyses in this proceeding.

271. The document establishes procedures for awarding Phase II support in Auction 903 through a multi-round, reverse auction, the minimum geographic area for bidding in the auction, aggregating eligible areas into larger geographic units for bidding, setting reserve prices, capping the amount of support per location provided to extremely high-cost census blocks, and the availability of application and auction information to bidders and to the public during and after the auction. The document also establishes detailed bidding procedures for conducting Auction 903 using a descending clock auction format, including bid collection, clock prices, bid format, package bidding format, proxy bidding, bidder activity rules, bid processing, and how support amounts are determined.

272. To implement the rules adopted by the Commission in the Phase II Orders for the pre-auction process, the document establishes specific procedures and requirements for applying to participate and becoming qualified to bid in Auction 903, including designating the state(s) and

performance tier/latency combinations in which an applicant intends to bid, and providing operational and financial information designed to allow the Commission to assess the applicant's qualifications to meet the Phase II public interest obligations for each area for which it seeks support. The document also sets forth information that a winning bidder will be required to submit in its post-auction long-form application in order to become authorized to receive Phase II support.

273. Accordingly, the procedures established in the document are consistent with the Phase II Orders and the prior regulatory flexibility analyses set forth in this proceeding, and no changes to the Commission's earlier analyses are required.

274. *Summary of Significant Issues Raised by Public Comments in Response to the Supplemental IRFA.* There were no comments filed that specifically addressed the proposed procedures presented in the Supplemental IRFA.

275. *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed procedures as a result of those comments.

276. The Chief Counsel did not file any comments in response to the auction procedures proposed in this proceeding.

277. *Description and Estimate of the Number of Small Entities to Which the Procedures Will Apply.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the procedures adopted herein. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

278. As noted above, FRFAs were incorporated into the Phase II Orders. In those analyses, the Commission described in detail the small entities that might be significantly affected. In the document, the Commission hereby

incorporates by reference the descriptions and estimates of the number of small entities from the previous FRFAs in the Phase II Orders.

279. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* The data, information and document collection required by the Phase II Orders as described in the previous FRFAs and the Supplemental IRFA in the *CAF II Auction Comment Public Notice* in this proceeding are hereby incorporated by reference.

280. *Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): "(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for small entities.

281. The analysis of the Commission's efforts to minimize the possible significant economic impact on small entities as described in the previous Phase II Orders FRFAs are hereby incorporated by reference. In addition, in establishing the bidding and application procedures for Auction 903, the Commission anticipates the challenges faced by small entities. Specifically, the bidding procedures established in the document are designed to facilitate the participation of qualified service providers of all kinds, including small entities, in the Phase II program, and to give all bidders, including small entities, the flexibility to place bids that align with their intended network construction or expansion, regardless of the size of their current network footprints. For example, the Commission will use CBGs containing one or more eligible census blocks as the minimum geographic area for bidding in the auction in order to provide bidders, including small providers, with flexibility to target their intended areas of network expansion or construction without significantly complicating the bidding process. To help ensure that all bidders—both large and small—understand the bidding procedures, including those related to package bidding, the Bureaus will

provide further educational opportunities and materials well in advance of the auction.

282. Furthermore, the pre-auction application procedures set forth in the document are intended to require applicants to submit enough information to permit the Commission to determine their qualifications to participate in Auction 903, without requiring so much information that it is cost-prohibitive for any entity, including small entities, to participate. For example, the Commission adopts a modified version of the proposal in the *CAF II Auction Comment Public Notice* regarding an applicant's financial qualifications that no longer places added emphasis on an applicant's score for the current ratio and equity ratio metrics in light of concerns that those two thresholds are difficult for certain providers, including small providers, to meet.

283. Finally, recognizing that some entities may be new to Commission auctions, the Commission announces

the types of materials and other information the Commission will make available to help educate parties that have not previously applied to participate or bid in a Commission auction. Specifically, the Bureaus will compile and release a guide that provides further technical and mathematical detail regarding the bidding, assignment, and support amount determination procedures. Two online tutorials will be available to serve as references for potential applicants and bidders, and two workshops/webinars will be held. Additionally, a mock auction will be conducted that will enable all qualified bidders, including small entities, to become familiar with the CAF II Bidding System and to practice submitting bids prior to the auction. By providing these resources, the Commission seeks to minimize any economic impact on small entities and help all entities—both large and small—fully understand the bidding and

application procedures. The Bureaus also plan to work with the Commission's Office of Communications Business Opportunities to engage with small providers.

284. *Report to Congress.* The Commission will send a copy of the document, including this Supplemental FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the document, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the document and Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**.

Federal Communications Commission.

**Gary D. Michaels,**

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