



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 1 and 54**

**[AU Docket No. 20-34; WC Docket No. 10-90; WC Docket No. 19-126; FCC 20-77; FRS 16853]**

**Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020; Notice and Filing Requirements and Other Procedures for Auction 904**

**AGENCY:** Federal Communications Commission.

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

**SUMMARY:** This document summarizes procedures for the Rural Digital Opportunity Fund Phase I Auction (Auction 904). The [Auction 904 Procedures Public Notice](#) summarized here is intended to familiarize applicants with the procedures and other requirements governing participation in Auction 904 by providing details regarding the procedures, terms, conditions, dates, and deadlines, as well as an overview of the post-auction application processes.

**DATES:** Applications to participate in Auction 904 must be submitted prior to 6 p.m. Eastern Time (ET) on July 15, 2020. Bidding in Auction 904 is scheduled to begin on October 29, 2020.

**FOR FURTHER INFORMATION CONTACT:** For further information regarding this proceeding, contact Mark Montano in the Auctions Division of the Office of Economics and Analytics at (202) 418-0660 or Heidi Lankau in the Telecommunications Access and Policy Division, Wireline Competition Bureau, (202) 418-7400.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Public Notice ([Auction 904 Procedures Public Notice](#)), AU Docket No. 20-34; WC Docket No. 10-90; WC Docket No. 19-126; FCC 20-77, adopted on June 9, 2020, and released on June 11, 2020. The complete text of the document, including attachments and any related documents, is available for public inspection and copying from 8 a.m. to 4:30 p.m. ET Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street S.W., Room CY-A257, Washington, DC 20554, except when Commission Headquarters is otherwise closed to visitors. [See](#) Public Notice, Restrictions on

Visitors to FCC Facilities, March 12, 2020. The complete text is also available on the Commission's website at <https://www.fcc.gov/auction/904> or by using the search function for AU Docket No. 20-34 on the Commission's ECFS web page at [www.fcc.gov/ecfs/](http://www.fcc.gov/ecfs/). Alternative formats (braille, large print, electronic files, audio format) are available to persons with disabilities by sending an email to [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

## **I. Introduction**

1. By the Auction 904 Procedures Public Notice, the Commission establishes procedures for Phase I of the Rural Digital Opportunity Fund auction (Auction 904). The auction will award up to \$16 billion over 10 years to service providers that commit to offer voice and broadband services to fixed locations in eligible unserved high-cost census blocks. Bidding in the auction is scheduled to begin on October 29, 2020.

2. Auction 904 will be the Commission's second auction to award ongoing high-cost universal service support through competitive bidding in a multiple-round, reverse auction and follows the successful Connect America Fund Phase II auction (Auction 903) in 2018. The bidding procedures will be implemented through the Auction 904 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.

3. Prospective applicants should review carefully the Commission's orders and public notices relating to the Rural Digital Opportunity Fund, including the Rural Digital Opportunity Fund Order, 85 FR 13773 (Mar. 10, 2020). Prospective applicants should also familiarize themselves with the Commission's general universal service rules, contained in 47 CFR Part 54, including §§ 54.313, 54.316, and 54.320; the rules for the Rural Digital Opportunity Fund specifically, contained in 47 CFR §§ 54.801-54.806; and the competitive bidding rules for universal service support contained in 47 CFR §§ 1.21000-1.21004. Additionally, prospective Auction 904 bidders may find it helpful to familiarize themselves with the Commission's generally applicable competitive bidding rules, including recent amendments and

clarifications, as well as Commission decisions in proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees and authorization holders.

4. The terms contained in the Commission's rules, relevant orders, and public notices are generally applicable to all bidders. The Commission may amend or supplement the information contained in its public notices at any time and will issue public notices to convey any new or supplemental information to interested parties. The Office of Economics and Analytics (OEA) and the Wireline Competition Bureau (Bureau) may establish further procedures during the course of this auction. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to this auction.

## **II. Auction Specifics**

5. Auction Title and Start Date. The auction will be referred to as Auction 904 – Rural Digital Opportunity Fund Phase I. Bidding in Auction 904 will begin on October 29, 2020. The initial schedule for bidding rounds will be announced by public notice approximately one week before the start of the auction.

6. Auction Dates and Deadlines. The Auction Application Tutorial will be available via the Internet by June 15, 2020. The Short-Form Application (FCC Form 183) filing window opens July 1, 2020 at 12:00 noon ET. The Short-Form Application (FCC Form 183) filing window deadline is July 15, 2020 at 6:00 p.m. ET. The Auction Bidding Tutorial will be available via the Internet by October 14, 2020. The mock auction begins October 26, 2020. The auction bidding begins on October 29, 2020.

7. 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, July 15, 2020, 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**

8. Each long-form applicant that is authorized to receive Rural Digital Opportunity Fund

support after the close of the auction will be required to offer voice and broadband services meeting the relevant performance requirements to fixed locations in exchange for receiving monthly payments of support over the 10-year support term. It must make these services available to the required number of locations associated with the eligible census blocks covered by its winning bids along with certain other newly built locations upon reasonable request. The initial 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. 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. Long-form applicants that become authorized to receive Rural Digital Opportunity Fund support must deploy broadband service that meets the performance tier and latency requirements associated with their winning bids. Support recipients must also test and certify compliance with the relevant performance requirements in accordance with the uniform framework that has been adopted for measuring and reporting on the performance of high-cost support recipients' service.

<b>Performance Tier</b>	<b>Speed</b>	<b>Monthly Usage Allowance</b>	<b>Weight</b>
<b>Minimum</b>	≥ 25/3 Mbps	≥ 250 GB or U.S. median, whichever is higher	50
<b>Baseline</b>	≥ 50/5 Mbps	≥ 250 GB or U.S. median, whichever is higher	35
<b>Above Baseline</b>	≥ 100/20 Mbps	≥ 2 terabytes (TB)	20
<b>Gigabit</b>	≥ 1 Gbps/500 Mbps	≥ 2 TB	0

<b>Latency</b>	<b>Requirement</b>	<b>Weight</b>
<b>Low Latency</b>	≤ 100 ms	0
<b>High Latency</b>	≤ 750 ms & MOS ≥ 4	40

9. Rural Digital Opportunity Fund 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 Bureau 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 the support recipient charges for a comparable fixed wireline broadband service in urban areas in the state or U.S. territory where the eligible telecommunications carrier (ETC) receives support.

10. The Commission has adopted specific service milestones that require each long-form applicant authorized to receive Rural Digital Opportunity Fund 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. Each support recipient must begin commercially offering service to 40 percent of the CAM-calculated number of locations covered by authorized winning bids in a state by the end of the third full calendar year following the funding authorization, and to an additional 20 percent each year thereafter. 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. All ETCs must advertise the availability of their voice services throughout their service areas, and support recipients must also advertise the availability of their broadband services within their service areas.

11. The Commission directed the Bureau to publish revised location counts before the end of service milestone year six. In areas where the revised location total is higher than the number of CAM-calculated locations, support recipients will be required to have begun commercially offering service to 100 percent of the CAM-calculated location count by the end of the sixth calendar year. Such support recipients must then offer service to 100 percent of the revised location count by the end of the eighth

calendar year. In areas where there are fewer locations than calculated by the CAM, support recipients must notify the Bureau no later than March 1 following the fifth year of deployment. Upon confirmation by the Bureau, such a support recipient will be required to reach 100 percent of the new number by the end of the sixth calendar year. All support recipients must also offer service on reasonable request to locations built subsequently to the revised location count announced by the Bureau but prior to the end of service milestone year eight.

12. Compliance with service milestones 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.

13. The Commission adopted reporting requirements for support recipients in the Rural Digital Opportunity Fund Order. 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 have been adopted in conjunction with the methodology for high-cost support recipients to measure and report network performance.

14. All Auction 904 support recipients will be subject to the Commission's National Security Supply Chain proceeding, including the rule that "no universal service support may be used to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services produced or provided by any company posing a national security threat to the integrity of communications networks or the communications supply chain." The prohibition on using universal service funds applies "to upgrades

and maintenance of existing equipment and services.”

#### **IV. Eligible Areas**

15. The Commission will use CBGs containing one or more eligible census blocks as the minimum biddable area in the auction. The Bureau released an initial list of eligible census blocks for Auction 904 on March 17, 2020, based on June 30, 2019 FCC Form 477 data. The list includes just under 65,000 CBGs containing eligible census blocks and just over 33,000 census tracts containing eligible census blocks based on FCC Form 477 data as of June 30, 2019.

16. The Commission will round the reserve price for each CBG to the nearest dollar consistent with the rounding approach for the CAF II auction. In the Rural Digital Opportunity Fund Order, the Commission adopted a methodology for calculating area-specific reserve prices. Because auction participants will place bids for annual support amounts, the Commission will multiply the monthly reserve price for a CBG by 12 and round that figure to the nearest dollar. Thus, any CBG that has an annual reserve price of less than \$0.50 would be rounded down to \$0 and will be ineligible for Auction 904.

17. Prior to the short-form application deadline, the Bureau will release a list and map of eligible census blocks based on the most recent publicly available FCC Form 477 data and incorporating comments received during the limited challenge process. The list will include the reserve price for each CBG containing eligible census blocks and the number of locations associated with each CBG as determined by the CAM.

18. The U.S. Department of Agriculture (USDA) announced that April 15, 2020 was the application deadline for Round 2 of its ReConnect Program. The Commission directs the Bureau to remove from that list any areas that will be substantially overlapped by an announced ReConnect Program awardee and to publish a final list of eligible areas at least 14 days prior to the October 29 auction start date.

#### **V. Applying to Participate in Auction 904**

19. General Information Regarding Short-Form Applications. An application to participate

in Auction 904, 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, eligibility to participate in the 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 Rural Digital Opportunity Fund support if it ultimately becomes a winning bidder in the auction. The Commission's determination that an applicant is qualified to participate in Auction 904 does not guarantee that the applicant will also be deemed qualified to receive support if it becomes a winning bidder. In the second phase of the process, each winning bidder (or its designee) must file a more comprehensive long-form application (FCC Form 683), which the Commission will review to determine if the applicant should be authorized to receive support for the winning bids.

20. An entity seeking to participate in Auction 904 must file a short-form application electronically via the Auction Application System prior to 6:00 p.m. ET on July 15, 2020, following the procedures prescribed in the FCC Form 183 Instructions. An applicant must submit operational and financial information demonstrating that it can meet the public interest obligations associated with the performance tier and latency combination(s) for which it intends to bid. An applicant that files a short-form application is subject to the Commission's rule prohibiting certain communications beginning at the deadline for filing short-form applications—6:00 p.m. ET on July 15, 2020.

21. 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 in the document, 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 904 and/or use the

contact information provided in the document to consult with Commission staff well in advance of the application deadline.

22. Each applicant must make a series of certifications under penalty of perjury on its FCC Form 183 related to the information provided in its application and its participation in the auction, and each applicant must confirm that it is legally, technically, financially, and otherwise qualified to receive Rural Digital Opportunity Fund support. If an Auction 904 applicant fails to make the required certifications in its FCC Form 183 by the filing deadline, its application will be deemed unacceptable for filing and cannot be corrected after the filing deadline.

23. 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 with authority to bind 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. 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 criminal prosecution.

24. The same entity may not bid based on more than one auction application, i.e., as more than one applicant. Therefore, an entity should not submit more than one short-form application for Auction 904. If an entity submits multiple short-form applications, only one application may be the basis for that entity to become qualified to bid. Similarly, the filing of applications in Auction 904 by multiple entities controlled by the same individual or set of individuals will not be permitted.

25. Commission staff will review all timely submitted applications to determine whether each application complies with the application requirements and contains 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. 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. After the review of resubmitted applications is complete, a public notice will be released identifying the applicants that are qualified to bid in the auction.

26. 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 Rural Digital Opportunity Fund support. This disclosure requirement applies to any arrangements with parties that are applying to participate in Auction 904 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.

27. 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 Auction 904. 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 Auction 904, other than those disclosed in its application.

28. If parties agree in principle on all material terms prior to the application filing deadline, each party to the agreement that is submitting an auction application must 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.

29. Ownership Disclosure Requirements. Each applicant must comply with the ownership disclosure requirements in §§ 1.2112(a) and 54.804(a)(1) of the Commission's rules. 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. Each applicant is responsible for ensuring that ownership information submitted in its short-form application is complete and accurate.

30. An applicant may have previously filed an FCC Form 602 ownership disclosure information report or filed an application for a previous auction in which the applicant disclosed ownership information. 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 904. Any information that needs to be corrected or updated must be changed directly in FCC Form 183.

31. 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, an applicant may certify that it acknowledges that it must be in compliance with such requirements before being authorized to receive Rural Digital Opportunity Fund support.

32. 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.

33. Specific Auction 904 Eligibility Requirements and Certifications. Applicants and State Selections. Each applicant must identify in its short-form application each state in which it intends to bid for support in Auction 904. An applicant will be able to place bids for eligible areas only in the states identified in its application. 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.

34. The submission of more than one application by commonly controlled entities for Auction 904 is prohibited. A "controlling interest" for purposes of the auction is an individual or entity with positive or negative de jure or de facto control of the applicant.

35. A Divide Winning Bids process will be available to allow a winning bidder to assign some or all of its winning bids to related entities or individual members of a consortium.

36. If Commission staff identifies separate applicants that are commonly controlled, all such

applications would be deemed incomplete on initial review. The applicants would be informed of the issue, and at most one of the commonly controlled applicants would ultimately be deemed qualified to bid, assuming that there were no remaining issues with its application. Commonly controlled entities should coordinate on the submission of one application before the short-form application deadline.

37. Furthermore, parties submitting separate applications are prohibited from entering into joint bidding arrangements for Auction 904. “Joint bidding arrangements” are arrangements between or among applicants that (1) relate to any eligible area in Auction 904, and (2) address or communicate bids or bidding strategies, including arrangements regarding Rural Digital Opportunity Fund support levels (i.e., price point percentages) and specific areas on which to bid, as well as any arrangements relating to the post-auction market structure in an eligible area. If two or more applicants are parties to an agreement that falls within this definition, they would be prohibited from bidding in Auction 904.

38. Joint ventures and bidding consortia that do not involve two or more entities that are individual applicants (or control or are controlled by an applicant) are permitted for Auction 904. Only joint bidding arrangements where the parties include two or more individual auction applicants are prohibited. The Commission cautions non-applicant entities that any joint venture, consortium, or other arrangement into which they enter must be consistent with the antitrust laws and must not be otherwise prohibited by law.

39. Each winning bidder is required to submit in its long-form application any updated information regarding the agreements, arrangements, or understandings related to its Auction 904 support disclosed in its short-form application. A winning bidder may also be required to disclose in its long-form application the specific terms, conditions, and parties involved in any agreement into which it has entered and the agreement itself.

40. Operational History and Submission of Financial Statements. There are two pathways for an applicant to demonstrate its operational experience and financial qualifications to participate in Auction 904. These pathways vary depending on whether the applicant has at least two years of operational experience in the provision of voice, broadband, and/or electric distribution or transmission

services.

41. First Eligibility 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.

42. 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. And it must 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 December 31, 2019; June 30, 2019; and December 31, 2018.

43. 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 (i.e., the Rural Utilities Service (RUS), the National Rural Utilities Cooperative Finance Corporation (CFC), or CoBank) in 2018 and 2019 that demonstrate that the applicant (or its parent company) has been operating for at least two years. The applicant must also 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 RUS Form 7, Financial and Operating Report Electric Distribution; the RUS Form 12, Financial and Operating Report Electric Power Supply; the 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.

44. If an applicant 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, along with an opinion letter from an independent certified public accountant and the accompanying notes. An applicant must submit its (or its parent company's) 2018 audited financial statements. However, an applicant may submit its fiscal year-end 2019 audited financial statements if they are finalized before the short-form application deadline.

45. 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 submit its (or its parent company's) fiscal year-end 2018 unaudited financial statements with its short-form application, including balance sheet, net income, and cash flow, and certify that the long-form applicant will obtain and 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. If an applicant certifies in its short-form application that it will submit audited financial statements during the long-form application process, but such audited financial statements are not submitted when required, the winning bidder or long-form applicant will be deemed to be in default and subject to a base forfeiture of \$50,000.

46. Second Eligibility Pathway. 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., 2016, 2017, and 2018), including balance sheets, net income, and cash flow as well as the audit opinion and accompanying notes. 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 amount. 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 the Rural Digital Opportunity Fund Order.

47. Financial Qualifications. An applicant submitting audited financial statements with its

short-form application must identify whether it has a clean opinion letter on its submitted audited financial statements. An opinion letter is clean if it has an unmodified opinion without an emphasis-of-matter paragraph about the entity's ability to continue as a going concern. An unmodified opinion is one where "the auditor concludes that the [audited] financial statements are presented fairly, in all material respects, in accordance with the applicable financial reporting framework."

48. An applicant that submits the required audited financial statements and has a clean opinion letter on the submitted audited financial statements would be deemed financially qualified to participate in the auction.

49. For an applicant that does not have a clean opinion letter on all submitted audited financial statements, Commission staff will first determine whether the issue is material to the applicant's participation in the auction. If so, any such applicants—and any applicants that submit unaudited financial statements—will be subject to 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 Commission staff may request further information from the applicant during the application resubmission period.

50. The Commission staff's determination at the short-form stage that an applicant is financially qualified to bid does not preclude a determination at the long-form application review stage that an applicant is not authorized to receive Rural Digital Opportunity Fund support. During the long-form application stage, a winning bidder must: (1) certify that it will have available funds for all project costs that exceed the amount of Rural Digital Opportunity Fund support for the first two years, (2) submit a description of how the required construction will be funded, and (3) obtain a letter of credit from a bank meeting the Commission's requirements.

51. Eligibility to Bid for Performance Tier and Latency Combination. The Commission will collect information to determine, at the short-form application stage and in advance of the start of bidding

in the auction, each applicant's eligibility to bid for the performance tier and latency combinations it has selected in its application for each state.

52. The Commission will use the short-form application to assess the likelihood that an applicant would not default if selected as a winning bidder. If the applicant becomes qualified to bid in Auction 904 and subsequently becomes a winning bidder, Commission staff will evaluate the information submitted in the long-form application and will rely on an eligible bank's willingness to issue the applicant a letter of credit to determine whether an applicant is reasonably capable of meeting its Rural Digital Opportunity Fund auction obligations in the specific areas where it has winning bids. "Reasonably capable" refers to the Commission staff's reasonable expectation that the applicant can meet those obligations. A determination at the short-form stage that an applicant is eligible to bid for a performance tier and latency combination would not preclude a determination at the long-form application stage that an applicant does not meet the technical qualifications for the performance tier and latency combination and thus will not be authorized to receive Rural Digital Opportunity Fund support. In addition, the Commission's adoption of certain non-compliance measures in the event of default—both before a winning bidder is authorized for support and if a support recipient does not fulfill its Rural Digital Opportunity Fund obligations after it has been authorized—should encourage each applicant to select performance tier and latency combinations with public interest obligations that it can reasonably expect to meet. The Commission adopts (1) the information and showing each applicant must submit to establish its qualifications for the performance tier and latency combinations it has selected on its application, and (2) the process Commission staff will use to determine whether an applicant is eligible to bid on those combination(s).

53. Selecting Performance Tier and Latency Combinations. 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. An applicant may select more than one performance tier and latency combination in a state. 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.

54. 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. 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.

55. Eligibility to bid for specific tier and latency combinations will be determined on a state-by-state basis. 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.

56. An applicant must answer the questions listed in Appendix A to the Auction 904 Comment Public Notice for each state it selects in its application. If an applicant is a consortium/joint venture, or holding/parent company, it should answer the questions for each operating company that intends to provide service if the consortium/joint venture or holding/parent company is named as a winning bidder.

57. An applicant must address both voice and broadband services in response to the questions. An applicant that intends to implement a new system to meet its voice requirements must provide additional specific information about that system. An ETC must offer qualifying voice service using its own facilities, at least in part, and the Commission expects that an applicant will conduct the due diligence necessary to ensure that it can meet this requirement.

58. If Commission staff is unable to find that an applicant can reasonably be expected to meet the relevant public interest obligations based on the information submitted in its short-form

application, Commission staff would deem the application incomplete, and the applicant would have another opportunity during the application resubmission period to submit additional information to demonstrate that it meets this standard. Commission staff would notify the applicant that additional information is required to assess the applicant's eligibility to bid for any or all of the specific states and performance tier and latency combinations selected in its short-form application. During the application resubmission period, an applicant would be able to submit additional information to establish its eligibility to bid for the relevant performance tier and latency combinations. An applicant would also have the option of selecting a lesser performance tier and latency combination for which it might be more technically qualified. Once the application resubmission period has ended, Commission staff would make its final determination of an applicant's eligibility to bid for any or all of the specific states and performance tier and latency combinations selected in its application, and then notify each applicant in which states and for which performance tier and latency combinations it is eligible to bid. The bidding system will be configured to permit a bidder to bid only in the state(s) and for the performance tier and latency combinations on which it is deemed eligible to bid.

59. Responses to the questions in Appendix A to the Auction 904 Procedures Public Notice and any associated supporting documentation will be treated as confidential and withheld from routine public inspection. An applicant need not submit a § 0.459 confidentiality request to seek protection of this information from public disclosure.

60. Assumptions. The Commission 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 Auction 904 support.

61. First, an applicant must assume that it will offer service to at least 95 percent of the required number of locations across its bids in each state. The Commission's rules require that each long-form applicant provide in its long-form application a certification by a professional engineer that the applicant's proposed network can deliver the required service to at least 95 percent of the required

number of locations. Rural Digital Opportunity Fund support recipients will ultimately be required to offer service to 100 percent of the actual locations in their service areas and offer service to newly built locations upon reasonable request that were built prior to milestone year eight. Consequently, Commission staff will also review the information provided in the short-form and long-form applications to verify that the applicant has the plans and capability to scale the network if necessary. The Commission cautions potential bidders that, 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. Each winning bidder that is authorized to receive Rural Digital Opportunity Fund support will be required to offer service in areas where it is authorized to receive support. 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.

62. Each service provider is required to assume a subscription rate of at least 70 percent for both voice services and broadband services by the final service milestone when determining whether it can meet the public interest obligations for its selected performance tiers and latency combinations. A support recipient will not be required to demonstrate that it has achieved at least a 70 percent subscription rate. Instead, the Commission requires an applicant to assume for purposes of its application that it will achieve at least a 70 percent subscription rate when engineering its network. Because it may take time for an applicant that becomes a winning bidder and is authorized to receive Auction 904 support to obtain customers as it builds out its network, the Commission will permit an applicant to factor this into its engineering submission and make reasonable assumptions about how the subscription rate will scale during the build-out term.

63. 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. A Rural Digital Opportunity Fund recipient cannot report in the High Cost Universal Service Broadband Portal that a location is served until it can provide service meeting the relevant performance requirements to that location within 10 business days after receiving a request.

64. Spectrum Access. The Rural Digital Opportunity Fund auction rules require a short-form applicant that plans to use radiofrequency spectrum to demonstrate that it has (1) the proper spectrum use authorizations, if applicable; (2) access to operate in the spectrum it intends to use; and (3) sufficient spectrum resources to cover peak network usage and meet the minimum performance requirements to serve the fixed locations in eligible areas. For the described spectrum access to be sufficient as of the date of the short-form application, the applicant must have obtained any necessary approvals from the Commission for the spectrum, if applicable. The Rural Digital Opportunity Fund auction short-form application rules also require an applicant to certify that it will retain such authorizations for 10 years.

65. To demonstrate sufficient access to spectrum, an applicant must (i) identify the spectrum bands it will use for 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 such spectrum band(s) 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. If an applicant is a consortium/joint venture, or holding/parent company, it should make this demonstration for each operating company that intends to provide service if the consortium/joint venture or holding/parent company is named as a winning bidder.

66. 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. An applicant that intends to obtain microwave license(s) for backhaul to meet its public interest obligations must 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 prejudge the resolution of any future renewal application, and if the authorization is not renewed during the support term and the support recipient is unable to meet its Rural Digital Opportunity Fund obligations, that support recipient will be in default and subject to any applicable non-compliance measures.

68. In Appendix B to the Auction 904 Procedures Public Notice, the Commission identifies the licensed and unlicensed spectrum bands that it anticipates could be used by a service provider operating in these bands to, 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 in these spectrum bands consistent with applicable rules and regulations. This is a non-exhaustive list of spectrum bands that an applicant could potentially use to meet its performance obligations.

69. In the Rural Digital Opportunity Fund Order, the Commission decided that it would permit an applicant that plans to operate in the 3550-3650 MHz band using a priority access license that will be subject to auction with bidding scheduled to begin in July 2020 (Auction 105) to indicate the status of its participation in that auction (consistent with auction procedures regarding the disclosure of non-public auction-related information) as long as it provides alternatives for how it intends to meet its obligations if it were not awarded a license. The Commission will allow an applicant to do the same if it intends to participate in the 2.5 GHz Rural Tribal Priority Window this year or is in the process of applying for a license following Auction 102 or Auction 103. The Commission also extends this option to applicants that intend to participate in the 3.7 GHz Service band auction (Auction 107) and the Lower 37 GHz band proceeding and to applicants that intend to operate in the unlicensed 6 GHz band once it is available. An applicant that intends to use this spectrum to meet its Rural Digital Opportunity Fund public interest obligations must indicate in its short-form application the status of its participation in any relevant proceeding and must provide alternatives for if it does not ultimately obtain a license or if the timing for these proceedings change such that it is not able to obtain a license or otherwise operate in

these bands in time to meet the interim service milestones.

70. Collection and Use of Identifiers Associated with Information Submitted to the Commission in Other Contexts. Any relevant information that an applicant has submitted to the Commission in other contexts may be considered 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 Rural Digital Opportunity Fund 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. 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. The Commission will collect FCC Form 477 FRNs that were used for the following filing periods: data as of December 31, 2019; June 30, 2019; and December 31, 2018. 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. All interested parties should ensure that they have filed and will timely file all required FCC Form 477 data.

72. An applicant must 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 short-form application rules to disclose its status as an ETC if applicable.

73. An applicant 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. Applicants must submit filer identification numbers that were used for the April 1, 2020 filing.

74. Limiting Eligibility to Bid for Certain Performance Tier and Latency Combinations.

Only applicants that can make a case to bid in the Gigabit performance tier are those applicants proposing to use a technology: (1) that has a proven track record of offering mass market voice and broadband services directly to residential consumers; and (2) where there are concrete examples of such technology being used to offer service at speeds that would meet the requirements for the higher speed tiers or at latency levels meeting the low latency requirements. Thus, an applicant that intends to use any form of satellite technology, whether geostationary, high earth orbit, medium earth orbit, or low earth orbit, will not be allowed to select the Gigabit performance tier. An applicant that intends to use geostationary, high earth orbit or medium earth orbit satellite technology will not be allowed to select low latency. An applicant proposing to use fixed wireless or DSL will have the opportunity to demonstrate in its short-form application to Commission staff that it is reasonably capable of offering service meeting the Gigabit performance tier public interest obligations even if it has not previously reported offering Gigabit broadband service. Likewise, an applicant proposing to use low earth orbit satellite technology will have the opportunity to demonstrate in its short-form application to Commission staff that it is reasonably capable of offering service meeting the low latency requirements. For the Above Baseline, Baseline, and Minimum performance tiers and for high latency, the Commission will review all technologies on a case-by-case basis.

75. Gigabit Performance Tier. The Commission will prohibit service providers that intend to use any form of satellite technology from selecting the Gigabit performance tier.

76. Service providers that intend to use fixed wireless or DSL technologies may make a case for bidding in the Gigabit performance tier. While an applicant will be permitted to select the Gigabit performance tier in its application if it intends to use fixed wireless or DSL technologies for meeting its

Auction 904 public interest obligations, such applicants face a high burden to persuade Commission staff that it is reasonably capable of meeting the public interest obligations and thus qualified to bid for the Gigabit performance tier. The Commission does not anticipate that an applicant using DSL technologies would be able to demonstrate that it is reasonably capable of offering a service that meets the Gigabit performance tier public interest obligations absent a hybrid approach that relies mostly on fiber.

Likewise, Likewise, given distance limitations, spectrum bands attributes, channel bandwidths requirements, backhaul and medium haul requirements, tower siting requirements, capacity constraints, required upstream speeds, required minimum monthly usage allowances, and other issues raised in the record, the Commission expects it will be similarly challenging for a fixed wireless provider to make a case that it can offer a mass market service meeting the Gigabit performance tier public interest obligations in the less dense areas eligible for Auction 904. This is so especially for entities lacking an operational history of offering Gigabit service in rural areas.

77. The Commission anticipates that the fixed wireless and DSL technology solutions are likely to be customized for each applicant to account for the challenges in deploying Gigabit speeds in rural areas. Accordingly, rather than develop a set of one-size-fits-all standards for the review, Commission staff will benefit from having the opportunity to discuss network plans with each applicant through the Commission's existing resubmission process. An applicant proposing to deploy fixed wireless and DSL technologies to offer Gigabit speeds and any engineers that assisted with the application must be prepared to engage in follow-up conference calls upon request with Commission staff to elaborate on their Appendix A responses with a particular focus on concerns raised in the record

78. The Commission reminds potential applicants that they are certifying under penalty of perjury in their short-form applications that they are technically qualified to meet the public interest obligations for each performance tier and latency combination they select. The Commission may initiate enforcement proceedings against applicants that submit threadbare or wholly unrealistic technical showings while selecting the Gigabit or other higher performance tiers. An applicant will be deemed in default if at the long-form application stage, Commission staff determines the applicant is not reasonably

capable of meeting the public interest obligations associated with its winning bids. The base default forfeiture already adopted for Auction 904 will be subject to adjustment upward or downward as appropriate based on the criteria set forth in the Commission's forfeiture guidelines. Accordingly, all applicants should conduct due diligence and consider seriously whether they will be able to meet the relevant public interest obligations before selecting performance tier and latency combinations in their applications.

79. Low Latency. Providers that intend to use geostationary, high earth orbit, or medium earth orbit satellite technology are prohibited from selecting low latency in combination with any of the performance tiers.

80. Other Performance Tiers and High Latency. For the lower performance tiers—i.e., Above Baseline, Baseline, and Minimum—and for high latency, the Commission will not adopt any presumptions or exclude any type of technology. The Commission will permit an applicant to propose using any technology to meet the relevant performance obligations.

81. 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 support for which it will seek to bid in Auction 904 if it becomes a qualified bidder. The Commission makes no representations or warranties about the use of this support for particular services. Auction 904 represents an opportunity to apply for Rural Digital Opportunity Fund support, subject to certain conditions and regulations. A Commission auction does not constitute an endorsement by the Commission of any particular service, technology, or product, nor does the award of Rural Digital Opportunity Fund support constitute a guarantee of business success.

82. An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, each potential bidder should perform technical and financial analyses and/or refresh its previous analyses to assure itself that, should it become a winning bidder for any support, it will be able to build and operate facilities that provide service to a particular area in accordance with the public interest obligations and the Commission's rules generally.

83. Each applicant in Auction 904 should continue to conduct its own research throughout the auction in order to determine the existence of pending or future administrative or judicial proceedings that might affect its decision on continued participation in the auction. Each applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on support available in an auction. The due diligence considerations mentioned in the document do not constitute an exhaustive list of steps that should be undertaken prior to participating in Auction 904. The burden is on the potential bidder to determine how much research to undertake, depending upon the specific facts and circumstances related to its interests.

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

85. 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. The Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by outside entities and incorporated into its databases.

86. Each applicant must make the following certification in its short-form application under penalty of perjury:

The applicant acknowledges that it has sole responsibility for investigating and evaluating all technical and marketplace factors that may have a bearing on the level of Rural Digital Opportunity Fund 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 Rural Digital Opportunity Fund obligations and the Commission's rules generally.

87. 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 § 214(e) of the Communications Act of 1934, as amended (the Act) "shall be eligible to receive specific Federal universal service support." Section 214(e)(2) gives states the primary responsibility for ETC designation. However, § 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.

88. An applicant need not already be an ETC as of the initial short-form application filing deadline for Auction 904, 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. Long-form applicants subject to state jurisdiction must petition the relevant state commissions for ETC designation and should follow state rules and requirements to apply for designation(s). Long-form applicants not subject to state jurisdiction must petition the Commission for designation(s). The Commission places the burden of proof upon the petitioner seeking a Commission ETC designation to demonstrate that the Commission has jurisdiction. Such demonstration may be made through the submission of an affirmative statement from the relevant state commission declining jurisdiction. In addition, the Bureau will consider state legislation specifically declining jurisdiction over the type of service offered by the long-form applicant to be relevant. Petitioners seeking an ETC designation to serve Tribal lands may also petition the Commission directly so long as they have not initiated an ETC designation proceeding before the relevant state commission. Petitioners taking this approach should verify that the intended service area is completely on Tribal lands. If not, the petitioner must petition the relevant state commission for waiver of the state's jurisdiction over the non-Tribal areas.

89. All applicants should be familiar with the requirements that are applicable to ETCs and conduct due diligence to ensure that they can meet the requirements. For example, each Auction 904 support recipient must offer Lifeline voice and broadband service throughout the eligible areas covered by its winning bids to qualifying low-income consumers pursuant to the Lifeline program rules. While an Auction 904 long-form applicant is not required to obtain an ETC designation that is limited only to the eligible census blocks covered by its winning bids, it may only use its Auction 904 support to offer the required voice and broadband services to locations in eligible census blocks. If an Auction 904 support recipient has obtained an ETC designation that covers more area than the eligible census blocks in its winning bids, that support recipient has the obligation to provide Lifeline services throughout its designated service area, including in areas where it cannot use its Auction 904 support. A high-cost ETC may also be subject to state-specific requirements imposed by the state that designates it as an ETC.

90. Additionally, ETCs must offer qualifying voice service using their own facilities, at least in part. The Commission has interpreted the term “facilities,” for purposes of § 214(e) of the Act, to mean “any physical components of the telecommunications network that are used in the transmission or routing of the services designated for support under § 254(c)(1).” As explained by the Commission, “a carrier need not offer universal service wholly over its own facilities in order to be designated as eligible because the statute allows an eligible carrier to offer the supported services through a combination of its own facilities and resale.” Facilities are the ETC’s “own” if the ETC has exclusive right to use the facilities to provide the supported services or when service is provided by any affiliate within the holding company structure.

91. An ETC satisfies its obligation to “offer” qualifying services by being legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting universal service fund-related requirements. Accordingly, a broadband provider may satisfy its voice obligation by offering voice service through an affiliate or by offering a managed voice solution (including VoIP) through a third-party vendor, but a provider cannot simply rely on the availability of over-the-top voice options to satisfy this obligation.

92. Procedures for Limited Disclosure of Application Information. The Commission will withhold from the public, as well as other applicants, the following information related to the short-form application process at least until 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 qualified to bid.
- The performance tier and latency combination(s) selected by an applicant.
- 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 to the document 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.
- An applicant's letter of interest from a qualified bank that the bank would provide a letter of credit to the applicant.

All other application information that is not subject to a request for confidential treatment under § 0.459 of the Commission's rules will be publicly available upon the release of the public notice announcing the status of submitted short-form applications after initial review.

93. Any applicant may use the 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 all 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. The Commission will not grant requests to withhold financial data that applicants elsewhere disclose to the public, and that

information will be disclosed in the normal course. 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.

94. 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 to the document and associated supporting documentation and a letter of interest 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.

95. After the close of bidding and announcement of auction results, the Commission will make publicly available all short-form application information, except for an applicant's operational information, letter of interest, and confidential financial information.

96. Prohibited Communications and Compliance with Antitrust Laws. The Commission's rules prohibit an applicant from communicating certain auction-related information to another applicant from the auction short-form 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 904 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's

exception for communications between applicants that are members of a joint bidding arrangement shall not apply in Auction 904.

97. 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 904. This prohibition applies to all applicants that submit short-form applications regardless of whether such applicants become qualified bidders or actually bid in the auction.

98. An "applicant" for purposes of this rule 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.

99. All applicants applying to obtain support are "competing applicants" under the rule.

100. Prohibition Applies Until Long-Form Application Deadline. Section 1.21002's 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 a specified number of days after release of the Auction 904 closing public notice.

101. Scope of Prohibition of Communications. Section 1.21002 prohibits an applicant from communicating with another applicant with respect to "its own, or one another's, or any other competing applicant's bids or bidding strategies." In addition to express statements of bids and bidding strategies, the prohibition against communicating "in any manner" includes public disclosures as well as private communications and indirect or implicit communications. Consequently, an applicant must take care to determine whether its auction-related communications may reach another applicant.

102. Parties 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 applicant's bids or bidding strategies. Such information 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 to be conveyed to the other applicant through the shared officer, which

creates an apparent violation of the rule.

103. A communication must convey “bids or bidding strategies” to be covered by the prohibition. Thus, the prohibition is limited in scope and does not apply to all communications between or among the specified parties. The Commission consistently has made clear that application of the rule prohibiting communications has never required total suspension of essential ongoing business. Entities subject to the prohibition may negotiate agreements during the prohibition period, provided that the communications involved do not relate both (1) to the eligible areas in the auction and (2) to bids or bidding strategies or post-auction market structure.

104. Accordingly, neither business discussions and negotiations that are unrelated to Auction 904 nor those that do not convey information about the bids or bidding strategies of an applicant in Auction 904 or the post-auction market structure are prohibited by the rule. 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 904 will not violate the rule. In contrast, communicating, among other things, how an applicant will participate, including specific states selected, specific bid amounts, and/or whether or not the applicant is placing bids, would convey bids or bidding strategies and would thus be prohibited.

105. 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 strategies. Certain discussions might touch upon subject matters that could convey cost or geographic information related to bidding strategies. Such subject areas include, but are not limited to, management, sales, local marketing agreements, and other transactional agreements.

106. 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.”

107. Likewise, when completing a short-form application, each applicant should avoid any statements or disclosures that may violate § 1.21002, particularly considering the limited information procedures in effect for Auction 904. 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 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.

108. Applicants also 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.

109. 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. The applicant should take appropriate steps, however, 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, as that would violate the rule. 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.

110. In the case of an individual, the 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. Whether a prohibited communication has taken place in each case will depend upon the totality of circumstances, including who possessed what information, what information was conveyed to whom, and the course of bidding in the auction.

111. Separate Auction 904 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 acts 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 specific precautionary steps have been taken to prevent communication between authorized bidders, and that the applicant and its bidders will comply with § 1.21002.

112. Potential applicants may discuss the short-form application or bids for specific eligible areas 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 eligible area 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.

113. Applicants should use an abundance of caution in their dealings with other parties. This would include communications with public entities concerning state or federal loan or support programs. Applicants should also take care in any communications to 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 904 bidding could also violate the rule.

114. Section 1.21001(b)(4) Certification. By electronically submitting a short-form application, each applicant in Auction 904 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 Rural Digital Opportunity Fund 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.

115. 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. Any applicant found to have violated § 1.21002(b) may be subject to sanctions.

116. 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.

117. 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 904 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.

118. 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. Enforcement actions were initiated against two applicants in Auction 903 for failing to timely report communications that potentially violated the rule.

119. 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.

120. 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. Any reports required by § 1.21002(c) must be filed consistent with the instructions set forth in the document. For Auction 904, such reports must be filed with Jonathan Campbell, Chief of the Auctions Division, Office of Economics and Analytics, by the most expeditious means available. Any

such report should be submitted by email to Mr. Campbell at the following email address: auction904@fcc.gov. If a report must be submitted in hard copy, any such report shall be delivered only to Jonathan Campbell, Chief, Auctions Division, Office of Economics and Analytics, Federal Communications Commission, 45 L St., NE, Washington, DC 20554.

121. 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 should coordinate with the Auctions Division staff about the procedures for submitting such reports.

122. Winning Bidders Must Disclose the 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 consortium, 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 and sanctions.

123. Additional Information Concerning Prohibition of Certain Communications in Commission Auctions. A summary listing of Commission documents addressing the application of the prohibited communications rule is available on the Commission's auction web page at [www.fcc.gov/summary-listing-documents-addressing-application-rule-prohibiting-certain-communications](http://www.fcc.gov/summary-listing-documents-addressing-application-rule-prohibiting-certain-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.

124. 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.

125. 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 904 and in future auctions, among other sanctions.

126. Red Light Rule. Applicants seeking to participate in Auction 904 are subject to the Commission's red light rule. Unless otherwise expressly provided for, the Commission would withhold action on an application by any entity found to be delinquent in its debt to the Commission.

127. The Commission finds good cause to provide a limited waiver of the red light rule for any applicant seeking to participate in Auction 904 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 904 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. Because 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 904 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 904 applicant.

128. Potential applicants for Auction 904 should review their own records, as well as the

Commission's Red Light Display System (RLD), to determine whether they owe any 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/).

129. Additionally, an Auction 904 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 support. Qualified bidders should 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 support until its red light issues have been resolved.

130. 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. Those rules apply with equal force to high-cost support assigned by Auction 904.

131. Modifications to FCC Form 183. Only Minor Modifications Allowed. After the initial FCC Form 183 filing deadline, an Auction 904 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 bidders) and the revision of addresses and telephone numbers of the applicant, its responsible party, and its contact person. Major modifications 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 in the required certifications, or 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 dismissal of the application.

132. 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 Auction 904. An applicant for Auction 904 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.

133. Modifying an FCC Form 183. An entity seeking to participate in Auction 904 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.

134. 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 904 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).

135. 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 904 qualified bidders. During these periods, an applicant will be able to view its submitted application, but it 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 the 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 [auction904@fcc.gov](mailto:auction904@fcc.gov). The email summarizing the changes must include a subject line referring to Auction 904 and the name of the applicant, for example, "Re: Changes to Auction 904 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.

136. 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). If an applicant needs to make a permissible minor change of this nature, it must submit a written request by email to [auction904@fcc.gov](mailto:auction904@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).

137. As with filing the 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.

138. Applicants must not submit application-specific material through the Commission's Electronic Comment Filing System. Further, 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 904. 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.

139. Questions about FCC Form 183 amendments should be directed to the Auctions Division at (202) 418-0660 or [auction904@fcc.gov](mailto:auction904@fcc.gov).

## **VI. Preparing for Bidding in Auction 904**

140. Bidder Education. Prior to the deadline for applications to participate in Auction 904, detailed educational information will be provided in various formats to would-be participants. OEA, in conjunction with the Bureau, will provide various materials on the pre-bidding processes in advance of the opening of the short-form application window, beginning with the release of step-by-step instructions for completing the FCC Form 183. In addition, OEA will provide an online application procedures tutorial for the auction covering information on pre-bidding preparation, completing short-form applications, and the application review process.

141. In advance of the start of the mock auction, OEA will provide educational materials on the bidding processes for Auction 904, beginning with release of a user guide for the bidding system and bidding system file formats, followed by an online bidding procedures tutorial.

142. The 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 screen shots of the online application and bidding systems. The online tutorials will be accessible in the Education section of the Auction 904 website at [www.fcc.gov/auction/904](http://www.fcc.gov/auction/904). Once posted, the tutorials will be accessible at any time.

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

144. Sort-Form Applications: Due Before 6:00 p.m. ET on July 15, 2020. 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 set forth in the FCC Form 183 Instructions. 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 July 15, 2020. Late applications will not be accepted. No application fee is required.

145. Applications may be filed at any time beginning at noon ET on July 1, 2020, until the filing window closes at 6:00 p.m. ET on July 15, 2020. Applicants are strongly encouraged to file early and in advance of the deadline. Applicants 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 July 15, 2020.

146. 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 Auctions Technical Support are recorded.

147. 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 Commission 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.

148. After the initial application filing deadline on July 15, 2020, 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 904.

149. 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 [auction904@fcc.gov](mailto:auction904@fcc.gov).

150. Public Notice of Applicant's Final Application Status. After Commission staff review resubmitted applications, OEA will release a public notice identifying applicants that have become qualified bidders. The Auction 904 Qualified Bidders Public Notice will be issued before bidding in Auction 904 begins. Qualified bidders are those applicants with submitted FCC Form 183 applications that are deemed timely filed and complete.

151. 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. The mailing will include the SecurID® tokens that will be required to place bids and the Auction Bidder Line phone number.

152. 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 October 21, 2020, 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.

153. If 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.

154. Remote Electronic Bidding via the Rural Digital Opportunity Fund Bidding System. Bidders will be able to participate in Auction 904 over the Internet using the Rural Digital Opportunity Fund 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 904. SecurID® tokens can be recycled and should be returned to the FCC. Pre-addressed envelopes will be provided to return the tokens once the auction has ended.

155. The Commission makes no warranties, and shall not be deemed to have made any warranties, with respect to the 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 (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 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 bidding system.

156. To the extent an issue arises with the bidding system itself, the Commission will take all appropriate measures to resolve such issues quickly and equitably. Should an issue arise that is outside the 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 bidding system, the Commission shall have no obligation to resolve or remediate such an issue on behalf of the bidder. After the close of a bidding round, the results of bid processing will not be altered absent evidence of a failure in the bidding system.

157. Mock Auction. All qualified bidders will be eligible to participate in a mock auction, which will begin on October 26, 2020. The mock auction will enable qualified bidders to become familiar with the bidding system and to practice submitting bids prior to the auction. All qualified bidders, including all their authorized bidders, should participate in the mock auction to ensure 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 904 Qualified Bidders Public Notice.

## **VII. Bidding in Auction 904**

158. Auction Structure: Reverse Auction Mechanism. Multi-Round Reserve Auction Format. The Commission will conduct Auction 904 using a multi-round, descending clock auction. Bidding in Auction 904 will work 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.

159. The announced support amount to which the bidder responds 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. 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.

160. Minimum Geographic Area for Bidding. The Commission will use CBGs containing one or more eligible census blocks as the minimum biddable area in the auction. In March 2020, the Bureau released a preliminary list of eligible census blocks based on June 30, 2019 FCC Form 477 data. This list included just under 858,000 eligible census blocks, which are located in just under 65,000 CBGs. The Bureau will release a revised map and list of eligible census blocks.

161. Auction Delay, Suspension, or Cancellation. By announcement in the bidding system, 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, OEA and the Bureau, 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.

162. Bidding Procedures. Bidding Overview. The Commission will use a descending clock auction to identify (1) the areas that will receive Rural Digital Opportunity Fund support; (2) the provider that will be assigned to receive support in each such area; and (3) the amount of support that each winning bidder will be eligible to receive, subject to post-auction application review. In the Rural Digital Opportunity Fund Order, the Commission concluded that bids for different areas at specified performance tier and latency levels will be compared to each other based on the percentage each bid represents of their respective areas' reserve prices; however, once the budget has cleared, the Commission will prioritize bids with lower tier and latency weights. OEA, in conjunction with the Bureau, will release a guide that provides further technical and mathematical detail regarding the bidding, assignment, and support amount determination procedures.

163. The auction will be conducted over the Internet, and bidders will upload bids in a specified file format for processing by the bidding system. The bidding system will announce a clock percentage before each round. The clock percentage is used to delimit the range of acceptable bid percentages in each round of the auction and as a common unit to compare bids for different performance tiers and latencies, which were assigned weights ("T+L weights") in the Rural Digital Opportunity Fund Order.

164. The clock percentage will begin at a high level, implying a support amount that is equal to or close to the full reserve price, even for bids at the largest T+L weight, and descend from one round to the next. In a round, a bidder can submit a bid for a given area at a specified performance tier and latency combination at any percentage that is greater than or equal to the round's clock percentage and less than the previous round's clock percentage. A bid indicates that the bidder is willing to provide service to the area that meets the specified performance tier and latency requirements in exchange for support that is no less than the support amount implied by the bid percentage.

165. The clock percentage will continue to descend in a series of bidding rounds, implying diminishing support amounts, until the aggregate amount of requested support represented by the bids placed in a round at the clock percentage is no greater than the budget. At that point, when the budget

“clears,” the bidding system will begin to assign support, prioritizing bids with lower T+L weights.

Bidding will continue for areas that were bid at the round’s clock percentage and have not been assigned, and the clock will continue to descend in subsequent rounds. When there is no longer competition for any area, the auction will end. Because of the second-price rule, a winning bidder will be assigned support in amounts at least as high as the support amounts corresponding to its bid percentages.

166. Reserve Prices. In the Rural Digital Opportunity Fund Order, the Commission decided to use the CAM to set reserve prices for the Rural Digital Opportunity Fund Phase I auction; that the reserve price for each CBG will be no greater than the CAM-calculated support amount for the eligible census blocks in the CBG; and that a cap will be imposed in the amount of support per location provided to extremely high-cost census blocks. For high-cost census blocks, the CAM calculates a reserve price equal to the cost-per-location for all locations in the census block minus the funding threshold of \$40.00 per location, or \$30.00 per location in Tribal areas or areas lacking 10/1 Mbps. For extremely high-cost census blocks, support-per-location is capped at \$212.50, or \$222.50 in Tribal areas or areas lacking 10/1.

167. Bid Collection. Round Structure. Auction 904 will consist of sequential bidding rounds according to an announced schedule providing the start time and closing time of each bidding round. The Commission retains the discretion to change the bidding schedule with advance notice to bidders. OEA may modify the amount of time for bidding rounds, the amount of time between rounds, or the number of rounds per day, depending on bidding activity and other factors.

168. Clock Percentages and Implied Support Amounts Based on Performance Tier and Latency Weights. The clock will be denominated in terms of a percentage, which will be decremented for each round. To determine the annual support amount for an area implied at each percentage, the percentage is adjusted for the T+L weight of the bid and multiplied by the reserve price of the area.

169. The bidding system will accept bids for four performance tiers with varying speed and usage allowances and, for each performance tier, will provide for bids at either high or low latency. All bids will be considered simultaneously so that bidders proposing varying performance standards will compete directly against each other for the limited Rural Digital Opportunity Fund budget, but with an

assignment preference for bids with lower T+L weights once the budget has cleared. Also, bidders will bid for support expressed as a percentage of an area’s reserve price.

170. In the Rural Digital Opportunity Fund Order, the Commission adopted weights to compare bids for the different performance tiers and latency combinations. The Commission determined that Minimum performance tier bids will have a 50 weight; Baseline performance tier bids will have a 35 weight; Above Baseline performance tier bids will have a 20 weight; and Gigabit performance tier bids will have zero weight. Moreover, high-latency bids will have a 40 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 is 0, and the highest possible weight is 90. Each weight uniquely defines a performance tier and latency combination, as shown in the table below.

<b>Weights for Performance Tiers and Latencies</b>							
Minimum		Baseline		Above Baseline		Gigabit	
High Latency	Low Latency	High Latency	Low Latency	High Latency	Low Latency	High Latency	Low Latency
90	50	75	35	60	20	40	0

171. The clock percentage in each round will imply a total amount of annual support in dollars for each area available for bidding, based on the area’s reserve price and the T+L weight specified in the bid. The annual support amount implied at the clock percentage will be the smaller of the reserve price and the annual support amount obtained by using a formula that incorporates the T+L weights.

Specifically:

$$\text{Implied Annual Support Amount (at the clock percentage)} = \min \left\{ R, \left( \frac{C-(T+L)}{100} \right) R \right\}$$

where:

R denotes the area’s reserve price

T denotes the tier weight

L denotes the latency weight

C denotes the clock percentage

172. Because the highest implied support amount can never exceed an area's reserve price, when the clock percentage is greater than 100, the total implied annual support for lower weighted performance tier and latency combinations may remain at an area's reserve price for one or more rounds, while the total implied annual support of one or more higher weighted performance tier and latency combinations may be lower than an area's reserve price. When the clock percentage is decremented below 100, the implied annual support for any performance tier and latency combination will be below an area's respective reserve price.

173. The "implied support formula" can be used to determine the implied support at any price point percentage by substituting a given percentage for the clock percentage.

174. Acceptable Bid Amounts. In the first round, a bidder may place a bid at any price point percentage equal to or greater than the clock percentage and equal to or less than the opening percentage, specified up to two decimal places. In each subsequent round, a bidder may place a bid at any price point percentage equal to or greater than the clock percentage and less than the previous round's clock percentage, specified up to two decimal places.

175. Bids must imply a support amount that is one percent or more of an area's reserve price to be acceptable. For a given performance tier and latency combination, when the price point percentage equals  $T+L$ , the formula implies that the annual support amount is zero. When the price point percentage equals  $T+L+1$ , the formula implies an annual support amount that is one percent of the area's reserve price. Hence, a bid percentage must be at least  $T+L+1$  for the bid to be accepted by the bidding system.

176. Bidding for Geographic Areas. A bid for support in a CBG is a bid for support for the locations within all eligible census blocks within that area.

177. A bidder may place only one bid on a given geographic area in a round, whether that area is bid on singly or included in a package bid.

178. The total implied support of a single bidder's bids at the clock percentage in any round may not exceed the total Rural Digital Opportunity Fund budget.

179. Bid for a Single Area. A bid is an offer to serve all locations in eligible census blocks

within the indicated CBG at the indicated performance tier and latency combination for a total annual amount of support that is not less than the implied annual support at the price point percentage specified by the bidder and not more than the reserve price. In each round, a bid for a single available CBG with reserve price  $R$  consists of two pieces: a T+L weight and a price point that is a percentage not less than the current round's clock percentage and less than the previous round's clock percentage. For a given round, a CBG can be included in at most one bid—whether a bid on a single area or a package bid on multiple areas—made by a bidder, and a bidder can only bid on areas that are in states that the bidder selected on its application and for which it qualified.

180. Bidders will not be allowed to change the performance tier and latency combination in a bid for a particular area from round to round. Once a bidder has submitted a bid for an area at a particular performance tier and latency combination (which must be a performance tier and latency combination for the state for which the bidder qualified at the application stage) any bids in subsequent rounds by that bidder for the same area must specify the same performance tier and latency combination.

181. Bid for a Package of Areas. The Commission adopts package bidding procedures that will give bidders the option to place bids to serve a bidder-specified list of CBGs. However, corresponding bid processing procedures may assign fewer than the full list of areas to the bidder as long as the funding associated with the assigned areas is at least equal to a bidder-specified percentage of the funding requested for the complete list of areas in the package. A bidder can specify a package bid by providing a list of CBGs, a single performance tier and latency combination, a single price point for the areas in the list, and a minimum scale percentage for the package. The minimum scale percentage must be no higher than 75 percent for Auction 904. Thus, a package bid is an offer by the bidder to serve any subset of areas in the list at the support amount implied at the bid percentage, provided that the ratio of the total implied support of the subset to the total implied support of the list meets or exceeds the bidder-specified minimum scale percentage.

182. A bidder must bid to serve each area in the package bid at the same performance tier and latency combination. Moreover, every area in a package bid must be in the same state. For a given

round, a CBG can appear in at most one bid—either a single bid or a package bid—made by a given bidder. A bidder may change the minimum scale percentage in any package bid from round to round.

183. Bids Placed by Proxy Bidding Instructions. The Commission will permit proxy bidding. With proxy bidding, a bidder may submit instructions for the system to continue to bid automatically for an area with a specified performance tier and latency combination in every round until either (1) the clock percentage falls below a bidder-specified proxy amount, (2) the bidder intervenes to change its bid, or (3) the area is assigned, whichever happens first. Proxy bidding instructions for a single area or a package of areas will contain all the information required for these bids, and the specified price point percentage will potentially be valid for multiple rounds. Proxy bidding instructions cannot include instructions for changes to the minimum scale percentage of a package bid nor to the specified area or areas.

184. During a round, the bidding system will generate a bid at the clock percentage on behalf of the bidder as long as the percentage specified in the proxy instruction is less than or equal to the current clock percentage. If the proxy percentage exceeds the current clock percentage but is lower than the prior round's clock percentage, then the bidding system will generate a bid at the price point percentage of the proxy. These bids will be treated by the auction system in the same way as any other bids placed in the auction. During a bidding round, a bidder may cancel or enter new proxy bidding instructions. Because proxy instructions may expire as the clock percentage descends and as areas get assigned, even with proxy bidding, bidders are strongly urged to monitor the progress of the auction to ensure that they do not need to cancel or adjust their proxy instructions.

185. Proxy bidding instructions will be treated as confidential information and will not be disclosed to the public at any time because they may reveal cost information that would not otherwise be made public (e.g., if proxy bidding instructions are not fully implemented because the clock percentage does not fall as low as the specified proxy percentage). All submitted bids and the amount of support awarded for any assigned bid, regardless of whether they were placed by the bidder or by the bidding system according to proxy bidding instructions, will be publicly disclosed after the auction concludes.

186. Activity Rules. The Commission will measure a bidder's bidding activity in a round in

terms of implied support dollars. The Commission adopts activity rules that prevent a bidder's activity in a round from exceeding its activity in the previous round.

187. A bidder's activity in a round: (1) is calculated as the sum of the implied support amounts (calculated at the bid percentage) for all the areas bid for in the round; and (2) may not exceed its activity from the previous round. A bidder will be limited in its ability to switch to bidding for support in different areas from round to round. Specifically, a bidder's activity in a round from areas that the bidder did not bid on at the previous round's clock percentage cannot exceed an amount determined by a percentage (the "switching percentage") of the bidder's total implied support from bids at the previous round's clock percentage. This switching percentage will be 20 percent for the second round of the auction only, and 10 percent for subsequent rounds, and OEA has the discretion to change the switching percentage, with adequate notice, before a round begins. The Commission also will not allow any switching once the budget has cleared. That is, once the budget has cleared, a bidder will be allowed to bid for an area only if the bidder bid for that area at the previous round's clock percentage and if that area has not yet been assigned.

188. 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 clock percentage is needed to bring the amount of requested support down to a level within the available budget. If the total requested support at the clock percentage exceeds the budget, another bidding round occurs. In a round in which the amount of overall requested support falls to a level within the budget (i.e., the budget "clears"), bid processing will take the additional steps of beginning to assign support.

189. If, after the bids have been processed in the clearing round, some areas bid at the clock percentage have not been assigned (e.g., because there were multiple bids for an area at the same T+L weight—and no bids at a lower T+L weight—at the clock percentage), the bidding system will commence another round of bidding to resolve the competition, and rounds will continue with bidding for these areas at lower clock percentages.

190. As a result, the bids that can be assigned under the budget in the round when the budget

clears and in any later rounds will determine the areas that will be provided Rural Digital Opportunity Fund support. 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 eligible locations in the area. Additional details and examples of bid processing will be provided in the technical guide.

191. Clock Percentage. In each of a series of discrete bidding rounds, a bidder will be offered an amount of support for an area at a specified performance tier and latency combination that is determined by the clock percentage for the round and the area's reserve price. By bidding at that clock percentage, the bidder indicates that it 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 clock percentage and the T+L weight. The opening percentage will determine the highest support amount that the bidder will be offered in the auction for a given area and performance tier and latency combination.

192. Opening Percentage. The opening percentage will be set to 100 percent plus an additional percentage equal to the largest T+L weight that is submitted by any qualified bidder in the auction, as proposed. Therefore, if any applicant is qualified to bid to provide service at the Minimum performance tier and high latency—a performance tier and latency combination assigned a weight of 90—the opening percentage will be set at 190 percent.

193. Clock Decrements. The Commission will begin the auction by decrementing the clock percentage by 10 points in each round. Also, the Commission provides OEA with the discretion to change that amount during the auction 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, OEA may increase the bid decrement to speed up the auction, recognizing that bidders have the option of bidding at an intra-round price point percentage if the clock percentage falls to a percentage corresponding to an amount of support that is no longer sufficient. The Commission will begin the auction with a decrement of 10 percent and limit any further changes to the decrement to between 5 percent and 20 percent.

194. Bid Processing After a Clock Round Before the Clearing Round. Aggregate Cost at the

Clock Percentage. After each round until the budget has cleared, the bidding system will calculate an “aggregate cost,” an estimate of what it would cost to assign support at the clock percentage to the bids submitted in the round, in order to determine whether the budget will clear in that round. More precisely, the aggregate cost is the sum of the implied support amounts for all the areas receiving bids at the clock percentage for the round, evaluated at the clock percentage. The calculation counts 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 round with a lower clock percentage.

195. Clearing Determination. The first round in which the aggregate cost is less than or equal to the overall support budget is considered the “clearing round.” In the clearing round, the bidding system will further process bids submitted in the round and, if necessary, bids submitted at the previous round’s clock percentage, to determine those areas that can be assigned and the support amounts winning bidders will receive.

196. Bid Processing in the Clearing Round. In the clearing round, the bidding system will consider bids in more detail to determine which can be identified as winning, or “assigned,” bids in that round; the “second prices” to be paid for winning bids; and which bids will carry forward to an additional bidding round.

197. Assignment. Once bid processing has determined that the current round is the clearing round, the bidding system will begin to assign winning bids, awarding support to at most one bid for a given area. The system considers all the bids submitted in the round in ascending order of price point percentage to determine which bids can be assigned within the budget. Bids at the same price point are considered in ascending order of T+L weight.

198. As it considers bids in ascending price point percentage order and then in ascending T+L weight order, the system assigns a bid with a given T+L weight if no other bid for the same area has already been assigned, as long as the area did not receive bids at the clock percentage at the same or at a

lower T+L weight and the areas to be assigned in a package bid meet the bid's minimum scale percentage. The bidding system also checks to ensure that sufficient budget is available to assign the bid.

199. To determine whether there is sufficient budget to support a bid, the bidding system keeps a running sum of support costs. This cost calculation at price point percentages between and including the current and previous clock percentages extends the concept of the aggregate cost calculation (which identifies the clearing round) to take into account, at sequential intermediate price points, the cost of bids that have been assigned so far and the estimated cost for areas bid at the clock percentage that have not been assigned.

200. At each ascending price point increment, starting at the clock percentage, the running cost calculation is the sum of support for three types of bids: (1) 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; (2) 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); and (3) bids at the clearing round's clock percentage that have not been assigned are evaluated as they were in the pre-clearing aggregate cost calculation: only one bid per area is included in the calculation, namely, the bid with the highest implied support amount (i.e., the lowest T+L weight) evaluated at the clock percentage.

201. Once the system has determined which of the bids submitted in the round are assigned, it then determines the highest price point percentage at which the total support cost of the assigned bids does not exceed the budget (the "clearing price point"). There will be no assigned bids at price point percentages above the clearing price point.

202. Once the system has processed all the bids submitted in the round, if the system has determined that the clearing price point is equal to the clock percentage of the previous round and there is still available budget, the system will proceed to consider bids submitted at the clock percentage of the

previous round. These carried-forward bids will be considered in ascending order of T+L weights, and bid-specific pseudo-random numbers will be used to break ties.

203. Support Amount Determination. To determine the support amount for an assigned area, the system considers whether there were any other bids for the area in the round below the clearing price point. If there were no other bids below the clearing price point, the assigned area is supported at the clearing price point.

204. If a bid is assigned for an area that received more than one bid in the round below the clearing price point, the assigned bid is generally supported at the next higher price point percentage at which there is a bid for the area. For example, if there are two bids for an area below the clearing price point, the lower bid is supported at the bid percentage of the higher bid.

205. For any carried-forward bids assigned in the clearing round, the support amounts will be calculated based on the clock percentage of the previous round. A carried-forward bid can be assigned in the clearing round only if the system has determined that the clearing price point is equal to the clock percentage of the previous round.

206. Bids and Bid Processing in Rounds After the Budget Clears. Carried-Forward and Acceptable Bids. Once the budget clears, further bidding resolves competition for areas that were bid at the clock percentage of the previous round and have not yet been assigned. Therefore, bidding rounds continue after the clearing round at lower clock percentages, but bids are restricted to areas for which the bidder had bid at the previous round's clock percentage but that could not be assigned. Such bids may be 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 that formed part of package bids that were partially assigned.

207. Bids at the clock percentage for unassigned areas will carry forward automatically to the next bidding round at the previous round's clock percentage, since the bidder had previously accepted that percentage. In the round into which the bids carry forward, the bidder may also bid for support for these areas at the current round's 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 at the previous round's clock percentage.

208. While bids for unassigned packages will carry forward 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 the current round's percentages. However, the unassigned remainders of package bids partially assigned to the bidder will carry forward as individual area bids. Any bids the bidder places for the remainder areas at the new round's percentages must be bids for individual areas—that is, the bidder cannot create a new package of any of the unassigned remainders.

209. Proxy instructions, if at a price point percentage below the clock percentage of the previous round, generally continue to apply in rounds after the clearing round under the same conditions that apply to other bids. In the case of a proxy instruction for a package bid that is only partially assigned to the bidder, the proxy instruction continues to apply to the unassigned areas in the package bid. That is, the price point percentage specified in the proxy instructions would apply to bids for the individual remainder areas.

210. **Bid Processing.** When processing the bids of a round occurring after the clearing round, the system considers bids for assignment and support amount determination in ascending order of T+L weight and then in ascending order of price point percentage. The system assigns a bid with a given T+L weight if the area has not already been assigned, as long as the area did not receive bids at the clock percentage at the same or at a lower T+L weight and, in the case of a package bid, as long as the areas to be assigned in the package meet the bid's minimum scale percentage.

211. To determine the support amount for an assigned area, the system considers whether there were any other bids for the area in the round at the same or at a lower T+L weight. If there were no other bids, the assigned area is supported at the clock percentage of the previous round, consistent with the second-price rule. If a bid is assigned for an area that received more than one bid in the round at the same or at a lower T+L weight, the assigned bid is generally supported at the next higher price point percentage at which there was a bid for the area at the same or at a lower T+L weight.

212. If, after the bids of the round have been processed, one or more of the areas with bids at the clock percentage have not yet been assigned, there will be another bidding round at a lower clock percentage, with the same restrictions on bids and following the same assignment and pricing procedures.

213. Closing Conditions. The auction will end once the overall budget has cleared if all areas that were bid at the round's clock percentage were assigned during the bid processing of the round.

214. Availability of Bidding Information. Bidders will have secure access to certain non-public bidding information while bidding is ongoing. After each round, and before the next round begins, the Commission will make the following information available to individual bidders:

- The clock percentage for the upcoming round.
- The aggregate cost at the previous round's clock percentage for rounds prior to the clearing round.
  - The aggregate cost at the clock percentage is not disclosed for the clearing round or any later 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 clock percentage was 0, 1, or 2 or more, and for areas that received 1 bid or 2 or more bids, the lowest T+L weight that was associated with a bid in the previous round for the area.
  - For the clearing round and any subsequent round, bidders are also informed about which areas have been assigned.
- Bidder-specific results:
  - The implied support of the bidder's carried-forward bids for the next round and a list of those carried-forward bids.
  - The number of areas for which proxy instructions are in effect for future rounds.
  - After the clearing round, areas and support amounts that have been assigned to the bidder.

- Summary statistics of the bidder's bidding in the previous round, including:
  - The bidder's activity, based on all bids in the previous round, and the implied support of the bidder's bids at the clock percentage.
  - The number of areas for which the bidder bid, at the clock percentage and at other price points.

215. Prior to each round, the Commission will also make available to each bidder the implied support amounts at the round's clock percentage for the areas and performance tier and latency combinations for which the bidder is eligible to bid.

216. The bidding system will make available to bidders the T+L weight associated with the bid in an area that received a single bid in the previous round, and it will disclose the lowest T+L weight of any bid received in the previous round in an area with 2 or more bids.

217. 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, the clock percentage, the aggregate cost, or any summary statistics on bidding or assigned bids.

218. After the close of bidding and announcement of auction results, the Commission will make publicly available all bidding data, except for proxy bidding instructions.

219. Auction Announcements. The bidding system will report necessary information to bidders through auction announcements. All auction announcements will be available by clicking a link in the Rural Digital Opportunity Fund Bidding System.

220. Auction Results. OEA will determine the winning bids as described in the document. After OEA and the Bureau announce the auction results, they will provide a means for the public to view and download bidding and results data.

## **VIII. Post-Auction Procedures**

221. General Information Regarding Long-Form Applications. Pursuant to § 1.21004(a), each Auction 904 winning bidder is required to file an application for Rural Digital Opportunity Fund support,

referred to as a long-form application, by the applicable deadline. Shortly after bidding has ended, OEA and the Bureau 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 then have the opportunity to assign their winning bids to related entities or individual members of a consortium. Winning bidders or their designees will use the FCC Form 683 and the Auction Application System to participate in the Divide Winning Bids process and to submit their long-form applications. The Commission expects long-form applicants to expeditiously complete their applications and respond in a timely manner to staff requests for additional or missing information.

222. 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 after the long-form applicant has submitted an acceptable letter of credit and accompanying Bankruptcy Code opinion letter, a public notice will be released authorizing the long-form applicant to receive Rural Digital Opportunity Fund support.

223. Divide Winning Bids. Any winning bidder that intends to assign some or all of its winning bids to related entities must do so by submitting the Divide Winning Bids portion of the FCC Form 683 during the Divide Winning Bids filing window. The Divide Winning Bids filing window will be announced in the public notice declaring the auction closed.

224. A winning bidder in Auction 904 may only assign its winning bids to a related entity that is named in its short-form application or that was formed after the short-form application deadline (i.e., July 15, 2020). A related entity is an entity that is controlled by the winning bidder or is a member of (or an entity controlled by a member of) a consortium/joint venture of which the winning bidder is a member. Thus, if a holding company/parent company is a winning bidder, the winning bidder may designate at least one operating company that it controls to complete the long-form application to receive Rural Digital Opportunity Fund support for some or all of the winning bids in a state. If a consortium/joint venture is a winning bidder, the entity may designate at least one member of (or an entity controlled by a member of) the consortium/joint venture to complete the long-form application to receive Rural Digital

Opportunity Fund support for some or all of the winning bids in a state.

225. A winning bidder may assign winning bids to more than one entity in a single state, but it cannot assign a single winning bid to more than one entity. Thus, a winning bidder may not split among multiple entities either: 1) eligible census blocks within a winning bid for an individual CBG, or 2) separate CBGs within a winning package bid.

226. Each entity that is assigned a winning bid through the Divide Winning Bids process is the entity that must file the long-form application portion of FCC Form 683 in its own name. Except for one limited exception, that long-form applicant must be designated as the eligible telecommunications carrier to serve the relevant area(s), be named in the requisite letter(s) of credit, and fulfill the public interest obligations associated with receiving Rural Digital Opportunity Fund support.

227. If a winning bidder is a holding/parent company that has multiple operating companies in a state and intends to assign its winning bids to multiple operating companies in a state, it may choose one of those entities to be the lead operating company. In such circumstances, the winning bids should be assigned to that lead operating company, the long-form application should be filed in the name of the lead operating company, the letter of credit should be in the name of the lead operating company, and payments will be made to the study area code associated with the lead operating company. However, the long-form application must identify which operating companies will meet the public interest obligations for which CBGs and documentation must be submitted that demonstrates that each of the operating companies has an ETC designation covering the relevant CBGs. Compliance with the service milestones will be determined on a statewide basis across all the relevant operating companies.

228. A winning bidder that assigns some or all its winning bids to a related entity must make a number of certifications in the Divide Winning Bids portion of FCC Form 683. In particular, it must certify and acknowledge that it: 1) has assigned the winning bids to related entities that were named in the short-form application or are newly formed, 2) will inform each entity of its filing obligation and cause each entity to submit a timely FCC Form 683 long-form application, 3) will be at risk for default if any of the related entities do not submit a timely FCC Form 683 long-form application, and 4) will submit a

timely FCC Form 683 long-form application for any of the winning bids that it did not assign to another entity.

229. Long-Form Application: Disclosures and Certifications. Within the number of days specified by the Auction 904 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 long-form applicants in the auction closing public notice.

230. 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 that was also a winning bidder 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.

231. 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 Rural Digital Opportunity Fund support. A long-form applicant must also certify that it will comply with all program requirements, including service milestones. 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.

232. Financial and Technical Capability Certification. 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.

233. 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.

234. 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 Rural Digital Opportunity Fund 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. This certification of ETC status and documentation must be submitted by the applicant within 180 days after the release of the Auction 904 closing public notice.

235. Description of Technology and System Design. Each long-form applicant will be required to demonstrate that it has a design plan with supportable technologies to meet the relevant Rural Digital Opportunity Fund 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 that explains how the design and technologies chosen will meet the relevant performance requirements, including information regarding quality, coverage, voice service, network management and on-going operations. This submission must include a detailed network diagram. The network diagram must be certified by a professional engineer that "the network is capable of delivering, 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 will submit its technology and system design description in two stages.

236. Stage I - Initial Overview. A long-form applicant must submit with its long-form application (due within the number of business days specified after the release of the Auction 904 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 Rural Digital Opportunity Fund public interest obligations for the relevant performance tier and latency combination(s) using Rural Digital Opportunity Fund 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 explaining the project. The overview will be made publicly available, so a long-form applicant should not include any confidential trade secrets or commercial information in its overview.

237. Stage II - Detailed Description. Within the specified number of days after the release of the Auction 904 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. 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 Rural Digital Opportunity Fund 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.

238. The Commission provides guidance on how a long-form applicant can successfully meet the Stage II requirement in § 54.804(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 Rural Digital Opportunity Fund obligations.

239. The Commission understands that long-form applicants will be in a variety of implementation stages throughout the support term. For example, a long-form applicant may have already completed its network construction, may be in the process of constructing its network, or may be planning how it will construct its network. Indeed, the long-form applicant may have portions of its network(s) in different stages at the same time for different states, areas, or technology design solutions. Therefore, the Commission expects that the detailed descriptions that a long-form applicant submits will be based upon its current actions or intentions and that changes may and in many cases will be made throughout the support term. The Commission is looking for the long-form applicant to demonstrate that it has a technically feasible solution that will meet the Rural Digital Opportunity Fund support requirements by the relevant service milestones.

240. *Overall Network Design.* A long-form applicant, regardless of the technology (or technologies) it proposes to use, is expected to:

- Describe the proposed last mile architecture(s), design, and technologies.
- Describe the proposed middle mile/backhaul topology, architecture, design, and technologies.
- Describe the proposed interconnection architecture, design, and technologies solution to connect to the Internet. This will include the likely service providers, link data-rate/size, locations, dual-homing, and multi-homing characteristics.

- Describe the proposed architecture that will be used to provide voice service. Describe whether the proposed voice services will: 1) be internally provided, 2) use a managed voice service provider, 3) use a voice over the top service, or 4) use another type of voice service.
- Describe the network's scalability to support customer growth and network data usage growth to account for: 1) ever increasing application requirements, 2) increasing quality demands, and 3) lower response/latency demands for ever increasing usage of highly interactive applications.
- Describe the design and features that it proposes to implement that will: improve reliability (such as redundancy) for equipment, links and software; dual homing; and multi-homing connectivity.
- Describe network infrastructure ownership. Indicate which parts of the network will use the long-form applicant's or another party's existing network facilities, including both non-wireless and 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. This includes leased lines, transit services, rented tower space for radios, etc.
- Provide technical information about the design methods, "rules of thumb," and engineering assumptions used to size the capacity of the network's nodes (or gateways), links and wireless base stations. These are often expressed as ratios, such as "oversubscription ratio" applied in the middle-mile/backhaul and interconnection network levels that funnel the consumer traffic to the Internet. The information provided should demonstrate how the required performance for the relevant performance tier will be achieved during periods of peak usage, downstream and upstream speed, and latency assuming a 70 percent subscription rate by the final service milestone. The document includes a diagram showing the various oversubscription ratios, link media (wired, wireless, etc.), redundancy and multi-homing in a visual format.
- Describe how the long-form applicant's design will meet the peak period end-to-end performance requirements for the path from the consumer premises to the Internet. This requires that the

applicant detail consumer path use case(s) that the long-form applicant will use to move traffic to and from the consumer premises to the Internet. This description should define the technical, planning and capacity parameters that a stream of packets would experience along this end-to-end path. For example, the document includes a diagram showing five paths that include various oversubscription ratios, link media (wired, wireless, etc.), redundancy, and multi-homing characteristics. The Commission expects individual path use cases to describe the pathway: links (media, technology, data-rates, redundancy, etc.); frequencies, channels, antenna and wireless parameters; topology (mesh, ring, hierarchical) that also note redundant links or multi-homing, etc.; network devices (equipment type, redundancy, reliability); protocols; oversubscription ratios; and ETC owned vs leased infrastructure.

241. Project Plan. The applicant will provide a project plan that describes a network build-out schedule that includes but is not restricted to plans for constructing last mile and middle mile facilities.

- The build-out schedule should include when (month, quarter or projected date) and where (geographic description, county, city, town, CBG, census tract; note the state or higher level is not acceptable).
- 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 § 54.802(c) of the Commission's rules and completion of the network for the number of locations determined by the CAM by the end of the sixth year of support.
- 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.

242. Network Management and On-going Operations. The applicant's detailed description should:

- Describe the applicant’s plans for monitoring network usage/capacity, performance, congestion, and other parameters.
- Describe how the applicant will maintain the performance and quality of the service for the duration of the 10-year support term.
- Describe who will provide these services. Will the applicant: 1) use existing internal organizations, 2) use contracted management service providers, 3) create new internal organizations, or 4) engage new contractors?
- Describe how the applicant will comply with Commission performance measures for speed and latency. The description should include whether the applicant plans to use the Measuring Broadband America (MBA) system, off-the-shelf testing mechanisms such as existing network management systems and network management tools, or provider-developed self-testing mechanisms.

243. Network Diagram. The network diagram must be certified by a professional engineer and should:

- Identify all wireline and wireless segments of the proposed networks. This should include applicable middle-mile/backhaul and interconnection network infrastructure. These are also commonly referred to as “links” between the nodes. These descriptions should indicate the media/link technology, data-rate/speed, and topology if point-to-point, ring, etc.
- 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/consumers 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 existing network facilities.
- Identify specialized nodes used in providing voice service, such as SIP servers, PSTN gateways or voice OTT providers.
- Explain how nodes or gateways are connected to the Internet backbone and Public Switched Telephone Network. Show redundancy, dual- or multi-homing configurations.

244. Terrestrial Fixed Wireless. 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. Clearly identify the licensed and unlicensed spectrum that will be used.
- 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. Submit assumptions regarding fading statistics, cell edge probability of coverage, and cell loading for each relevant performance tier.
- Provide coverage maps for the planned and/or existing networks that will be used to meet the Rural Digital Opportunity Fund 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).
- Provide detailed radio access network (RAN) infrastructure information used to generate the coverage maps for each unique cell including longitude, latitude, antenna height, antenna orientation, antenna down-tilt, antenna model, antenna system configuration, effective radiated power, operating spectrum amount, operating spectrum type, and operating radio technology.

- Describe the underlying propagation model used to prepare the coverage maps and how the model incorporates the operating spectrum, antenna heights, distances, fading statistics, terrain resolution, and clutter resolution.
- Describe the underlying cell site and generally, radio frequency (RF) access network capacity management and traffic engineering models or concepts. Also describe any adjunct carrier aggregation or spectrum sharing techniques and if the proposed system could accommodate these features, if needed.
- 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.

245. Satellite Technologies. 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 Rural Digital Opportunity Fund 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. For each winning bid area/state to be served, provide both the uplink and downlink beams, provide the gateway call sign, beam ID, frequency bands used, and location (city/state).
- 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 how much satellite capacity (in gigabits per second) the applicant plans to reserve, by winning bid area/state, to serve the locations required under applicant's award and to achieve the required service milestones.

- 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. If there are circumstances in which such reallocation would not be possible, please describe those circumstances and the states impacted.

246. 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 Rural Digital Opportunity Fund 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 Rural Digital Opportunity Fund 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.

247. Spectrum Access. A long-form applicant that intends to use wireless technologies to meet the relevant Rural Digital Opportunity fund public interest obligations must demonstrate that it currently has sufficient access to spectrum. Specifically, 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. 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)).

248. 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 this certification.

249. Letter of Credit Commitment Letter. Within the specified number of days after the release of the Auction 904 closing public notice, a long-form applicant must submit a letter from a bank acceptable to the Commission, as set forth in § 54.804(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 C of the Rural Digital Opportunity Fund Order.

250. Documentation of ETC Designation. Within 180 days after the release of the Auction 904 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.

251. In the event a long-form applicant is unable to obtain the necessary ETC designations within this timeframe, it would be appropriate to waive the 180-day timeframe if the long-form applicant is able to demonstrate that it has engaged in good faith efforts to obtain an ETC designation, but the

proceeding is not yet complete. The Commission will presume that a long-form applicant acted in good faith if it files its ETC application with the state commission or the Commission as applicable within 30 days of the release of the Auction 904 closing public notice. 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 and will not be authorized to receive Auction 904 support.

252. Audited Financial Statements. Within 180 days after the release of the Auction 904 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.

253. Letter of Credit and Bankruptcy Code Opinion Letter. After a long-form applicant's application has been reviewed and is considered complete, the Commission will issue a public notice identifying each long-form applicant that may be authorized to receive Rural Digital Opportunity Fund support. No later than 10 business days after the release of the public notice, a long-form applicant must obtain one irrevocable standby letter of credit at the value specified in § 54.804(c)(1) from a bank acceptable to the Commission as set forth in § 54.804(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 C of the Rural Digital Opportunity Fund Order. The first letter of credit must cover the first year of support at a minimum. The value of the letter of credit must increase each year until it has been verified that the support recipient has met certain milestones as described in more detail in § 54.804(c)(1) of the Commission's rules.

254. In addition, a long-form applicant will be required to provide with the letter of credit an opinion letter from outside 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 § 541 of the Bankruptcy Code.

255. Default Payment Requirements. Auction Forfeiture. Any Auction 904 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 Rural Digital Opportunity Fund support by the Bureau 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 Bureau 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 Auction 904.

256. 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 Commission's forfeiture guideline. A violation is defined as any form of default with respect to the CBG. 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 Commission will limit the total base forfeiture to 15 percent of the bidder's total assigned support for the bid for the support term.

257. Non-Compliance Measures Post-Authorization. A long-form applicant that has received notice from the Commission that it is authorized to receive Rural Digital Opportunity Fund 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 public interest obligations, or fails to fulfill any other term or condition of Rural Digital Opportunity Fund support. 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 Rural Digital Opportunity Fund support, including, but not limited to, potential revocation of ETC designations and suspension or debarment. Additionally, support recipients are subject to the non-compliance measures that have been adopted in conjunction with the methodology for high-cost support recipients to measure and report speed and latency performance to fixed locations.

#### Auction 904 Short-Form Application Operational Questions (Appendix A)

##### Operational History

1. Has the applicant previously deployed consumer broadband networks (Yes/No)? If so:
  - a. Provide the date range when broadband service was offered and in which state(s) service was offered. Specify dates for each state.
  - b. Provide an estimate of how many subscribers are currently served in each state. (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.)
  - c. What services (e.g., voice, video, broadband Internet access) were or are provided in each state?
  - d. List any data-usage limit (data cap) used as part of existing broadband access services.
  - e. What specific technologies and network architecture are used for last-mile; middle-mile/backhaul; and internet interconnections?
  - f. What are the deployed voice technologies and how are these voice services implemented?

##### Proposed Network(s) Using Funding from Auction 904

Answer for each state the applicant selected in its application:

2. Network Infrastructures:

- a. Briefly describe from a high-level network perspective which network architectures and technologies will be used in the applicant's proposed deployment. If there are variations by state, region, or other criteria, describe each network or location.
  - b. Last-mile: What are the relevant topologies, technologies and protocols and the corresponding industry standards for the last-mile network infrastructure in the applicant's proposed deployment?
  - c. Middle-Mile/Backhaul: What are the relevant topologies, technologies and protocols and the corresponding industry standards for the middle-mile/backhaul network infrastructure in the applicant's proposal?
  - d. Internet Access: What are the relevant topologies, technologies and protocols and the corresponding industry standards for the Internet access network infrastructure in the applicant's proposal? This is the connection to major IXPs, transit providers, etc.
  - e. Gigabit Performance Tier: Special care must be taken to describe the above portions of the network, especially last-mile, when service providers propose to bid in the Gigabit performance tier. For example, if an applicant proposes to use DSL to offer Gigabit service, wire lengths, wire quality & capability, protocols, vendor devices and other factors must be detailed. Additionally, fixed wireless providers proposing to bid in the Gigabit performance tier must pay special and careful consideration in answering the questions in 4(e) below on Network Performance.
  - f. If the applicant is proposing to use non-standard technologies and protocols, 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, technical documents may be submitted with the application.
3. Voice Services:

- a. Briefly describe the anticipated system(s) that will be used to provide voice services to the applicant's subscribers, including a standalone voice service. Examples of such solutions could include: (1) internally designed and operated; (2) provided by a Managed Voice Service Provider; or (3) or an OTT (Over-The-Top) solution available to subscribers via the applicant. If the applicant is considering multiple solutions, provide information on each one and identify possible vendors or service providers.
  - b. If the applicant plans to use an internally designed and operated system, provide specific information on any existing voice system the applicant operates.
  - c. If the applicant plans to implement a new system to meet these requirements, provide specific information on the technology, standards, latency, planned QoS, architecture; design; protocols; equipment; vendors; public switched telephone network (PSTN) interconnections (links, speed and to whom you interconnect); capacity (projected peak call rates versus total projected subscribers); reliability and availability design and procedures; and the applicant's specific plans to control, manage, monitor, and recover/repair/troubleshoot outages. If any of these issues are addressed in response to the other questions in Appendix A to the *Auction 904 Procedures Public Notice*, it is permissible to cross-reference that information here.
4. Network Performance:
- a. 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)?
  - b. Briefly describe the capabilities of the network technologies that will enable performance tier (speed and usage allowance), latency and (where applicable) voice service mean opinion score (MOS) requirements to be met. This can include traffic management, Quality of Service, over-building/scalability, using equipment that easily allows upgrades and other techniques.

- c. For both broadband and voice services, state the target or design peak period over-subscription ratio(s) for the last-mile, middle-mile/backhaul and Internet interconnection that will be used. Additionally, describe the basic assumptions and calculations that will be used in determining these ratios.
  - d. What general rules-of-thumb will be used to determine if any portion of the network infrastructure needs to be improved, upgraded or expanded to ensure the network is able to meet the required speed, latency and where required voice quality? For example, taking action when (1) when middle-mile link average peak period load is greater than 70 percent; when a link peak period load exceeds 95 percent more than 10 times; when a router's average peak period processing utilization exceeds 70 percent; when an Internet access link load exceeds 75 percent for a specified time period; when call setup, call drop, call completion rates meet or exceed applicant targets.
  - e. For fixed broadband wireless access and satellite networks, describe how the proposed frequency band(s) and technology attributes, for both last mile and backhaul, will achieve the performance tier(s) and latency requirements to all locations for both broadband and voice services. Specifically, describe how the planned frequency bands, base station configuration, including, for example, point-to-point, point-to-multipoint or mesh architectures, and customer premise equipment (CPE), channel bandwidths, minimal requirements, traffic assumptions and propagation assumptions and calculations yield sufficient capacity to all the planned locations.
5. Network Buildout: 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.
6. Network Equipment, Consultants and Deployment Vendors: For the proposed performance tier and latency combination(s), 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 CPE that will meet the performance tier(s) and latency performance requirements at a 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.

7. Network Management:

- a. Briefly describe the method(s) that will be used to monitor, operate, problem resolution, provision and optimize the network and associated services such as voice. Identify if the proposed solution is internally developed and operated; expands existing systems; uses a third-party network management provider; or is some variant or combination of these methods.
- b. Remember to include how voice operations will be monitored, operated, problems resolved, provisioned and optimized as appropriate.
- c. If the applicant will expand existing network management systems, describe how the current system provides successful operations.
- d. If the applicant will use a third-party network management provider, identify any providers the applicant is currently considering.
- e. If the applicant will develop, deploy and operate a new system 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.

8. Satellite Networks: If the applicant is using satellite technologies, identify which satellites would be used, and describe concisely the total satellite capacity available, that is, capacity that is not currently in use for existing subscribers. In addition, describe how the proposed network will achieve the performance tier(s) and latency requirements to all planned locations in a mass-market consumer service.

Auction 904 Spectrum Chart (Appendix B)

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	1850- 1915	1930- 1995		
AWS- 1	1710- 1755	2110- 2155		
AWS (H Block)	1915- 1920	1995- 2000		
AWS- 3	1755- 1780	2155- 2180	1695- 1710 (Uplink only)	
AWS- 4			2000- 2020 2180- 2200 (Downlink only)	
BRS/EBS			2496- 2690	
WCS	2305- 2315	2350- 2360	2315- 2320 2345- 2350	
CBRS (3.5 GHz)			3550- 3700	

Spectrum Band/Service	Paired Licensed		Unpaired Licensed	Unlicensed
	Uplink Freq. (MHz)	Downlink Freq. (MHz)	Uplink & Downlink Freq. (MHz)	Unlicensed (MHz)
3.7 GHz Service			3700-3800 3800-3900 3900-3980	
Lower 37 GHz			37000 - 37600	
UMFUS (terrestrial)			24,250- 24,450 24,750- 25,250 27,500- 28,350 37,600- 38,600 38,600- 40,000 47,200- 48,200	
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- 94,000 94,100- 95,000	
TV White Spaces				54- 72 76- 88 174- 216 470- 698
900 MHz				902- 928
2.4 GHz				2400- 2483.5
5 GHz				5150- 5250 5250- 5350 5470- 5725 5725- 5850
6 GHz				5925-6425 6525-6875
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		

Spectrum Band/Service	Paired Licensed		Unpaired Licensed	Unlicensed
	Uplink Freq. (MHz)	Downlink Freq. (MHz)	Uplink & Downlink Freq. (MHz)	Unlicensed (MHz)
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

SMR Specialized Mobile Radio

UMFUS Upper Microwave Flexible Use Service

WCS Wireless Communications Service

### IX. PROCEDURAL MATTERS

258. Paperwork Reduction Act Analysis. The document implements the information collections adopted in the Rural Digital Opportunity Fund Order, 85 FR 13773 (Mar. 10, 2020), and does not contain any additional information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. The Commission received PRA approval for information collections related to the short-form application process and is seeking PRA approval for the information collections related to the long-form application processes. The 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.

259. Supplemental Final Regulatory Flexibility Analysis. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission prepared an Initial Regulatory Flexibility Analysis (IRFA) in connection with the Rural Digital Opportunity Fund NPRM, 84 FR 43543 (Aug. 21, 2019), and a Final Regulatory Flexibility Analysis (FRFA) in connection with the Rural Digital Opportunity Fund

Order, 85 FR 13773 (Mar. 10, 2020). A Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) was also filed in the Auction 904 Comment Public Notice, 85 FR 15092 (Mar. 17, 2020) in this proceeding. The Commission sought written public comment on the proposals in the Rural Digital Opportunity Fund NPRM and in the Auction 904 Comment Public Notice, including comments on the IRFAs and the Supplemental IRFA. No comments were filed addressing the IRFAs. The Commission included a Final Regulatory Flexibility Analysis (FRFA) in connection with the Rural Digital Opportunity Fund Order. The Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) supplements the FRFA in the Rural Digital Opportunity Fund Order to reflect the actions taken in the document and conforms to the RFA.

260. Need for, and Objectives of, this Public Notice. The Public Notice establishes procedures for the Rural Digital Opportunity Fund auction (Auction 904). The Public Notice 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.

261. Following the release of the Rural Digital Opportunity Fund Order, the Commission released the Auction 904 Comment Public Notice. The Auction 904 Comment Public Notice proposed specific procedures for implementing the rules proposed in the Rural Digital Opportunity Fund NPRM and adopted in the Rural Digital Opportunity Fund Order. The Auction 904 Comment Public Notice did not change matters adopted in the Rural Digital Opportunity Fund Order, but requested comment on how the proposals in the Auction 904 Comment Public Notice might affect the previous regulatory flexibility analyses in this proceeding.

262. The document establishes procedures for awarding support in Auction 904 through a multi-round, reverse auction, the minimum biddable area for the auction, aggregating eligible areas into larger geographic units for bidding, setting reserve prices, 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 904 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.

263. To implement the rules adopted by the Commission in the Rural Digital Opportunity Fund Order for the pre-auction process, the document establishes specific procedures and requirements for applying to participate and becoming qualified to bid in Auction 904, 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 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 Auction 904 support.

264. Accordingly, the procedures established in the document are consistent with the Rural Digital Opportunity Fund Order and the prior regulatory flexibility analyses set forth in this proceeding, and no changes to the earlier analyses are required.

265. 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.

266. 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.

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

268. 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. 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.

269. A FRFA was incorporated into the Rural Digital Opportunity Fund Order. In that analysis, the Commission described in detail the small entities that might be significantly affected. In the document, the Commission incorporates by reference the descriptions and estimates of the number of small entities from the previous FRFAs in the Rural Digital Opportunity Fund Order.

270. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities. The data, information and document collection required by the Rural Digital Opportunity Fund Order as described in the previous FRFA and the Supplemental IRFA in the Auction 904 Comment Public Notice in this proceeding are incorporated by reference.

271. 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.

272. The analysis of the Commission’s efforts to minimize the possible significant economic impact on small entities as described in the previous Rural Digital Opportunity Fund Order FRFA is incorporated by reference. In addition, 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 Rural Digital Opportunity Fund 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 census block groups (CBGs) containing one or more eligible census blocks as the minimum biddable area for 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, further educational opportunities and materials will be provided well in advance of the auction.

273. 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 904, without requiring so much information that it is cost-prohibitive for any entity, including small entities, to participate.

274. Finally, recognizing that some entities may be new to Commission auctions, the Commission announces the types of materials and other information it will make available to help educate parties that have not previously applied to participate or bid in a Commission auction. Specifically, OEA 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. Additionally, a mock auction will be conducted that will enable all qualified bidders, including small entities, to become familiar with the 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 Commission’s Office of Communications Business Opportunities will also engage with small providers.

275. 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.**

**Marlene Dortch**

**Secretary.**

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