



# PUBLIC NOTICE

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## MOBILITY FUND PHASE I AUCTION CLOSES WINNING BIDDERS ANNOUNCED FOR AUCTION 901

FCC Form 680 Due November 1, 2012

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**I. INTRODUCTION**

1. On September 27, 2012, the Federal Communications Commission completed the Mobility Fund Phase I Auction. In this auction, which was designated Auction 901, there were a total of 33 winning bidders. The winning bidders are eligible to receive a total of \$299,998,632 in one-time Mobility Fund Phase I universal service support to provide 3G or better mobile voice and broadband services covering up to 83,494.23 road miles in 795 biddable geographic areas located in 31 states and 1 territory.

**II. WINNING BIDDERS**

2. This Public Notice provides detailed information concerning winning bidders, FCC Form 680 filing requirements, and award disbursement matters. Key information appears in the following attachments:

**Attachment A:** “Bidder Summary” lists for each bidder the number of winning bids, the amount of assigned support, and the number of road miles covered by the winning bids.

**Attachment B:** “Instructions for Completing FCC Form 680” provides detailed information about how a winning bidder should complete the required long-form application (FCC Form 680).

A copy of this Public Notice will be sent via overnight delivery to each bidder.

**III. AUCTION RESULTS**

3. Concurrent with the release of this Public Notice, the Commission is making available information previously withheld under the limited information procedures for Auction 901.

**Interactive Map:** An interactive visual representation of the auction results is available on the Auction 901 web page (<http://wireless.fcc.gov/auctions/901/>) and at [http://apps.fcc.gov/auction901/map/auction\\_result\\_ext.html](http://apps.fcc.gov/auction901/map/auction_result_ext.html). The map displays non-Tribal lands with winning bids in blue and Tribal lands with winning bids in green. There are options for displaying all eligible areas and non-winning bids. Clicking on a state or

winning bid listed on the right-hand side of the map will zoom the map in to that area.

**Results Files:**

Files that include the identities of bidders and all of their bidding data are now available on the web page for Auction 901 (<http://wireless.fcc.gov/auctions/901/>) and in the FCC Auction System (<http://auctions.fcc.gov/>).

4. Additionally, all information submitted in applications to participate in the auction (FCC Forms 180) is publicly available. The applications are viewable in the FCC Auction System via the link for Auction Application Search at <https://auctionfiling.fcc.gov>.

#### **IV. POST-AUCTION PROCEDURES**

5. Under the competitive bidding rules adopted in the *USF/ICC Transformation Order*, Auction 901 winning bidders have a binding obligation to file a post-auction long-form application – by the applicable deadline and consistent with other requirements of the long-form application process.<sup>1</sup>

**A. Winning Bidder’s Obligation to Apply for Support – FCC Form 680 Filing**

6. Prior to **6:00 p.m. Eastern Time (ET) on November 1, 2012**, each winning bidder must electronically submit a properly-completed long-form application (FCC Form 680) for its winning bids in Auction 901. Attachment B provides instructions for completing the long-form application and describes how certain information will be automatically transferred from a winning bidder’s short-form application (FCC Form 180) to its long-form application (FCC Form 680).

7. The FCC Form 680 application filing window will open at 12:00 pm (noon) ET on **October 18, 2012**. Applications may generally be filed at any time after the filing window opens until the filing window closes at 6:00 p.m. ET on **November 1, 2012**. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applications can be updated or amended multiple times until the filing deadline on **November 1, 2012**.

8. An applicant must always click on the SUBMIT button on the “Certify & Submit” screen to successfully submit its FCC Form 680 and any modifications; otherwise the application or changes to the application will not be received or reviewed by Commission staff. If you need guidance or encounter technical difficulties in filing your electronic Form 680, you should contact FCC Auctions Technical Support using the information in the Contact section, below.

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<sup>1</sup> Connect America Fund, WC Docket No. 10-90 *et al.*, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161, 26 FCC Rcd 17663, 17822-23 para. 489 (2011) (“*USF/ICC Transformation Order*”), *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 8, 2011); Connect America Fund, WC Docket No. 10-90 *et al.*, *Order on Reconsideration*, 26 FCC Rcd 17633 (2011); Connect America Fund, WC Docket No. 10-90 *et al.*, *Second Order on Reconsideration*, 27 FCC Rcd 4648 (2012); Connect America Fund, WC Docket No. 10-90 *et al.*, *Third Order on Reconsideration*, 27 FCC Rcd 5622 (2012); Connect America Fund, WC Docket No. 10-90 *et al.*, *Fourth Order on Reconsideration*, 27 FCC Rcd 8814 (2012); 47 C.F.R. §54.1005(b).

## **B. Tribal Notification**

9. Pursuant to section 54.1004(d)(2) of the Commission's rules, any bidder winning support for areas within Tribal lands must notify the relevant Tribal government no later than **October 11, 2012**, which is five business days after being identified as a winning bidder by this Public Notice.<sup>2</sup> The National Congress of American Indians (NCAI)<sup>3</sup> maintains a routinely updated and comprehensive directory of American Indian Tribal and Alaska Native Village government leaders, addresses, and telephone numbers. The NCAI Tribal directory can be sorted by geographical area and can be found at <http://www.ncai.org/tribal-directory>. Where needed, the FCC's Office of Native Affairs and Policy (ONAP) also will serve as a resource for communications providers and Tribal governments.

## **C. Failure to File Constitutes an Auction Default**

10. Any Auction 901 winning bidder that fails to file a long-form application by the applicable deadline – **6:00 p.m. ET on November 1, 2012** – or that for any reason is not subsequently authorized to receive support, has defaulted on its bid(s) and will be subject to an auction default payment as described in section V.F.1 below.<sup>4</sup> Agreeing to such payment in event of a default was a condition for participating in bidding.<sup>5</sup> In the event of an auction default, a default payment of five percent of the total defaulted bid will be assessed.<sup>6</sup>

## **V. LONG-FORM APPLICATION (FCC FORM 680): GENERAL INFORMATION**

11. Winning bidders will use the new FCC Form 680 and the FCC Auction System to submit the long-form application. General application information is provided below. More detailed instructions are provided in Attachment B to this public notice.

### **A. Ownership Disclosure**

12. Each winning bidder must provide information required by sections 54.1005(b)(2)(i) and 1.2112(a) of the Commission's rules.<sup>7</sup> Specifically, in completing the long-form application, a winning bidder will be required to fully disclose information on the real party- or parties-in-interest and the ownership structure of the applicant, including both direct and indirect ownership interests of 10 percent or more, as prescribed in section 1.2112(a) of the

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<sup>2</sup> 47 C.F.R. §54.1004(d); *USF/ICC Transformation Order*, 26 FCC Rcd at 17822-23 para. 489; *see also* Office of Native Affairs and Policy, Wireless Telecommunications Bureau and Wireline Competition Bureau Issue Further Guidance on Tribal Government Engagement Obligation Provisions of the Connect America Fund, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, WT Docket No. 10-208, GN Docket No. 09-51, *Public Notice*, DA 12-1165, 27 FCC Rcd 8176 (2012) (*Tribal Engagement Further Guidance Public Notice*), *pet. for recon. pending*.

<sup>3</sup> NCAI is a broadly representative inter-Tribal government and communities organization, representing American Indian Tribes and Alaska Native Villages.

<sup>4</sup> 47 C.F.R. § 1.21004; *USF/ICC Transformation Order*, 26 FCC Rcd at 17808 para. 436; 47 C.F.R. § 54.1005(b).

<sup>5</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17813-14 paras. 458-460.

<sup>6</sup> Mobility Fund Phase I Auction Scheduled for September 27, 2012; Notice and Filing Requirements and Other Procedures for Auction 901, *Public Notice*, AU Docket No. 12-25, DA 12-641, 27 FCC Rcd 4725, 4776-77 paras.184-188 (2012) ("*Auction 901 Procedures Public Notice*").

<sup>7</sup> *See* 47 C.F.R. §§ 1.2112(a), 54.1005(b)(2)(i). *See also* *USF/ICC Transformation Order*, 26 FCC Rcd at 17804 para. 418. 47 C.F.R. § 54.1005(b)(2)(i) requires the disclosure of the applicant's ownership information as set forth in 47 C.F.R. § 1.2112(a).

Commission's rules.<sup>8</sup> Each applicant is responsible for ensuring that information submitted in its long-form application is complete and accurate.

13. The ownership information provided on each winning bidder's short-form application (FCC Form 180) will automatically be entered into the applicant's long-form application. Each applicant must carefully review any information automatically entered to confirm that it is complete and accurate as of the deadline for filing the long-form application. Any information that needs to be corrected or updated must be changed directly in the long-form application.

**B. Long-Form Application (FCC Form 680): Winning Bidder Information and Disclosures and Certifications**

14. Pursuant to section 54.1005(b)(2) of the Commission's rules, a winning bidder's long-form application must include the information described below. The FCC Form 680 allows an applicant to submit different information with respect to each of multiple bids in separate attachments to a single long-form application.

**1. Documentation of ETC Designations**

15. A winning bidder is required to submit with its long-form application appropriate documentation of its ETC designation, or pending petition if it is a Tribal entity seeking designation, in each area for which it seeks to receive support, and certify that its proof is accurate.<sup>9</sup> 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. Any relevant information provided as an attachment to the long-form application must use the attachment type "ETC Designation" for this information. As described in the attached instructions, an ETC designation attachment must be provided for each winning bid.

**2. Project Description - Construction Schedule/Specifications**

16. Applicants must provide in their long-form application an attachment for each winning bid with a detailed project description that describes the network, identifies the proposed technology, demonstrates that the project is technically feasible, discloses the complete project budget and describes each specific phase of the project, *e.g.*, network design, construction, deployment, and maintenance.<sup>10</sup> A complete project schedule, including timelines, milestones and costs must be provided. Milestones should include the start and end date for network design; start and end date for drafting and posting requests for proposal; start and end date for selecting vendors and negotiating contracts; start date for commencing construction and end date for completing construction; and the dates by which it will meet applicable requirements to receive the installments of Mobility Fund Phase I support.<sup>11</sup>

17. In the project description, applicants should include an initial statement that describes at a high-level what is to be accomplished with the Mobility Fund Phase I support (*e.g.*, build new network or expand an existing network, deploy new technology or current technology).

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<sup>8</sup> 47 C.F.R. §§ 1.2112(a), 54.1005(b)(2)(i).

<sup>9</sup> 47 C.F.R. § 54.1005(b)(2)(iii).

<sup>10</sup> *See* 47 C.F.R. § 54.1005(b)(2)(iv).

<sup>11</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17809 para. 442.

This initial statement should avoid highly technical terminology or jargon unless it is integral to the understanding of the project.

18. Applicants must describe in more detail the network to be built. As part of that description, applicants should identify the network components that will need to be deployed (e.g., number of base stations, switching facilities and backhaul capabilities). The detailed description should also include the type of technology that will be deployed (e.g., LTE, HSPA, EV-DO, etc.) and the type of spectrum (e.g., 700 MHz, Cellular, Broadband PCS, AWS, etc.) to be used with the technology. Applicants may demonstrate technical feasibility by explaining how the use of this particular technology and spectrum will allow it to meet its public interest obligations for 3G or 4G. Applicants should consider including information on any key challenges or risks to the completion of the project that have been identified and mitigation plans developed to ensure the completion of the project.

19. In addition, applicants must disclose the total budget along with the amount budgeted for each phase of the project. Any funds required to complete the project that are not included in the winning bid amount for support should be noted. The budget should specifically relate to the costs for the activities in the project plan.

20. If a project encompasses areas in multiple winning bids, an applicant may submit the same or similar project description for each winning bid. However, the information in the project description, budget and plan must identify the activities and costs associated with each winning bid.

21. Applicants will indicate for each winning bid whether the supported network will provide third generation (3G) mobile service within the period prescribed by section 54.1006(a) or fourth generation (4G) mobile service within the period prescribed by section 54.1006(b). The description of the proposed technology should include information on whether the network will qualify as either a 3G or 4G network.

### **3. Spectrum Access Description**

22. Applicants are required to provide a description of the spectrum access that the applicant will use to meet its obligations in the areas for which it is the winning bidder, including whether the applicant currently holds a license for or leases the spectrum. The description should identify the license applicable to the spectrum to be accessed. The description of the license must include the type of service – e.g., AWS, 700 MHz, BRS, PCS – the particular frequency bands and the call sign. If the licensee is a different party than the applicant, the licensee name and the relationship between the applicant and the licensee that provides the applicant with the required access should be described. If the applicant is leasing spectrum the lease number should be provided along with the license information. An applicant must provide this required information relating to spectrum access in an attachment to the long-form application using the attachment type “Spectrum Access.”

### **4. Letter of Credit Commitment Letter**

23. A winning bidder must submit with its long-form application either a Letter of Credit (“LOC”) for each winning bid, or a written commitment letter from an acceptable bank to issue such an LOC. If the applicant submits a commitment letter, the letter will at a minimum provide the dollar amount of the LOC and the issuing bank’s agreement to follow the terms and conditions of the Commission’s model LOC, found in Appendix N of the *USF/ICC*



*Transformation Order*.<sup>12</sup> The commitment letter must be from an acceptable bank, as defined in section 54.1007(a)(1).

## 5. Letter of Credit and Bankruptcy Code Opinion Letter

24. After receipt and review of the long-form applications, the Commission will issue a public notice identifying each winning bidder that may be authorized to receive Mobility Fund Phase I support. No later than 10 business days following the release of the public notice, a winning bidder for Mobility Fund Phase I support must submit an irrevocable stand-by LOC, issued in substantially the same form as set forth in the model LOC provided in Appendix N of the *USF/ICC Transformation Order*.<sup>13</sup> by a bank that is acceptable to the Commission.<sup>14</sup> An LOC must be submitted for each winning bid in an amount equal to one-third of the winning bid amount, plus an additional 10 percent of the winning bid amount which, in the event of a performance default, shall serve as the performance default payment. The Commission's rules provide specific requirements, as defined in section 54.1007(a)(1), for a bank to be acceptable to the Commission to issue the LOC.<sup>15</sup> Those requirements vary for United States banks and non-U.S. banks. In addition, a winning bidder will be required to provide with the LOC an opinion letter from legal counsel clearly stating, subject only to customary assumptions, limitations and qualifications, that, in a proceeding under the Bankruptcy Code, the bankruptcy court would not treat the LOC or proceeds of the LOC as property of winning bidder's bankruptcy estate, or the bankruptcy estate of any other bidder-related entity requesting issuance of the LOC, under section 541 of the Bankruptcy Code.<sup>16</sup> Each winning bidder must attach a copy of the Letter of Credit and opinion letter for each winning bid in its long-form application by the applicable deadline.

25. The original of the LOC and the opinion letter must be submitted to the Universal Service Administrative Company at the following address: Mobility Fund LOC, USAC, 2000 L Street, Suite 200, Washington, DC 20036. We recommend that each winning bidder send the original of the LOC and the opinion letter by means of delivery requiring signature.

## 6. Tribal Engagement Requirements: Certification and Summary of Engagement Results

26. As noted in section IV.B. above, any winning bidder for areas within Tribal lands must notify the relevant Tribal government no later than **five business days** after being identified by this Public Notice as such a winning bidder – i.e., on or before **October 11, 2012**.<sup>17</sup> In the long-form application, each such winning bidder must include a certification and detailed description of its efforts to contact the relevant Tribal government(s) and initiate substantive discussions.<sup>18</sup> The description should include a statement that the winning bidder contacted the

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<sup>12</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 18319 Appendix N.

<sup>13</sup> *Id.*

<sup>14</sup> See 47 C.F.R. §§ 54.1007(a)(1), 54.1005(b)(3)(v).

<sup>15</sup> *Id.*

<sup>16</sup> 11 U.S.C. § 541; see 47 C.F.R. § 54.1007(b).

<sup>17</sup> See 47 C.F.R. § 54.1004(d)(2).

<sup>18</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17822-23, 17868 paras. 489, 637; 47 C.F.R. §§ 54.313(a)(9), 54.1004(d), 54.1009; see also *Tribal Engagement Further Guidance Public Notice*, 27 FCC Rcd 8176.

appropriate Tribal government and affirm that such notification took place no later than five business days after being identified by public notice as a winning bidder.

27. In the long-form application, each winning bidder for areas within Tribal lands must also report on its engagement with the affected Tribal government.<sup>19</sup> This engagement should be between decision-makers on both sides, so that the dialogue is undertaken at a level within the winning bidders and Tribal governments that is commensurate with this important engagement requirement.<sup>20</sup> The attachment should include a summary of the engagement that has taken place to date, including discussion regarding (1) a needs assessment and deployment planning with a focus on Tribal community anchor institutions; (2) feasibility and sustainability planning; (3) marketing services in a culturally sensitive manner; (4) rights of way processes, land use permitting, facilities siting, environmental and cultural review processes; and (5) compliance with Tribal business and licensing requirements.<sup>21</sup> Since the engagement may be somewhat preliminary in nature at the long-form application stage and the Commission's rules contemplate an ongoing dialogue between the winning bidder and Tribal government, the applicant may not need to discuss each item listed above in order to comply with this requirement.

28. Any Tribal engagement information must be provided as a "Tribal Engagement" attachment to the long-form application. The Tribal engagement information also must be submitted to the appropriate Tribal government official concurrent with the filing of the long-form application. Thereafter, support recipients must demonstrate their compliance with Tribal engagement requirements on an annual basis, and prior to any disbursement of support from the Universal Service Administrative Company (USAC). We remind carriers that failure to satisfy the Tribal government engagement obligation could subject them to financial consequences, including potential reduction in support or liability for a performance default payment.

### **C. Long-Form Application (FCC Form 680) Certifications**

29. *Program Requirements Certification.* In the long-form application, the winning bidder must certify that it has available funds for all project costs that exceed the amount of support to be received and that it will comply with all program requirements.<sup>22</sup> Each applicant must certify that it will meet the applicable deadline for construction of a network meeting the coverage and performance requirements set forth in the rules, that it will comply with the Mobility Fund Phase I collocation obligations specified in the rules, and that it will comply with the voice and data roaming obligations the Commission has established with respect to Phase I of

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<sup>19</sup> For a listing of all federally recognized American Indian Tribes and Alaska Native Villages, see [www.bia.gov/cs/groups/xofa/documents/document/idc012038.pdf](http://www.bia.gov/cs/groups/xofa/documents/document/idc012038.pdf). ONAP, in coordination with the Bureaus, will endeavor to provide additional resources to Tribal governments and carriers to help facilitate this engagement, including the possibility of using the Commission's website as a repository of information. See also *Tribal Engagement Further Guidance Public Notice*, 27 FCC Rcd 8176.

<sup>20</sup> See *Tribal Engagement Further Guidance Public Notice*, 27 FCC Rcd at 8179 para. 10.

<sup>21</sup> 47 C.F.R. §§ 54.313(a)(9), 54.1004(d), 54.1009.

<sup>22</sup> 47 C.F.R. § 54.1005(b)(2)(vi).



the Mobility Fund.<sup>23</sup> With respect to demonstrating compliance with the coverage requirements, the Commission rules set forth the standards for applicable drive test data.<sup>24</sup>

30. *Financial and Technical Capability Certification.* As in the pre-auction short-form application stage, a long-form applicant must certify that it is financially and technically capable of providing 3G or better service within the specified timeframe in the geographic areas in which it seeks support.<sup>25</sup> This certification indicates that an applicant for Mobility Fund Phase I funds can provide the requisite service without any assurance of ongoing support for the areas in question after Mobility Fund Phase I support has been exhausted. An applicant should take care to review its resources and its plans before making the required certification and be prepared to document its review, if necessary.

31. *Reasonably Comparable Rates Certification.* To satisfy one of the public interest obligations of winning bidders that receive support, the long-form application also must contain a certification that the winning bidder will offer service in supported areas at rates that are within a reasonable range of rates for similar service plans offered by mobile wireless providers in urban areas for a period extending until five years after the date on which it is authorized to receive support.<sup>26</sup>

32. *ETC Designation Certification.* In the long-form application, a winning bidder must certify that it (a) has been designated as an ETC pursuant to Section 214(e) of Title 47 of the US Code 47 USC 214(e) in the area(s) for which it seeks support, or (b) is a Tribally-owned or -controlled entity with a pending application to become an ETC pursuant to 47 USC 214(e) in area(s) for which it seeks support.<sup>27</sup> The applicant must provide proof of its status in this application. If the applicant relies upon clause (b) in the preceding sentence, the applicant must identify the applicable Tribe and applicable Tribal lands in its application.

33. *Spectrum Access Certification.* Each winning bidder must certify that the description of spectrum access in the areas of its winning bids provided in its application is correct and that it will retain such access for at least five years after the date on which it is authorized to receive support.<sup>28</sup>

#### **D. Maintaining Accuracy of Information**

34. After the auction closes, each applicant must make all changes to its information in the FCC Auction System using FCC Form 680.<sup>29</sup> With the release of this Public Notice,

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<sup>23</sup> 47 C.F.R. § 54.1005(b)(2).

<sup>24</sup> See 47 C.F.R. § 54.1006(c). Recipients of Mobility Fund Phase I support must provide coverage of road miles and scattered site testing is not acceptable as an alternative to drive tests to demonstrate such coverage. See *id.*

<sup>25</sup> 47 C.F.R. § 54.1005(b)(2)(ii).

<sup>26</sup> 47 C.F.R. § 54.1005(b)(2)(viii). As explained in the *Auction 901 Procedures Public Notice*, winning bidders may demonstrate that they offer supported services at rates comparable to those in urban areas by offering one (1) stand-alone voice and one (1) data plan in supported area(s) that match plans in urban areas, i.e., in top 100 Cellular Market Areas (CMAs), and cost no more than the matching plans. *Auction 901 Procedures Public Notice*, 27 FCC Rcd at 4728, 4772-75 paras. 4, 174-80.

<sup>27</sup> 47 C.F.R. §§ 54.1005(b)(2)(iii), 54.1004(a); see also FCC Form 680 Certify & Submit page.

<sup>28</sup> 47 C.F.R. §§ 54.1005(b)(2)(iv); see also FCC Form 680 Certify & Submit page.

<sup>29</sup> 47 C.F.R. § 1.65.

applicants are no longer required to maintain the accuracy and completeness of information furnished on their short-form applications and exhibits.<sup>30</sup>

35. An applicant will be permitted to make minor modifications to its application after the deadline for submitting applications.<sup>31</sup> Minor modifications include correcting typographical errors and supplying non-material information that was inadvertently omitted or was not available at the time the application was submitted.<sup>32</sup> If an applicant makes a major modification to its application, the application will be denied.<sup>33</sup> In such event, the applicant would be subject to an auction default payment for its winning bid(s). Major modifications include, but are not limited to, any changes in the ownership of the applicant that constitute an assignment or transfer of control, or any changes in the identity of the applicant, or any changes in the required certifications.<sup>34</sup>

36. An applicant may request that submitted information not be made routinely available for public inspection following the procedures set forth in section 0.459 of the Commission's rules.<sup>35</sup> Any such request must be included as an attachment to the applicant's FCC Form 680 and identify the specific information to which the confidentiality request applies. Because the required information bears on each applicant's qualifications, confidentiality requests will not be routinely granted.

## **E. Application Processing and Authorization of Support**

### **1. Prepared to Authorize Public Notice**

37. After the deadline for filing FCC Form 680 applications, the Commission will process all timely submitted applications to determine which are complete, which have minor defects that may be corrected or require additional information, or which are denied. Applications will be reviewed by Commission staff for completeness and compliance with the Commission's rules. The Commission will notify an applicant if additional information is required. If the application and the information with respect to each winning bid is complete, the Commission will issue a public notice identifying the applicant and the winning bids that the Commission is prepared to authorize for Mobility Fund Phase I support. If not already provided, the applicant will have ten (10) business days from the date of the public notice to provide the LOC and opinion letter and any required final designation as an ETC for Tribally-owned or controlled applicants.<sup>36</sup> If an applicant is denied authorization to receive support for a winning bid, it will be in default and subject to an auction default payment for that winning bid.<sup>37</sup>

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<sup>30</sup> During the period from the release of this Public Notice until the window for filing long-form applications is opened, winning bidders will be unable to report such changes using the FCC Auction System. In such event, an applicant should summarize any such reportable changes and submit that description by email to the Auctions and Spectrum Access Division to [auction901@fcc.gov](mailto:auction901@fcc.gov).

<sup>31</sup> 47 C.F.R. § 54.1005(b)(3)(iii).

<sup>32</sup> *Id.*

<sup>33</sup> 47 C.F.R. § 54.1005(b)(3)(iv).

<sup>34</sup> *Id.*

<sup>35</sup> 47 C.F.R. § 0.459.

<sup>36</sup> 47 C.F.R. § 54.1005(b)(3)(v).

<sup>37</sup> 47 C.F.R. § 1.21004.

## **2. Authorized Public Notice**

38. Once Commission staff has determined that a long-form application and the winning bid information is complete, the original LOC and accompanying opinion letter has been received and approved by USAC, and the final designation as an ETC for a Tribally-owned or controlled applicant is provided (where applicable), the Commission will issue a public notice announcing the authorization of support for the winning bid.

## **3. New Study Area Codes and Support Disbursements**

39. A new study area code will be issued for each winning bid for Mobility Fund Phase I support. Winning bidders will be notified of the new study area code prior to the authorization for support along with the procedures for disbursing support.

### **F. Default Payments**

40. The Commission determined that, depending on the nature of any default, a winning bidder may be liable for two possible types of default payment obligations: an auction default payment that would be owed by a Mobility Fund winning bidder that defaults on its winning bid(s) prior to authorization of support or a performance default payment that would be owed by a Mobility Fund winning bidder that applies for and is authorized to receive support but subsequently fails to meet its public interest obligations or other terms and conditions of Mobility Fund support.<sup>38</sup>

#### **1. Auction Default Payment**

41. If a winning bidder fails to timely submit a long-form application, is found ineligible or unqualified to receive Mobility Fund support, has its long-form application dismissed, or otherwise defaults on its bid or is disqualified for any reason after the close of the auction and prior to the authorization of support for a winning bid, it will be subject to an auction default payment.<sup>39</sup> The auction default payment for Auction 901 was set at five percent of the total defaulted bid.<sup>40</sup>

#### **2. Performance Default Payment**

42. A winning bidder that has been authorized to receive Mobility Fund support will be subject to a performance default payment if it fails or is unable to meet its minimum coverage requirement, other service requirements, or fails to fulfill any other term or condition of Mobility Fund Phase I support.<sup>41</sup> The performance default payment for Auction 901 is ten percent of the total level of support for which a winning bidder is eligible.<sup>42</sup>

43. The Commission recognized in the *USF/ICC Transformation Order* that a Mobility Fund recipient's failure to fulfill its obligations may impose significant costs on the Commission and higher support costs for the USF and concluded that it was necessary to adopt a

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<sup>38</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17814 paras. 460-61; 47 C.F.R. § 1.21004(b), 47 C.F.R. § 54.1006(f).

<sup>39</sup> 47 C.F.R. § 1.21004.

<sup>40</sup> *Auction 901 Procedures Public Notice*, 27 FCC Rcd at 4777 para. 187.

<sup>41</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17814 para. 460.

<sup>42</sup> See 47 C.F.R. § 54.1006(f). See also *Auction 901 Procedures Public Notice*, 27 FCC Rcd at 4777-78 paras. 189-92.

default payment obligation for performance defaults.<sup>43</sup> In addition to being liable for a performance default payment, the recipient will be required to repay the Mobility Fund all of the support it has received, and depending on circumstances, could be disqualified from receiving any additional Mobility Fund or other USF support.<sup>44</sup>

## **VI. OTHER IMPORTANT INFORMATION**

### **A. Maintaining Prohibition on Certain Communications**

44. To ensure the competitiveness of the auction process, the Commission's rules prohibit an applicant in a Mobility Fund auction 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, until after the post-auction deadline for winning bidders to submit applications for support, unless such applicants are members of a joint bidding arrangement identified on the short-form application(s) pursuant to section 1.21001(b)(3)-(4).<sup>45</sup> As explained more fully in the *Auction 901 Procedures Public Notice*, this prohibition began at the short-form application filing deadline at 6:00 p.m. ET on July 11, 2012, and continues until the long-form deadline, which is **6:00 p.m. ET on November 1, 2012**.<sup>46</sup>

45. The prohibition on certain communications applies to all applicants in Auction 901 (unless they have identified each other on their short-form applications as parties with whom they have entered into agreements under section 1.21001(b)(3)) regardless of whether an applicant became a qualified bidder or actually participated in the bidding, and the prohibition continues for all applicants until the long-form application filing deadline regardless of whether an applicant is a winning bidder.<sup>47</sup> Each applicant in this auction certified its compliance with sections 1.21001(b)(3) and 1.21002 when it filed its short-form application.<sup>48</sup>

### **B. Public Interest Obligations and/or Annual Reporting Requirements**

46. To ensure that Mobility Fund Phase I support meets the Commission's public interest objectives, all recipients are subject to a variety of obligations, including service requirements, performance deadlines, annual reporting and record retention requirements, collocation, voice and data roaming requirements, and Tribal engagement obligations in exchange for the support they receive.<sup>49</sup> As these requirements, as well as all the public interest obligations, are a condition of Mobility Fund Phase I support, violations may result in the

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<sup>43</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17810-11 para. 446.

<sup>44</sup> *Id.* at 17814 para. 461.

<sup>45</sup> 47 C.F.R. §§ 1.21001(b)(4), 1.21002; *see also USF/ICC Transformation Order*, 26 FCC Rcd at 17807 para. 431.

<sup>46</sup> *See Auction 901 Procedures Public Notice*, 27 FCC Rcd at 4743 para. 53.

<sup>47</sup> *Id.*, 27 FCC Rcd at 4742-43 paras. 48-53.

<sup>48</sup> 47 C.F.R. §§ 1.21001(b)(3), 1.21002.

<sup>49</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17791-97, 17822-23 paras. 359-85, 489; *see* 47 C.F.R. § 54.1004(d), 54.1006.

withholding or clawing back of universal service support in addition to any other applicable sanctions.<sup>50</sup>

**C. Return of SecurID® Tokens**

47. The SecurID® tokens distributed to qualified bidders were tailored to this auction and will not work for future auctions. Each bidder should return its SecurID® tokens to the Commission for recycling. The Commission will send each bidder, along with the copy of this Public Notice, a pre-addressed, stamped envelope for returning the SecurID® tokens. Each bidder should return the tokens by **November 1, 2012**.

**D. Contact Information**

48. For further information, contact:

**FCC Technical Support**

Technical assistance in filing a Form 680 is available at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8:00 a.m. to 6:00 p.m. ET. In order to provide better service to the public, all calls to Technical Support are recorded.

**News Media**

**Wireless Telecommunications Bureau**  
Cecilia Sulhoff at (202) 418-0587

**General Universal Service Information**

**Wireline Competition Bureau,  
Telecommunications Access Policy Division**  
Alex Minard at (202) 418-7400

**Auction 901 Information**

General Auction Information, Process, and Procedures

**Auctions and Spectrum Access Division**  
Lisa Stover or Debbie Smith at (717) 338-2868

Post-Auction Rules, Policies, and Regulations

Lynne Milne at (202) 418-0660

**Tribal Issues**

Additional information for entities seeking to provide service to Tribal lands and Tribal governments

**Office of Native Affairs and Policy**  
(202) 418-2930  
native@fcc.gov

**Accessible Formats**

Braille, large print, electronic files, or audio format for people with disabilities

**Consumer and Governmental Affairs Bureau**  
(202) 418-0530 or (202) 418-0432 (TTY)  
[fcc504@fcc.gov](mailto:fcc504@fcc.gov)

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<sup>50</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17794-95 para. 380.

**FCC Internet Sites**

<http://www.fcc.gov>

<http://wireless.fcc.gov/auctions>

<http://wireless.fcc.gov/uls>

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