



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

News Media Information 202 / 418-0500  
Internet: <http://www.fcc.gov>  
TTY: 1-888-835-5322

DA 13-1359  
June 12, 2013

## MOBILITY FUND PHASE I SUPPORT FOR 26 WINNING BIDS READY TO BE AUTHORIZED

### Listed Auction 901 Winning Bidders Must Submit Letters of Credit and Legal Counsel's Opinion Letters by June 26, 2013

By this Public Notice, the Wireless Telecommunications Bureau and Wireline Competition Bureau ("Bureaus") announce they are ready to authorize Mobility Fund Phase I support for the Auction 901 winning bids identified in Attachment A of this Public Notice. To be authorized to receive the support listed in Attachment A, the winning bidders identified in that attachment are required to submit for each of their specified winning bids an acceptable irrevocable stand-by letter of credit (LOC) and Bankruptcy Code opinion letter from their legal counsel in accordance with the instructions provided below by the applicable deadline – **6:00 p.m. ET on June 26, 2013**.

On October 3, 2012, the Commission announced the 795 winning bids and associated winning bidders in the Mobility Fund Phase I Auction 901 and established the deadline for winning bidders to submit their long-form applications for Mobility Fund Phase I support.<sup>1</sup> For each of the winning bids identified in Attachment A, the Bureaus have reviewed the long-form application. Based on the representations and certifications in each relevant long-form application, the Bureaus are prepared to authorize support, subject to submission of the required LOC and Bankruptcy Code opinion letter, for each of the winning bids identified in Attachment A.<sup>2</sup>

Pursuant to Section 54.1005(b)(3)(v) of the Commission's rules, no later than 10 business days after the Commission releases a public notice identifying winning bidders that may be authorized to receive Mobility Fund Phase I support, such winning bidders 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>3</sup> by a bank that is acceptable to the Commission.<sup>4</sup> A separate LOC must

<sup>1</sup> Mobility Fund Phase I Auction Closes; Winning Bidders Announced for Auction 901, AU Docket No. 12-25, *Public Notice*, DA 12-1566, 27 FCC Rcd 12031 (2012) (*Auction 901 Closing Public Notice*).

<sup>2</sup> See 47 C.F.R. § 54.1005(b)(3)(v).

<sup>3</sup> Connect America Fund, WC Docket No. 10-90, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161, 26 FCC Rcd 17663, 18319 Appendix N (*USF/ICC Transformation Order*).

<sup>4</sup> 47 C.F.R. §§ 54.1005(b)(3)(v), 54.1007(a)(1).

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.<sup>5</sup>

The Commission's rules list specific requirements, as defined in section 54.1007(a)(1), for a bank to be acceptable to the Commission to issue the LOC.<sup>6</sup> Those requirements vary for United States banks and non-U.S. banks. In addition, a winning bidder is 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, under section 541 of the Bankruptcy Code, the LOC or proceeds of the LOC as property of the winning bidder's bankruptcy estate, or the bankruptcy estate of any other bidder-related entity requesting issuance of the LOC.<sup>7</sup>

By future public notice, the Bureaus will authorize support for specific winning bids for which all requirements, including submission of the LOC and opinion letter, have been met.

Details concerning the next steps are set forth below.

### **Instructions for Submission of Letter of Credit and Opinion Letter**

Winning bidders identified in Attachment A of this Public Notice must submit a separate LOC and opinion letter for each winning bid identified in Attachment A. The amount of the LOC for each winning bid is also identified in Attachment A.

The original of the LOC and opinion letter must be submitted to the Universal Service Administrative Company by the applicable deadline – **6:00 p.m. ET on June 26, 2013**, 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.

A copy of the LOC and opinion letter must also be submitted in the FCC Auction System by the applicable deadline. An applicant must provide this required information in two attachments. The LOC attachment should be designated as "Letter of Credit" and the opinion letter attachment should be designated as "Opinion Letter." Each attachment must be uploaded within the applicant's long-form application to each relevant winning bid identified in Attachment A of this public notice.

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

Any winning bidder identified in Attachment A that fails to file the required documents<sup>8</sup> for any of the identified winning bids by the applicable deadline – **6:00 p.m. ET on June 26, 2013** – will be in default on such bid(s) and will be subject to an auction default payment.<sup>9</sup> Agreeing to such payment in

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<sup>5</sup> 47 C.F.R. § 54.1007.

<sup>6</sup> *Id.* See also Mobility Fund Phase I Waiver of Section 54.1007(a)(1) of the Commission's Rules, WC Docket No. 10-90, *Order*, DA 12-1747, 27 FCC Rcd 13457 (2012).

<sup>7</sup> 11 U.S.C. § 541; see 47 C.F.R. § 54.1007(b).

<sup>8</sup> 47 C.F.R. § 54.1005(b)(3)(v).

<sup>9</sup> 47 C.F.R. §§ 1.21004, 54.1005(b); see *USF/ICC Transformation Order*, 26 FCC Rcd at 17808 ¶ 436, 17814 ¶ 460-61.

event of a default was a condition for participating in bidding.<sup>10</sup> In the event of an auction default, a default payment of five percent of the total defaulted bid will be assessed.<sup>11</sup>

**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)

**FCC Internet Sites**

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

This Public Notice contains the following Attachment:

Attachment A: Ready to Authorize Winning Bidders and Bids

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<sup>10</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17813-14 ¶¶ 458-460.

<sup>11</sup> Mobility Fund Phase I Auction Scheduled for September 27, 2012; Notice and Filing Requirements and Other Procedures for Auction 901, AU Docket No. 12-25, *Public Notice*, DA 12-641, 27 FCC Rcd 4725, 4776-77 ¶¶ 184-88 (2012).