



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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

DA 20-307

Released: March 20, 2020

WIRELINE COMPETITION BUREAU PROVIDES GUIDANCE REGARDING THE ELIGIBILITY OF NON-UNITED STATES BANKS ISSUING LETTERS OF CREDIT FOR UNIVERSAL SERVICE COMPETITIVE BIDDING MECHANISMS

WC Docket No. 19-126
WC Docket No. 18-143
WC Docket No. 10-90
WC Docket No. 14-259
AU Docket No. 20-34
AU Docket No. 17-182

By this Public Notice, the Wireline Competition Bureau (Bureau), in coordination with the Rural Broadband Auctions Task Force and the Office of Economics and Analytics, provides guidance to applicants for and recipients of universal service support allocated through a competitive bidding mechanism regarding the eligibility of non-United States (U.S.) banks to issue letters of credit. Specifically, we announce that a non-U.S. bank that has a branch office located in New York City, New York and will accept a letter of credit draw certificate from the Universal Service Administrative Company (USAC) via overnight courier, in addition to in-person presentations, will be considered qualified to issue letters of credit if the bank also meets the Commission's other non-U.S. bank eligibility requirements.

The Commission requires that before being authorized to receive support allocated through its universal service bidding mechanisms (e.g., the rural broadband experiments, the Connect America Phase II auction (Auction 903), Stage 2 of the Uniendo a Puerto Rico Fund and Connect USVI Fund, and the Rural Digital Opportunity Fund Phase I auction (Auction 904)), an applicant must obtain a letter of credit issued by a qualified bank to protect the public's funds.¹ For each program, the Commission has adopted bank eligibility requirements for U.S. and non-U.S. banks issuing letters of credit. A qualified non-U.S. bank must: 1) be among the 100 largest non-U.S. banks in the world;² 2) have a branch office in

¹ 47 CFR §§ 54.315(c), 54.804(c), 54.1508; *Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, FCC 20-5 at 44-50, paras. 96-113 (Feb. 7, 2020) (*Rural Digital Opportunity Fund Order*); *The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, Report and Order and Order on Reconsideration, 34 FCC Rcd 9109, 9151-52, paras. 76-80 (2019) (*PR-USVI Stage 2 Order*); *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5989-99, paras. 119-40 (2016) (*CAF Phase II Auction Order*); *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8769, 8787-93, paras. 54-71 (2014) (*Rural Broadband Experiments Order*). To be deemed ready to authorize, an applicant must submit a letter from a qualified bank committing to issue a letter of credit. 47 CFR §§ 54.315(b)(3), 54.804(b)(3), 54.1508(a); *Rural Broadband Experiments Order*, 29 FCC Rcd at 8787-88, para. 54.

² This requirement is determined on the basis of total assets as of the end of the calendar year immediately preceding the issuance of the letter of credit (determined on a U.S. dollar equivalent basis as of such date).

Washington, D.C., or such other branch office agreed to by the Commission; 3) have a long-term unsecured credit rating issued by a widely-recognized credit rating agency that is equivalent to BBB- or better rating by Standard & Poor's; and 4) issue the letter of credit payable in U.S. dollars.³

We understand that many overseas banks have branch offices only in New York City rather than in Washington, D.C. We believe that the ease of travel between Washington, D.C. and New York City (under normal circumstances) coupled with USAC's ability to submit a draw certificate in person or via overnight courier will ensure that USAC and the Bureau can promptly draw on the letter of credit in the event of default.

Accordingly, we will deem a branch office of a non-U.S. bank that is located in New York City, New York and that will accept letter of credit draw certificates from USAC via overnight courier, in addition to in-person presentations, as an agreed upon branch office for purposes of meeting these non-U.S. bank eligibility requirements.⁴ We emphasize, however, that we will continue to evaluate the eligibility of all non-U.S. banks on a case-by-case basis to ensure that they also meet the other eligibility requirements at the time that letter of credit commitment letters are submitted and letters of credit are issued.

-FCC-

³ 47 CFR §§ 54.315(c)(2)(iv), 54.804(c)(2)(iv), 54.1508(c)(4); *Rural Broadband Experiments Order*, 29 FCC Rcd at 8790, para. 59. This guidance is also applicable to recipients of Connect America Phase II support that was allocated through the New NY Broadband Program and will be applicable to any future universal service programs to the extent they have the same non-U.S. bank eligibility requirements. See *Connect America Fund et al.*, Order, 32 FCC Rcd 968 (2017).

⁴ The Commission's model letters of credit include a draw certificate. See *Rural Digital Opportunity Fund Order* at 91, Appx. C; *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9204, Appx. C; *CAF Phase II Auction Order*, 31 FCC Rcd at 6048, Appx. B; *Rural Broadband Experiments Order*, 29 FCC Rcd at 8808, Appx. A.