



# PUBLIC NOTICE

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DA 22-1086

Released: October 12, 2022

## RURAL DIGITAL OPPORTUNITY FUND SUPPORT AUTHORIZED FOR 1,865 WINNING BIDS; BID DEFAULTS ANNOUNCED

**AU Docket No. 20-34**  
**WC Docket No. 19-126**  
**WC Docket No. 10-90**

By this Public Notice, the Wireline Competition Bureau (WCB), in conjunction with the Office of Economics and Analytics (OEA), authorizes Rural Digital Opportunity Fund (Auction 904) support for the winning bids identified in Attachment A of this Public Notice.

For each of the winning bids identified in Attachment A, we have reviewed the long-form application information, including the letter(s) of credit and Bankruptcy Code opinion letter(s) from the long-form applicant's legal counsel. Based on the representations and certifications in the relevant long-form application, we authorize and obligate support for the winning bids listed in Attachment A.

We will also soon post a state-level summary under the "Results" tab on the Auction 904 webpage at <https://www.fcc.gov/auction/904/round-results>. The summary will provide for each long-form applicant included in this Public Notice: 1) the total support amount over 10 years and total number of locations that the long-form applicant is being authorized for in each state; 2) the total number of locations to which the authorized support recipient must offer the required voice and broadband services for each performance tier and latency in each state; and 3) the eligible census blocks included in the winning bids that are being authorized in each state.

Upon issuance of this Public Notice, the Universal Service Administrative Company (USAC) is authorized and directed to take the steps necessary to disburse from the Universal Service Fund the amounts identified in Attachment A to the long-form applicant associated with each study area specified in Attachment A. Payments will be to the account on file for the 498 ID associated with the study area code (SAC). The support will be disbursed in 120 monthly payments, which will begin at the end of this month.

Below, we provide a summary of the various obligations of authorized Auction 904 support recipients. The list below is not a comprehensive list; thus, each support recipient is still responsible for conducting the due diligence required to comply with universal service fund requirements and the Commission's rules.

*Summary of Obligations and Relevant Dates.* **All** Auction 904 authorized long-form applicants are subject to the following requirements:

- **Annual reporting of location information.** Auction 904 support recipients are required to file location information with USAC through the High-Cost Universal Broadband (HUBB) portal.<sup>1</sup> This information includes geolocation data for each qualifying location to which they are offering

<sup>1</sup> 47 CFR §§ 54.316(a)(8), 54.806(a); *Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686, 712, para. 56 (2020) (*Rural Digital Opportunity Fund Order*).

the requisite service and the technology the Auction 904 support recipient is using to offer the requisite service to the qualifying locations.<sup>2</sup> The requisite service is at least one standalone voice plan and one service plan that provides broadband at the relevant performance tier, and latency requirements at rates that are reasonably comparable to rates offered in urban areas.<sup>3</sup> The locations must be in the eligible census blocks covered by the long-form applicant's winning bids.<sup>4</sup>

The Commission has consistently encouraged carriers subject to defined deployment obligations and HUBB reporting obligations to report location data on a rolling basis and has adopted a best practice of filing this information within 30 days after the initial offering of service.<sup>5</sup> While reporting on a rolling basis is encouraged, the first deadline for long-form applicants authorized by this Public Notice to submit their location data is **March 1, 2023**.<sup>6</sup> All support recipients must continue to report this information by March 1 in each year thereafter until all build-out requirements are satisfied. For more information about the HUBB portal and reporting location data, visit <https://www.usac.org/high-cost/annual-requirements/submit-data-in-the-hubb/>.

- **Service milestones.** The service milestones for Auction 904 support recipients authorized by this Public Notice will be as follows:<sup>7</sup>

Percentage of Locations in a State	Service Milestone Deadline
40	December 31, 2025
60	December 31, 2026
80	December 31, 2027
100	December 31, 2028

<sup>2</sup> 47 CFR § 54.316(a)(8).

<sup>3</sup> 47 CFR § 54.805; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 707, para. 42. See also *Wireline Competition Bureau and Office of Economics and Analytics Announce Results of 2021 Urban Rate Survey for Fixed Voice and Broadband Services, Posting of Survey Data and Explanatory Notes, and Required Minimum Usage Allowance for Eligible Telecommunications Carriers*, WC Docket No. 10-90, Public Notice, 35 FCC Rcd 13667 (WCB/OEA 2020). We remind all applicants that an eligible telecommunications carrier (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 obligations 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. *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020: Notice and Filing Requirements and Other Procedures for Auction 904*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 6077, 6129, para. 139 (2020) (*Auction 904 Procedures Public Notice*).

<sup>4</sup> See also *Wireline Competition Bureau Provides Guidance to Carriers Receiving Connect America Fund Support Regarding their Broadband Location Reporting Obligations*, Public Notice, 31 FCC Rcd 12900 (WCB 2016) (*Location Guidance Public Notice*).

<sup>5</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 712, para. 56 & n.156. 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. *Id.* at 711-12, para. 54.

<sup>6</sup> 47 CFR § 54.316(c)(1).

<sup>7</sup> 47 CFR § 54.802; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 709-12, paras. 45-55.

WCB has been directed to publish revised location counts before the end of service milestone year six.<sup>8</sup> In areas where the revised location total is higher than the number of Connect America Cost Model (CAM)-calculated locations, support recipients will be required to have begun commercially offering service to 100% of the CAM-calculated location count by the end of the sixth calendar year.<sup>9</sup> Such support recipients must then offer service to 100% of the revised location count by the end of the eighth calendar year.<sup>10</sup> In areas where there are fewer locations than calculated by the CAM, support recipients must notify WCB no later than March 1 following the fifth year of deployment.<sup>11</sup> Upon confirmation by WCB, such a support recipient will be required to reach 100% of the new number by the end of the sixth calendar year.<sup>12</sup> All support recipients must also offer service on reasonable request to locations built subsequently to the revised location count announced by WCB but prior to the end of service milestone year eight.<sup>13</sup>

By **March 1st** following each relevant service milestone, an Auction 904 support recipient must file a certification in the HUBB portal that it has met its service milestone and is meeting the requisite public interest obligations.<sup>14</sup> Compliance with service milestones will be determined at the state level.<sup>15</sup> 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., census block groups) in a state.<sup>16</sup> 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.<sup>17</sup>

If an ETC is unable to meet a service milestone, it must notify the Commission, USAC, and the relevant state, U.S. Territory, or Tribal government as appropriate, no later than ten business days

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<sup>8</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 709, para. 45.

<sup>9</sup> *Id.* at 710, para. 49. Carriers for which the new location count exceeds the CAM locations within their area in each state by more than 35% will have the opportunity to seek additional support or relief from the Commission. *Id.*

<sup>10</sup> *Id.* Any such support recipient with increased deployment obligations may also seek to have its new location count adjusted to exclude additional locations, beyond the number identified by the CAM, that it determines before the end of year eight are ineligible (e.g., are not habitable), unreasonable to deploy to (e.g., if it would require a carrier to install new backhaul facilities or other major network upgrades solely to provide broadband to that location), or part of a development newly built after year six for which the cost and/or time to deploy before the end of the support term would be unreasonable. *Id.* at 710-11, para. 50.

<sup>11</sup> *Id.* at 711, para. 51. Carriers for which the new location count is less than 65% of the CAM locations within their area in each state shall have their support amount reduced on a pro rata basis by the number of reduced locations. *Id.* For example, if a carrier was authorized to receive \$3 million per year for 1,000 model locations in a state, but the WCB confirms that there are only 600 actual locations (fewer than 650 locations, or 65%), WCB would reduce that carrier's support to \$2,769,231 (or \$3,000,000 \* (600/650)).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 711, para. 52. Support recipients are not obligated to offer service to newly built locations that do not request service, or to those with exclusive arrangements with other providers. *Id.* See also *Connect America Fund et al.*, Report and Order et al., 29 FCC Rcd 7051, 7070, paras. 59-72 (2014) (issuing declaratory ruling regarding which requests should be deemed unreasonable under our current rules and policies to provide greater clarity to all affected stakeholders).

<sup>14</sup> 47 CFR §§ 54.316(b)(5), 54.806(a); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 712, para. 56.

<sup>15</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 712, para. 54.

<sup>16</sup> Winning bidders must use Rural Digital Opportunity Fund support to deploy service to locations in only the eligible census blocks, not to the other, ineligible census blocks within a census block group won in the auction.

<sup>17</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 712, para. 54.

after the applicable deadline.<sup>18</sup> If the ETC is unable to meet the required deployment obligations due to circumstances beyond its control, it may also seek waiver of the service milestones.<sup>19</sup> The Commission has repeatedly warned support recipients, however, that it does not expect to routinely grant such waiver requests, emphasizing the difficulty of demonstrating good cause under circumstances where carriers fail to plan for contingencies that would prevent compliance with defined deployment obligations.<sup>20</sup>

- **Annual section 54.313 report.** Long-form applicants authorized in this Public Notice will be required to file their first annual section 54.313 report by **July 1, 2023** and each subsequent year until the year after their support terms have ended.<sup>21</sup> Annual reports are filed with USAC. Support recipients must complete the FCC Form 481 on USAC's website.<sup>22</sup> They must also test and certify compliance with relevant performance requirements in section 54.805 of the Commission's rules on an annual basis.<sup>23</sup> WCB, the Wireless Telecommunications Bureau, and the Office of Engineering and Technology have adopted a uniform framework to measure and report on the performance of ETCs' service.<sup>24</sup>
- **Annual section 54.314 certification.** The first annual section 54.314 certification is due for the long-form applicants that are being authorized by this Public Notice by **October 1, 2023**.<sup>25</sup> Pursuant to section 54.314 of the Commission's rules, if a support recipient was designated by a state, that state must certify on the support recipient's behalf "that all federal high-cost support provided . . . within that State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."<sup>26</sup>

If a support recipient was designated an ETC by the Federal Communications Commission, it

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<sup>18</sup> 47 CFR §§ 54.320(d), 54.806(c).

<sup>19</sup> *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, 29 FCC Rcd 15644, 15700, para. 154 (2014) (*December 2014 Connect America Order*).

<sup>20</sup> *See Connect America Fund et al.*, WC Docket No. 10-90 et al., Order on Reconsideration, 33 FCC Rcd 1380, 1394, para. 35 (2018) (explaining that "it would be difficult for a recipient to meet its burden of demonstrating good cause to grant a waiver of the deployment obligations if it did not plan to build to 100 percent of funded locations at the outset of its support term"); *id.* at 1394, para. 33 & n.88 (explaining that "the Commission has cautioned that it does not expect such waiver requests will be granted routinely, and a failure to plan for some contingencies would make it difficult to establish that there is good cause to warrant waiver") (citing *December 2014 Connect America Order*, 29 FCC Rcd at 15660, para. 40 & n.93).

<sup>21</sup> 47 CFR §§ 54.313, 54.806(a); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 713, para. 57. Long-form applicants being authorized by this Public Notice that have also been designated as Lifeline-only ETCs in census blocks that are not eligible for Auction 904 support must comply with all relevant reporting requirements for the Lifeline program in sections 54.416 and 54.422 of the Lifeline rules, including completing and submitting FCC Form 481 on USAC's website, if applicable. 47 CFR §§ 54.416, 54.422.

<sup>22</sup> *See* Universal Service Administrative Company, File FCC Form 481, <https://www.usac.org/high-cost/annual-requirements/file-fcc-form-481/>.

<sup>23</sup> 47 CFR §§ 54.313(a)(6), 54.805.

<sup>24</sup> *Performance Measures for Connect America High-Cost Universal Service Support Recipients*, WC Docket No. 10-90, Order, 33 FCC Rcd 6509 (WCB/WTB/OET 2018) (*CAF Performance Measures Order*); 47 CFR § 54.313(a)(6). Further modifications were made to the performance measures requirements in subsequent reconsideration orders. *See Connect America Fund*, WC Docket No. 10-90, Order on Reconsideration, 34 FCC Rcd 8081 (WCB/WTB/OET 2019); *Connect America Fund*, WC Docket No. 10-90, Order on Reconsideration, 34 FCC Rcd 10109 (2019).

<sup>25</sup> 47 CFR §§ 54.314, 54.806(a).

<sup>26</sup> 47 CFR § 54.314(a).

must self-certify by filing a sworn affidavit executed by a corporate officer attesting to the relevant facts.<sup>27</sup> Certifications must be filed with both the Commission and USAC. ETCs may submit their certifications to USAC via its online filing system or by sending the appropriate certification sample letter (provided on USAC's website) via email or U.S. mail.<sup>28</sup> Certifications must also be submitted to the Commission's Office of the Secretary on or before **October 1, 2023**. The submission should clearly reference WC Docket No. 14-58, ETC Annual Reports and Certifications.

All post-designation ETC-related filings must be submitted in good faith and include a certification that, to the best of the ETC's knowledge and belief, the information is complete and accurate.<sup>29</sup> In addition, ETCs have an on-going duty to correct or amend information if they have reason to believe, either through their own investigation or upon notice from USAC, that the data are inaccurate, incomplete, or contain errors or anomalies.<sup>30</sup> The failure to timely file information may result in penalties in the form of a reduction in support.<sup>31</sup>

*National Security Supply Chain Proceeding.* We remind winning bidders that 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."<sup>32</sup> The prohibition on using universal service funds applies "to upgrades and maintenance of existing equipment and services."<sup>33</sup> Additionally, federal subsidies made available through a program administered by the Commission that are "to be used for the capital expenditures necessary for the provision of advanced communications service" cannot be used to "purchase, rent, lease, or otherwise obtain any covered communications equipment or service; or maintain any covered communications equipment or service."<sup>34</sup> Moreover, the Commission will require ETCs to certify prior to receiving universal service funds that they do not use covered communications equipment or services.<sup>35</sup>

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<sup>27</sup> 47 CFR § 54.314(b), (c)(2).

<sup>28</sup> See Universal Service Administrative Company, Certify Data with 54.314, <https://www.usac.org/high-cost/annual-requirements/certify-data-with-54-314/>.

<sup>29</sup> See, e.g., FCC Form 481 Officer Certification (requiring an officer of a petitioning entity to certify that he/she is "an officer of the reporting carrier; my responsibilities include ensuring the accuracy of the annual reporting requirements for universal service support recipients; and, to the best of my knowledge, the information reported on this form and in any attachments is accurate"); see also 47 CFR § 1.17(a)(2) (stating that no person may provide, in any written statement of fact, "material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading").

<sup>30</sup> See *Location Guidance Public Notice*, 31 FCC Rcd at 12910.

<sup>31</sup> 47 CFR §§ 54.313(j), 54.314(d), 54.316(c), 54.320, 54.806.

<sup>32</sup> 47 CFR § 54.9(a).

<sup>33</sup> *Protecting Against National Security Threats to the Communication Supply Chain through FCC Programs et al.*, WC Docket No. 18-89 et al., Report and Order et al., 34 FCC Rcd 11423, 11453, para. 77 (2019).

<sup>34</sup> 47 CFR § 54.10.

<sup>35</sup> *Id.* § 54.11. This certification requirement is not required "until one year after the date the Commission releases a Public Notice announcing the acceptance of applications for filing during the initial filing window of the [Secure and Trusted Communications Networks] Reimbursement Program." *Id.* § 54.11(c). See *Wireline Competition Bureau Announces Application Filing Window for the Secure and Trusted Communications Networks Reimbursement Program – Filing Window Opens October 29, 2021*, WC Docket No. 18-89, Public Notice, 36 FCC Rcd 13937 (WCB 2021). "Covered communications equipment or services means any communications equipment

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*Document Retention and Compliance Audits.* Under section 54.320 of the Commission's rules, recipients of high-cost support must retain, for at least ten years, all records necessary to demonstrate to auditors that the support received was consistent with universal service high-cost program rules and to make these documents available upon request to the Commission (and any of its Bureaus or Offices) and to USAC, and to their respective auditors.<sup>36</sup> In addition, all ETCs that receive high-cost support are subject to random compliance audits and other investigations to ensure compliance with program rules and orders, including verification of actual deployment to reported locations.<sup>37</sup>

*Consequences for Non-Compliance.* A support recipient is subject to non-compliance measures once it becomes a support recipient if it fails or is unable to meet its minimum coverage requirement or other service requirements, or if it fails to fulfill any other term or condition of Auction 904 support.<sup>38</sup> These measures scale with the extent of non-compliance and include additional reporting, withholding of support, and support recovery.<sup>39</sup> A defaulting support recipient may also be subject to sanctions, including, but not limited to, potential revocation of ETC designations and suspension or debarment.<sup>40</sup>

*ETC Obligations.* All Auction 904 support recipients were required to obtain a high-cost ETC designation prior to being authorized for Auction 904 support, and thus should be familiar with ETC requirements. For example, all high-cost ETCs commit to serving the entire area covered by an ETC designation and must offer Lifeline voice and broadband service throughout such area to qualifying low-income consumers pursuant to the Lifeline program rules.<sup>41</sup> While an Auction 904 support recipient was not required to obtain an ETC designation that was 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.<sup>42</sup> A high-cost ETC may also be subject to state-specific requirements imposed by the state that designated it as an ETC.

*Discontinuance of Service and/or Relinquishment of Support.* It is a violation of Commission rules to receive universal service support if that support is not used to provide, maintain, and upgrade voice and/or broadband facilities and services in eligible areas or if the recipient is no longer offering supported services. A carrier that cannot appropriately use universal service support must relinquish its ETC designation pursuant to section 214(e)(4) of the Communications Act of 1934, as amended (the Communications Act).<sup>43</sup> An ETC that was designated by a state commission should follow the state

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or service that is on the Covered List" published pursuant to section 1.50002 of the Commission's rules. 47 CFR §§ 1.50002, 54.11(b).

<sup>36</sup> 47 CFR §§ 54.320(b), 54.806(b).

<sup>37</sup> *Id.* §§ 54.320(a), 54.806(b).

<sup>38</sup> *Id.* §§ 54.320, 54.804(c)(4), 54.806(c); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 713-16, paras. 58-64; *December 2014 Connect America Order*, 29 FCC Rcd at 15694-700, paras. 142-54; *CAF Performance Measures Order*, 33 FCC Rcd at 6531-33, paras. 60-67.

<sup>39</sup> 47 CFR §§ 54.320, 54.804(c)(4), 54.806(c); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 713-16, paras. 58-64; *December 2014 Connect America Order*, 29 FCC Rcd at 15694-701, paras. 142-57; *CAF Performance Measures Order*, 33 FCC Rcd at 6531-33, paras. 60-67.

<sup>40</sup> 47 CFR §§ 54.320(c), 54.806(b); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 715-16, para. 63.

<sup>41</sup> See 47 CFR §§ 54.101(d), 54.405(a); 47 CFR Subpart E.

<sup>42</sup> For example, some Auction 904 support recipients may have obtained an ETC designation for an entire census block group(s) that was covered by its winning bid(s) but may only use its Auction 904 support to offer service to locations in the eligible census blocks within the census block group(s).

<sup>43</sup> 47 U.S.C. § 214(e)(4).

commission's rules to seek relinquishment.<sup>44</sup> ETCs designated by the Commission must file a notice of relinquishment in WC Docket No. 09-197, Telecommunications Carriers Eligible for Universal Service Support, using the Commission's Electronic Comment Filing System (ECFS).<sup>45</sup> WCB will release an order approving the relinquishment if the relinquishing ETC demonstrates that the affected area will continue to be served by at least one ETC.<sup>46</sup> The ETC must then send a copy of its relinquishment notice and a copy of the relinquishment order (within one week of its release) to USAC at [hcorders@usac.org](mailto:hcorders@usac.org). A carrier that intends to discontinue service must first obtain authorization to discontinue service pursuant to section 214(a) of the Communications Act and section 63.71 of the Commission's rules.<sup>47</sup>

*Transfers of Control.* ETCs seeking to transfer control of their domestic authorizations to operate pursuant to section 214 of the Communications Act of 1934, as amended, or to engage in the sale of assets under section 214 must first receive approval from the Commission in accordance with sections 63.03 and 63.04 of the Commission's rules governing the procedures for domestic transfer of control/asset applications.<sup>48</sup> Transfers of control and assignments of international section 214 authorizations are separately subject to section 63.24 of the Commission's rules.<sup>49</sup> Except where the Commission has forbore from the application of section 214, this requirement applies to all transfers of control or asset acquisitions involving ETCs. More information is available on the Commission's website at <http://www.fcc.gov/general/transfer-control>.

*Price Cap Carrier Obligations.* Price cap carriers that serve the census blocks where an Auction 904 long-form applicant that is not the incumbent price cap carrier has been authorized to receive support will no longer have a federal high-cost ETC obligation to continue to offer voice service in those census blocks pursuant to the forbearance granted by the Commission. We also note that price cap carriers that elected to receive a seventh year of model-based support were already relieved of their federal high-cost ETC obligation to offer voice telephony in specific census blocks on January 1, 2022.<sup>50</sup>

*Transitioning Legacy Support.* WCB will soon update the list of census blocks where incumbent price cap carriers will continue to receive legacy support through the disaggregated legacy high-cost support mechanism by removing the eligible census blocks that are covered by the winning bids in Attachment A.<sup>51</sup> In the census blocks removed from the list, incumbent price cap carriers will no longer

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<sup>44</sup> 47 CFR § 54.205.

<sup>45</sup> 47 U.S.C. § 214(e)(4); *Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund*; WC Docket Nos. 09-197; 10-90, Order, 36 FCC Rcd 9384, 9393, para. 30 (WCB 2021).

<sup>46</sup> See, e.g., *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197, Order, 36 FCC Rcd 9377 (WCB 2021) (approving T-Mobile USA, Inc.'s request on behalf of T-Mobile Northeast LLC to relinquish its ETC designation in Virginia).

<sup>47</sup> 47 U.S.C. § 214(a); 47 CFR § 63.71.

<sup>48</sup> 47 U.S.C. § 214; 47 CFR §§ 63.03, 63.04. See also *Wireline Competition Bureau Lists Best Practices for Addressing Universal Service Fund Information in Section 214 Transfer of Control Applications*, Public Notice, DA 22-436 (WCB Apr. 19, 2022).

<sup>49</sup> 47 CFR § 63.24.

<sup>50</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 743-45, paras. 133-39. On the first day of the month after an Auction 904 support recipient that is not the incumbent price cap carrier is authorized, the incumbent price cap carrier will be relieved of its federal high-cost ETC obligation to offer voice telephony in those specific census blocks unless it was relieved of that obligation on January 1, 2022. *Id.* at 745, para. 139. See also *December 2014 Connect America Order*, 29 FCC Rcd at 15663-71, paras. 50-70; 47 CFR § 54.201(d)(3). We will remove these census blocks as applicable from the list of census blocks where price cap carriers continue to have the federal high-cost ETC obligation to provide voice service. The "List of Census Blocks Subject to Federal High-Cost Voice Obligations" is available at <https://www.fcc.gov/encyclopedia/price-cap-resources>.

<sup>51</sup> *Connect America Fund et al.*, WC Docket No. 10-90, Report and Order, 34 FCC Rcd 807, 809-12, paras. 9-16 (2019). Incumbent price cap carriers were also given the option of declining legacy support in each state that they

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receive legacy support beginning on the first day of the next month.<sup>52</sup>

*Defaults.* On July 26, 2021, the Rural Broadband Auctions Task Force (RBATF), WCB, and OEA sent a letter to certain long-form applicants that identified census blocks where concerns had been raised about whether funding those areas would be the best use of our limited universal service funds.<sup>53</sup> Applicants were reminded that one of the Commission’s core Universal Service Fund policy objectives is to avoid funding deployment in areas that already receive voice and broadband service from an unsubsidized provider, and that the Rural Digital Opportunity Fund was intended to focus on areas “wholly unserved by 25/3 Mbps” broadband service.<sup>54</sup> The letter recommended that applicants assess whether existing service in the identified areas would affect their ability to meet all program requirements and deployment milestones, and applicants were informed that if they no longer wished to pursue support for a winning bid they should identify those census block groups and provide a brief explanation of their decision to default on their bid(s).<sup>55</sup>

In response to the letter, some applicants informed the Commission that they wished to default on census blocks identified by the Commission in the letter while retaining support for other census blocks within the same bid. For these applicants, Attachment A authorizes support only for the areas in which the applicant indicated they intend to meet program requirements.<sup>56</sup>

In Attachment B, we list winning bids associated with winning bidders or their assignees that have notified us that they do not intend to pursue all or some of their winning bids in a state.<sup>57</sup> A list of

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serve. *See Wireline Competition Bureau Announces Universal Service Support Amounts Offered to Price Cap Carriers and Fixed Competitive Eligible Telecommunications Carriers after Authorization of Connect America Phase II Auction Support*, Public Notice, 34 FCC Rcd 1296 (WCB 2019).

<sup>52</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 738-40 (stating that price cap carriers will no longer receive legacy support for the census blocks where Auction 904 support is authorized beginning on the first day of the month after the Auction 904 support is authorized for those census blocks).

<sup>53</sup> *See* “Letters to Long-Form Applicants about Identified Census Blocks,” <https://www.fcc.gov/auction/904/releases> (Identified Census Blocks Letter).

<sup>54</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 689, para. 5.

<sup>55</sup> *See* 47 CFR § 54.805 (RDOF public interest obligations); *see generally*, 47 U.S.C. § 254(e) (USF support must be used for its intended purpose).

<sup>56</sup> For the reasons articulated in the *Fourth RDOF Authorization Public Notice* regarding defaults on letter-identified census blocks, we find good cause to waive the requirement that a default encompass the entire winning bid, and we authorize support on a per-census-block basis for the census blocks in which applicants listed in Attachment A are eligible. *Rural Digital Opportunity Fund Support Authorized for 2,008 Winning Bids*, AU Docket No. 20-34, WC Docket Nos. 19-126 and 10-90, Public Notice, DA 21-1560, at 9 (WCB/OEA Dec. 14, 2021) (*Fourth RDOF Authorization Public Notice*).

<sup>57</sup> Connect Everyone LLC (Connect Everyone) notified us that it planned to default on all its winning bids. We had previously announced that Connect Everyone was ready to authorize in all states in which it had placed winning bids except for Mississippi. *Rural Digital Opportunity Fund Support for 2,072 Winning Bids Ready to be Authorized; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-911 (WCB/OEA Aug. 31, 2022). Our grant of an ETC designation for Connect Everyone in Alabama and Virginia was conditioned on Connect Everyone being authorized for RDOF support in the relevant areas. *Telecommunications Carriers Eligible for Universal Service Support et al.*, WC Docket No. 09-197 et al., Order, DA 22-906, at 1 (WCB Aug. 30, 2022) (“Designation is conditioned upon, limited to, and effective upon [Connect Everyone’s] authorization to receive support under [RDOF].”). Because Connect Everyone will not be authorized for RDOF support for any of its winning bids in Alabama or Virginia, our conditional high-cost ETC designation Connect Everyone in Alabama and Virginia is null and void, and Connect Everyone will not be a high-cost ETC for the areas covered by its Alabama and Virginia winning bids.

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Additionally, Attachment B contains bid defaults for Cal.net and California Internet, L.P. dba GeoLinks (GeoLinks). On August 31, 2022, the Bureau, in conjunction with the RBATF and OEA, dismissed Cal.net's and GeoLink's respective deadline waiver requests as moot, stating that these applicants would be found in default at a later date. *The Rural Digital Opportunity Fund Auction (Auction 904) et al.*, AU Docket No. 20-34 et al., Order, DA 22-912 at 3, para. 9 (WCB/OEA Aug. 31, 2022). Cal.net and GeoLinks both did not seek reconsideration of the dismissal of their separate petitions for waiver. On September 7, 2022, Cal.net submitted a petition for waiver of 47 CFR § 54.804(b)(5), requiring ETC certification for Auction 904 winning bidders. See Petition of Cal.net for waiver of 47 CFR § 54.804(b)(5) of the Commission's Rules, AU Docket No. 20-34, WC Docket Nos. 10-90, 19-126 (filed Sept. 7, 2022). The California Public Utilities Commission (CPUC) filed a response to Cal.net's petition, stating that the Commission does not have jurisdiction to reconsider the CPUC's decision to not grant Cal.net an ETC designation for Auction 904. Letter from Robert Osborn, Director, Communications Division, California Public Utilities Commission, at 2 (Sept. 9, 2022) WC Docket Nos. 10-90, 19-126, OEA 20-34 (CPUC response). Cal.net responded to the CPUC's letter stating that it "does not need the Commission to decide [its] ETC status." Reply Response to Petition for Waiver, AU Docket No. 20-34, WC Docket Nos. 10-90, 19-126 (filed Sept. 26, 2022). After review, we agree with the CPUC's response in this matter. In this instance, the Commission does not hold jurisdiction to reconsider the CPUC's decision to not grant Cal.net an ETC designation. Section 214(e)(2) of the Communications Act gives states jurisdiction to determine carrier ETC designation status. 47 U.S.C. § 214(e)(2). As such, the CPUC's decision to not grant Cal.net an ETC designation stands. Thus, Cal.net is in default and its petition is dismissed for lack of jurisdiction.

*Xiber, LLC.* The Commission established a June 7, 2021 deadline for applicants that were not audited in the ordinary course of business to file one year of audited financial statements. *Rural Digital Opportunity Fund; Connect America Fund*, Report and Order, 35 FCC Rcd 686, 722-23, para. 80 (2020); 47 CFR § 54.804(b)(4); *Auction 904 Closing Public Notice*, 35 FCC Rcd 13888 (2020). Auction 904 winning bidder Hawaii Dialogix Telecom and its assignee, long-form applicant Xiber, LLC, filed a request for waiver of that deadline, asserting that its auditor was performing the audit but could not complete it by the deadline. See Petition of Xiber, LLC for Waiver of 47 CFR § 54.804(b)(4) of the Commission's Rules, AU Docket No. 20-34, WC Docket Nos. 10-90, 19-126 (filed June 7, 2021). Xiber then filed an additional Petition for Waiver on May 27, 2022, seeking further extension of time to file the completed audit, noting that its original auditor "had made very little progress" and Xiber had had to "find another firm with the expertise to conduct the audit," and committing to have the audit completed by July 31, 2022. See Additional Petition for Waiver of 47 CFR § 54.804(b)(4) of the Commission's Rules, AU Docket No. 20-34, WC Docket Nos. 10-90, 19-126 at 2-3 (filed May 27, 2022). Xiber has yet to file its required audited financial statements. Generally, the Commission's rules may be waived for good cause shown. 47 CFR § 1.3. Waiver of the Commission's rules is appropriate only if both: (1) special circumstances warrant a deviation from the general rule; and (2) such deviation will serve the public interest. See *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969), cert. denied, 93 S.Ct. 461 (1972)). Xiber has presented no special circumstances warranting a waiver, and the ongoing failure of Xiber to meet the filing deadline for its audited financials makes it impossible to assess the entirety of Xiber's application and its financial ability to meet the requirements of the RDOF program. Therefore, no good cause has been shown for the continued absence of Xiber's audited financial statements, and Xiber's waiver request is denied.

Xiber also filed a petition for waiver regarding the February 2021 deadline for filing a commitment letter from a qualified bank committing to issue an irrevocable standby letter of credit. See Petition of Xiber, LLC for Waiver of 47 CFR § 54.804(b)(3) of the Commission's Rules, AU Docket No. 20-34, WC Docket Nos. 10-90, 19-126 (filed Feb. 12, 2021) (Commitment Letter Waiver Request); *Rural Digital Opportunity Fund; Connect America Fund*, Report and Order, 35 FCC Rcd 686, 732, para. 106 (2020); 47 CFR § 54.804(b)(3). Xiber's Commitment Letter Waiver Request stated that its bank would only issue a commitment letter after concluding a general line of credit that was in process, and that its bank was consumed with processing Paycheck Protection Program loans due to the COVID-19 pandemic. See Commitment Letter Waiver Request at 2-3. Despite filing this waiver request suggesting that it was in the process of obtaining the required commitment letter, Xiber later uploaded what it deemed a "Letter of Credit Update" to its Auction 904 application on June 6, 2022 that included a general statement from a vice-president at Merchants Bank of Indianapolis that Xiber was only "pre-qualified for financing subject to bank's traditional process for final underwriting and customary review of due diligence materials..." See Letter of Credit Update, uploaded to Xiber's Auction 904 application on June 6, 2022 at 11:40 a.m. Xiber has yet to submit its letter of credit commitment letter. The ongoing failure of Xiber to submit its letter of credit commitment letter makes it impossible to authorize Xiber for support, because obtaining a commitment to issue a letter of credit is a threshold

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the eligible census blocks covered by these winning bids will be made available on the Auction 904 website under the “Results” tab, <https://www.fcc.gov/auction/904/round-results>. Auction 904 support will not be authorized for the winning bids listed in Attachment B.

We consider winning bidders and assignees to be in default for these bids and subject to forfeiture.<sup>58</sup> We will refer these defaulters to the Enforcement Bureau for further consideration. Because Commission staff are reviewing information that is submitted with long-form applications on a rolling basis, we expect to announce additional defaults in future public notices.

A defaulter will be subject to a base forfeiture per violation of \$3,000.<sup>59</sup> A violation is defined as any form of default with respect to the census block group. In other words, there shall be separate violations for each census block group assigned in a bid.<sup>60</sup> So that this base forfeiture amount is not disproportionate to the amount of a winning bidder’s bid, the Commission has limited the total base forfeiture to 15% of the bidder’s total assigned support for the bid for the support term.<sup>61</sup> Notwithstanding this limitation, the total base forfeiture will also be subject to adjustment upward or downward based on the criteria set forth in the Commission’s forfeiture guidelines.<sup>62</sup> In addition, any applicant that failed to submit the audited financial statements as required by the June 7, 2021 deadline will be subject to a base forfeiture of \$50,000, which will be subject to adjustment upward or downward as appropriate based on criteria set forth in the Commission’s forfeiture guidelines.<sup>63</sup>

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requirement to protect the support of the Universal Service Fund. No good cause has been shown for the continued failure to obtain and provide a letter of credit commitment letter, so Xiber’s waiver request is denied, as is its Auction 904 application. The Bureau will release a public notice in the near future announcing Xiber’s defaults.

<sup>58</sup> *Rural Digital Opportunity Fund Order* at 735-36, paras. 114-17.

In the *Fourth RDOF Authorization Public Notice*, we waived the default forfeiture for letter-identified census blocks and in the *Eighth RDOF Authorization Public Notice* we waived the default forfeiture for non-urban areas that similarly appeared to staff as being served with 25/3 Mbps broadband and for which applicants informed the Commission that they wished to default. *Fourth RDOF Authorization Public Notice* at 9; *Rural Digital Opportunity Fund Support Authorized for 1,345 Winning Bids*, AU Docket No. 20-34 et al., Public Notice, DA 22-402, at 6 n.38 (WCB/OEA Apr. 15, 2022).

For all other defaulted areas, we dismiss petitions seeking waiver of the default forfeiture and other non-compliance measures. All relevant facts, including the claimed public interest benefits that could result from the applicants’ defaults, will be given due consideration in accordance with the default penalty framework adopted by the Commission. For the reasons explained in the *First RDOF Default Public Notice*, we also deny outstanding petitions that request that we waive the default penalty framework to relieve applicants of the obligation to apply for support. *Rural Digital Opportunity Fund Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, 36 FCC Rcd 11651, 11652-53 n.8 (WCB/OEA 2021).

<sup>59</sup> *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

<sup>60</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 115; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

<sup>61</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

<sup>62</sup> See 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(10), note to paragraph (b)(10); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 115; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

<sup>63</sup> *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6177, para. 318; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 722, para. 80; 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(10), note to paragraph (b)(10).

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**Auction 904 Information**

General Auction Information, Process, and  
Procedures

**Office of Economics and Analytics,  
Auctions Division**

(717) 338-2868

Post-Auction Rules, Policies, and Regulations

**Office of Economics and Analytics,  
Auctions Division**

(202) 418-0660

**Small Businesses**

Additional information for small and  
disadvantaged businesses

**Office of Communications Business  
Opportunities**

(202) 418-0990

<http://www.fcc.gov/ocbo/>

**Accessible Formats**

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

**Consumer and Governmental Affairs Bureau**

(202) 418-0530

[fcc504@fcc.gov](mailto:fcc504@fcc.gov)

**FCC Internet Sites**

<http://www.fcc.gov>

<https://www.fcc.gov/auction/904>

This Public Notice contains the following Attachments:

Attachment A: Authorized Long-Form Applicants and Winning Bids

Attachment B: Bids in Default

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