



PUBLIC NOTICE

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45 L Street NE
Washington, DC 20554

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TTY: 1-888-835-5322

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RURAL DIGITAL OPPORTUNITY FUND SUPPORT FOR 2,072 WINNING BIDS READY TO BE AUTHORIZED; BID DEFAULTS ANNOUNCED

Listed Auction 904 Long-Form Applicants Must Submit Letters of Credit and
Bankruptcy Code Opinion Letters by September 15, 2022

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

By this Public Notice, the Rural Broadband Auctions Task Force (RBATF), Wireline Competition Bureau (WCB or Bureau), and the Office of Economics and Analytics (OEA) announce they are ready to authorize Rural Digital Opportunity Fund (Auction 904) support for the Auction 904 winning bids identified in Attachment A of this Public Notice.

To be authorized to receive the total 10-year support amounts listed in Attachment A, the long-form applicants identified in that attachment are required to submit acceptable irrevocable stand-by letter(s) of credit and Bankruptcy Code opinion letter(s) from their legal counsel for each state where they have winning bids that are ready to be authorized in accordance with the instructions provided below by the applicable deadline – **prior to 6:00 p.m. ET on September 15, 2022.**¹

On December 7, 2020, we announced that there were 180 winning bidders in the auction and established the deadlines for winning bidders to submit their long-form applications for Rural Digital Opportunity Fund support.² Winning bidders had the opportunity to assign some or all of their winning bids to related entities by December 22, 2020.³ All winning bidders that retained their winning bids and all related entities that were assigned winning bids were required to submit long-form applications by January 29, 2021.⁴ On February 18, 2021, we announced that there were 417 long-form applicants.⁵

We have reviewed the long-form applications associated with each of the winning bids identified in Attachment A. These applications were reviewed to determine whether they met all legal, financial,

¹ See 47 CFR § 54.804(b)(6)(v); *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, 6177, para. 319 (2020) (*Auction 904 Procedures Public Notice*) (“No later than 10 business days after the release of the public notice, a long-form applicant must obtain one irrevocable standby letter of credit at the value specified in section 54.804(c)(1) from a bank acceptable to the Commission as set forth in section 54.804(c)(2) for each state where the long-form applicant is seeking to be authorized.”).

² *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 13888 (WCB and OEA 2020) (*Auction 904 Closing Public Notice*).

³ *Id.* at 13890-91, paras. 9-14.

⁴ *Id.* at 13892-93, para. 16.

⁵ *417 Long-Form Applicants in the Rural Digital Opportunity Fund Phase I Auction (Auction 904)*, Public Notice, DA 21-170 (WCB and OEA Feb. 18, 2021) (*Auction 904 Long-Form Applicants Public Notice*).

and technical requirements. Based on the representations and certifications in each relevant long-form application, we are prepared to authorize support, subject to submission of the required letter(s) of credit and Bankruptcy Code opinion letter(s), for each of the winning bids identified in Attachment A.⁶

On July 26, 2021, the RBATF, WCB, and OEA sent a letter to certain long-form applicants that identified census blocks where concerns of existing service or questions of potential waste had been raised, and informed applicants that if they no longer wished to pursue support for a winning bid they should identify those census block groups with a brief explanation of their decision to default on their bid(s).⁷ Support amounts have been adjusted for applicants that defaulted on the identified census blocks.

ETC Deadline Waivers. Auction 904 long-form applicants were required to certify that they are eligible telecommunications carriers (ETCs) in all bid areas and to submit appropriate documentation supporting such certification on or before June 7, 2021.⁸ On our own motion, we find good cause to waive this deadline for the applicants that were designated as ETCs by the Commission on June 8, 2021 for the reasons described in the *First RDOF Ready to Authorize Public Notice*.⁹

We also find good cause to waive this deadline for certain applicants that obtained state ETC designations.¹⁰ Generally, the Commission's rules may be waived for good cause shown.¹¹ 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.¹² The Commission has found that waiver of this deadline is appropriate when an ETC designation proceeding is not yet complete by the deadline despite the good faith efforts of the long-form applicant.¹³ The Commission has explained that it would presume such good faith efforts when the petitioner submitted its petition to the relevant authority within 30 days of the release of the *Auction 904 Closing Public Notice*, i.e., by January 6, 2021.¹⁴ In the

⁶ See 47 CFR § 54.804(b)(6)(v). We remind all applicants that an ETC satisfies its obligation to “offer” qualifying services by being legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting universal service fund-related requirements. Accordingly, a broadband provider may satisfy its voice 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. *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6129, para. 139.

⁷ See “Letters to Long-Form Applicants about Identified Census Blocks,” <https://www.fcc.gov/auction/904/releases>.

⁸ 47 CFR § 54.804(b)(5) (requiring winning bidders to submit within 180 days of the announcement of winning bids, a certification of ETC designation in all relevant areas and supporting documentation for that certification); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6176, para. 316; see also *Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686, 727-28, para. 92 (2020) (*Rural Digital Opportunity Fund Order*).

⁹ *Rural Digital Opportunity Fund Auction Support for 1,460 Winning Bids Ready to Be Authorized*, AU Docket No. 20-34 et al., DA 21-909, at 2 & n.9 (WCB/OEA July 26, 2021) (*First RDOF Ready to Authorize Public Notice*). See also *Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund*; WC Docket Nos. 09-197, 10-90, Order, DA 21-663 (WCB June 8, 2021).

¹⁰ Requests from other long-form applicants seeking waiver of the ETC deadline remain pending and will be addressed in future releases.

¹¹ 47 CFR § 1.3.

¹² 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)).

¹³ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6002, para. 152 (2016); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 723, para. 81.

¹⁴ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 723, para. 81; *Auction 904 Closing Public Notice*, 36 FCC Rcd 13888.

Connect America Phase II auction, we granted petitions for waiver for applicants that filed outside the 30-day window after finding that the applicant “acted diligently in attempting to obtain its ETC designation prior to the deadline,” that a delay did not “rise to the level of lack of good faith that should result in [the applicant’s] default,” and that “late-filing of [the] ETC application did not delay the Commission’s long-form application review process or the provision of voice and broadband services to consumers.”¹⁵ In contrast, we have found a lack of good-faith pursuit of ETC designation where (1) an applicant had provided no explanation or defense of its failure to timely submit its ETC application to its respective state commission, (2) an applicant relied on a specific corporate strategy or business consideration to delay its submission, or (3) an applicant filed its ETC designation petition a few days before the ETC deadline and “failed to provide a compelling rationale” for the delay.¹⁶

AMG Technology Investment Group, LLC dba NextLink Internet (NextLink). On January 6, 2021, NextLink filed an ETC designation expansion application with the Oklahoma Corporation Commission (OCC) to include areas where it is eligible to receive RDOF support.¹⁷ OCC staff then informed NextLink on May 24, 2021 that it “planned to recommend approval of the Company’s ETC expansion for the 1,154 census blocks . . . [but] it could not yet recommend approval for the 46 census blocks that are within the service territory of Windstream Oklahoma, LLC.”¹⁸ Subsequently, NextLink filed an updated application to expand its Certificate of Convenience and Necessity (CCN) territory to include the Windstream Oklahoma service territory encompassing the 46 census blocks; and, ultimately submitted its ETC expansion application on September 3, 2021.¹⁹ On June 3, 2021 and December 13, 2021, respectively, the OCC designated NextLink as an ETC in all areas where it is eligible to receive RDOF support.²⁰

We conclude that NextLink has demonstrated special circumstances that warrant deviation from the Commission’s June 7, 2021 deadline. NextLink filed its ETC petition with the OCC on January 6, 2021 for the areas covered by its winning bids, which was within 30 days of the public notice announcing that it was a winning bidder.²¹ We thus presume that NextLink acted in good faith to obtain ETC designation in a timely manner. After the OCC let NextLink know that it was not ready to recommend approval of the 46 census blocks, NextLink promptly filed a CCN expansion application on June 3, 2021.²² Following the OCC’s CCN approval, NextLink filed another expansion ETC designation

¹⁵ See, e.g., *Connect America Fund Phase II Auction Support for 2,121 Winning Bids Ready to Be Authorized*, AU Docket No. 17-182 et al., Public Notice, 34 FCC Rcd 12384, 12385-86 (WCB/OEA 2019); *Connect America Fund Phase II Auction Support for 611 Winning Bids Ready to be Authorized*, AU Docket No. 17-182 et al., Public Notice, 34 FCC Rcd 4648, 4649 (WCB/OEA 2019).

¹⁶ See *Rural Digital Opportunity Fund Auction (Auction 904), Rural Digital Opportunity Fund*, AU Docket No. 20-34, WC Docket No. 19-126, Order, DA 21-908, at 3-4, paras. 8-16 (WCB/OEA July 26, 2021) (*RDOF ETC Deadline Waiver Order*).

¹⁷ Petition of AMG Technology Investment Group, LLC d/b/a NextLink Internet for Waiver of Section 54.804(b)(5) of the Commission’s Rules, AU Docket No. 20-34 et al., NextLink Petition for Waiver at 2 (filed June 7, 2021).

¹⁸ *Id.* at 2-3.

¹⁹ *Id.* at 4; Oklahoma Corporation Commission, Order 722160, Docket No. 202100148 at 1 (rel. Dec. 13, 2021) (OCC December Order).

²⁰ See Oklahoma Corporation Commission, Order 718757, Docket No. 202100007 (rel. June 3, 2021) (OCC June Order); OCC December Order at 5.

²¹ NextLink Petition at 2-3.

²² NextLink Petition for Waiver at 2-4. OCC December Order at 1.

application on September 3, 2021.²³ Thus, the delay of the ETC designation of all NextLink’s RDOF census blocks constituted circumstances outside of its control.

Moreover, based on the totality of the circumstances, we find that waiver of the deadline here serves the public interest. As discussed above, NextLink has shown consistent efforts to obtain its ETC designation. NextLink was engaged with the OCC prior to the end of the good faith time frame.²⁴ The circumstances surrounding its petition are not similar to those instances where the Bureau has previously found a lack of good faith.²⁵ NextLink was actively working toward filing its ETC petition and demonstrated consistent engagement with the OCC.²⁶

We find the public interest is served by moving forward with authorizing support for an applicant that acted in good faith through the application process and obtained its ETC designation within a reasonable amount of time after the deadline.

Starry (Connect Everyone, LLC; Alabama, Virginia). Connect Everyone sought waiver of the June 7, 2021 ETC documentation deadline for its respective long-form applications in Alabama and Virginia.²⁷ We find good cause to grant its petition for waiver regarding the ETC documentation deadline for these states. Connect Everyone filed its ETC designation applications with the Commission on January 6, 2021, ultimately receiving designations on August 30, 2022.²⁸ Because Connect Everyone filed its petitions with the Commission within 30 days of the public notice announcing that it was a winning bidder,²⁹ we presume that it acted in good faith in pursuing its respective ETC designations.³⁰ That presumption has not been overcome, and thus we find good cause to waive the deadline.

Starry (Connect Everyone, LLC; Pennsylvania). Connect Everyone sought waiver of the June 7, 2021 ETC documentation deadline for its long-form application in Pennsylvania.³¹ Though Connect Everyone did not file its ETC petition in Pennsylvania within the 30-day time frame for the presumption of good faith to apply, we nonetheless find good cause to grant its petition for waiver regarding the ETC documentation deadline for this state.

We conclude that Connect Everyone demonstrated special circumstances that warrant deviation from the Commission’s June 7, 2021 deadline. Connect Everyone explains that, following release of the *Auction 904 Closing Public Notice*, “[c]ircumstances largely beyond Starry’s control, [including lack of

²³ NextLink Petition for Waiver at 2-4 (stating that “OCC staff informed the ALJ” that staff would recommend approval of NextLink’s “ETC designation for the 46 Windstream Oklahoma census blocks upon approval of the expansion of the Company’s local exchange service territory”).

²⁴ *Id.*

²⁵ See, e.g., *RDOF ETC Deadline Waiver Denial Order*, at 3-4, paras. 8-16.

²⁶ OCC December Order at 1-5.

²⁷ Petition of Starry (Connect Everyone, LLC), for Waiver of the ETC Designation Deadline, AU Docket No 20-34 at 3 (filed June 6, 2021) (Connect Everyone Petition).

²⁸ Connect Everyone Petition at 2-3. See *Connect America Fund*, WC Docket Nos. 09-197, 10-90, Order, DA 22-906, at 1 (WCB Aug. 30, 2022).

²⁹ Connect Everyone Petition at 2-3.

³⁰ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6002, para. 152 (2016); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 723, para. 81.

³¹ Connect Everyone Petition at 3. Connect Everyone filed its ETC Designation application with the Pennsylvania PUC on January 29, 2021. *Id.*

counsel], delayed its ability to file within the 30-day window in some States.”³² Connect Everyone filed its application with Pennsylvania Public Utilities Commission (PUC) on January 29, 2021.³³ On May 25, 2021 the Pennsylvania PUC notified Connect Everyone’s counsel that “given the complexity of the issues involved in processing an ETC petition . . . the Commission does not anticipate acting on Connect Everyone’s ETC petition by June 7, 2021.”³⁴ Furthermore, the Pennsylvania PUC stated that it recognizes that Connect Everyone “has acted in good faith by demonstrating its willingness to work with the Commission to address issues of concern” and has responded in a timely manner.³⁵ In this case, Connect Everyone filed its ETC petitions with the Pennsylvania PUC well before the ETC designation deadline and diligently engaged with the PUC. The Pennsylvania PUC took more time than Connect Everyone had reasonably anticipated, which constituted circumstances outside its control.

Moreover, based on the totality of the circumstances, we find that waiver of the deadline here would serve the public interest. Connect Everyone has shown consistent efforts to obtain its ETC designations as evidenced by Connect Everyone’s willingness to work with the Pennsylvania PUC and its responsiveness to the PUC’s requests for additional information to supplement its ETC application.³⁶ Thus, the circumstances surrounding its petition are not similar to those instances where the Bureau has previously found a lack of good faith.³⁷ We find the public interest is served by moving forward with authorizing support for applicants that acted in good faith through the application process and obtained their ETC designations within a reasonable amount of time after the deadline, rather than delaying the provision of voice and broadband service to these areas by defaulting long-form applicants that are otherwise ready to authorize.

Audited Financial Statements Deadline Waiver. We grant GigaBeam Networks, LLC’s (GigaBeam) petition for waiver of the June 7, 2021 deadline for submitting audited financial statements. All Auction 904 applicants with at least two years of experience providing voice, broadband, and/or electric distribution were required to submit with their short-form application financial statements from the prior fiscal year.³⁸ If such an applicant was not audited in the ordinary course of business, it had the option of submitting unaudited financial statements with its short-form application and waiting to submit audited financial statements with its long-form application by the June 7, 2021 deadline.³⁹ On June 7, 2021, GigaBeam filed a petition seeking waiver of this deadline and later submitted its audited financial statements on June 3, 2022.⁴⁰

We find good cause to waive the June 7, 2021 audited financial statements deadline for GigaBeam. GigaBeam explains that it “encounter[ed] difficulties in engaging with a firm willing to

³² Connect Everyone Petition at 3.

³³ *Id.*

³⁴ Letter from Christian McDowell, Assistant Counsel, Pennsylvania PUC, to Michael Gruin, Counsel for Connect Everyone LL, at 1 (May 25, 2021).

³⁵ *Id.* at 1.

³⁶ *Id.* at 1.

³⁷ *See, e.g., RDOF ETC Deadline Waiver Denial Order*, at 3-4, paras. 8-16.

³⁸ 47 CFR § 54.804(a)(7)(i); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6094-95, paras. 50-54.

³⁹ 47 CFR § 54.804(a)(7)(i), (b)(4); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6095, 6177, paras. 54, 318; *Auction 904 Closing Public Notice*, 35 FCC Rcd at 13894-95, para. 7.

⁴⁰ GigaBeam Networks LLC Petition for Waiver of Section 54.804(b)(4) of the Commission’s Rules, AU Docket No. 20-34 et al. (filed June 7, 2021) (*GigaBeam Petition for Waiver*). *See also* GigaBeam Networks, LLC Supplement to Petition for Waiver, AU Docket No. 20-34 et al. (filed June 7, 2022) (*GigaBeam Petition for Waiver Supplement*).

perform the audit.”⁴¹ Then, it took “substantially longer for GigaBeam to conclude the audit” than originally anticipated because it took months for GigaBeam to fill two internal accounting vacancies and train its staff due to the “small pool of qualified accounting workers in rural West Virginia and the ongoing workforce issues stemming from the COVID-19 pandemic.”⁴²

First, we find that special circumstances warrant deviation from the Commission’s audited financial statements deadline. We have found that challenges that companies face due to the pandemic, like the challenges experienced by GigaBeam, constitute special circumstances when they cause obstacles to a company meeting a universal service program’s requirements.⁴³ Here, although GigaBeam missed the deadline by almost a year, we are persuaded that GigaBeam acted in good faith to meet this requirement, but faced unforeseeable, pandemic-created obstacles in hiring staff that were qualified to help complete the audit.⁴⁴

Second, we find that it serves the public interest to grant GigaBeam’s waiver petition. We have previously found that it serves the public interest to waive the audited financials deadline in order to “evaluate the qualifications of an applicant that has expressed a willingness to serve the consumers in its winning bid areas and demonstrated the company’s financial capabilities during ongoing application review.”⁴⁵ We have also found that precluding an otherwise qualified applicant from being authorized to receive support would “delay the provision of voice and broadband service” in the relevant areas.⁴⁶ The same public interest consideration apply in these circumstances because GigaBeam submitted its audited financial statements while its application was still undergoing review by the Commission staff and Commission staff has deemed GigaBeam financially qualified to meet the relevant Auction 904 obligations.

Defaults. In Attachment B, we list the relevant 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.⁴⁷ A list of the eligible census blocks covered by these winning bids will be made available on the

⁴¹ GigaBeam Petition for Waiver at 3.

⁴² GigaBeam Petition for Waiver Supplement at 1-2.

⁴³ See, e.g., *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, 35 FCC Rcd 6556, 6558-69, para 8 (WCB/OEA 2020) (“The public health crisis has increased consumer demand for robust broadband services, while at the same time directly impeded the ability of companies to conduct their business”); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, DA 21-1502, at 3, para. 8 (WCB/OEA Dec. 2, 2021) (extending the waiver of letter of credit requirements in part because “letter of credit conditions have not substantially improved and carriers are still facing difficulties with financial markets and operational capacity due to the pandemic”); *Rural Digital Opportunity Fund Support for 80 Winning Bids Ready to Be Authorized; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-848, at 5 (WCB/OEA Aug. 10, 2022).

⁴⁴ GigaBeam Petition for Waiver at 1-2.

⁴⁵ See, e.g., *Connect America Fund Phase II Auction Support for 6 Winning Bids Ready to be Authorized*, AU Docket No. 17-182, Public Notice, 35 FCC Rcd 11702, 11704-05 (WCB/OEA 2020).

⁴⁶ *Id.*

⁴⁷ Monster Broadband, Inc. (Monster) notified us that it planned to default on all its winning bids after we announced its application as ready to authorize for Tennessee and Texas. *Rural Digital Opportunity Fund Support for 80 Winning Bids Ready to be Authorized; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-848 (WCB/OEA Aug. 10, 2022). Our grant of an ETC designation for Monster in Tennessee was conditioned on Monster 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 22-718, at 1 (WCB July 20, 2022) (“Designation is conditioned upon, limited to, and effective upon Monster’s authorization to receive support under [RDOF]”). Because Monster will not be authorized for RDOF support for any of its winning bids in Tennessee, our high-cost ETC designation of Monster is null and void, and Monster will not be a high-cost ETC for the areas covered by its Tennessee winning bids.

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 these winning bidders and assignees to be in default for these bids.⁴⁸ 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.⁴⁹

A defaulter is subject to a base forfeiture per violation of \$3,000.⁵⁰ 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.⁵¹ 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.⁵² 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.⁵³ 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.⁵⁴

Pursuant to section 54.804(b)(6)(v) of the Commission’s rules, the long-form applicants identified in Attachment A that may be authorized to receive Rural Digital Opportunity Fund auction support must submit irrevocable stand-by letters of credit, issued in substantially the same form as set

⁴⁸ *Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686, 735-36, paras. 114-17 (2020) (*Rural Digital Opportunity Fund Order*). 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). Accordingly, to the extent applicants filed petitions seeking waiver of the default forfeiture or other non-compliance measures for these areas, we dismiss those petitions as moot.

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. *First RDOF Default Public Notice* at 2-3 n.8

⁴⁹ Attachment B includes two bid defaults by California Internet dba Geolinks and six bid defaults from Connect Everyone that stem from interagency coordination pursuant to the Broadband Interagency Coordination Act of 2020. Accordingly, for reasons similar to those articulated in the *Fourth RDOF Authorization Public Notice*, see *supra* n.48, we waive the default forfeitures for these areas.

⁵⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

⁵¹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 115; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

⁵² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

⁵³ 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.

⁵⁴ *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).

forth in the model letter of credit provided in Appendix C of the *Rural Digital Opportunity Fund Order*,⁵⁵ by a bank that is acceptable to the Commission by **6:00 p.m. ET on September 15, 2022**.⁵⁶ **Prior to submitting their letters of credit, we encourage long-form applicants to view and share with their issuing banks the letter of credit resources available on USAC's website: <https://www.usac.org/high-cost/funds/rural-digital-opportunity-fund/>.**

A separate letter of credit must be submitted for each state where the long-form applicant has winning bids that are ready to be authorized, in an amount equal to at least the first year of support in the state.⁵⁷ The value of the letter of credit must increase each year until it has been verified that the support recipient has met certain milestones, as described in more detail in section 54.804(c)(1) of the Commission's rules.⁵⁸

In addition, a long-form applicant is required to provide with the letter of credit an opinion letter from outside legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that, in a proceeding under the Bankruptcy Code, the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the long-form applicant's bankruptcy estate, or the bankruptcy estate of any other bidder-related entity requesting issuance of the letter of credit, under section 541 of the Bankruptcy Code.⁵⁹

By future public notice, we will authorize support for specific winning bids for which all requirements, including submission of the letter of credit 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

Long-form applicants identified in Attachment A of this Public Notice must submit letters of credit and Bankruptcy Code opinion letters for each state where they have winning bids identified in Attachment A. The minimum amount of the first letter of credit for each state is determined by adding up the first year of support listed in Attachment A for each winning bid in the state. Each letter of credit and opinion letter submitted to the Universal Service Administrative Company (USAC) must reference the relevant study area code as listed in Attachment A.

A long-form applicant should:

- Submit the hard copy of the letter of credit and opinion letter to USAC by **6:00 p.m. ET on September 15, 2022**, at the following address: Universal Service Administrative Company (USAC), High Cost Program, Rural Digital Opportunity Fund LOC, Attn: Stephen Snowman, 700 12th Street, NW, Suite 900, Washington, DC 20005;
- **Submit an electronic copy of its original letter of credit and opinion letter to hcinfo@usac.org and OGC-LOC@usac.org by the deadline to ensure that they are timely filed.** Note: 1) the electronic copies should be scanned versions of the hard copies mailed to USAC, which should be signed and include Annex A, B, & C, as shown in the model letter of credit,⁶⁰ 2) electronic copies are used for the purpose of determining the

⁵⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 773-77, Appx. C.

⁵⁶ The Commission's rules list specific requirements for a bank to be acceptable to the Commission to issue the letter of credit. Those requirements vary for United States banks and non-U.S. banks. See 47 CFR § 54.804(c)(2); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 732, para. 107.

⁵⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 732-33, paras. 107-08.

⁵⁸ 47 CFR § 54.804(c)(1)(i)-(vii); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 729-31, paras. 98-104.

⁵⁹ 11 U.S.C. § 541; 47 CFR § 54.804(c)(3); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 113.

⁶⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 773-77, Appx. C.

timeliness of submissions, 3) thus, USAC will only review the mailed, hard copies of the letters of credit and opinion letters, not the electronic copies;

- Expect to receive feedback from USAC on letters of credit within approximately 10 days of USAC’s receipt of the hard copies;
- Avoid sending additional documents until the applicant has received feedback from USAC. If an applicant notices an error in its letter of credit or bankruptcy opinion letter prior to receiving feedback from USAC, do not send USAC a revised copy of the relevant document. Instead, applicants should wait to receive feedback from USAC and then make their corrections to the version of the document they send back to USAC that also incorporates any USAC feedback.

A copy of the letter of credit and opinion letter must also be submitted in the FCC Auction System by the applicable deadline—**prior to 6:00 p.m. ET on September 15, 2022**. An applicant must provide this required information in two attachments. The letter of credit attachment should be uploaded using the “Letter of Credit” attachment type, and the opinion letter attachment should be uploaded using the “Letter of Credit Opinion Letter” attachment type. 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. Such attachments will be treated as confidential trade secrets and/or commercial information and withheld from routine public inspection.⁶¹ As such, a long-form applicant need not submit a separate section 0.459 confidentiality request for this information with its FCC Form 683.⁶²

Any long-form applicant identified in Attachment A that fails to file the required documents⁶³ for any of the identified winning bids by the applicable deadline – **prior to 6:00 p.m. ET on September 15, 2022** – will be in default on such bid(s) and subject to forfeiture.⁶⁴

Further Information Contact:

Technical Support

Electronic Filing
Auction Application System

FCC Auctions Technical Support Hotline

(877) 480-3201, option nine; or (202) 414-1250
(202) 414-1255 (TTY)
Hours of service: 8:00 a.m. – 6:00 p.m. ET,
Monday through Friday

Press Information

Office of Media Relations

Anne Veigle, (202) 418-0506

⁶¹ *Auction 904 Closing Public Notice*, 35 FCC Rcd at 13899, para. 28. If a request for public inspection under section 0.461 is made for the long-form applicant’s letter of credit or opinion letter, the long-form applicant will have an opportunity to object to disclosure and justify the continued confidential treatment of the information. 47 CFR §§ 0.459, 0.461.

⁶² 47 CFR § 0.459.

⁶³ 47 CFR § 54.804(b)(6)(v).

⁶⁴ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, paras. 114-17; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, paras. 321-22 (2020).

General Universal Service Information**Wireline Competition Bureau,
Telecommunications Access Policy Division**

Lauren Garry
Heidi Lankau
Katie King
(202) 418-7400
Auction904@fcc.gov

Universal Service Administrative Company

Stephen Snowman
(202) 414-2725

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

Rural Broadband Auctions Task Force

Michael Janson, (202) 418-0627
Kirk Burgee, (202) 418-1599
Audra Hale-Maddox, (202) 418-0794
Jonathan McCormack, (202) 418-1065

**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

FCC Internet Sites

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

This Public Notice contains the following Attachments:

Attachment A: Ready to Authorize Long-Form Applicants and Winning Bids

Attachment B: Bids in Default

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