



PUBLIC NOTICE

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MOBILITY FUND PHASE I AUCTION SCHEDULED FOR SEPTEMBER 27, 2012 COMMENT SOUGHT ON COMPETITIVE BIDDING PROCEDURES FOR AUCTION 901 AND CERTAIN PROGRAM REQUIREMENTS

AU Docket No. 12-25

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Reply Comments Due: March 9, 2012

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I. INTRODUCTION AND SUMMARY

1. By this Public Notice, the Wireless Telecommunications and Wireline Competition Bureaus (the Bureaus) announce a reverse auction to award \$300 million in one-time Mobility Fund Phase I support and seek comment on auction procedures and certain related programmatic issues. This auction is scheduled to begin on September 27, 2012, and is designated as Auction 901.

2. Auction 901 will be the first auction to award high-cost universal service support through reverse competitive bidding, as envisioned by the Commission in the *USF/ICC Transformation Order*.¹ Auction 901 will award one-time support to carriers that commit to provide 3G or better mobile voice and broadband services in areas where such services are unavailable, based on the bids that will maximize the road miles covered by new mobile services without exceeding the budget of \$300 million.² Because the objective of this auction is to maximize the expansion of advanced services with the available funds, winning bids will generally be those that would achieve the deployment of such services for relatively lower levels of support.

3. Many of the pre-auction processes and bidding procedures for this auction will be similar to those regularly used for the Commission's spectrum license auctions. The Bureaus will announce final procedures and other important information such as application deadlines and other dates related to Auction 901 after considering comments provided in response to this Public Notice, pursuant to governing statutes and Commission rules. In this Public Notice, we propose and seek comment on detailed procedures for:

- Identifying geographic areas eligible for support;
- Determining the basic auction design, including the round format, how eligible areas may be aggregated for bidding, and how awardees will be selected;
- Establishing certain other bidding procedures, including information disclosure and methodologies for calculating auction and performance default payments.

4. In addition, this Public Notice seeks comment on two auction-related programmatic issues. Specifically, in connection with our discussion of approaches to aggregation of eligible areas for bidding, we seek comment on establishing more stringent coverage requirements, as compared to the minimum required by the rules, which would apply if the Bureaus implement procedures for bidder-defined aggregation of eligible geographic areas. We also seek comment on developing a target rate for evaluating whether recipients meet the terms of the required certification that their rates for supported services in rural, insular, and high-cost areas are reasonably comparable to those offered in urban areas.

¹ Connect America Fund, WC Docket No. 10-90, A National Broadband Plan for Our Future, GN Docket No. 09-51, Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135, High-Cost Universal Service Support, WC Docket No. 05-337, Developing an Unified Intercarrier Compensation Regime, CC Docket No. 01-92, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Lifeline and Link-Up, WC Docket No. 03-109, Universal Service Reform – Mobility Fund, WT Docket No. 10-208, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161, rel. November 18, 2011 (*USF/ICC Transformation Order*).

² We use the terms “3G,” “3G or better,” “current generation,” and “advanced” interchangeably to refer to mobile wireless services that provide voice telephony service on networks that also provide services such as Internet access and email. We refer throughout this Public Notice to “awarding” or “selecting awardees” by auction for simplicity of expression. As provided by the Commission's rules, *see* 47 C.F.R. §§ 54.1005(b) and 54.1008(a), and discussed further below, each party that becomes a winning bidder in the auction must file an application for support. Only after review of the application to confirm compliance with all the applicable requirements will a winning bidder become authorized to receive support.

II. BACKGROUND

5. In the *USF/ICC Transformation Order*, the Commission comprehensively reformed and modernized the universal service system to help ensure the universal availability of fixed and mobile communication networks capable of providing voice and broadband services where people live, work, and travel. The Commission's universal service reforms include a commitment to fiscal responsibility, accountability, and the use of market-based mechanisms, such as competitive bidding, to provide more targeted and efficient support than in the past. For the first time, the Commission established a universal service support mechanism dedicated exclusively to mobile services – the Mobility Fund.

6. Phase I of the Mobility Fund will provide up to \$300 million in one-time support to address gaps in mobile services by supporting the build-out of current and next-generation mobile networks in areas where these networks are unavailable.³ This support will be awarded by reverse auction with the objective of maximizing the coverage of road miles in eligible unserved areas within the established budget.⁴ The support offered under Phase I of the Mobility Fund is in addition to any ongoing support provided under existing high-cost universal service program mechanisms. Phase II of the Mobility Fund will provide \$500 million annually for ongoing support of mobile services.⁵ The Commission sought comment on the details for Mobility Fund Phase II in the Further Notice of Proposed Rulemaking (FNPRM) adopted in the *USF/ICC Transformation Order*.⁶

7. The *USF/ICC Transformation Order* established application, performance, and other requirements. In order to participate in Auction 901 and receive Mobility Fund Phase I support, an applicant must demonstrate for the areas on which it wishes to bid that it has been designated as an eligible telecommunications carrier (ETC), and has access to the spectrum necessary to satisfy the applicable performance requirements.⁷ In addition, an applicant must demonstrate that it is financially and technically capable of providing 3G or better service.⁸ To ensure that Mobility Fund Phase I support meets the Commission's public interest objectives, recipients will be subject to a variety of obligations, including performance, coverage, collocation, voice and data roaming requirements, and Tribal engagement obligations.⁹ Among other things, winning bidders will be required either to deploy services meeting the Commission's specified minimum requirements for 3G service within two years or 4G service within three years after the date on which it is authorized to receive support.¹⁰ Those seeking to

³ *USF/ICC Transformation Order* at para. 299. The Commission also designated an additional \$50 million for one-time support targeted exclusively for advanced mobile services on Tribal lands, which will be awarded by auction in 2013. *Id.* at para. 481. We will seek separate comment on issues relating to the Tribal Mobility Fund.

⁴ *See id.* at paras. 322-28. We refer to areas without 3G or better services and the road miles within them as "unserved." Those unserved areas and road miles eligible for Mobility Fund Phase I will be determined as described in section III, below.

⁵ *Id.* at para. 494. Up to \$100 million of this amount annually is designated for support to Tribal lands.

⁶ *Id.* at paras. 1121-88.

⁷ *Id.* at paras. 388-99, 47 C.F.R. § 54.1003. Because of the lead time necessary to receive designation as an ETC and to acquire spectrum, prospective applicants that need to do so are strongly encouraged to initiate both processes as soon as possible in order to increase the likelihood that they will be able to participate in Auction 901. We expect to release shortly a public notice summarizing existing requirements for filing an ETC application with the Commission. A Tribal entity may participate provided it has applied for designation as an ETC for the relevant area and that application is still pending. Any such entity must still receive designation prior to support being awarded. *USF/ICC Transformation Order* at para. 491, 47 C.F.R. § 54.1004(a). The requirement that parties have access to spectrum applies equally to all parties, including Tribal entities.

⁸ *USF/ICC Transformation Order* at paras. 400-03, 47 C.F.R. § 54.1002(c).

⁹ *USF/ICC Transformation Order* at paras. 359-85, 489, 47 C.F.R. §§ 54.1004(d), 54.1006.

¹⁰ *USF/ICC Transformation Order* at paras. 360-62. *See* 47 C.F.R. § 54.1006(a) and (b).

participate in the auction must file a short-form application by a deadline to be announced, providing information and certifications as to their qualifications to receive support. After the close of the auction, winning bidders must submit a detailed long-form application and procure an irrevocable stand-by Letter (or Letters) of Credit (LOC) to secure the Commission's financial commitment.¹¹

8. In the *USF/ICC Transformation Order*, the Commission delegated authority to the Bureaus to implement Mobility Fund Phase I, including the authority to prepare for and conduct an auction and administer program details.¹² This Public Notice focuses on establishing the procedures and processes needed to conduct Auction 901 and administer Phase I of the Mobility Fund. Parties responding to this Public Notice should be familiar with the details of the *USF/ICC Transformation Order* and the established process for spectrum license auctions, which serve as the foundation for the process we propose here. After reviewing the comments requested by this Public Notice, the Bureaus will release a public notice detailing final procedures for Auction 901. That public notice will be released so that potential applicants will have adequate time to familiarize themselves with the specific procedures that will govern the conduct of the auction as well as with the obligations of support, including rates and coverage requirements that are addressed herein. Below we summarize the topics on which we seek comment in this Public Notice. We ask that commenters, in advocating for particular procedures from among the options we present for Auction 901, provide input on the costs and benefits of those procedures.

9. *Areas Eligible for Mobility Fund Support.* To assure that support is being used in areas that are not covered by current or next generation mobile networks, the *USF/ICC Transformation Order* provides that the Bureaus will identify areas presently without such services on a census block basis, and publish a list of census blocks deemed eligible for Phase I support.¹³ A preliminary list of potentially eligible census blocks, which include unserved census blocks with road miles, as well as the number of road miles associated with each can be found at: <http://wireless.fcc.gov/auctions/901/>. As discussed below, we will release a revised list shortly. We seek comment on various issues regarding the census blocks identified as potentially eligible. We will finalize which areas are eligible for support in a public notice establishing final procedures for Auction 901.

10. *Auction Design and Bidding Procedures.* In the *USF/ICC Transformation Order*, the Commission concluded that distributing support through a reverse auction would be the best way to achieve its goal of maximizing consumer benefits with the funds available for Phase I of the Mobility Fund and adopted general competitive bidding rules for that purpose.¹⁴ As envisioned by the Commission, parties seeking support will compete in Auction 901 by indicating the amount of support they need to meet the requirements of Mobility Fund Phase I in the eligible census blocks on which they bid.¹⁵ The Commission indicated that a single-round sealed bid auction format would be most appropriate for Mobility Fund Phase I, but left the final determination to the Bureaus.¹⁶ Accordingly, we propose below that support will be awarded using a single-round auction format. Support will be awarded to maximize the number of road miles in eligible census blocks that can gain 3G or better mobile services under the Mobility Fund Phase I budget. This will generally result in providing support to no more than one provider in a given area. Unlike our spectrum license auctions which involve license-by-license competition for a fixed inventory of licenses, this auction will award support only for the set of areas that

¹¹ *USF/ICC Transformation Order* at paras. 444-51, 47 C.F.R. § 54.1005(b).

¹² See *USF/ICC Transformation Order* at paras. 329, 411.

¹³ See *id.* at paras. 334-37.

¹⁴ See *id.* at paras. 322-28, 412-32. See also 47 C.F.R. §§ 1.21000 *et seq.*

¹⁵ *USF/ICC Transformation Order* at para. 322.

¹⁶ *Id.* at paras. 413, 415, see 47 C.F.R. §1.21003(b).

will achieve the most newly covered road miles without exceeding the Mobility Fund Phase I budget based on the bids submitted. Thus, bidders will compete not only against other carriers that may be bidding for support in the same areas, but against carriers bidding for support in other areas nationwide. Successful bidders will be awarded support for an area at the price they bid.

11. The preliminary list of potentially eligible areas we release in connection with this Public Notice contains approximately 491,000 census blocks, which are, on average, far smaller than the minimum areas for which carriers seeking support are likely to want to extend service. Thus, carriers bidding for support are likely to bid on groups of census blocks. To address this need to aggregate census blocks for bidding while maintaining a manageable auction process, below we discuss our proposed bidder-defined aggregation approach and seek comment on an alternative approach using predefined aggregations. We propose a single round of bidding in any case, but most other aspects of the auction alternatives we discuss – including how awardees are selected and what coverage obligations apply – are specific to the approach discussed.

12. Because we expect the limited budget will constrain bid amounts, we do not propose to establish any maximum acceptable bid amounts, reserve amounts, or maximum opening bids. In addition, consistent with recent spectrum license auction practice, the Bureaus propose to withhold, until after the close of bidding, information from applicants' short-forms regarding their interests in particular eligible census blocks. As discussed in more detail below, the Bureaus seek comment on these proposals.

13. *Post-Auction Procedures.* At the conclusion of the auction, winning bidders will be required to file an in-depth "long-form" application to demonstrate that they qualify for Mobility Fund Phase I support. The long-form application must include information regarding the winning bidder's ownership, eligibility to receive support, and network construction details. A winning bidder will be liable for an auction default payment if the bidder fails to timely file the long-form application, is found ineligible, is disqualified, or otherwise defaults for any reason. In addition, a winning bidder that fails to meet certain obligations will be liable for a performance default payment. Accordingly, winning bidders will be required to provide an irrevocable stand-by LOC in an amount equal to the amount of support, plus an additional amount which would serve as a performance default payment if necessary. As discussed below, the Bureaus seek comment on how to establish auction and performance default payments.

14. *Rates.* Applicants for Mobility Fund Phase I support must certify that they offer supported services at rates comparable to those for similar services in urban areas. In this Public Notice, we describe and seek comment on a standard for demonstrating compliance with this requirement.

III. AREAS ELIGIBLE FOR MOBILITY FUND SUPPORT

A. Identifying Eligible Unserved Census Blocks

15. In the *USF/ICC Transformation Order*, the Commission decided to target Mobility Fund Phase I support to census blocks without 3G or better service, and determined that American Roamer data is the best available data source for determining the availability of such service.¹⁷ Auction 901 will offer Mobility Fund Phase I support in eligible unserved census blocks, i.e., those census blocks from the 2010 Census with road miles in particular road categories and where, based on the American Roamer data most recently available for this purpose, there is no coverage by 3G or better services at the centroid.¹⁸ For the 2010 Census, the Census Bureau has tabulated data for each of the more than 11 million census blocks covering the 50 states, Washington DC, and the Territories.¹⁹ We conclude that, for Auction 901, we will use the most recently available American Roamer data, from January 2012. The Bureaus have not

¹⁷ *USF/ICC Transformation Order* at paras. 332, 334.

¹⁸ *Id.* at paras. 334, 344, 353. See Section III.B., below.

¹⁹ The Territories consist of Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands.

concluded their analysis of the January 2012 American Roamer data, but expect to do so shortly after release of this Public Notice. In preparation for the release of this Public Notice, however, we have completed an analysis of the October 2011 American Roamer data using the same methodology that we will use with the January 2012 American Roamer data, and are releasing a preliminary list of potentially eligible census blocks based on that earlier data. Once we have completed our analysis of the January 2012 data, we will release a revised list of potentially eligible census blocks.

16. As the first step in our methodology, the Bureaus have identified unserved blocks based on the 2010 Census blocks and October 2011 American Roamer data. The Bureaus used geographic information system (GIS) software to determine whether the American Roamer data shows 3G or better wireless coverage at the centroid of each block.²⁰ If the American Roamer data did not show such coverage, the block was determined to be unserved. Because Mobility Fund Phase I support will be awarded based on bid amounts and the number of road miles in each unserved census block, the preliminary list of potentially eligible census blocks does not include any unserved census blocks without road miles. The preliminary list includes unserved census blocks with road miles in any of the road categories in the TIGER data made available by the Census Bureau.²¹ For Auction 901, the Bureau will limit the final list of unserved census blocks eligible for support to only those that contain road miles in any of the chosen road categories, as described more fully below.²²

17. Pursuant to the *USF/ICC Transformation Order*, we will also make ineligible for support census blocks for which, notwithstanding the absence of 3G service, any provider has made a regulatory commitment to provide 3G or better wireless service, or has received a funding commitment from a federal executive department or agency in response to the carrier's commitment to provide 3G or better wireless service.²³ Such federal funding commitments may have been made under, but are not limited to, the Broadband Technology Opportunities Program (BTOP) and Broadband Initiatives Program (BIP) authorized by the American Recovery and Reinvestment Act of 2009 (ARRA).²⁴ Furthermore, the Commission established certain bidder-specific restrictions.²⁵ Specifically, each applicant for Mobility Fund Phase I support is required to certify that it will not seek support for any areas in which it has made a public commitment to deploy, by December 31, 2012, 3G or better wireless service.²⁶ In determining whether an applicant has made such a public commitment, we anticipate that we would consider any public statement made with some specificity as to both geographic area and time period. This restriction will not prevent a bidder from seeking and receiving support for an unserved area for which another provider has made such a public commitment.

18. Attachment A released with this Public Notice provides a summary of the preliminary list of potentially eligible census blocks determined as described above based on October 2011 American Roamer data. For each state and territory, Attachment A provides the total number of potentially eligible

²⁰ Specifically, the Bureaus used ArcGIS software from Esri to determine whether the American Roamer data showed 3G or better coverage at each block's centroid. The following technologies were considered 3G or better: EV-DO, EV-DO Rev A, UMTS/HSPA, HSPA+, WiMAX, and LTE. We use the term "centroid" to refer to the internal point latitude/longitude of a census block polygon. For more information, see U.S. Census Bureau, Putting It All Together, http://lehd.did.census.gov/led/library/doc/PuttingItTogether_20100817.pdf (visited February 1, 2012).

²¹ *USF/ICC Transformation Order* at para. 353. See Section III.B., below.

²² See Section III.B., below.

²³ *USF/ICC Transformation Order* at paras. 341-42.

²⁴ See ARRA, P.L. 111-5, 123 Stat. 115.

²⁵ *USF/ICC Transformation Order* at para. 410.

²⁶ See 47 C.F.R. § 54.1005(a)(5).

census blocks (unserved census blocks with road miles), the total number of block groups with such blocks, the total number of tracts with such blocks, the total number of counties with such blocks, and the number of cellular market areas (CMAs) with such blocks. For each state and territory, Attachment A also provides the total population and area of the potentially eligible blocks, and the total number of road miles in each of the road mile categories (as described in more detail below). Due to the large number of potentially eligible blocks, the complete list will be provided in electronic format only, available as separate “Attachment A” files at <http://wireless.fcc.gov/auctions/901/>.²⁷ For each potentially eligible block, individually identified by its Federal Information Processing Series (FIPS) code, these files provide the population and area of the block; the associated state, county, tract, and block group; any associated Tribe and Tribal land; and the number of road miles in each road mile category.²⁸

19. As noted above, the Bureaus will release a revised list of potentially eligible census blocks shortly, i.e., revised Attachment A files, as well as a revised Attachment A. If commenters think certain blocks included in the revised list should not be eligible for support, they should indicate which blocks and provide supporting evidence. Similarly, if commenters think certain blocks not included in the revised list should be eligible for support, they should indicate which blocks and provide supporting evidence. In particular, we note that, in the *USF/ICC Transformation Order*, the Commission required all wireless competitive ETCs in the high cost program to review the list of eligible census blocks for the purpose of identifying any areas for which they have made a regulatory commitment to provide 3G or better service or received a federal executive department or agency funding commitment in exchange for their commitment to provide 3G or better service.²⁹ The Bureaus will entertain challenges to the revised list of potentially eligible census blocks only in the form of comments to this Public Notice. The Commission concluded in the *USF/ICC Transformation Order* that more extended pre-auction review could cause undue delay in making one-time Mobility Fund Phase I support available. Further, the Commission decided that providing for post-auction challenges would inject uncertainty and delay into the process.³⁰

20. Based on a review of the comments and any related information, the Bureaus will provide a final list of the specific census blocks eligible for support in Auction 901 when it releases the public notice announcing procedures for Auction 901. In addition to providing files containing this final list of census blocks and related data, the Bureaus anticipate providing an interactive mapping interface for this information on the Commission website. This interface, for instance, could allow bidders to readily match up their own information on the geographic areas in which they are interested with the blocks available in the auction. The files and/or the interactive mapping interface could also make readily accessible to potential bidders various data, including maps, regarding the unserved blocks in which they are interested – such as associated road miles or population (or other units) so that bidders could consider potential bids for coverage of various geographic areas. We seek comment on the type of information and interface that would be most helpful to bidders, in light of the tools carriers use or can develop for their business and deployment planning.

²⁷ A paper copy of Attachment A and any other documents relating to Auction 901 may be purchased from the Commission’s duplicating contractor, Best Copy and Printing, Inc. (“BCPI”), 445 12th Street, SW, Room CY-B402, Washington, DC 20554, 800-378-3160 or at <http://www.bcpweb.com>. When ordering documents from BCPI, please provide the appropriate FCC document number (for example, DA 12-121 for this Public Notice).

²⁸ We note that the U.S. Census Bureau has not yet released 2010 Census block-level population data for American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands. Consequently, the population of the unserved blocks in these territories is not provided in the Attachment A files.

²⁹ *USF/ICC Transformation Order* at para. 342.

³⁰ *Id.* at para. 337.

B. Establishing Unserved Road Mile Units

21. In Auction 901, the Bureaus will use road miles as the basis for calculating the number of units in each eligible census block for purposes of comparing bids and measuring the performance of Mobility Fund Phase I support recipients.³¹ To establish the road miles associated with each census block eligible for Mobility Fund Phase I support, as suggested by the Commission in the *USF/ICC Transformation Order*, we will use the TIGER road miles data made available by the Census Bureau.³² Attachment B provides nine categories of roads in the TIGER data, their descriptions, and the total number of miles of each category in the potentially eligible unserved census blocks on the preliminary list released with this Public Notice.³³ The preliminary “Attachment A” files at <http://wireless.fcc.gov/auctions/901/> include, for each potentially eligible census block, the number of road miles for each of the categories. We will release a revised Attachment B at the time we release a revised Attachment A and revised Attachment A files.

22. For our calculation of the number of road miles associated with each unserved census block, we include the linear road miles summed within the block plus half of the sum of any linear road miles that form a border with an adjacent block. We include half of the sum of the border roads so these linear miles are not double counted and are appropriately attributed to each unserved block. Regarding which roads to include, we propose to use the following TIGER road categories: S1100, primary roads; S1200, secondary roads; and S1400, local and rural roads and city streets. Providing support for these classes of roads will include 84 percent of all roads captured in the nine TIGER road categories and moreover, will target support to those areas that tend to be most regularly traveled, and thus, where the benefits of new advanced services will be most widely enjoyed. We seek comment on these proposals. If commenters propose to use different road categories, they should explain their reasoning and describe the costs and benefits of the position they advocate.

23. We propose to include as eligible census blocks only those unserved census blocks in which there are road miles in any of the road categories we use for calculating unserved units. We note that many of the unserved census blocks only have road miles in some of the road categories. Thus, if we use the road categories proposed above, eligible census blocks will include unserved census blocks with road miles in the road categories S1100, S1200, and S1400. Support could only be awarded for such eligible census blocks and not for unserved census blocks that have no road miles or have road miles only in categories other than those we use for calculating unserved units. We seek comment on these proposals.

IV. ESTABLISHING AUCTION PROCEDURES

24. In this section, the Bureaus seek comment on establishing specific auction procedures that will govern the conduct of Auction 901.³⁴

A. Auction Design

1. Single-Round Reverse Auction Design

25. The Bureaus propose to select awardees for Mobility Fund Phase I support in Auction 901 using a single-round reverse auction.

³¹ *Id.* at paras. 349-53, 47 C.F.R. § 54.1002(b).

³² See 2010 Census TIGER/Line® Shapefiles at <http://www.census.gov/geo/www/tiger/tgrshp2010/tgrshp2010.html>.

³³ The information on TIGER road categories is from Appendix F – MAF/TIGER Feature Class Code (MTFCC) Definitions, pages F-186 and F-187 at <http://www.census.gov/geo/www/tiger/tgrshp2010/documentation.html>.

³⁴ *USF/ICC Transformation Order* at para. 411.

26. The Bureaus propose a single-round format because it is simple and quick, and because we believe multiple bidding rounds are unnecessary in this auction for bidders to make informed bid decisions or submit competitive bids. The purpose of the Mobility Fund Phase I auction mechanism is to identify whether and, if so, at what price, providers are willing to extend advanced wireless coverage over unserved areas in exchange for a one-time support payment. These bid decisions largely depend upon internal cost structures, private assessments of risk, and other factors related to the providers' specific circumstances. The bid amounts of other auction participants are unlikely to contain information that will significantly affect an individual bidder's own cost assessments and bid decisions. Thus, we propose a single-round format because we anticipate that bidders do not need to know or have the opportunity to react to the bids of others as would be possible in a multiple-round format. The Bureaus seek comment on this proposed auction format.

27. Below we discuss and seek comment on our proposal for facilitating bids on aggregations of eligible census blocks in a single-round format and on an alternative aggregation approach. We also ask for input on a third possibility. We also discuss auction design options related to each of these approaches, including package bidding and awardee determination. We also seek comment on applying a specific coverage requirement under our proposed bidder-defined aggregation approach more stringent than the minimum coverage requirement applicable under the alternative aggregation approach. We ask for input on these approaches and options, and request that commenters include as support for their positions explanations of how their suggestions will promote the Commission's objective in Mobility Fund Phase I of maximizing, within the \$300 million budget, the number of road miles with newly available 3G or better service.

2. Census Blocks and Aggregations

28. The Commission determined that the census block should be the minimum geographic building block for which support is provided, but left to the Bureaus, as part of the pre-auction process of developing auction procedures, the task of deciding how to facilitate bidding on aggregations of eligible census blocks.³⁵ Some aggregation of census blocks will be necessary, since the blocks eligible for support under the program are on average far smaller than the average area covered by a single cell tower, which is likely to be the minimum incremental geographic area of expanded coverage with Mobility Fund Phase I support.³⁶ As released with this Public Notice, the preliminary list of census blocks that may be eligible for support under Mobility Fund Phase I contains approximately 491,000 census blocks, and the average area of these blocks is approximately 1.8 square miles. We propose bidding procedures that will allow bidders to create their own aggregations of census blocks, within certain limits. We also seek comment on predefining a basic bidding unit larger than a block – and for this purpose suggest using census tracts.

29. With each approach we describe related auction design and programmatic implications and options. In particular, pursuant to the *USF/ICC Transformation Order*, a recipient of Mobility Fund Phase I support will be obligated to provide voice and broadband service meeting the established minimum standards over at least 75 percent of the aggregate road miles associated with the census blocks covered by any individual bid,³⁷ but the Commission delegated to the Bureaus whether to require a higher coverage threshold such as 95 or 100 percent if they establish auction procedures that allow bidders to create their own aggregations of individual census blocks.³⁸ Accordingly, in connection with our

³⁵ *Id.* at para. 346, 47 C.F.R. § 54.1002(a).

³⁶ *USF/ICC Transformation Order* at para. 346.

³⁷ The required minimum standards for service will depend on whether a winning bidder elects to deploy 3G or 4G service. *USF/ICC Transformation Order* at para. 365, 47 U.S.C. § 54.1006(a) and (b).

³⁸ *USF/ICC Transformation Order* at para. 365, 47 U.S.C. § 54.1006(a) and (b).

proposed aggregation approach, we seek comment on applying a higher coverage requirement of 95 or 100 percent.

30. We lay out our preferred approach – bidder-defined aggregations – and the alternatives, including predefined aggregations, in some detail so that commenters can weigh the advantages and disadvantages of each approach. We seek to establish bidding procedures that provide the best way to achieve the Commission’s objective – to maximize the number of additional road miles where advanced wireless service is available without exceeding our budget of \$300 million. We invite specific comment on whether our proposed approach will allow bidders to bid on areas that fit well with their business plans and effectively promote the Commission’s objective of expanding advanced wireless coverage.³⁹ If commenters prefer an alternative, we ask them to describe in detail why the alternative would better achieve the Commission’s objectives for the Mobility Fund Phase I.

a. Bidder-Defined Aggregations

31. The bidder-defined aggregation approach would permit bidders to create their own aggregations of the eligible census blocks⁴⁰ and submit all-or-nothing package bids on those aggregations. Under the bidder-defined aggregation approach, we would give bidders considerable flexibility to aggregate the specific census blocks they propose to serve with Mobility Fund Phase I support. Our intent is to provide bidders an opportunity to closely configure their bids to the geographic coverage of the specific cell sites that they would upgrade or build out to provide advanced wireless service with support. Such areas vary across regions and from provider to provider and are not likely to be known in advance by the Commission. A bidder could specify a set of census blocks to be covered and a total amount of support needed to cover the road miles in the eligible census blocks included in the bid.⁴¹ As discussed below, under this approach a bid could cover an area as small as one census block or an area as large as a CMA.⁴² If a bidder submitted multiple bids that partially overlapped – that is, if some of the same eligible census blocks were included in more than one bid – only one of the overlapping bids could be awarded to the bidder. Aside from this restriction, which would give a bidder a means of submitting mutually exclusive bids to avoid winning support for more areas than it wishes, a bidder could win any or all of its package bids.

32. The auction would determine winning bids so as to maximize the number of road miles in eligible census blocks that could be supported with the Mobility Fund Phase I budget of \$300 million. Because such optimization can be difficult to solve with large numbers of partially overlapping package bids, we would limit the maximum geographic scope and the total number of package bids that a bidder can make under this approach.⁴³ In the *USF/ICC Transformation Order*, the Commission noted that it

³⁹ Bidders would not, under either approach described below, be precluded from serving an area if they do not win support for the area.

⁴⁰ As noted above, there are approximately 491,000 potentially eligible census blocks on the preliminary list released with this Public Notice.

⁴¹ The Commission could develop a tool that would facilitate bidders defining areas natural to their business on which they might wish to bid. With this tool a bidder could, for example, specify any aggregation of census blocks within a CMA and the tool would report back the eligible census blocks, the associated unserved road miles, and the total unserved road miles. Bidders could use the tool to analyze possible bids. Before final submission of a bid, the bidder would have to confirm the eligible census blocks and road miles for which support could be awarded within the area of the bid.

⁴² Cellular Market Areas (CMAs) are the areas in which the Commission initially granted licenses for cellular service. Cellular markets comprise Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs). There are a total of 734 CMAs covering the United States and the Territories. See 47 C.F.R. § 22.909.

⁴³ For a general discussion of these issues, see Aleksandar Pekeč and Michael H. Rothkopf, *Combinatorial Auction Design*, Management Science INFORMS, Vol. 49, No. 11, November 2003, pp. 1485–1503.

would not expect that any aggregation would exceed the bounds of one CMA and our proposal would require that all the census blocks covered by any given bid be within a single CMA. Moreover, we would permit bidders to submit at most three bids per CMA. Based on the preliminary list of potentially eligible census blocks in Attachment A released with this Public Notice, the 603 CMAs that contain at least one potentially eligible census block have an average of approximately 815 potentially eligible census blocks, and in some cases several thousands, so that without limitations, the possible number of partially overlapping package bids per CMA could easily reach high numbers, which could make the auction process difficult to manage for both bidders and the Commission.

33. We also seek comment on whether, under this approach, bidders should be permitted to place bids on *individual* census blocks in addition to the limited number of package bids per CMA. If so, should we impose a limit on the number of bids on individual blocks that may be submitted?

34. *Determining awardees with bidder-defined aggregations.* To determine winning bids, the auction system would use a mathematical optimization procedure to identify the set of bids that maximizes the number of road miles in eligible census blocks without exceeding the \$300 million budget. That is, the auction system would consider all the bids submitted and determine which combination of bids could be awarded so as to cover as many eligible road miles as possible. Under this approach, there may be some limited cases where multiple winners could receive support to cover the same eligible road miles.⁴⁴ The Commission concluded in the *USF/ICC Transformation Order* that as a general matter Phase I of the Mobility Fund should not support more than one provider per area unless doing so would increase the number of road miles served, which is possible with partially overlapping package bids where the optimization determines that assigning support for more than one package maximizes the total road miles covered by advanced wireless services.⁴⁵ Duplicative support for large areas is likely to be rare because the optimization would count the eligible unserved road miles in the duplicative area only once but would count the amount of support awarded to each winning bidder for the overlapping area.

35. If there is substantial overlap in the areas specified by two or more competing bidders and more than one bidder is selected, then the presence of competing providers in the same area could significantly reduce the revenues a bidder expects from customers. We seek comment on whether this is of sufficient concern to bidders that we should allow them to make bids contingent on the overlap being less than some percentage of the total road miles associated with their package bid.

36. *Coverage requirement with bidder-defined aggregations.* Because this approach would allow bidders to tailor their aggregations based on individual census blocks, we seek comment on a requirement that each awardee meet a coverage threshold of 100 percent of the road miles associated with the blocks for which it is awarded support. We also seek comment on using a different coverage requirement, such as 95 percent. Any commenter proposing a coverage requirement of less than 100 percent should justify this in light of a bidder's ability to create packages of the specific eligible blocks for which it seeks support.

37. If the auction awards support to more than one bidder for an area, the coverage requirement would apply to each winning bidder, i.e., each recipient would have to deploy to the required percentage of road miles service meeting the specified minimum performance requirements associated with the type of network that recipient elected to deploy.

b. Predefined Aggregations

38. We also seek comment on an alternative approach that would require bidding on predefined aggregations of census blocks, with support to be awarded for the eligible unserved blocks that lie within

⁴⁴ As discussed above, a single bidder cannot win duplicative support because, if its bids overlap, it can win support for only one of the bids.

⁴⁵ See *USF/ICC Transformation Order* at para. 316.

the predefined aggregations. For purposes of bidding, all eligible census blocks would be grouped by the census tract in which they are located, and bidders would bid by tracts, not on individual blocks.

39. Under this approach, for each tract a bidder bids on, the bidder would indicate a per-unit price to cover the road miles in the eligible census blocks within that tract. The auction would assign support to awardees equal to the per-road mile rate of their bid multiplied by the number of road miles associated with the eligible census blocks within the tract as shown in the information that will be provided by the Bureaus prior to the auction. Under this approach, bidders would be able to bid on multiple tracts and win support for any or all of them.

40. As noted above, the preliminary list we release with this Public Notice includes approximately 491,000 unserved census blocks that would be considered potentially eligible under our criteria. If we bundled these unserved blocks into tracts for bidding, there would be approximately 6,200 tracts. Our goal in suggesting census tracts for this purpose is to create geographic areas closer in scale to minimum buildout areas than census blocks, making it less essential that bidders have the ability to place all-or-nothing package bids than when the basic bidding unit is a census block. Further, this approach would lend itself to a very simple method of determining winning bids, as discussed below.

41. In the *USF/ICC Transformation Order*, the Commission noted that the large size of census blocks in Alaska may require that bidding be permitted in individual census blocks.⁴⁶ Accordingly, under the predefined aggregation approach, we seek comment on not aggregating census blocks in Alaska – that is, allowing bids for support on individual eligible blocks. The average area of the Alaska census blocks on the preliminary list released with this Public Notice is approximately 40 square miles compared to an average area of approximately 1.1 square miles in the rest of the country.⁴⁷ Since census blocks in Alaska may be closer in size to a minimum scale of buildout than are most blocks in the rest of the country, bidders on areas in Alaska may wish to have the flexibility to bid on individual census blocks. We also seek comment on whether outside of Alaska we should use another geographic area, in addition to tracts, to predefine aggregations of eligible census blocks. For instance, should we shift from grouping blocks by census tracts to grouping them in smaller geographic units such as census block groups where a tract exceeds a certain size, such as 100 square miles?

42. We ask whether commenters believe that package bidding of predefined aggregations would be helpful, and if so, we seek input on the specific need for package bidding and whether that need could be met by providing for limited packaging of up to three contiguous tracts.

43. *Determining awardees with predefined aggregations.* Under this approach, to determine awardees, the auction system would rank all bids from lowest to highest based on the per-road mile bid amount, and assign support first to the bidder making the lowest per-road mile bid. The auction system would continue to assign support to the next lowest per-unit bids in turn, as long as support had not already been assigned for that geographic area, and would continue until the sum of support funds of the winning bids was such that no further winning bids could be supported given the funds available.⁴⁸ Ties among identical bids – in the same amount for covering the same census tract – would be resolved by assigning a random number to each bid and then assigning support to the tied bid with the highest random number. A bidder would be eligible to receive support for each of its winning bids equal to the per-unit rate of a winning bid multiplied by the number of road miles in the eligible census blocks covered by the bid, subject to meeting the obligations associated with receiving support.

⁴⁶ *Id.* at para. 347.

⁴⁷ The previously stated overall average of 1.8 square miles per unserved block included the Alaska census blocks in the calculation. *See* para. 28, above.

⁴⁸ When calculating how much of the budget remains, for each winning bid the auction system will multiply the per-unit rate bid by the total number of road miles in the uncovered blocks. This is because an awardee may receive support for up to 100 percent of the road miles in the blocks for which it receives support.

44. Because using the ranking method would likely result in monies remaining available from the budget after identifying the last lowest per-unit bid that does not exceed the funds available, we propose to continue to consider bids in order of per-unit bid amount while skipping bids that would require more support than is available. We would award such bids as long as support is available and the per-unit bid amount does not exceed the previously awarded bid by more than twenty percent. In the event that there are two or more bids for the same per-unit amount but for different areas and remaining funds are insufficient to satisfy all of the tied bids, we seek comment on awarding support to that combination of such tied bids that would most nearly exhaust the available funds.⁴⁹

45. *Coverage requirement with predefined aggregations.* Under this approach, awardees would be required to cover at least 75 percent of the road miles associated with the eligible blocks in the tracts for which they receive support.⁵⁰

c. Other Aggregation Options

46. In connection with these questions about alternative approaches to census block aggregation, we note that we also may consider a package bidding auction design similar to that described by Paul Milgrom and Assaf Eilat in an *ex parte* submission on behalf of ViaSat in the record underlying the *USF/ICC Transformation Order*.⁵¹ Each bid would specify a set of census blocks, a fixed amount of support to be paid if any of the census blocks identified in the bid is selected for an award, and a separate individual amount of support specific to each census block in the package.⁵² Unlike the package bids under our proposed bidder-defined approach where a package bid would constitute an all-or-nothing bid to cover a group of eligible census blocks, under this option, a package bid would consist of an offer to serve any subset of the areas included in the package. To select awardees, an optimization would consider the bids on all potential subsets of areas and select winners so as to maximize the number of road miles covered without exceeding the \$300 million budget. If awarded support, a bidder would be eligible to receive an amount equal to the fixed price associated with the bid plus the sum of the individual area-specific prices in the awarded combination of areas. Because this approach would allow bidders to tailor their aggregations based on individual census blocks, we seek comment on whether each awardee would have to meet a coverage requirement of 100 percent, or a lower percentage such as 95 percent, of the road miles associated with the blocks for which it is awarded support. While this bidding structure imposes some limitations on bidders, it provides them a relatively simple means of expressing the support they would require for the various combinations of areas in each package bid they submit.⁵³ Such an aggregation option could be used with census blocks as the minimum geographic areas. Or it could be used to provide for package bidding of predefined aggregations of eligible census blocks – e.g., census tracts.

⁴⁹ In the highly unlikely event that such tied bids would use the available funds to an equal extent, we would use a random number tie breaker.

⁵⁰ See *USF/ICC Transformation Order* at paras. 365, 367, 47 C.F.R. § 54.1006(a) and (b). This requirement would apply to the total number of road miles in the eligible census blocks in each census tract or other predefined aggregation on which bids are based, and counting the road categories used for unserved units as described above. Pursuant to the *USF/ICC Transformation Order*, awardees meeting the minimum coverage requirement could receive their winning bid amount for those road miles and for any road miles covered in excess of the 75 percent minimum, up to 100 percent of the road miles associated with the unserved blocks, subject to the rules on disbursement of support. See *USF/ICC Transformation Order* at para. 367, 47 U.S.C. § 54.1008.

⁵¹ See ViaSat, Inc. and Wild Blue Communications, Inc., *Ex Parte Notice*, WC Docket No. 10-90, July 29, 2011, Enclosure.

⁵² Note that a capacity constraint indicating a maximum number of individual areas could also be included in the bid. The solver would take that constraint into account when assigning awardees.

⁵³ This approach would facilitate the Commission's ability to combine bids from multiple bidders to award support without duplicating coverage.

d. Evaluating the Aggregation Options

47. We seek comment on the aggregation options discussed above. Commenters should consider the related issues such as package bidding limits, determination of awardees, and coverage requirements, in advocating the desirability of any particular approach. In addition, commenters should include an evaluation of the benefits and costs associated with the position they take on these options.

48. Under our proposed bidder-defined aggregation approach, bidders could tailor their bids to include specific eligible census blocks within certain limits. They would be subject to a coverage requirement more stringent than the minimum of 75 percent required by the rules, and potentially as high as 100 percent, because bidders would be free to define the census blocks they wish to cover.⁵⁴ We ask commenters to provide input on the proposed limit of three packages within a CMA and the restriction that no package be larger than a CMA. Would such limits on the number and size of packages enable efficient providers seeking support only on very small packages to win support for those packages in the auction? We also seek comment on whether this approach would help bidders to closely configure their bids to the geographic coverage of the cell sites that they would upgrade or build out to provide advanced wireless service.

49. Commenters should also provide input on whether the predefined aggregation approach would allow bidders enough granularity to incorporate Mobility Fund Phase I support into their business plans considering that awardees would be required to cover at least 75 percent of the road miles associated with the eligible blocks in the tracts for which they receive support. We also ask whether the predefined aggregation approach would meet the needs of bidders to take advantage of significant geographic economies of scale or scope. In addition, we invite input on whether this approach would allow carriers to manage adequately any potential risks relating to aggregating the areas on which they seek support.

50. In considering these interrelated questions of minimum unit size, packaging, the process for selecting winners, and coverage requirements, we ask commenters to keep in mind the constraints that conducting an auction with a very large number of eligible areas may impose.

B. Auction Information Procedures

51. Under the Commission's rules on competitive bidding for high-cost universal service support adopted in the *USF/ICC Transformation Order*, the Bureaus have discretion to limit public disclosure of certain bidder-specific application and bidding information until after the auction, as it does in the case of spectrum license auctions.⁵⁵ Consistent with recent spectrum license auction practice, the Bureaus propose to conduct Auction 901 using procedures for limited information disclosure. That is, for Auction 901, the Bureaus propose to withhold, until after the close of bidding and announcement of auction results, the public release of (1) information from bidders' short-form applications regarding their interests in particular eligible census blocks and (2) information that may reveal the identities of bidders placing bids and taking other bidding-related actions. Because we propose to conduct Auction 901 using a single round of bidding, we do not anticipate that there will be a need for release of bidding-related actions during the auction as there would be in a multiple round auction. If such circumstances were to arise prior to the release of non-public information and auction results, however, our proposal would

⁵⁴ See *USF/ICC Transformation Order* at para. 365, 47 C.F.R. § 54.1006(a) and (b).

⁵⁵ *USF/ICC Transformation Order* at para. 431, see 47 C.F.R. § 1.21003(b)(1). See also, e.g., "Auction of 700 MHz Band Licenses Scheduled for January 24, 2008; Notice and Filing Requirements, Minimum Opening Bids, Reserve Prices, Upfront Payments, and Other Procedures for Auctions 73 and 76," *Public Notice*, DA 07-4171, 22 FCC Rcd 18,141, 18,181-85 paras. 145-56 (WTB 2007) ("*Auction 73 Procedures Public Notice*"); "Auction of Advanced Wireless Services Licenses Scheduled for June 29, 2006; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 66," *Public Notice*, FCC 06-47, 21 FCC Rcd 4562, 4600-05 paras. 140-57 (2006) ("*Auction 66 Procedures Public Notice*").

mean that we would not indicate the identity of any bidders taking such actions. After the close of bidding, bidders' area selections, bids, and any other bidding-related actions and information would be made publicly available.

52. The Bureaus seek comment on their proposal to implement limited information procedures in Auction 901.

C. Auction Structure

1. Bidding Period

53. The Bureaus will conduct Auction 901 over the Internet. In Commission spectrum license auctions, telephonic bidding has served as a back-up to on-line bidding. Given the likelihood that this auction will involve large numbers of bids (based on the number of potentially eligible areas and the possibility of bidder-specific package bids), and because we can provide ample time for on-line bidding during the proposed single round, telephonic bidding will not be available for Auction 901.

54. The single-round format will consist of one bidding round. The start and finish time of the bidding round will be announced in a public notice to be released at least one week before the start of the auction. We seek comment on this proposal.

2. Information Relating to Auction Delay, Suspension, or Cancellation

55. For Auction 901, the Bureaus propose that, by public notice or by announcement during the auction, the Bureaus may delay, suspend, or cancel the auction in the event of natural disaster, technical failures, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding.⁵⁶ In such cases, the Bureaus, in their sole discretion, may elect to resume the auction or cancel the auction in its entirety. Network interruption may cause the Bureaus to delay or suspend the auction. The Bureaus emphasize that exercise of this authority would be solely within the discretion of the Bureaus. The Bureaus seek comment on this proposal.

D. Bidding Procedures

1. Maximum Bids and Reserve Prices

56. Under the Commission's rules on competitive bidding for high-cost universal service support adopted in the *USF/ICC Transformation Order*, the Bureaus have discretion to establish maximum acceptable per-unit bid amounts and reserve amounts, separate and apart from any maximum opening bids.⁵⁷

57. We propose not to establish any maximum acceptable per-unit bid amounts, reserve amounts, or maximum opening bid amounts. Because this auction is being conducted with a budget that is not likely to cover support for all of the areas receiving bids, we believe that the competition across the eligible areas will constrain the bid amounts. Nevertheless, we seek comment on whether to establish reserve and/or maximum or minimum bids in Auction 901. We further seek comment on what methods should be used to calculate reserve prices and/or maximum or minimum bids if they are adopted. Commenters are advised to support their claims with valuation analyses and suggested amounts or formulas.

2. Bid Removal

58. For Auction 901, the Bureaus propose and seek comment on the following bid removal procedures. Before the end of the single round of bidding, a bidder would have the option of removing any bid it has placed. By removing a selected bid(s), a bidder may effectively "undo" any of its bids

⁵⁶ 47 C.F.R. § 1.21003(b)(11).

⁵⁷ *USF/ICC Transformation Order* at para. 423-24, 47 C.F.R. § 1.21003(b)(4).

placed within the single round of bidding. Once the single round of bidding ends, a bidder may no longer remove any of its bids. The Bureaus seek comment on this proposal.

E. Default Payments

59. In the *USF/ICC Transformation Order*, the Commission determined that a winning bidder in a reverse auction for high-cost universal service support that defaults on its bid or on its performance obligations will be liable for a default payment.⁵⁸ Under the competitive bidding rules adopted in the *USF/ICC Transformation Order*, bidders selected by the auction process to receive support have a binding obligation to file a post-auction long-form application – by the applicable deadline and consistent with other requirements of the long-form application process – and failure to do so will constitute an auction default.⁵⁹ In addition, the Mobility Fund Phase I rules provide that the failure, by any winning bidder authorized to receive support, to meet its minimum coverage requirement or adequately comply with quality of service or any other requirements will constitute a performance default.⁶⁰ The Bureaus have delegated authority to determine in advance of Auction 901 the methodologies for determining the auction and performance default payments.⁶¹ Here we seek comment on how to calculate the auction default payments that will be applicable for Auction 901.

1. Auction Default Payment

60. As noted in the *USF/ICC Transformation Order*, failure to fulfill auction obligations, including those undertaken prior to the award of any support funds, may undermine the stability and predictability of the auction process and impose costs on the Commission and the Universal Service Fund (USF).⁶² To safeguard the integrity of the Mobility Fund Phase I auction, we seek comment on an appropriate payment for auction defaults, which will be deemed to occur if a bidder selected by the auction mechanism does not become authorized to receive support after the close of the bidding, e.g., fails to timely file a long form application, is found ineligible or unqualified to be a recipient of Mobility Fund Phase I support, has its long-form application dismissed for any reason, or otherwise defaults for any reason after the close of the auction.⁶³ An auction default could occur at any time between the close of the bidding and the authorization of support for each of the winning bidders. For example, a winning bidder that fails to file its long-form application by the announced deadline would be deemed in default after the missed deadline. However, a winning bidder that timely files its long-form, but is not ultimately authorized to receive support, may be deemed in default some time later, given the time required for the application review process. Aside from not awarding support to the defaulting bidder, we note that a defaulted bid would not otherwise result in a change to the set of awardees originally selected by the auction mechanism.

61. We propose to calculate the auction default payment using a percentage, not to exceed 20 percent, of the total defaulted bid.⁶⁴ Specifically, we would use a rate of five percent of the total defaulted bid. We would apply the percentage to the total amount of support assigned based on the bid amount for the geographic area covered by the defaulted bid(s). We believe that this amount, below our maximum percentage, will protect against the costs to the Commission and the USF of auction defaults and provide bidders sufficient incentive to fully inform themselves of the obligations associated with participation in

⁵⁸ See *USF/ICC Transformation Order* at paras. 444, 458, 47 C.F.R. § 1.21004(b), 47 C.F.R. § 54.1006(f).

⁵⁹ *USF/ICC Transformation Order* at para. 436, 47 C.F.R. § 1.21004(a).

⁶⁰ 47 C.F.R. § 54.1007(c).

⁶¹ *USF/ICC Transformation Order* at paras. 444, 460, see also 47 C.F.R. § 1.21004(b), 47 C.F.R. § 54.1006(f).

⁶² See *USF/ICC Transformation Order* at paras. 458-61.

⁶³ See *id.* at paras. 458, 460, see 47 C.F.R. § 1.21004(b).

⁶⁴ 47 C.F.R. § 1.21004(b).

the Mobility Fund Phase I and to commit to fulfilling those obligations. Under this method of calculating the default payment, bidders would be aware ahead of time of the exact amount of their potential liability based on their bids.

62. We seek comment on this proposal. We ask commenters to assess whether our proposal to use a default payment percentage of five percent will be adequate to deter insincere or uninformed bidding, and safeguard against costs to the Commission and the USF that may result from such auction defaults without unduly discouraging auction participation, particularly given that liability for the auction default payment will be imposed without regard to the intentions or fault of any specific defaulting bidder. We also seek comment on whether we should use an alternative methodology, such as basing the auction default payment on the difference between the defaulted bid and the next best bid(s) to cover the same number of road miles as without the default.⁶⁵ Commenters advocating such an approach should explain with specificity how such an approach might work under the options we present for auction design. In addition, we seek comment on whether, prior to bidding, all applicants for Auction 901 should be required to furnish a bond or place funds on deposit with the Commission in the amount of the maximum anticipated auction default payment.⁶⁶ We ask for specific input on whether a bond or deposit would be preferable for this purpose and on methodologies for anticipating the maximum auction default payment.

2. Performance Default Payment

63. Pursuant to the Mobility Fund Phase I rules adopted in the *USF/ICC Transformation Order*, a winning bidder will be subject to a performance default payment if it fails or is unable to meet its minimum coverage requirement, other service requirements, or any other condition of Mobility Fund Phase I support.⁶⁷ In addition to being liable for a performance default payment, the recipient will be required to repay the Mobility Fund all of the support it has received and, depending on the circumstances involved, could be disqualified from receiving any additional Mobility Fund or other USF support.⁶⁸ We may obtain its performance default payment and repayment of a recipient's Mobility Fund Phase I support by drawing upon the irrevocable stand-by LOC that winning bidders will be required to provide.

64. We propose to assess a 10 percent default payment where a winning bidder fails to satisfy its performance obligations. The percentage would be applied to the total level of support for which a winning bidder is eligible. Under this proposal, the LOC would include an additional 10 percent based on the total level of support for which a winning bidder is eligible. While both auction defaults and performance defaults may threaten the integrity of the auction process and impose costs on the Commission and the USF, an auction default occurs earlier in the process and may facilitate an earlier use of the funds that were assigned to the defaulted bid consistent with the purposes of the universal service program.⁶⁹ Thus, we believe that the amount of a performance default payment should be somewhat higher than the amount of the auction default payment. We seek comment on our proposal for calculating the performance default payment. Will a performance default payment of 10 percent of the defaulted support level be effective in ensuring that those authorized to receive support will be capable of meeting their obligations and protect against costs to the Commission and the USF without unduly discouraging auction participation?

⁶⁵ *USF/ICC Transformation Order* at para. 460.

⁶⁶ *Id.* at para. 460, 47 C.F.R. § 1.21001(c).

⁶⁷ *USF/ICC Transformation Order* at paras. 447, 461.

⁶⁸ See 47 C.F.R. § 54.1006(f).

⁶⁹ *USF/ICC Transformation Order* at paras. 446, 462.

F. Reasonably Comparable Rates

65. *Reasonably Comparable Rates.* Mobility Fund Phase I recipients must certify that they offer service in areas with support at consumer rates that are within a reasonable range of rates for similar service plans offered by mobile wireless providers in urban areas.⁷⁰ The Commission delegated authority to the Bureaus to specify how support recipients could demonstrate compliance with this rate certification.⁷¹ The Commission has undertaken to have the Bureaus develop surveys of voice and broadband rates generally that should be completed before the later phases of the Connect America Fund and the Mobility Fund.⁷² In order to offer Mobility Fund I support at the earliest time feasible, however, the Commission recognized that the Bureaus might have to implement an approach to the reasonably comparable rates requirement without being able to rely upon the information that will be collected through the surveys.⁷³ As described below, we propose to do so in implementing Mobility Fund Phase I. Commenters offering alternatives to our proposal should address the feasibility of implementing their alternative in advance of the deadlines for parties to participate in competitive bidding for Mobility Fund Phase I support. In addition, we request that commenters describe the costs and benefits associated with the position they advocate.

66. To provide recipients with flexibility to tailor their offerings to consumer demand while complying with the rule, we propose that we deem a Mobility Fund Phase I support recipient compliant with the terms of the required certification if it can demonstrate that its rates for services satisfy the requirements described below, and if it provides supporting documentation. We seek comment on all aspects of this proposal, in particular whether it meets the goal of assuring that supported services are provided at rates reasonably comparable to those in urban areas, while allowing recipients to have appropriate flexibility in structuring their offerings. We also seek comment on any potential alternatives. For example, is there a readily available set of benchmark urban rates for mobile voice and broadband service that we could use with respect to Phase I of the Mobility Fund, pending the Commission's planned implementation of surveys with respect to voice and broadband rates for assuring reasonably comparable rates with respect to supported on-going service?

67. Under our proposed approach, a recipient could demonstrate compliance with the required certification that its rates are reasonably comparable if each of its service plans in supported areas is substantially similar to a service plan offered by at least one mobile wireless service provider in an urban area and is offered for the same or a lower rate than the matching urban service plan.⁷⁴ We seek comment on whether a support recipient should be required to make this comparison for all of its service plans. Would it be sufficient if it could make this comparison for its required stand-alone voice plan and one of its other plans offering broadband?⁷⁵ Or should it be required to make this comparison for a set of its plans adopted by a specified percentage of its customers, for example 50 percent?

⁷⁰ 47 C.F.R. § 54.1005(b)(2)(viii). Recipients will be subject to this requirement for five years after the date of award of support. See *USF/ICC Transformation Order* at para. 385. Recipients must offer service plans in supported areas that meet the public interest obligations specified in the Commission's Mobility Fund rules and that include a stand-alone voice service plan. See 47 C.F.R. § 54.1006.

⁷¹ See *USF/ICC Transformation Order* at para. 385.

⁷² See *id.* paras. 85, 114.

⁷³ See *id.* at para. 385.

⁷⁴ See below for a discussion of how "urban areas" should be defined for this purpose. We note that any provider that itself offers the same service plan for the same rate in a supported area and in an urban area would be able to meet this requirement.

⁷⁵ In the *USF/ICC Transformation Order*, the Commission adopted a rule to ensure that incumbent telephone company providers that receive ongoing support for voice service do not offer local service at rates below the national average. See *id.* at para. 235. In Phase I of the Mobility Fund, we offer one-time support. Given this (continued....)

68. Solely for purposes of Phase I of the Mobility Fund, any rate equal to or less than the highest rate for a matching service charged in an urban area would be reasonably comparable to, i.e., within a reasonable range of, rates for similar service in urban areas.⁷⁶ Urban areas are generally served by multiple and diverse providers offering a range of rates and service offerings in competition with one another.⁷⁷ Consequently, we presume that even the highest rate would qualify as “being within a reasonable range of rates for similar service in urban areas,”⁷⁸ because the rates for the matching urban services reflect the effects of competition in the urban area. Should we require additional information to validate this assumption? For example, should an urban service used for matching be required to have a certain number of subscribers or percentage of the relevant market in order to demonstrate its market acceptance?⁷⁹ Do we need to be concerned that recipients may seek to game this standard by using an urban rate for comparison that does not reflect a true market rate? How can we address any such concerns?

69. We would retain discretion to consider whether and how variable rate structures should be taken into account. For example, should a supported stand-alone voice plan that offers 1,000 minutes a month for \$50 and additional minutes at \$0.08 per minute be considered more expensive than a plan in an urban area that offers 2,000 minutes a month for \$100 and additional minutes at \$0.10 per minute? Similarly, there may be circumstances under which data plans with equivalent prices-per-unit “match” each other even if there are other differences in the plans. We propose to address such issues on a case-by-case basis and welcome comment on how to address such circumstances.

70. *Urban Areas.* For purposes of this requirement, we propose defining “urban area” as one of the 100 most populated CMAs in the United States.⁸⁰ Multiple providers currently serve these areas – 99.2 percent of the population in these markets is covered by between four to six operators – offering a range of different service plans at prices generally constrained by the numerous providers.⁸¹ Are there other definitions of “urban area” that commenters believe we should consider for purposes of this

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difference, there is no need to adopt an analogous provision for voice services offered with Mobility Fund Phase I support.

⁷⁶ Adopting this approach for purposes of Phase I of the Mobility Fund does not prejudice the approach to be taken with respect to Phase II of the Mobility Fund or the Connect America Fund generally. The appropriate approach for determining whether supported services are offered at rates reasonably comparable to rates for similar services in urban areas for purposes of later phases of the Mobility Fund or other components of the Connect America Fund will be determined after review of the record received in response to the FNPRM.

⁷⁷ Most consumers in the 100 most populated CMAs in the country are covered by between four to six mobile wireless providers. Commission analysis of October 2011 American Roamer coverage maps and Census 2010 block data.

⁷⁸ Under this approach, the supported party must offer services at rates within the range but that do not exceed one particular rate that is presumed to be a part of that range. Previously, rates for supported services in high-cost, insular and rural areas served by non-rural carriers were presumed to be reasonably comparable to urban rates nationwide if they fell below the national rate benchmark, which was set at two standard deviations above the average urban rate as reported in an annual rate survey published by the Wireline Competition Bureau. *See Federal-State Joint Board on Universal Service, High-Cost Universal Service Support*, WC Docket No. 05-337, CC Docket No. 96-45, Order on Remand and Memorandum Opinion and Order, 25 FCC Rcd 4072, 4088, para. 8 (2010), *pet. for review den’d*, *Vermont Public Service Bd. v. F.C.C.*, 661 F.3d 54 (D.C. Cir. 2011). Thus, while the approaches differ, both serve to assure that rates for supported services are reasonably comparable to rates in urban areas.

⁷⁹ A supported provider using its own urban rates would have little trouble making such a demonstration. However, would other supported providers find the range of urban plans with publicly available subscriber data by plan too limited? Are there alternative criteria that urban plans should meet before their rates may be used for comparison?

⁸⁰ A list of the top 100 CMAs is included in Appendix C.

⁸¹ Commission analysis of October 2011 American Roamer coverage maps and Census 2010 block data.

requirement? In addition, we seek comment on whether parties should be required to make comparisons only to a subset of the most populated CMAs that are geographically closest to the supported area, such as the 30 or 50 of the top 100 CMAs that are closest to the supported service area. This might protect against regional economic variations distorting the range of prices useable for comparison. For example, such a restriction might cause providers to compare supported rates in Oklahoma to rates in Houston or Chicago rather than in New York City.

V. DEADLINES AND FILING PROCEDURES

71. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

72. *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

73. *Paper Filers*: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary Attn: WTB/ASAD, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. Eastern Time (ET). All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

74. *Auction 901 E-mail Box*: The Bureaus also request that a copy of all comments and reply comments be submitted electronically to the following address: auction901@fcc.gov.

75. *People with Disabilities*: To request materials in accessible formats (Braille, large print, electronic files, audio format) for people with disabilities, send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-0432 (TTY).

76. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁸² Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the

⁸² 47 C.F.R. §§ 1.1200 *et seq.*

presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

VI. CONTACTS

77. For further information concerning this proceeding, contact the offices listed below:

Auctions and Spectrum Access Division, Wireless Telecommunications Bureau

For auction process questions: Lisa Stover at (717) 338-2868

For Mobility Fund Phase I questions: Sayuri Rajapakse at (202) 418-0660

Telecommunications Access Policy Division, Wireline Competition Bureau

For general universal service questions: Alex Minard at (202) 418-7400

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