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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 10-90, 26-96, 26-288; FCC No. 26-75; FR ID 378440]

Connect America Fund; A National Broadband Plan for our Future High-Cost Universal Support, Reforming the High-Cost Program for an All-IP Future, Safeguarding Universal Service Funding Through Effective Applicant Vetting

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) initiates a rulemaking to establish a vetting process for applicants for, and other recipients of, certain new funding awards of high-cost Universal Service Fund (USF) support.

DATES: Comments are due on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and reply comments are due on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed in the following as soon as possible.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the DATES section of this document. You may submit comments identified by WC Docket Nos. 10-90, 26-96, and 26-288, by any of the following methods:

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: https://www.fcc.gov/ecfs/.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.
- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. 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 courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street, NE, Washington, DC 20554.

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

FOR FURTHER INFORMATION CONTACT: Scott Lively, scott.lively@fcc.gov, Wireline Competition Bureau, 202-418-7400 or TTY: 202-418-0484. Requests for accommodations should be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket Nos. 10-90, 26-96, 26-288; FCC No. 26-75; adopted October 29, 2026 and released October 30, 2026. The full text of this document is available for public inspection during regular business hours at the Commission's headquarters at 45 L Street, NE, Washington, DC 20554 or at the following Internet address: https://www.fcc.gov/document/safeguarding-high-cost-funding-through-effective-applicant-vetting.

Ex Parte Rules. The proceeding this NPRM initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. 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 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.

SYNOPSIS

I. INTRODUCTION

In this document, consistent with the directives of the Rural Broadband Protection Act of 2025 (RBPA), the Commission initiates a rulemaking to establish a vetting process for applicants for, and other recipients of, certain new funding awards of high-cost USF support.

With this NPRM, the Commission seeks comment on its proposals for implementing the RBPA, including the Commission's proposed interpretation of the Act's definition of "new covered funding awards" under its universal service rules, and what details and documentation an applicant will be required to provide to the Commission to demonstrate that it has the technical, financial, and operational capabilities to deploy and operate a USF-supported network that will meet program requirements. The Commission also invites comment on implementation of the RBPA's penalty framework for pre-authorization defaults.

II. DISCUSSION

In proposing rules to implement RBPA's vetting process and penalties for pre-authorization defaults for future awards of new covered funding, the Commission largely tracks the relevant statutory language. The Commission seeks comment on proposals to implement the statutory language in its rules, generally, and with regard to each specific issue addressed in the following.

The Commission proposes to interpret the statute's definitions of "covered funding" and "new covered funding award" to comprise an award of high-cost support based on an application for funding to support the deployment of a broadband-capable network and the provision of supported services over the network. The Commission seeks comment on the proposal.

The Commission proposes to interpret "application" as used in the RBPA as an application for funding from a specific high-cost mechanism wherein the applicant is required to include information and/or certifications regarding technical, financial, and operational capabilities, including, but not limited to, applications for funding from high-cost mechanisms governed by subpart AA of the Commission's rules. Though the Commission could choose to include an RBPA-compliant vetting process in any future high-cost mechanism, its proposed interpretation of application would not require that of high-cost mechanisms that offer support to a carrier based on its Eligible Telecommunications Carrier (ETC) status and mode of FCC regulation (i.e., rate-of-return or price cap). The Commission seeks comment on the proposal. The Commission's rules distinguish between high-cost mechanisms that require applications from potential funding recipients and other

mechanisms. For example, the rules governing the Alternative-Connect America Cost Model (A-CAM) support mechanism state that a rate-of-return carrier receiving support pursuant to 47 CFR Part 54, subparts K (Connect America Fund Broadband Loop Support (CAF-BLS)) or M (High-Cost Loop Support (HCLS)) of the Commission's rules "shall have the opportunity to voluntarily elect, on a state-level basis, to receive Connect America Fund (CAF) A-CAM support as calculated by the A-CAM adopted by the Commission in lieu of support calculated pursuant to subparts K or M." For rate-of-return carriers that continued receiving support from the CAF-BLS and/or HCLS high-cost mechanism, subparts K and M, respectively, of the Commission's rules detail how the support is calculated, and the information required from the support recipient has nothing to do with demonstrating technical, financial, or operational capabilities or the Commission vetting the recipient. Recipients of these mechanisms are vetted using the ETC designation process, which is not directly tied to receipt of support from any specific high-cost mechanism. In summary, these mechanisms offer support (and in some cases the possibility of electing a different support mechanism) to a class of carriers and do not contemplate an "application" or specific applicant vetting, whereas 47 CFR Part 1, subpart AA of the Commission's rules enumerates extensive application requirements for carriers interested in participating in competitive bidding for USF support, and those rules are supplemented by further application requirements for each specific high-cost mechanism that employs competitive bidding.

The Commission further proposes to interpret the phrase "the deployment of a broadband-capable network and the provision of supported services over the network" as clarifying that the statute only applies to awards that include both of the two specified categories of funded activities, with "deployment" referring to construction of a network to serve a previously unserved location or upgrading the network to improve service at an underserved or unserved location and "provision of supported services" referring to maintaining existing service levels at a location. Therefore, funding that is being awarded only to maintain existing service levels would not be considered "covered funding" because it is not funding that supports deployment. Further, the Commission proposes that

any new requirements adopted in this proceeding to establish a vetting process for a "new covered funding award" would not apply to any existing high-cost mechanisms for which the Commission had already adopted rules prior to enactment of the RBPA. The Commission seeks comment on its proposal and potential alternatives.

The Commission proposes adopting a new general Part 54 rule that would require new covered funding awards, offered through a competitive bidding mechanism or otherwise, to include a detailed RBPA-compliant vetting process. The RBPA provides the basic structure for the proposed new rule by directing the Commission to only award funding to applicants that can demonstrate through an initial application sufficient detail and documentation for the Commission to ascertain that the applicant possesses the technical, financial, and operational capabilities, and has a reasonable business plan, to deploy the proposed network and deliver services with the relevant performance characteristics and requirements defined by the Commission and as pledged by the applicant. The Commission seeks comment on the effectiveness of past and existing vetting frameworks and how those prior frameworks can inform the RBPA's vetting requirements for new covered funding awards. However, given that the Commission does not know what form a future mechanism for distributing "new covered funding awards" will take, it seeks comment on avoiding the adoption of a rigid, specific framework that must be used for all new covered funding awards. Instead, the Commission tentatively concludes that it is sufficient to require that future new covered funding awards meet the basic requirements of the RBPA. Specific requirements for evaluating applications for such new covered funding awards would instead be proposed and adopted as part of the proceedings to establish the program-specific requirements for such funding.

The plain language of the RBPA applies to an applicant's "initial application" for a new covered funding award, not an application to participate in competitive bidding. In the context of high-cost mechanisms that employ competitive bidding, the Commission seeks comment on whether the long-form application constitutes a winning bidder's "initial application" for a "new covered funding award."

In the first stage of the Commission's well-established two-stage application process for high-cost mechanisms that use competitive bidding, an entity seeking to participate in the competition must provide information and a series of certifications in a short-form application used by the Commission to determine whether the applicant has the necessary legal, technical, and financial qualifications. A determination that an applicant is qualified to bid based on that application is not a determination of the applicant's eligibility for such support.

After competitive bidding concludes, a winning bidder has a binding obligation to file a timely and sufficient post-auction long-form application before it can be authorized to receive the support associated with its winning bid(s). The long-form application contains more extensive information about the winning bidder's qualifications, funding, and the network it intends to use to meet its public interest obligations and performance requirements, as well as a series of certifications, to demonstrate to the Commission that it is legally, technically, and financially qualified to receive the universal service support associated with its winning bids, which allows for a further in-depth review by the Commission of the winning bidder's qualifications prior to any authorization of support.

The Commission has found that requiring an in-depth review of extensive information only from winning bidders at the long-form stage balances the need to collect essential information from potential auction applicants with administrative efficiency and provides an appropriate screen at the pre-auction stage to ensure serious participation by qualified bidders without being unduly burdensome to potential auction participants. Before there is a known pool of applicants for a given competition, finding the optimal balance between encouraging participation and screening out unqualified applicants is difficult to do with any certainty. The Commission has observed in connection with the use of competitive bidding to award high-cost support "that maximizing the number of qualified participants in the competitive bidding process is likely to improve the overall quality of the process."

In the interest of facilitating a robust and fulsome discussion of applicant vetting, the Commission seeks comment on whether there are further actions at the short-form application stage

that, without contravening the purpose of the two-stage application process, could provide greater insight into an applicant's fitness to participate in competitive bidding for universal service support and its ability to meet the expectations of a support recipient. Would a more thorough application and intense vetting of applicants at the short-form stage prevent unqualified bidders from participating in the auction, and then defaulting prior to authorization, as was seen in the Rural Digital Opportunity Fund (RDOF)? Was that the intent of Congress in enacting the RBPA?

The Commission also seeks comment on whether it should require additional information at the long-form application stage to facilitate the Commission's review of winning bidders applying for new covered funding awards for universal service support. For example, to what extent does the Commission need to obtain information showing a realistic assessment that the provider's plans not only will enable the deployment of a network with the required technical and service capabilities that can be funded from available revenues but also the ability to meet pertinent deadlines specified in the program rules? Does the Commission need more specific and/or detailed information than it has received in the past regarding the provider's plans to address the types of challenges that routinely arise in connection with network deployments, such as weather, permitting, land access, or other considerations? The Commission further seeks comment on whether applicants with less experience providing the service(s) for which support will be awarded, or which must be offered as a condition of support, should be required to undergo a more extensive vetting process. If so, how should the Commission categorize applicants based on experience? Could this framework be informed by the prior practice of creating two categories of applicants, those with at least two years of experience providing a voice, broadband, and/or electric transmission or distribution service and those with less than two? What information should be required for each category of applicant, and at what stage in the process?

The most recent use of competitive bidding for high-cost support (Auction 904) benefited from adapting lessons learned from vetting frameworks used by prior mechanisms and should serve as the starting point for discussion. The RDOF vetting framework is summarized in the following.

Applicants to participate in Auction 904 were required to submit:

- The applicant's ownership information
- Applicant information, including legal classification, jurisdiction of formation, address, contact information, and responsible individual
- Information regarding any agreements relating to its participation in the auction
- Description of the broadband technology the applicant planned to deploy
- Recent audited financials (with more financial statements required from less experienced applicants)
- A letter from a qualified bank committing to provide a letter of credit
- Various certifications, including certifications regarding:
    - ETC status, including an acknowledgement that it must be designated as an ETC in the relevant areas prior to being authorized to receive support in those areas
    - Audited financial statements (applicants with at least two years of operational history that were not audited in the ordinary course of business were allowed to submit unaudited financials and certify that they would submit audited financials at the long-form stage if selected)
    - Compliance with statutory and regulatory requirements
    - Financial and technical capability to meet the relevant public interest obligations for each performance tier and latency combination in the geographic areas in which it seeks support
    - Availability of funds for all project costs that exceed the amount of support to be received for the first two years of its support term
    - Compliance with the relevant public interest obligations
    - Access to spectrum, if applicable
    - Information regarding earth station licenses for satellite technology, if applicable

Prior to being authorized to receive the support already won at auction, each winning bidder in Auction 904 was required to submit during the long-form application process:

- Documentation of its designation as an ETC in all areas where it will receive support and ETC certification letter(s) from an officer of the applicant certifying that the ETC designation(s) covers all the areas where the applicant will receive support (submitted with long-form application if ETC designation(s) already obtained or no later than 180 days after the announcement of Auction 904 winning bidders if not yet obtained)
- Audited financial statements (if not submitted during the pre-auction short-form process)
- A detailed technology and system design description that explains how the design and technologies chosen will meet the relevant performance requirements, including information regarding quality, coverage, voice service, network management, and on-going operations, and a detailed network diagram that is certified by a professional engineer; the engineer must certify that the network is capable of delivering, to at least 95% of the required number of locations in each relevant state, voice and broadband service that meets the requisite performance requirements
- A description of how the required construction will be funded in each state, specifying how high-cost support and other funds, if applicable, will be used to complete the project, with financial projections demonstrating that the applicant can cover the necessary debt service payments over the life of any loans
- An irrevocable standby letter of credit issued by a qualified bank for each state in which it will be authorized to receive support that covers at least the first year of support to be received for the first-year support term for the state
- A letter of credit bankruptcy opinion letter from outside legal counsel regarding the treatment of the letter(s) of credit or its proceeds in a bankruptcy proceeding

Similarly, as explained in this document, where the Commission has used a competitive application process, as opposed to competitive bidding, to award high-cost support to a chosen

selectee, it has also used a two-stage application process for a selectee to become authorized to receive support, albeit with the inclusion of more extensive applicant information required at the first phase of the application process. Given the unique circumstances of the Bringing Puerto Rico Together (Uniendo a Puerto Rico) Fund and Connect USVI Fund (PR-USVI Funds) program and because the Commission does not know whether, and if so how, it may choose to implement a competitive application process to award support in a future high-cost program, the Commission seeks comment on what it should consider to be an "initial application" for a "new covered funding award" when using that type of process and the information that applicants should be required to include in the initial application.

For future high-cost programs that do not use a system of competitive bidding or another competitive application process to allocate universal service support, the Commission seeks to develop a record on the appropriate framework and content for an application for a new covered funding award under any such program in order to facilitate vetting of such applications in compliance with the RBPA.

For future high-cost programs covered by the RBPA for which support is not allocated through competitive bidding or another competitive application process, the Commission seeks comment on whether the application process and content used to apply for Auction 904 provide a good starting point for establishing the framework for initial applications for new covered funding awards. The Commission further seeks comment on both the substance and the timing for new covered funding award applications outside of a competitive process. In particular, the Commission seeks comment on whether, and if yes, how, it should modify or build upon the requirements used for Auction 904 to ensure the Commission can sufficiently ascertain an applicant's capabilities and conduct the vetting required under the RBPA. The Commission also seeks comment on whether any of these requirements are overly burdensome or not useful outside of a competitive process and should therefore not be required. Commenters are free to use examples from other programs to inform their positions.

The two-phased RDOF vetting process solicits both (i) information that is probative of applicants' technical, financial, and operational capabilities, as well as (ii) additional information that is typically included in prudent business plans. To the extent that future high-cost support mechanisms subject recipients of new covered funding awards to a similarly detailed vetting process, the Commission seeks comment on whether there is a need to also require a business plan on top of the other required submissions. The Commission seeks comment on whether obtaining a substantial amount of information in vetting processes amounts to a "reasonable business plan" as required by the RBPA even if it is not required as part of a separately-labeled portion of the submission. Using the RDOF vetting process as the starting point for discussion, the Commission invites comment and welcomes proposals regarding what applicants should be required to show, if anything, beyond what was required of RDOF program applicants through the two-phased vetting process.

Under the RBPA, the Commission may only award covered funding to applicants that can demonstrate that they meet the qualifications. The RBPA states that the Commission must evaluate the applicant's proposal against "reasonable and well-established technical, financial, and operational standards, including the technical standards adopted by the Commission in orders of the Commission relating to Establishing the Digital Opportunity Data Collection (WC Docket No. 19-195) (or orders of the Commission relating to modernizing any successor collection) for purposes of entities that must report broadband availability coverage."

Historically, the Commission did not adopt generally applicable standards and assumptions for reviewing information demonstrating a high-cost support applicant's capability given the fact-intensive, case-by-case nature of the review. The Commission benefits from the expertise of Commission engineers and/or other subject matter experts to discuss network plans with each applicant, including engineers and other specialists that support the applicant's operations and/or assisted with the application. Further, given the broad array of broadband technologies that compete in the communications marketplace and diverse terrain of areas needing service, it is difficult to develop one uniform set of evaluation standards for reviewing all applications and also maintain the

principles of technology neutrality cited in the RBPA. The Commission invites comment on whether case-by-case evaluation is most appropriate to ensure that eligibility determinations are made consistently across all applications. The Commission welcomes proposals for a set of technical, financial, and operational standards that could be used for evaluating applicants for new covered funding awards in compliance with the RBPA.

The RBPA specifically references technical standards for entities that must report broadband availability coverage. These standards can be found in the Commission‘s rules and in the Commission’s published guides designed to support entities that must report broadband availability coverage. For example, providers of fixed wired broadband service must not exceed specific maximum buffer distances (which must include the drop distance) from their aggregation points to their served locations when reporting service availability based on their wired technologies, with specific maximum buffer distances for fiber to the premises and hybrid fiber-coax. Similarly, these rules provide certain factors when modeling terrestrial fixed wireless services, including the geographic coordinates of each base station, “the link budget and a description of the other parameters used in the propagation model, including predicted signal strength” and “receiver heights within a range of four to seven meters.” The Commission invites comment on how, for purposes of evaluating applicant technical capability, it could employ these technical standards when evaluating applicants for new covered funding awards.

Under the RBPA, the Commission must also evaluate the applicant’s proposal in light of “the applicant’s history of complying with requirements in Commission and other government broadband deployment funding programs.” Myriad state and Federal programs could fall under a broad definition of “other government broadband deployment funding programs.” Compliance with some programs may be relatively easier for the Commission to track than others. It may be harder to elicit information about compliance in other programs, such as those with minimal support for network deployment and some state programs. The Commission seeks comment on interpreting “other government broadband

deployment funding programs" to mean those programs depicted in the FCC's Broadband Funding Map.

How can the Commission most efficiently and effectively obtain information from administrators of state and other Federal broadband deployment programs that have records of an applicant's compliance history? Should new participants be penalized for having no program compliance history? How should the Commission weigh an applicant's prior history of abiding by, or failure to comply with, program rules? What if the applicant was able to cure its prior non-compliance? How should defaults on awards under other broadband deployment funding programs be addressed? The Commission invites comment on how best to ensure these criteria are fairly and systematically applied across all applicants. The Commission also proposes and invites comment on requiring applicants to disclose if they have been suspended or debarred from other Federal broadband deployment funding programs or are currently subject to an ongoing suspension and debarment action. The Commission further invites comment on how a potential applicant's suspension or debarment status should affect its eligibility to pursue a new covered funding award.

Regarding the Commission's broadband deployment funding programs, applicants that failed to comply with the obligations of high-cost support are subject to the compliance measures in § 54.320 of the Commission's rules, and failure to comply may trigger further action, including suspension or debarment pursuant to rule § 54.8. The Commission invites comment on whether and how a potential applicant previously subject to a non-compliance action under rule § 54.320 should be encumbered in or prevented from pursuing a new covered funding award. For example, Auction 903 participants that subsequently defaulted on their entire award were barred from participating in Auction 904. Should potential applicants that previously substantially defaulted in a universal service program be barred from participating in future competitions for new covered funding awards? How would the Commission determine what constitutes a substantial default, or would it evaluate that default on a case-by-case basis? Should a substantial or complete default result in a ban on participating in all subsequent competitions, or only the next competition? Should a default result in a disadvantage

instead of an outright ban? Should these determinations be made when future programs that will make new covered funding awards are noticed?

The RBPA requires the Commission to "set a penalty for pre-authorization defaults of at least $9,000 per violation" and stipulates that it "may not limit the base forfeiture to an amount less than 30 percent of the applicant's total support, unless the Commission demonstrates the need for lower penalties in a particular instance." The Commission believes this RBPA provision addresses defaults after an applicant becomes a winning bidder or is selected by the Commission to receive support, but before it is authorized to receive funding.

Regarding pre-authorization defaults, a winning bidder that fails to file an application by the applicable deadline or that for any reason is not subsequently authorized to receive support has defaulted on its bid. The Commission may dismiss a winning bidder's application with prejudice for failure of the winning bidder to prosecute, failure of the winning bidder to respond substantially within the time period specified in official correspondence or requests for additional information, or failure of the winning bidder to comply with requirements for becoming authorized to receive support. Any such determination by the Bureau shall be final upon public notice of the determination, and a winning bidder or long-form applicant shall have no opportunity to cure through additional submissions, negotiations, or otherwise. The Commission invites comment on retaining these definitions from 47 CFR 1.21004 and Auction 904.

The advent of the Commission's Broadband Serviceable Location Fabric opened new possibilities for defining service areas under new awards of covered funding. The Commission proposes to defer defining "violation" for the purposes of the RBPA until it adopts rules for specific high-cost mechanisms and identifies the geographic areas eligible for support. The Commission invites comment on the proposal.

Auction 904 limited the total base forfeiture to 15% of "the bidder's total assigned support for the Census Block Groups in which it is defaulting" to prevent the base forfeiture amount from being disproportionate to the amount of a winning bidder's bid. In light of Congress's desire to increase

penalties for pre-authorization defaults, the Commission invites comment on defining "applicant's total support" as the entire amount of support won at auction, which could potentially increase penalties considerably. The Commission also invites proposals for alternative definitions, such as defining applicant's total support as the total defaulted bid amount. The Commission further invites comment on which factors would demonstrate the need for lower penalties in a particular instance, per section 254(m)(3)(D) of the Communications Act.

In the Commission's experience developing subsidy programs to spur deployment of broadband-capable networks, the Commission recognizes that program design can impact outcomes. Therefore, the Commission invites proposals addressing the design of high-cost support mechanisms that would reduce pre-authorization defaults, possibly through deterring potential applicants that are unlikely to meet program requirements if they receive support. The proposals could include limits on the number of locations an applicant can win relative to the number of locations that it currently serves or the applicant's current revenues—especially applicants that lack any current ETC designation or have not provided a voice, broadband, and/or electric transmission or distribution service for at least two years (or are not a wholly-owned subsidiary of such an entity). Commenters should address potential downsides of design proposals, including potentially hindering competition and rapidly exhausting program budgets. Proposals may also include solutions for expeditiously awarding support for locations that still need service after a winning bidder defaults, and specific penalties for post-authorization defaults when the Commission reasonably believes that the winning bidder did not intend to meet program requirements or otherwise acted in bad faith.

III. PROCEDURAL MATTERS

A. Paperwork Reduction Act

The NPRM may contain proposed new and revised information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13.

In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Providing Accountability Through Transparency Act. Consistent with the Providing Accountability Through Transparency Act, Public Law 118-9, a summary of the document will be available on https://www.fcc.gov/proposed-rulemakings.

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared the Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the NPRM assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified in this document. . In addition, the NPRM and IRFA (or summaries thereof) will be published in the *Federal Register*.

The NPRM seeks comment on proposals for implementing the RBPA, which directs the Commission to initiate a rulemaking proceeding to establish a vetting process for applicants for, and other recipients of, a new covered funding award. The NPRM also seeks comment on proposals for implementing the RBPA's penalties for pre-authorization defaults.

Specifically, the NPRM seeks comment on adopting a rule that would require future high-cost support mechanisms that will make new covered funding awards to include a vetting framework that requires proposals from applicants for funding to contain sufficient detail and documentation for the Commission to ascertain that the applicant possesses the technical, financial, and operational capabilities, and has a reasonable business plan, to deploy the proposed network and deliver services with the relevant performance characteristics and requirements defined by the Commission and as pledged by the applicant. The NPRM also seeks comment on the effectiveness of vetting frameworks used for prior high-cost support competitive bidding mechanisms but allows the details of the vetting framework to be determined when programs for new covered funding awards are noticed in the future.

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

Commission actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes three broad groups of small entities that could be directly affected by its actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, "small organizations" are not-for-profit enterprises that are independently owned and operated and not dominant their field. While the Commission does not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, "small governmental jurisdictions" are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, the Commission estimates that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

The rules proposed in the NPRM will apply to small entities in the industries identified in the chart in the following by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Where available, the Commission also provides

additional information regarding the number of potentially affected entities in the industries identified in the following:

Table 1. 2022 U.S. Census Bureau Data by NAICS Code

Regulated Industry (Footnotes specify potentially affected entities within a regulated industry where applicable)	**NAICS Code**	**SBA Size Standard**	**Total Firms**	**Total Small Firms**	**% Small Firms**
Wired Telecommunications Carriers	517111	1,500 employees	3,403	3,027	88.95%
Wireless Telecommunications Carriers (except Satellite)	517112	1,500 employees	1,184	1,081	91.30%
All Other Telecommunications	517810	$40 million	1,673	1,007	60.19%

Table 2. Telecommunications Service Provider Data

2025 Universal Service Monitoring Report Telecommunications Service Provider Data (Data as of December 2024)	**SBA Size Standard (1500 Employees)**		
Affected Entity	**Total # FCC Form 499A Filers**	**Small Firms**	**% Small Entities**
Cable/Coax CLEC	69	63	91.30
CAP/CLEC	645	548	84.96
Competitive Local Exchange Carriers (CLECs)	4,049	3,853	95.16
Incumbent Local Exchange Carriers (Incumbent LECs)	1,175	920	78.30
Interexchange Carriers (IXCs)	112	92	82.14
Local Exchange Carriers (LECs)	5,224	4,773	82.14
Operator Service Providers (OSPs)	26	24	92.31
Other Toll Carriers	72	69	95.83
Wired Telecommunications Carriers	4,971	4,531	91.15
Wireless Telecommunications Carriers (except Satellite)	608	522	85.86

The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.

In the NPRM, the Commission seeks comment on proposals that, if adopted, would require future high-cost support program applicants, including small entities, to demonstrate that they possess the technical, financial, and operational capabilities to deploy the proposed network and deliver services with the relevant performance characteristics and requirements defined by the Commission. This includes proposed definitions for "covered funding" and the use of a two-stage application process for competitive bidding for high-cost support. Specifically, the NPRM seeks comment on the effectiveness of vetting frameworks used for prior high-cost support competitive bidding mechanisms while allowing the details of the vetting framework to be determined when programs for new covered funding awards are noticed in the future. The NPRM also seeks comment on proposals for implementing the RBPA's penalties for pre-authorization defaults.

The proposals in the NPRM would require that future high-cost support mechanisms that will make new covered funding awards include a vetting framework that complies with the RBPA, allowing the specifics of the framework to be detailed when the future high-cost mechanisms are noticed. This will allow the Commission to adopt a vetting framework that satisfies the RBPA and also comports with the specifics of a future mechanism that has not yet been proposed. Given that the proposed rules will not adopt the specific vetting framework to be used for future programs, the Commission is uncertain of the impact on small entities at this time. However, small carriers that have participated in competitive bidding for high-cost support should be familiar with what is normally required of applicants for proving capabilities, such as audited financial statements, letters of credit, and ETC designation. The same measures have been used consistently across several mechanisms of competitive bidding for high-cost support and will likely be used in the future, perhaps with changes to the timing of the required submission during the competition. Under the RBPA, carriers will have

greater certainty regarding the penalties for pre-authorization defaults on new covered funding awards. The proposed rules will only apply to future high-cost support mechanisms that make new covered funding awards. The Commission's previous competitive bidding programs for high-cost support attracted a broad array of applicants, including small entities. Before reaching its final conclusions and taking action in this proceeding, the Commission expects to review the comments filed in response to the *NPRM*, including costs and benefits of these proposed rules, and more fully consider the economic impact on small entities and how any impact can be minimized.

The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities. The discussion is required to include alternatives such as: "(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities."

In the NPRM, the Commission proposes new rules that may impact small entities and seeks comment on alternatives that may minimize any significant economic impact on small providers. Specifically, the Commission invites comment on alternative approaches for vetting applicants for future, new covered funding awards. This includes whether to request additional information, such as a business plan, with their application. The NPRM also seeks comment on whether small and other applicants that previously defaulted in a universal service program should be eligible to compete in new covered funding awards, and whether a history of compliance with other state and Federal programs should be included with the application. Alternative proposals and approaches from commenters will further develop the record and could help the Commission further minimize the economic impact on small entities. The Commission's evaluation of the comments filed in this proceeding will shape the final conclusions it reaches, the final alternatives it considers, and the

actions it ultimately takes to minimize any possible economic impact the final rules may have on small entities.

III. ORDERING CLAUSES

Accordingly, IT IS ORDERED that pursuant to sections 1, 2, 4(i)-(j), 201(b), 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)-(j), 201(b), 254, 303(r), and 403, and §§ 1.1 and 1.412 of the Commission's rules, 47 CFR 1.1, 1.412, the NPRM hereby IS ADOPTED.

IT IS FURTHER ORDERED that, pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and reply comments on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, Internet, Libraries, Puerto Rico, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone, Virgin Islands.

Federal Communications Commission.

Marlene Dortch,
Secretary, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 54 to read as follows:

PART 54 – UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601-1609, and 1752, unless otherwise noted.

2. Add § 54.323 to subpart D to read as follows:

§ 54.323 Application process for new covered funding awards under the Rural Broadband Protection Act of 2025.

(a) New Covered Funding Award. For purposes of this section, a New Covered Funding Award is an award of covered funding that is made based on an application submitted to the Commission on or after [*the date on which the Commission promulgates rules pursuant to the Rural Broadband Protection Act of 2025*]. Covered Funding means any new offer of high-cost universal service program funding with rules adopted after [*the date on which rules are promulgated pursuant to the Rural Broadband Protection Act of 2025*], including funding provided through a reverse competitive bidding mechanism, for the deployment of a broadband-capable network and the provision of supported services over the network.

(b) Proceedings to adopt the mechanism-specific requirements for future high-cost support programs for distributing New Covered Funding Awards must propose, seek comment on, and adopt a vetting process for applicants for, and other recipients of, the new covered funding award under the specific high-cost support mechanism at issue.

(c) The vetting process developed under paragraph (b) of this section must, at a minimum, require an applicant for a new covered funding award to include in its initial application a proposal containing sufficient detail and documentation for the Commission to ascertain that the applicant possesses the technical, financial, and operational capabilities, and has a reasonable business plan, to deploy the

proposed network and deliver services with the relevant performance characteristics and requirements defined by the Commission and as certified by the applicant.

(d) The Commission shall evaluate the applicant proposal described in paragraph (c) of this section against reasonable and well-established technical, financial, and operational standards, including the technical standards adopted by the Commission in orders of the Commission relating to Establishing the Digital Opportunity Data Collection (WC Docket No. 19–195) (or orders of the Commission relating to modernizing any successor collection) for purposes of entities that must report broadband availability coverage and the applicant's history of complying with requirements in Commission and other government broadband deployment funding programs.

(e) In adopting rules for any new covered funding award, the Commission shall set a penalty for pre-authorization defaults of at least $9,000 per violation and may not limit the base forfeiture to an amount less than 30 percent of the applicant's total support, unless the Commission demonstrates the need for lower penalties in a particular instance.

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