

Department of the Treasury is soliciting comments on the effectiveness of OFAC's licensing procedures for the exportation of agricultural commodities, medicine, and medical devices to Sudan and Iran. Pursuant to section 906(c) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (Title IX of Pub. L. 106-387, 22 U.S.C. 7201 *et seq.*) (the "Act"), OFAC is required to submit a biennial report to the Congress on the operation of licensing procedures for such exports.

DATES: Written comments should be received on or before May 23, 2011 to be assured of consideration.

ADDRESSES: You may submit comments by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Fax: *Attn:* Request for Comments (TSRA) (202) 622-0091.

Mail: *Attn:* Request for Comments (TSRA), Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information about these licensing procedures should be directed to the Licensing Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, *telephone:* (202) 622-2480 (not a toll free number). Additional information about these licensing procedures is also available under the heading "Other OFAC Sanctions Programs" via "Resources" at <http://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx>.

SUPPLEMENTARY INFORMATION: The current procedures used by OFAC for authorizing the export of agricultural commodities, medicine, and medical devices to Sudan and Iran are set forth in 31 CFR 538.523-526 and 31 CFR 560.530-533. Under the provisions of section 906(c) of the Act, OFAC must submit a biennial report to the Congress on the operation, during the preceding two-year period, of the licensing procedures required by section 906 of the Act for the export of agricultural commodities, medicine, and medical devices to Sudan and Iran. This report is to include:

(1) The number and types of licenses applied for;

(2) The number and types of licenses approved;

(3) The average amount of time elapsed from the date of filing of a license application until the date of its approval;

(4) The extent to which the licensing procedures were effectively implemented; and

(5) A description of comments received from interested parties about the extent to which the licensing procedures were effective, after holding a public 30-day comment period.

This notice solicits comments from interested parties regarding the effectiveness of OFAC's licensing procedures for the export of agricultural commodities, medicine, and medical devices to Sudan and Iran for the time period of October 1, 2008-September 30, 2010. Interested parties submitting comments are asked to be as specific as possible. In the interest of accuracy and completeness, OFAC requires written comments. All comments received on or before May 23, 2011 will be considered by OFAC in developing the report to the Congress. Consideration of comments received after the end of the comment period cannot be assured.

All comments made will be a matter of public record. OFAC will not accept comments accompanied by a request that part or all of the comments be treated confidentially because of their business proprietary nature or for any other reason; OFAC will return such comments when submitted by regular mail to the person submitting the comments and will not consider them.

Copies of the public record concerning these regulations may be obtained from OFAC's Web site (<http://www.treasury.gov/ofac>). If that service is unavailable, written requests may be sent to: Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave., NW., Washington, DC 20220, *Attn:* Andrea Gacki, Assistant Director for Licensing.

Note: On September 9, 2009, OFAC issued a general license authorizing most exports of agricultural commodities, medicine, and medical devices to the Specified Areas of Sudan as defined by 31 CFR 538.320. *See* 31 CFR 538.523(a)(2). Accordingly, specific licenses are no longer required for these exports.

Approved: April 8, 2011.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 10-208; DA 11-702]

Further Inquiry Into Tribal Issues Relating to Establishment of a Mobility Fund

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comment on particular issues for consideration by the Federal Communication Commission in connection with the proposed creation of a new Mobility Fund to make available one-time support to significantly improve coverage of current-generation or better mobile voice and Internet service for consumers in areas where such coverage is currently missing. Specifically, comment is sought on developing a more tailored approach that provides at least some Mobility Fund support for Tribal lands.

DATES: Comments are due on or before May 4, 2011.

ADDRESSES: You may submit comments, identified by WT Docket No. 10-208, by any of the following methods:

- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. 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, 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 St., SW., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes 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.

• *People with Disabilities*: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or telephone: 202-418-0530 or TTY: 202-418-0432.

FOR FURTHER INFORMATION CONTACT: *Wireless Telecommunications Bureau, Auctions and Spectrum Access Division*; Scott Mackoul, Attorney Advisor, at (202) 418-7498.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Inquiry into Tribal Issues Relating to Establishment of a Mobility Fund Public Notice (*Tribal Issues for Mobility Fund Public Notice*) adopted and released on April 18, 2011, in WT Docket No. 10-208. The complete text of the *Tribal Issues for Mobility Fund Public Notice* is available for public inspection and copying from 8 a.m. to 4:30 p.m. ET Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The *Tribal Issues for Mobility Fund Public Notice* 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, telephone 202-488-5300, fax 202-488-5563, or you may contact BCPI at its Web site: <http://www.BCPIWEB.com>. When ordering documents from BCPI, please provide the appropriate FCC document number, for example, DA 11-702. The *Tribal Issues for Mobility Fund Public Notice* is also available on the Internet at the Commission's Web site or by using the search function for WT Docket No. 10-208 on the ECFS Web page at <http://www.fcc.gov/cgb/ecfs/>.

Synopsis of Public Notice

1. The Commission recently received comments on a Notice of Proposed Rulemaking, *Universal Service Reform Mobility Fund, Notice of Proposed Rulemaking*, 75 FR 67060, November 1, 2010 (*Mobility Fund NPRM*), to use reserves accumulated in the Universal Service Fund (USF) to create a Mobility Fund which would employ a market-based, reverse auction mechanism to award one-time support to providers to extend mobile voice coverage over current-generation 3G or 4G networks in areas where such networks are lacking.

2. In proposing the Mobility Fund, the Commission acknowledged the relatively low level of telecommunications deployment on and the distinct challenges in bringing connectivity to Tribal lands. The

Commission further noted that, in light of the United States' unique government-to-government trust relationship with American Indian Tribes and Alaska Native Villages, and to address the particular challenges in advancing deployment on Tribal lands, a more tailored approach that provides at least some Mobility Fund support for Tribal lands on a separate track may be beneficial. The Commission sought broad comment on whether to reserve funds for developing a Mobility Fund program to target USF support separately to Tribal lands that trail national 3G coverage rates. Commenters to the proceeding generally support the adoption of a mechanism or program within the Mobility Fund focused on Tribal areas and provided input on a number of elements important to establishing a separate fund. There are particular issues related to the establishment of such a mechanism, however, for which additional comment may benefit the Commission as it considers how to proceed.

1. Possible Mechanism To Reflect Tribal Priorities for Competitive Bidding

3. The Commission acknowledges and respects the sovereignty and self-determination of Tribal governments, and recognizes their rights to establish their own communications priorities and goals. Commenters have suggested that Tribal governments are best positioned to identify what the needs of their members and communities are and to target resources to best achieve those goals. At the same time, the Commission has proposed that scarce USF resources may best be awarded through a competitive, market-based mechanism to maximize their impact. In considering whether to establish a program within the Mobility Fund focused on Tribal areas, the Commission seeks comment on how it might tailor its competitive bidding and other procedures to best meet Tribal needs. Accordingly, the Commission seeks comment on ways to afford Tribal governments an opportunity to identify their own priorities within the context of a reverse auction mechanism for Mobility Fund support.

4. By way of background, the reverse auction as proposed in the *Mobility Fund NPRM* would determine winning bidders support based on the lowest per-unit bids to cover designated unserved census blocks, using the population or some other metric such as road miles in the unserved areas as units and taking into account a requirement that there be no more than one Mobility Fund recipient in any particular unserved area. The auction

mechanism would compare all per-unit bids across all areas (that is, compare all bids against all other bids throughout the eligible areas of the county, rather than compare all bids for a single area against each other), and rank all the submitted bids from lowest per-unit amount to highest. The bidder making the lowest per-unit bid would first be assigned support in an amount equal to the amount needed to cover the units deemed unserved in the specific area at the per-unit amount that was bid. Support would continue to be assigned to the bidders with the next lowest per-unit bids in turn, as long as support had not already been assigned for that area, until the sum of funds requested by the winning bidders was such that no further winning bids could be funded by the money available in the Mobility Fund. Support amounts would be based on the per-unit bids of the winning bidders times the number of unserved units associated with a particular geographic area.

5. The Commission seeks comment here on the possibility of providing to Tribal governments an additional specified number of "priority units" to ensure that Mobility Fund support for Tribal areas best serves Tribal needs. The priority units could be based upon the total number of units, however defined, in unserved blocks located within their Tribal lands boundaries. Tribes would have the flexibility to allocate these units in whatever manner they choose. Under this mechanism, Tribes could elect to allocate all of their priority units to one census block that is particularly important to them (for instance, because of the presence of an anchor institution, large numbers of unserved residents, etc.), or to divide the total number of priority units among multiple census blocks according to their relative priority. By giving Tribes an opportunity to allocate additional units to particular unserved census blocks within the boundaries of their Tribal land, a bidder could increase the number of units covered by its bid to cover those Unserved census blocks and therefore reduce its per-unit bid amount. This would increase the likelihood that the unserved census blocks assigned priority units would receive funding through the proposed competitive bidding process. If such bids were to be among those selected to receive support, support amounts would be based on the per-unit bid amount times the total of regular units and priority units for the area. The Commission invites comment on this proposal. In particular, the Commission invites comment on whether this

mechanism would help to ensure that Tribal priorities are met in providing USF support for the extension of mobile voice service. To the extent other options may be preferable, commenters are requested to discuss alternatives in detail and explain how these options would work in the context of the proposed competitive bidding mechanism. Commenters are also invited to provide information about what factors are most important in targeting limited support for mobile wireless service within Tribal lands.

2. Possible Requirement for Engagement With Tribal Governments Prior to Auction

6. Several commenters suggest that parties participating in a Mobility Fund auction seeking support to serve Tribal lands be required to demonstrate that Tribal governments have been formally and effectively engaged in the planning process and that the service to be provided will advance the goals established by the Tribal government. The Commission seeks comment on those proposals. What issues should receive priority in a flow of information and exchange of ideas with Tribal governments? What subjects of discussion will increase the potential for sustainability and adoption of the contemplated service? Among other things, the Commission believes the topics of engagement with Tribal governments could include: (1) Needs assessment, deployment planning and inclusion of Tribal anchor institutions and communities; (2) feasibility and sustainability planning; (3) marketing supported services in a culturally sensitive manner; (4) rights-of-way processes, land use permitting, facilities siting and cultural preservation review processes; and, (5) compliance with Tribal business and licensing requirements. At what point in time should any such engagement requirement apply (e.g., at the short-form or long-form application stage)? Commenters are invited to address the appropriate scope and timing of a potential consultation requirement.

3. Possible Preference for Tribally-Owned and -Controlled Providers

7. At least one comment to the Mobility Fund NPRM suggested a preference for Tribally-owned and -controlled providers. Specifically, the Commission seeks comment on a proposal that would provide a form of bidding credit to qualified Tribally-owned and -controlled providers. If a provider qualified for this bidding credit, its per-unit bid amount would be reduced by a designated percentage for

purposes of comparing it to other bids made—although if the bid were to win, support would be calculated at the full, undiscounted bid amount. That is, the “reduced” bid would fall lower in the ranking of bids from lowest to highest, making it more likely that a Tribally-owned and -controlled entity would be among the winning bidders eligible to receive funding, but the bidding credit would not reduce the amount of funding that the entity would receive if it were to be awarded support. The Commission seeks comment on this approach. The Commission also invites comment on whether a Tribal preference is appropriate in the context of awarding universal service funds. To the extent the Commission wishes to adopt such a bidding credit for Tribally-owned and -controlled providers, what percentage would be appropriate? Are there other methods the Commission should consider to provide a preference to Tribally-owned and -controlled providers? The Commission notes that the establishment of an absolute Tribal priority, as proposed in the mobile spectrum context and adopted in the context of the Tribal Priority for radio broadcast licensing, may not be appropriate here. This is because in the reverse auction mechanism proposed for the Mobility Fund, an award would not be made for each area, but instead support would be granted only for those areas where the per-unit bids are lowest.

8. The Commission also seeks comment on whether it should employ both a priority unit mechanism and a bidding preference for Tribal entities at the same time. And, if not, which of these mechanisms may work more effectively in a Mobility Fund auction to target support consistent with Tribal needs?

4. Timing of a Tribal Mobility Fund Auction

9. In the *Mobility Fund NPRM*, the Commission noted that addressing Mobility Fund support for Tribal lands on a separate track could be beneficial in providing adequate time to consult with Tribal governments and seek their input. While commenters generally supported creation of a separate Tribal Mobility Fund, they cautioned that addressing Tribal issues on a “separate track” should not put them on a “slow track.” The Commission agrees that Tribal issues are a priority and should be resolved expeditiously in order to speed the provision of services on Tribal lands. The Commission observes, however, that there are pending proposals regarding utilization of spectrum over Tribal lands that could benefit from the support that may be

available through a Tribal Mobility Fund auction. In particular, the *Improving Communications Services for Native Nations by Promoting Greater Utilization of Spectrum Over Tribal Lands, Notice of Proposed Rulemaking*, 76 FR 18476, April 4, 2011, proposes a variety of options for Tribal entities to access spectrum over Tribal lands. The Commission seeks comment on the extent to which these open issues should influence the timing of a possible Tribal Mobility Fund auction.

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), the *Mobility Fund NPRM* included an Initial Regulatory Flexibility Analysis (IRFA) pursuant to 5 U.S.C. 603, exploring the potential impact on small entities of the Commission’s proposal. The Commission invites parties to file comments on the IRFA in light of this additional notice.

Procedural Matters

Ex Parte Presentations. This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required. Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission’s rules.

Federal Communications Commission.

Margaret W. Wiener,
Chief, Auctions and Spectrum Access
Division.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 110218147–1199–01]

RIN 0648–BA74

National Standard 10 Guidelines

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce