

delivery mechanism the Governance Authority may establish in its operating procedures.

(d) *Review by the Wireline Competition Bureau.* (1) Except in extraordinary circumstances, final action on a request for review of a Governance Authority decision to revoke a voice service provider's or intermediate provider's SPC token should be expected no later than 180 days from the date the request for review is filed in the Electronic Comment Filing System (ECFS) pursuant to § 64.6308(b)(1). The Wireline Competition Bureau shall have the discretion to pause the 180-day review period in situations where actions outside the Wireline Competition Bureau's control are responsible for delaying review of a request for review.

(2) An affected party may seek review of a decision issued under delegated authority by the Wireline Competition Bureau pursuant to the rules set forth in § 1.115.

(e) *Standard of review.* The Wireline Competition Bureau shall conduct *de novo* review of Governance Authority decisions to revoke a voice service provider's or intermediate provider's SPC token.

(f) *Status during pendency of a request for review and a Governance Authority decision.* (1) A voice service provider or intermediate provider shall not be considered to be in violation of the Commission's caller ID authentication rules under § 64.6301 after revocation of its SPC token by the Governance Authority until the thirty (30) day period to file a formal appeal with the Governance Authority Board expires, or during the pendency of any formal appeal to the Governance Authority Board.

(2) A voice service provider or intermediate provider shall not be considered to be in violation of the Commission's caller ID authentication rules under § 64.6301 after the Governance Authority Board upholds the Governance Authority's SPC token revocation decision until the sixty (60) day period to file a request for review with the Commission expires.

(3) When a voice service provider or intermediate provider has sought timely Commission review of a Governance Authority decision to revoke a voice service provider's or intermediate provider's SPC token under this section, the voice service provider shall not be considered to be in violation of the Commission's caller ID authentication rules under § 64.6301 until and unless the Wireline Competition Bureau, pursuant to paragraph (d)(1) of this

section, has upheld or otherwise decided not to overturn the Governance Authority's decision.

(4) In accordance with §§ 1.102(b) and 1.106(n), the effective date of any action pursuant to paragraph (d) shall not be stayed absent order by the Wireline Competition Bureau or the Commission.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket Nos. 18-89; DA 21-947; FRS 44708]

### Wireline Competition Bureau Finalizes Application Filings, Procedures, Cost Catalog, and Replacement List for the Secure and Trusted Communications Networks Reimbursement Program

**AGENCY:** Federal Communications Commission (FCC).

**ACTION:** Final action.

**SUMMARY:** In this document, the Wireline Competition Bureau (the Bureau) adopts final procedures for, and provides eligible providers of advanced communications services with additional guidance regarding, the application filing and reimbursement process for the \$1.9 billion Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program). The Bureau also adopted final versions of the FCC Form 5640 Application Request for Funding Allocation and Reimbursement Claim Request, the Catalog of Eligible Expenses and Estimated Costs (Catalog), and the List of Categories of Suggested Replacement Equipment and Services (Replacement List) for the Reimbursement Program.

**DATES:** The procedures outlined in this document are effective on September 30, 2021, except for the FCC Form 5640 application form, which is subject to approval from the Office of Management and Budget. The Bureau will publish a document in the **Federal Register** announcing the effective date for the FCC Form 5640. The Bureau will also subsequently release a public notice announcing when it will begin accepting applications and the application deadline for participating in the Reimbursement Program.

**FOR FURTHER INFORMATION CONTACT:** Christopher Koves, Wireline Competition Bureau, 202-418-7400 or by emailing [Supplychain@fcc.gov](mailto:Supplychain@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Bureau's document

(Public Notification or PN) in WC Docket No. 18-89; DA 21-947, released on August 3, 2021. The full text of this document is available for public inspection on the Commission's website at <https://docs.fcc.gov/public/attachments/DA-21-947A1.pdf>.

## I. Introduction

1. By this document, the Bureau adopts final procedures for, and provides eligible providers of advanced communications services with additional guidance regarding, the application filing and reimbursement process for the \$1.9 billion Reimbursement Program. After considering comments received in response to the *Reimbursement Process Public Notification (PN)*, 86 FR 31464, June 14, 2021, the Bureau finalizes the information fields on the new FCC Form 5640, which participants must submit to request funding allocations and disbursements from the Reimbursement Program, as well as the procedures governing the submission of and any modifications made to that form. Acting Chairwoman Rosenworcel has announced a "target date" of October 29, 2021, to open the Reimbursement Program filing window to begin accepting applications. Prior to the target date, the Bureau will announce in a forthcoming public notice when it will open the Reimbursement Program online portal and begin accepting applications, and the filing window closing date. Finally, after considering comments received in response to the *Catalog PN*, 86 FR 18932, April 12, 2021, the Bureau also finalizes with this document the Catalog and the Replacement List which will be made available on the Commission's website.

## II. Discussion

### A. FCC Form 5640—Application Request for Funding Allocation and Reimbursement Claim Requests

2. The Bureau adopts the application and reimbursement procedures and finalizes forms for the Reimbursement Program proposed in the *Reimbursement Process PN*.

3. In the *Reimbursement Process PN*, the Bureau provided a representative sample of the questions to be included in the FCC Form 5640 Application Request for Funding Allocation and sought comment on those information fields. The Bureau received persuasive comments regarding various fields applicants would complete in the new proposed form and, in response, it has implemented some modifications, and will proceed with finalizing that form.

4. The Bureau proposed in the *Reimbursement Process PN* “requiring applicants to identify in their application for each location site: (1) Where covered communications equipment or services are located (e.g., address, longitude and latitude, etc.) and documentation supporting the acquisition/existence of such covered equipment or services; and (2) the itemized cost estimates, taken from the Catalog where applicable, that are associated with the removal, replacement, and disposal of covered equipment and services at each site.” Several commenters argued that requiring specific information about equipment at the application stage is burdensome on small carriers and some carriers may not have access to the information. The Rural Wireless Broadband Coalition recommended that instead of requiring such information at the application stage, the Application Request for Funding Allocation should, after the equipment is removed, populate a field for the make, model, and number of units for the removed equipment.

5. The Bureau declines to modify the proposed site-specific information collected. The identification and tracking of site-specific information on covered and replacement communications and services, as well as on cost estimates, helps to ensure funds are spent for the purpose intended and protects against waste, fraud, and abuse. This information assists in determining program eligibility for the removal, replacement, and disposal of Huawei Technologies Company (Huawei) and ZTE Corporation (ZTE) equipment or services obtained on or before June 30, 2020, and facilitates the assessment of applicants’ cost estimates for allocation purposes. The Bureau acknowledges that requiring site-specific information is more burdensome than a self-certification requirement. Including the more detailed site-specific information, however, will ensure that the Reimbursement Program Fund Administrator will be able to properly allocate the \$1.895 billion and will limit the risk that incorrect estimates unnecessarily deplete the Reimbursement Program to the detriment of other applicants. Additionally, any increased costs associated with preparing applications that include site-specific information are potentially eligible for Reimbursement Program support, decreasing the financial burden on applicants when preparing applications. The Bureau, therefore, concludes that the benefits of the site-specific filing

requirement outweigh any burden on the carriers. The Bureau recognizes, however, that the information provided is made in “good faith and that all information provided . . . is true and correct to the best of Applicant’s knowledge,” based on the prior exercise of reasonable due diligence, at the time the application is filed. The Bureau will provide a process for participants to file modifications to their applications if more accurate information subsequently becomes available.

6. *Additional Requested Form Changes.* Several commenters sought changes or clarifications to the proposed information fields included in the Application Request for Funding Allocation. Nokia proposed changes to the questions concerning the use of Open Radio Access Network (Open RAN) technology interface standards by applicants. Specifically, Nokia requested that the fields indicating that applicants selected Open RAN solutions be removed because the fields show a preference for Open RAN. The Bureau disagrees. These questions are merely intended to help the Commission track technology choices by providers and do not suggest or otherwise encourage an applicant to select a particular technology solution. Accordingly, the Bureau fails to see how these questions show a preference for certain types of network architecture and decline to remove these questions.

7. Mavenir Systems, Inc. (Mavenir) separately requested several changes to the proposed information fields. Specifically, Mavenir requested that the Bureau strike the use of “O RAN” to avoid confusion between Open RAN generally and the O RAN Alliance, that it specifies an applicant is using fronthaul Radio Access Network and Core Network, and that the Bureau specifies that an applicant is compliant with O-RAN Alliance 7.2 fronthaul standards rather than the more generally stated “O-RAN Alliance standards.” Additionally, Mavenir suggested two additions to the information fields inquiring whether applicants are using equipment or service compliant with the 3GPP X2 standard and other 3GPP open interfaces, and if so, whether there is an associated fee to make the equipment interoperable or open. To reduce confusion, the Bureau removes the general O-RAN question that was in item 51 on the proposed Application Request for Funding Allocation. Additionally, the Bureau modifies items 53 and 54 to ask applicants if the “equipment or service is compliant with O-RAN Alliance standards, such as O-RAN Alliance 7.2 fronthaul standards.” While the O-RAN Alliance 7.2

fronthaul standard is currently a leading standard, work continues on this developing standard, and updates continue to be published. For example, on June 29, 2021, after Mavenir and others filed their comments, the O-RAN Alliance published a Third White Paper, “O-RAN Minimum Viable Plan and Acceleration towards Commercialization.” In the Third White Paper, the O-RAN Alliance wrote that “[f]uture O-RAN releases will extend the [Minimum Viable Plan] with new features and functionalities as these inputs and priorities evolve.” The Bureau wants to ensure the information collected on the Application Request for Funding Allocation addresses whether the equipment is compatible with any future standards that are adopted as the O-RAN Alliance continues its work. Finally, the Bureau includes the two questions regarding 3GPP X2 standard and open interfaces because these questions are helpful in analyzing technology trends.

8. ADTRAN, Inc. (ADTRAN) suggested incorporating a “country of origin” line item into the Application Request for Funding Allocation, which would support a “buy American” policy. Specifically, ADTRAN requests for the Application Request for Funding Allocation to include a question about the replacement equipment manufacturer’s country of origin. ADTRAN argued that such information collection would be consistent with the Open RAN-related line items. The Bureau finds that including a “country of origin” question on the Application Request for Funding Allocation will further help the Commission track and analyze technology trends without increasing the overall burden on applicants. Accordingly, the Bureau will modify the Application Request for Funding Allocation to include a question about the replacement equipment manufacturer’s country of origin.

9. The Rural Wireless Association (RWA) requested clarifications and additions to the FCC Form 5640 Application Request for Funding Allocation. In particular, RWA argued that form changes were necessary because the Commission had yet to address whether there would be further prioritization within the three levels prioritized by Congress in the Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act). In the *2021 Supply Chain Order*, 86 FR 46995, August 23, 2021, (July 13, 2021), the Commission rejected RWA’s request to provide additional sub-prioritization categories outside of the scheme advanced by Congress. Thus, the Bureau

finds the changes requested by RWA would be inconsistent with the Commission's rules.

10. *Administrative and Form Consistency Changes.* The Bureau will further require, as proposed, that applicants obtain and identify in their applications an FCC Registration Number (FRN) issued by the Commission Registration System (CORES), a Data Universal Numbering System (DUNS) number or where applicable, a DUNS+4 number, and that applicants register with the System for Award Management (SAM) and provide the SAM Commercial and Government Entity (CAGE) Code in their applications. No commenter objected to these proposals. An FRN is an identifying number that is assigned to entities doing business with the Commission. Registration in the SAM provides the Commission with an authoritative source for information necessary to provide funding to applicants and to ensure accurate reporting pursuant to the Federal Funding Accountability and Transparency Act. The DUNS number or, where applicable, the DUNS+4 number, provides necessary banking information to assist the Commission in the electronic payment of funds to program recipients.

11. Separately, to reflect changes adopted in the *2021 Supply Chain Order*, the Bureau modifies the question on the FCC Form 5640 concerning whether the applicant has obtained covered communications equipment or services. The Consolidated Appropriations Act, 2021 (CAA) amended the Secure Networks Act to modify the covered communications equipment and services eligible for the Reimbursement Program. The Commission in the *2021 Supply Chain Order*, implemented these changes by changing its rules to limit equipment and services eligible for the reimbursement to communications equipment or services produced or provided by Huawei and ZTE that are purchased, leased, or otherwise obtained on or before June 30, 2020. Accordingly, the Bureau has made the necessary changes to the FCC Form 5640 to ask the applicant whether it has "previously purchased, leased or otherwise obtained communications equipment or services on the Covered List that were produced or provided by Huawei or ZTE, including their affiliates and subsidiaries, on or before June 30, 2020."

12. The Bureau has also added a question for applicants to indicate whether the cost estimate provided by the applicant includes a technology

upgrade over a comparable replacement. This information will help the Bureau and the Reimbursement Program Fund Administrator identify requests involving technology upgrades. As the Commission stated in the *2021 Supply Chain Order*, "[p]articipants may obtain Reimbursement Program support for an amount equivalent to the cost estimate of a comparable replacement" but noted that if "a participant ultimately decides to upgrade to a higher quality, more advanced, non-comparable replacement, then the program participant will bear the difference in cost between the comparable replacement and the technology upgrade solution chosen." The added question will help identify participants seeking a technology upgrade solution so that the Reimbursement Program Fund Administrator and the Bureau can review the applications accordingly. Participants are reminded that, when seeking a technology upgrade, they will need to include a vendor quote for the comparable replacement in addition to a vendor quote for the upgrade they wish to purchase. Finally, the Bureau has also made minor changes to the language of certain questions to improve clarity and assist applicants.

13. The Bureau strongly encourages interested participants to collect the information needed to prepare the application in advance of the opening of the filing window. Taking proactive steps will facilitate the submission process for applicants and help them identify and overcome potential challenges in advance of a filing deadline. Incomplete applications may be dismissed by the Bureau, which could prevent a provider from participating in the Reimbursement Program.

14. As proposed, the Bureau will use an online filing portal to receive and process Application Requests for Funding Allocation and to coordinate the interactions between program participants, the Reimbursement Program Fund Administrator, and the Bureau. No commenters addressed this approach. Applicants and recipients will electronically submit all filings related to the Reimbursement Program, including the Application Request for Funding Allocation, using an online filing portal. The Bureau will allow applicants to submit applications at either the holding company level or individual/subsidiary level as proposed. The Bureau strongly recommends, however, that applicants file a single application at the holding company level to optimize administrative efficiency by reducing the number of filings requiring processing.

15. Commenters supported the Commission's proposal to consider the use of Excel batch uploads of information to facilitate the completion of applications. To facilitate application preparation and ease the filing burden on applicants, the Bureau will develop the capability to allow batch uploads for targeted and specific portions of the applications. Additionally, some commenters requested that the Commission ensure there will be sufficient support for issues associated with filings in the portal. The Bureau agrees and will make support available to applicants for issues with the portal. Specifically, a Reimbursement Program Fund Administrator helpline and an email address will be designated for Reimbursement Program applicants to address questions related to their application and reimbursement request submissions. The Bureau will also provide additional details on the online filing process through webinars and other outreach activities.

16. *Timing and Length.* The Bureau adopts its proposals related to the Application Request for Funding Allocation filing window. Per § 1.50004(b) of the Commission's rules, the Bureau will announce the opening of an initial filing window in a subsequent public notice when the online filing portal is ready to begin accepting applications. In that public notice, the Bureau will also announce the duration of the initial filing window. Consistent with the *2021 Supply Chain Order*, the Bureau has discretion to set the length of the initial filing window, which is not limited to 30 days and may be longer if the Bureau finds that applicants need help navigating the application filing portal to compile the necessary documentation required for the filing requirements. RWA, in its comments, indicated a 60-day filing window would ensure that applicants could timely file their Application Requests for Funding Allocation. The Bureau agrees with RWA that applicants would benefit from having a longer filing window and will consider this comment when it determines the duration of the filing window. The Bureau is working toward a target date of late October for the opening of the filing window. The Bureau anticipates that the filing window period will run at least 60 days, and potentially longer. Until the filing window closes, the Bureau will allow applicants to initiate, save, submit, and make changes to submitted applications as proposed.

17. In the *2021 Supply Chain Order*, the Commission amended its rules to align eligibility for the Reimbursement Program with the CAA's amendments to

the Secure Networks Act. Consistent with the CAA, as implemented by the *2021 Supply Chain Order*, participation in the Reimbursement Program is limited to providers of advanced communications service with 10 million or fewer customers. As the Commission determined in the *2020 Supply Chain Order*, 86 FR 2904, January 13, 2021, (December 11, 2020), “customers” is interpreted to include customers of the applicant and customers of any affiliate taking advanced communications service from the provider and its affiliates as of the date the application is filed. Eligibility to participate in the Reimbursement Program is limited to “providers of advanced communications service,” which is defined as providers of “high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology with connection speeds of at least 200 kbps in either direction.” A school, library or health care provider, or consortium thereof, providing facilities-based non-commercial educational broadband service connections of at least 200 kbps in one direction would qualify as a provider of advanced communication service for the purposes of the Reimbursement Program and is eligible for reimbursement funding. The Commission in the *2021 Supply Chain Order*, also modified the scope of covered communications equipment and services eligible for Reimbursement Program support consistent with the amendments to the Secure Networks Act by the CAA. The modification limits eligibility for reimbursement to communications equipment or services produced or provided by Huawei or ZTE obtained on or before June 30, 2020.

18. The Bureau will review, with the assistance of the Reimbursement Program Fund Administrator, Application Requests for Funding Allocation to verify Reimbursement Program eligibility as required by the Commission’s rules. The Application Request for Funding Allocation contains questions to assist with Reimbursement Program eligibility verification. For example, each applicant must answer “yes” or “no” as to whether it is a provider of advanced communications service with 10 million or fewer customers. Applicants must also indicate “yes” or “no” to whether they have obtained covered communications equipment or service eligible for Reimbursement Program support on or before June 30, 2020. In addition,

applicants are required to identify the eligible covered communications equipment or service that they intend to remove, replace, and dispose of with Reimbursement Program support by site location.

19. The standard the Commission adopted to determine whether a provider is classified as a provider of advanced communications service is the same standard used to determine whether a provider must file FCC Form 477 to report broadband deployment data, *i.e.*, the provision of a facilities-based broadband connection to an end user with a speed of at least 200 kbps in either direction. Accordingly, as part of the Bureau’s internal verification process, it will cross-check applicants against the list of FCC Form 477 filers as of the most recent filing deadline. Applicants not identified on the most recent FCC Form 477 filer list may need to provide additional information to support Reimbursement Program eligibility in response to a Reimbursement Program Fund Administrator request for information.

20. The Bureau finds the validation of eligibility using FCC Form 477 filing information, coupled with requesting additional information evidencing eligibility where an entity has not recently filed an FCC Form 477, appropriate in our efforts to ensure the Reimbursement Program supports providers of advanced communications services with 10 million or fewer customers and protect against waste, fraud, and abuse.

21. As required by the Secure Networks Act and the Commission’s rules, the Application Request for Funding Allocation requires applicants to submit initial estimates of costs reasonably incurred for the permanent removal, replacement, and disposal of covered communications equipment or services. Both the Secure Networks Act and the Commission’s rules require applicants to provide cost estimates in their applications. The Secure Networks Act specifically states that the “Commission shall require an applicant to provide an initial reimbursement cost estimate at the time of application, with supporting materials substantiating the costs,” which the Commission “may require an applicant to . . . update,” and “submit additional supporting materials.”

22. To help applicants submit cost estimates with their applications, the Commission permitted applicants to rely on estimated costs identified in the Catalog, which contains categories of quantifiable costs typically incurred in the removal, replacement, and disposal process. For costs not covered by the

Catalog, or if applicants want to use a cost estimate that differs from the Catalog, the applicant can instead provide an individualized cost estimate supported by documentation (*e.g.*, vendor quotes). The finalization of the Catalog is discussed in Part III.B of the PN, but here the Bureau addresses the proposals and comments related to the submission of cost estimates generally.

23. *Technology Upgrades.* In the *2021 Supply Chain Order*, the Commission clarified that “the ‘costs reasonably incurred’ standard . . . make[s] providers responsible for the additional incremental cost of funding upgrades that exceed what is reasonably necessary to transition to a comparable replacement.” The Commission acknowledged that whether an upgrade is a “reasonable, comparable replacement necessary for the transition” to a replacement “will likely depend on the facts in each case.” The Commission directed the Bureau, with the assistance of the Reimbursement Program Fund Administrator, to “first consider whether the cost is typically incurred when transitioning from covered communications equipment and services to a replacement.” Other factors the Bureau may consider include the “costs in relation to the alternative equipment and services and the capabilities and functions performed by the replacement equipment and service as compared to the equipment and services removed.”

24. As provided in the *2021 Supply Chain Order*, participants may obtain Reimbursement Program support for an amount equivalent to the cost estimate of a comparable replacement. Participants electing to upgrade their equipment or service in excess of the costs of a comparable replacement, however, bear the difference in cost between the comparable replacement and the technology upgrade. Participants seeking funding for a technology upgrade in excess of the costs of a comparable replacement will be required to provide price quotes for the comparable replacement with their Application Request for Funding Allocation—they may not rely on the cost estimates contained in the Catalog—and they must also separately certify that the cost estimate is made in good faith.

25. While the Commission encourages providers to upgrade their networks, Congress directed the Commission to “preclude network upgrades that go beyond the replacement of covered communications equipment or services from eligibility.” Providers are responsible for the additional incremental costs of funding upgrades

that exceed what is reasonably necessary to transition to a comparable replacement. In the *2021 Supply Chain Order*, the Commission found, as a general matter, expenses incurred replacing microwave backhaul with fiber backhaul or replacing last-mile fixed wireless links with fiber-to-the-premises (FTTP) are not reasonably necessary to transition to a comparable replacement. Thus, consistent with the *2021 Supply Chain Order*, while the Bureau will view fiber replacements as a technology upgrade, not a reasonable, comparable replacement, Reimbursement Program participants may be reimbursed for a portion of their expenses up to the difference in cost between a comparable replacement and the fiber upgrade. However, additional sources of Federal funding outside the scope of Reimbursement Program may be available to applicants for fiber deployments which could account for costs that exceed the costs of a comparable replacement. The Bureau encourages providers to explore all available funding options to upgrade their networks with fiber. Additionally, the Commission found that handset upgrades and certain other customer-premises equipment (CPE) are ineligible for reimbursement because replacing such handsets is not reasonably necessary to the removal, replacement, and disposal of covered communications equipment or service.

26. *Average Catalog Cost Estimate.* Separately, the Bureau adopts its proposals in the *Reimbursement Process PN* related to the submission of cost estimates for the purposes of granting funding allocations. The Bureau adopts its proposal to base its evaluation of applicant's cost estimates on the average between the minimum and maximum range of estimated costs for a particular itemized expense listed in the Catalog, rather than allowing applicants to choose any amount within the cost estimate range. The preliminary catalog included a low-end and high-end range of cost estimates for each particular itemized expense identified to help develop a record on reasonable expenses associated with the relevant expenses. In addition to a range of cost estimates, the final Catalog now includes the average between the low-end and high-end range of cost estimates for each itemized expense identified. Applicants relying on Catalog cost estimates for their applications will select the predetermined average cost estimate for a particular itemized expense identified in the Catalog as opposed to providing a cost estimate that is within the range

of cost estimates. This approach will reduce the likelihood of applicants overestimating costs, and will thus minimize overallocation of limited funding to the detriment of other Reimbursement Program participants. Some commenters object to the use of average cost estimates, arguing that equipment types within the ranges are too varied, and that applicants will regularly exceed the averages. The Bureau rejects this argument. If an applicant finds that a Catalog cost estimate average does not fully account for its costs, or if a cost category is not identified in the Catalog, applicants are permitted to provide individualized cost estimates based on supporting documentation (e.g., vendor quotes) and certify the cost estimate is made in good faith. This approach balances the Commission's goals of protecting against waste, fraud, and abuse while facilitating the production of estimates of costs reasonably incurred by applicants.

27. As indicated in this document, the Bureau will also collect cost-estimate information on a site-specific basis because it enables the review of cost estimates for reasonableness and promotes clear identification and tracking to assist with the invoicing process, as well as protecting against waste fraud and abuse. Applicants may, however, report in their applications network-wide costs, such as disposal costs or software upgrades, that apply to several site locations.

28. Nokia asks us to permit applicants to submit cost estimates that are based on reasonable costs incurred by the applicant over an 18-month project timeline. The Bureau declines to accept a cost estimate covering such a lengthy period of time. The removal, replacement, and disposal term provided for in the Secure Networks Act and the Commission's rules ends one year after the participant receives its initial disbursement of support. Accordingly, participants should submit cost estimates accounting for a one-year term as currently provided under the Commission's rules that commences when the participant receives its initial draw down disbursement.

29. The Commission's rules direct the Bureau to review applications to determine completeness, program eligibility, and the reasonableness of cost estimates. The Bureau must "approve or deny" applications no later than 90 days after the close of the relevant filing window. If additional time is needed to review the applications, the Bureau may extend the deadline up to an additional 45 days. Consistent with the Secure Networks

Act, the Commission's rules state "[i]f the . . . Bureau determines that an application is materially deficient (including by lacking an adequate cost estimate or adequate supporting materials), the . . . Bureau shall provide the applicant a 15-day period to cure the defect before denying the application." The Bureau sought comment on additional facets of the review process and received limited comment on the opportunity to cure and the filing of amendments during the 90-day review period as discussed herein.

30. The 90-day review period will commence on the next business day following the close of the filing window, per the Commission's rules. As proposed, after the filing window closes and the 90-day review period commences, the Reimbursement Program Fund Administrator will conduct an initial review of the applications to help the Bureau determine whether the applications are initially considered eligible and acceptable for filing and to evaluate the gross estimate demand contained in those applications. The Bureau will then issue a public notice "announcing those applications initially found eligible" and acceptable for filing, and those applications considered materially deficient. The Reimbursement Program Fund Administrator will proceed with processing those applications considered acceptable. Applicants filing applications found unacceptable for filing will need to amend and provide additional information demonstrating program eligibility before the Reimbursement Program Fund Administrator can proceed with processing their applications as acceptable for filing.

31. *15-Day Opportunity to Cure.* As required by the Secure Networks Act and the Commission's rules, the Bureau will give applicants whose applications are found materially deficient a 15-day opportunity to cure the deficiency before their application is denied. As proposed, the Bureau will individually notify each applicant that its application is deficient and that it has 15 days to cure all of the identified deficiencies. Such notice will be distinct from the public notice announcing applications accepted for filing and applications with material defects. RWA questions whether the 15-day cure period starts on the date of the public notice release or the individual notification date. Accordingly, the Bureau clarifies the 15-day cure period will commence on the date of the individual email notification is sent by the Commission and received by the applicant.

32. The Bureau also broadly interprets the statutory 15-day opportunity to cure as providing all applicants an opportunity to cure material defects that would lead to the denial or partial denial of an Application Request for Funding Allocation, even filers of applications that were initially found acceptable. In those instances, should the Bureau subsequently find, after further review, that the application is materially deficient and subject to denial, the applicant will be afforded the 15-day cure period.

33. *Requests for Additional Information.* During the application review process there may be multiple instances where the Reimbursement Program Fund Administrator seeks additional information from an applicant prior to an application being granted or denied. These additional opportunities to amend an application or provide supplemental information prior to any official decision will ensure that all applicants have sufficient opportunities to present the most complete application seeking reimbursement, and the Bureau clarifies that these opportunities are separate and distinct from, and do not count against, the formal 15-day opportunity to cure period. The Bureau finds this clarification of the process mitigates RWA's concerns of having only a single 15-day cure period.

34. *Amendments during the Application Review Period.* As proposed, the Bureau will allow applicants to make amendments to the filings during the 90-day review period. Additionally, the Bureau adopts its proposal to deny, as a general matter, amendment requests to an Application Request for Funding Allocation that would result in an increase to the total cost estimate. The Bureau therefore denies RWA's request to allow increases to applicant cost estimates. Reimbursement Program support is limited and subject to prioritization requirements should demand exceed supply. Allowing amendments to increase cost estimates would hinder the review of applications within the statutory 90-day review period, as the Reimbursement Program Fund Administrator would need to restart its cost estimate review for reasonableness with each amendment filed. Moreover, amendments increasing total cost estimate demand could ultimately delay the issuance of allocations to all participants because the Bureau and Reimbursement Program Fund Administrator will not be able to determine if prioritization is necessary until all applications are processed and the last application is granted.

35. The Bureau also rejects Nokia's request to allow applicants to build in an overrun allowance of 10% to account for unexpected costs. Nokia asks that applicants receive a funding allocation for 10% more than their reported cost estimates. Applicants are required by the Commission's rules to provide good-faith cost estimates for removal, replacement, and disposal. Applicants are thus encouraged to provide cost estimates that are as accurate as possible based on all available information. Allowing applicants to build in overrun allowances would undermine the goal of the Reimbursement Program of efficiently allocating funding support to help as many eligible providers as possible.

36. *45-Day Extension Period.* As proposed, and consistent with the Secure Networks Act, the Bureau directs the Reimbursement Program Fund Administrator to advise the Bureau, based on its initial review of the applications filed, whether to extend the 90-day deadline for granting or denying applications by up to an additional 45-day period. The Reimbursement Program Fund Administrator shall indicate whether it needs additional time to review the applications based on the number and complexity of the applications received. If the Bureau finds an extension justified, it will issue a public notice announcing the extension of the 90-day review period by a specified duration, not to exceed 45 days.

37. *Allocation.* Based on the cost estimates provided by applicants, the Reimbursement Program Fund Administrator will recommend to the Bureau's consideration a funding allocation for each approved application. The Bureau will review each recommendation and, following any modifications to cure deficiencies following the 15-day cure period, will either grant or deny the application and proceed with issuing the allocation. Should total allocation demand exceed the funding available, the Reimbursement Program Fund Administrator's allocation recommendations will be adjusted in accordance with the prioritization scheme required by the amended Secure Networks Act and adopted by the Commission in the *2021 Supply Chain Order*.

38. *No Allocation Adjustments.* As directed by the Commission in the *2020 Supply Chain Order*, "the funding amount allocated represents the maximum amount eligible for draw down by an eligible provider unless a subsequent funding allocation is made." Accordingly, the Bureau emphasizes

that once it makes a funding allocation determination, it will not adjust the funding allocation amount even if there is a change in the participant's plans or if actual costs exceed estimated costs. To the extent a participant requires funding in excess of its allocated amount, the participant will be required to file a new application in a subsequent filing window, if and when such a filing window is announced. The Bureau will only issue funding disbursements for reasonable expenses actually incurred.

39. *Allocation Announcement Schedule.* The Bureau adopts its proposal to periodically release public notices announcing funding recipients and the amount of their funding allocations as well as to notify recipients directly by email. No commenter filed comments on this proposal. This approach ensures administrative efficiency while also providing transparency to Reimbursement Program applicants and recipients, as well as the public.

40. Pursuant to the Commission's rules, after eligible providers receive funding allocations and incur actual costs, they must file reimbursement claims along with supporting invoices and other cost documentation to draw from their allocation. Each Reimbursement Program recipient must file at least one reimbursement claim within one year of the approval of its Application Request for Funding Allocation. Failure to file within the year will result in the expiration of the funding allocation and the provider will be unable to receive any reimbursement funds from the allocation as the unused funds would revert back to the Reimbursement Program. The Commission would be able to then reallocate to other applications in a future filing window any funds from the expired allocation. In this section, the Bureau adopts proposals related to the filing of reimbursement claims and extensions of the reimbursement claim deadline permitted under the Commission's rules.

41. *Filing Reimbursement Claim Requests.* The Bureau adopts several of its proposals related to processing recipients' requests for reimbursement and will finalize the FCC Form 5640 Reimbursement Claim Request as proposed. Additionally, the Bureau adopts its proposal to allow recipients to submit multiple Reimbursement Claim Requests as they incur expenses throughout the reimbursement period. The Bureau, with the assistance of the Reimbursement Program Fund Administrator, will review and grant or deny Reimbursement Claim Requests for actual costs reasonably incurred.

42. The Bureau adopts the approach for processing Reimbursement Claim Requests proposed in the *Reimbursement Process PN*. Accordingly, using the features available in the online filing portal, recipients will be required to link actual costs incurred and the supporting invoice documentation to their itemized cost estimates previously filed with the Bureau to complete the claim. Recipients must submit invoices through the online portal as attachments to their Reimbursement Claim Requests. With each invoice submitted, recipients must provide specific details related to the invoice (vendor name, date issued, description of contents, etc.) to assist reviewers in linking invoices to specific itemized cost estimates. Further, recipients seeking disbursements must have previously provided a vendor and supplier quote associated with the invoice included with the Application Request for Funding Allocation before submitting the Reimbursement Claim Request. Recipients who have not yet provided a vendor and supplier quote associated with the invoice because they relied on the Catalog cost estimates when completing their Application Request for Funding Allocation will need to file a modification before submitting the Reimbursement Claim Request. The Reimbursement Program Fund Administrator will not review Reimbursement Claim Requests that rely on invoices not substantiated by a corresponding quote previously filed.

43. Pursuant to the Commission's rules and the *2020 Supply Chain Order*, recipients may seek reimbursement only for actual expenses incurred during the period beginning on April 17, 2018, and ending at the expiration of the one-year removal, replacement, and disposal term. Consistent with the *2020 Supply Chain Order*, the Bureau will allow providers to obtain reimbursement for costs reasonably incurred prior to the creation and funding of the Reimbursement Program, but on or after April 17, 2018, for the removal, replacement, and disposal of covered equipment and services. The Bureau must authorize the payments from the Reimbursement Program fund in the United States Treasury to providers that have submitted valid claims for reimbursement.

44. RWA requests the Bureau allow the filing of requests "beyond the allocated funds so that the [Reimbursement Program] Fund Administrator can approve costs even though there may not yet be funding to pay such invoices." The Bureau agrees, and the filing portal system will allow recipients to file Reimbursement Claim

Requests, even when the amount requested exceeds the amount allocated to the recipient, up until the deadline for filing Reimbursement Claim Requests has expired. These requests will, however, remain in pending status if there is insufficient funding to grant the requests in full.

45. Nokia requests that the Commission expedite disbursements to contractors involved in creating cost estimates for Application Requests for Funding Allocation that are initially accepted for filing prior to allocating the funds to all applicants. Specifically, it argues that expedited disbursements for costs associated with application preparation "will relieve financial stresses on the industry and encourage more complete and accurate applications." The Commission's rules, however, do not allow for disbursements prior to a funding allocation. Further, the Commission did not establish a separate disbursement process to reimburse for expenses incurred for applications initially found acceptable for filing. Providing a disbursement at this early stage would also trigger the recipient's obligation to complete the removal, replacement, and disposal process within one year and many applicants would be unable to meet that deadline. That said, costs associated with preparing applications are potentially eligible for reimbursement and applicants may file reimbursement claims for such costs once an allocation is issued.

46. *Reimbursement Claim Request Deadline*. All Reimbursement Claim Requests must be filed no later than 120 days following the expiration of the removal, replacement, and disposal term. Prior to the expiration of the claim request deadline, recipients under the Commission's rules are permitted to request and, if timely requested, will automatically receive a 120-day extension. RWA notes that the one-year removal, replacement, and disposal term can be extended and argues that the corresponding 120-day reimbursement claim deadline should also be extended if the underlying one-year term is extended. The Bureau agrees and confirms that if the Commission or the Bureau extends the one-year removal, replacement, and disposal term, the corresponding 120-day reimbursement claim deadline will also be extended and start from the new extended term date expiration.

47. Finally, as required by the Commission's rules, after the Reimbursement Claim Request filing deadline, the remaining unclaimed amounts in the allocation will expire. The remaining funds in the expired

allocation will be available for Commission reallocation in a future filing window. However, as proposed in the *Reimbursement Process PN*, a timely submitted extension request, while pending, will toll the expiration of the funding allocation.

48. *Amendments, Modifications, and Administrative Updates*. In the *Reimbursement Process PN*, the Bureau sought comment on proposals to allow program participants to update information on file with the Commission through the filing of amendments, modifications, and/or administrative updates. The Bureau did not receive comments regarding modifications or administrative updates. The Bureau did, however, receive comments objecting to the general denial of amendments to the Application Request for Funding Allocation that would increase cost estimate submissions, as discussed elsewhere herein. Accordingly, the Bureau will allow participants to amend, modify, and file administrative updates using the online filing portal.

49. To file an amendment the participant must notify the Reimbursement Program Fund Administrator of its intent to amend its application through the Reimbursement Program Fund Administrator Help Desk. Notification of an intent to amend through the Reimbursement Program Fund Administrator Help Desk is necessary to unlock the underlying application in the online filing portal to allow for the filing of an amendment. This notice of intent to amend alerts the Reimbursement Program Fund Administrator to pause application processing pending the filing of additional changes that may impact the review process. Amendment filings are only permitted for underlying filings that are in a pending status.

50. The Bureau also will allow modification filings after an application is granted. For a granted Application Request for Funding Allocation, the Bureau will allow recipients to submit modification filings to change itemized expenses and locations identified on their filings and to provide vendor and supplier quotes for review by the Reimbursement Program Fund Administrator. The Bureau reiterates that if the modification filing would change the cost of the project, it will not alter the funding allocation issued. Additionally, participants are allowed to file administrative updates for routine, non-material changes to filings such as changes to the applicant's contact information (e.g., address, phone number, and contact name). The online filing portal will accept and

automatically process administrative updates once filed.

51. *Notifications of Changes in Ownership.* Recognizing that the Reimbursement Program will be administered over multiple years and changes in ownership may occur, the Bureau adopts its proposal to adapt the online filing system to account for changes in ownership, including changes due to bankruptcy. Specifically, the Bureau will institute a streamlined process whereby, post-consummation, the recipient of record will file a notification signed by both parties to the transaction that includes an explanation of the ownership changes. In the event of an involuntary change of control and/or ownership, such as, but not limited to, the appointment of a trustee in bankruptcy or a receiver, the process shall include a mechanism for a rightful recipient to file the notification without the signature of the other party to the transaction upon a showing of appropriate documentation regarding the change of control and/or ownership. The Bureau, with the assistance of the Reimbursement Program Fund Administrator, will determine the amount of the funding allocation remaining, *i.e.*, the amount not yet claimed and disbursed through the reimbursement claim process, and how to handle transactions involving the acquisition of discrete network components, *e.g.*, the sale of a portion of the network and not the entire network. Commenters support this approach. The Bureau notes, however, that while it is not requiring prior approval for new owners to participate in the Reimbursement Program, the new owners would still have to be eligible to participate in the program to receive funding under the Commission's rules. Providers with more than 10 million customers are not eligible to participate in the Reimbursement Program.

52. Consistent with the Secure Networks Act, the Commission's rules require Reimbursement Program participants to complete the removal, replacement, and disposal process within one year from the initial disbursement of funds. The initial disbursement is deemed to occur on the date on which the Commission first distributes reimbursement funds to the recipient. Participants must file to receive their initial disbursement within one year of receiving the funding allocation approval.

53. Both the Secure Networks Act and the Commission's rules authorize extensions of the one-year removal, replacement, and disposal term. Specifically, under § 1.50004(h)(1) of the Reimbursement Program rules, the

Commission may grant a general extension of the one-year term by a period of six months to all Reimbursement Program recipients if the Commission: (1) Finds the supply of replacement communications equipment or services needed by the recipients to achieve the purposes of the Reimbursement Program is inadequate to meet the needs of the recipients; and (2) provides notice and detailed justification for granting the extension to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. In addition, the Bureau may grant individual extensions of time for a period not to exceed six months on a case-by-case basis. The Commission has interpreted the Secure Networks Act to allow grant of multiple individual extensions of time to a participant. To grant an extension, the Bureau must find that, due to no fault of the recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term.

54. Nokia requested a blanket 6-month extension of time, noting that many applicants will have difficulty adhering to a one-year deadline for removal, replacement, and disposal because, under normal circumstances, the process would take approximately one to three years. Additionally, Nokia notes that a high number of carriers attempting to replace equipment during the same period of time may delay the process. The Competitive Carriers Association (CCA) also requested a blanket 6-month extension, raising a similar concern in its comments, recognizing that carriers are "managing labor shortages, including limited availability of skilled engineers and 12 tower crews, and an extension will give carriers a more realistic opportunity to navigate staffing challenges." Copper Valley Wireless, Inc. (Copper Valley Wireless) asserts that the unique issues facing Alaskan providers will result in multiple extension requests. Thus, Copper Valley Wireless requests successive blanket extensions for Alaskan providers.

55. The Bureau finds these requests for an extension of the term for all future participants are outside the scope of the *Reimbursement Process PN*, and it, therefore, declines to address these requests. In addition, the Bureau finds it premature to consider a general extension before the Reimbursement Program is even launched and any removal, replacement, and disposal terms are established. Granting an across-the-board extension at this

juncture is counter to Congress' intent of having a one-year term.

56. In addition, some commenters have expressed concern that the Commission appears to favor O-RAN replacement options and requests that the Commission not grant an applicant's extension request solely because of the replacement choice. As the Bureau did not seek comment on proposals related to granting term extensions, it finds these comments are also outside the scope of the *Reimbursement Process PN*. These comments more accurately relate to the *2021 Supply Chain Order*, where the Commission said that some replacement options, such as O-RAN or virtual RAN, may require additional time for system integration. While the Bureau recognizes it may take longer to implement certain technological solutions, that is only one factor among many that could justify an extension. Regardless, the Bureau disagrees that the Commission has demonstrated a preference for O-RAN technology solutions as compared to any other solution.

57. To help mitigate against waste, fraud, and abuse, and consistent with the Secure Networks Act, the Commission required recipients to submit status updates, spending reports, and final certifications and updates. The Bureau takes this opportunity to reiterate these requirements as set forth in the Secure Networks Act and the Commission's rules.

58. *Status Updates.* The Secure Networks Act requires that "[n]ot less frequently than once every 90 days beginning on the date on which the Commission approves an application for a reimbursement under the Program, the recipient of the reimbursement shall submit to the Commission a status update on the work of the recipient to permanently remove, replace, and dispose of the covered communications equipment or services." The Secure Networks Act also provides that "[n]ot earlier than 30 days after the date on which the Commission receives a status update," the Commission "shall make such status update public on the website of the Commission."

59. In the *2020 Supply Chain Order*, the Commission required recipients to file the first status updates within 90 days of receiving their funding allocations. In the status updates, recipients are required to report on the efforts undertaken and challenges encountered in permanently removing, replacing, and disposing of their covered communications equipment or services. Recipients shall also report in detail on the availability of replacement equipment in the marketplace so the



Commission can assess whether a general, six-month extension permitted by the statute is appropriate. Each status update must include a certification that affirms the information in the update is accurate. The obligation to file status updates expires after the recipient has notified the Commission of the completion of the permanent removal, replacement, and disposal of the covered communications equipment or service pursuant to a final certification. Status updates will be public, consistent with the Commission's rules, and the Commission directed the Bureau to post on the Commission's website the status update filings within 30 days of submission.

60. *Spending Reports.* The Secure Networks Act requires Reimbursement Program recipients to submit "reports regarding how reimbursement funds have been spent, including detailed accounting of the covered communications equipment or services permanently removed and disposed of, and the replacement equipment or services purchased, rented, leased or otherwise obtained, using reimbursement funds." In the *2020 Supply Chain Order*, the Commission required Reimbursement Program recipients to file spending reports within 10 calendar days after the end of January and July, starting with the recipient's initial draw down of disbursement funds and terminating once the recipient has filed a final spending report showing the expenditure of all funds received as compared to the estimated costs submitted. The Commission directed "program participants to submit the final spending report no later than 60 days following the expiration of the program participant's reimbursement claim deadline." The Bureau is required to make spending reports, except for detailed accounting information, available to the public via a portal on the Commission's website.

61. *Final Certifications.* Within 10 days following the expiration of the removal, replacement, and disposal term, recipients must file a final certification with the Commission. The final certification must indicate whether the recipient has fully complied with all terms and conditions of the program, the commitments made in its application, and the timeline submitted. The final certification must also indicate whether the recipient has permanently removed covered communications equipment and services that were in its network as of the date of application submission. Pursuant to the Secure Networks Act and the *2020 Supply Chain Order*, if an applicant indicates

that it has not fully complied with all terms of program participation, the applicant must file an updated final certification "when the recipient has fully complied." Program participants failing to timely submit a final certification or updated final certification may be subject to forfeitures and other penalties.

62. The Secure Networks Act directed the Commission to make public on the Commission's website status updates submitted by recipients under the Reimbursement Program. In the *2020 Supply Chain Order*, the Commission directed the Bureau to make filed spending reports available to the public through an online portal. The Commission also directed us to treat as presumptively confidential detailed accounting information on the covered communications equipment or services subject to removal, replacement, and disposal, and the replacement equipment or services being reimbursed, and to withhold such disaggregated information from routine public inspection. The Commission also directed us to treat as presumptively confidential "[o]ther information, such as location of the equipment and services; removal or replacement plans that include sensitive information; the specific type of equipment or service; and any other provider specific information," which the Commission found would likely qualify as trade secrets under the Freedom of Information Act (FOIA) the public release of which could raise security and confidentiality concerns. However, as a condition of receiving funding, the Commission required Reimbursement Program recipients to provide consent to allow vendors or contractors used by the recipient to release confidential information to an auditor, reviewer, or other representative as part of the auditing process, which is discussed in further detail in Part III.A.13 of the PN.

63. The Bureau will treat certain specified information submitted by Reimbursement Program participants as public or presumptively confidential consistent with the Secure Networks Act, the Freedom of Information Act, and the Commission's rules. As proposed in the *Reimbursement Process PN*, and consistent with the Commission's rules, the Bureau will make publicly available, through an online search portal, general and summary information submitted by participants. This includes the name of the applicant who submitted a FCC Form 5640, Application Request for Funding Allocation, and the funding amount requested. This also includes the Reimbursement Program

participants selected for funding allocation and the funding amount awarded. Consistent with the *2020 Supply Chain Order*, the Bureau will also make public on the Commission's website recipients' filed spending reports. The Bureau finds that the public interest is best served by making this information available to the public to ensure transparency and accountability.

64. Commenters agreed with the proposal to treat certain sensitive information collected as part of the Program as presumptively confidential and withhold that information from routine public inspection. For example, ADTRAN "fully supports the proposal to maintain the confidentiality of proprietary information with regard to the prices of the replacement equipment and services." ADTRAN asserts that "such information constitutes trade secrets," and ADTRAN "takes steps to protect that information by requiring its customers (and potential customers) to enter into non-disclosure agreements to maintain confidentiality." ADTRAN agrees that "information on the specific replacement equipment and location of that equipment . . . should not be made publicly-available, particularly because such information on what is critical infrastructure could provide roadmaps to malefactors." RWA agrees with the proposal to treat as presumptively confidential and withhold from public inspection information including "detailed accounting information," "location of the equipment and services; removal or replacement plans that include sensitive information; the specific type of equipment and service; and any other provider specific information that qualifies as trade secrets under the Freedom of Information Act."

65. Accordingly, as contemplated by the *2020 Supply Chain Order*, and proposed in the *Reimbursement Process PN*, the Bureau finds that certain information likely constitutes confidential commercial or financial information or trade secrets under the FOIA, and consistent with the *2020 Supply Chain Order*, and the Commission's rules, the Bureau will treat this information as presumptively confidential and will withhold from routine public inspection such information, including:

- Detailed accounting information on the covered communications equipment or services removed, replaced, and disposed of, and the replacement equipment or services purchased, rented, leased, or otherwise obtained using Reimbursement Program funds;

- Vendor price quotes submitted with the FCC Form 5640, Application Request for Funding Allocation, or in a Modification filing;

- Invoices submitted with the FCC Form 5640, Reimbursement Claim Requests;

- Equipment or services location, including address, latitude/longitude, etc.;

- Removal or replacement plans that include sensitive information;

- Specific equipment or service type;
- Other provider-specific information; and,

- Specific timeline for the permanent removal, replacement, and disposal of covered communications equipment and services.

The Bureau finds, consistent with the *2020 Supply Chain Order*, that this information would likely qualify as confidential commercial or financial information or trade secrets under the Freedom of Information Act and therefore should be withheld from routine public inspection.

66. Finally, the Bureau adopts the approach proposed in the *Reimbursement Process PN*, to allow filers uploading attachments to the online portal to categorize whether the attachment is “confidential” or “public.” RWA argues that “anything attached to the FCC Form 5640 by an applicant that is clearly marked confidential should be treated as such and withheld from public inspection.” The Bureau clarifies that participants may submit requests to treat documentation as confidential information to be withheld from public inspection; however, such requests must be consistent with FOIA and the Commission’s rules. Requests for confidential treatment that are overbroad or otherwise inconsistent with our rules will be rejected. Attachments designated as “confidential” will be withheld from routine public inspection, subject to FOIA and the Commission’s rules, whereas attachments designated as “public” may be made publicly available.

67. The Secure Networks Act directed the Commission to “take all necessary steps to avoid waste, fraud, and abuse with respect to the Program,” including “regular audits and reviews of reimbursements under the Program to confirm that recipients of such reimbursements are complying with this Act,” and “random field investigations to ensure that recipients of reimbursements under the Program are performing the work such recipients are required to perform.” In the *2020 Supply Chain Order*, the Commission

adopted a number of measures as directed by the Secure Networks Act to combat waste, fraud, and abuse, including requiring audits, reviews, and field inspections. In particular, the Commission directed the Office of the Managing Director (OMD), or a third-party identified by OMD, to prepare a system to audit Reimbursement Program recipients to ensure compliance with the Commission’s rules. Recipients are subject to audits and other investigations to evaluate their compliance with the statutory and regulatory requirements for the program. To facilitate audits and field investigations, recipients must provide consent to allow vendors or contractors used by the recipient to release confidential information to the auditor, reviewer, or other representative. Recipients must also allow any representative appointed by the Commission to enter the premises of the recipient to conduct compliance inspections.

68. In the *2021 Supply Chain Order*, the Commission delegated financial oversight of the Reimbursement Program to OMD, in coordination with the Bureau and the Reimbursement Program Fund Administrator, to ensure that all financial aspects of the program have adequate internal controls. OMD, in coordination the Bureau, may issue additional directions to the Reimbursement Program Fund Administrator and program participants in furtherance of its responsibilities. The Bureau will continue to work with OMD, any third-party identified by OMD, and the Reimbursement Program Fund Administrator to develop an audit, review, and field investigations process for the Reimbursement Program to protect against waste, fraud, and abuse. Pursuant to the *2020 Supply Chain Order*, participants must allow any representative appointed by the Commission to enter the participant’s premises to conduct compliance inspections so, at a minimum, the audit process may include site visits to participant’s premises to conduct these compliance inspections.

#### *B. Catalog of Eligible Expenses and Estimated Costs*

69. In this section, the Bureau adopts a final Catalog which applicants may rely on, where applicable, when submitting cost estimates in their Application Request for Funding Allocation, and the Bureau provides additional guidance regarding whether certain costs are reasonably incurred and may be reimbursable under the Reimbursement Program.

70. Section 4(d)(1) of the Secure Networks Act requires the Commission to “develop a list of suggested replacements” for covered equipment and services and for applicants to submit “initial reimbursement cost estimate[s] at the time of application.” To accomplish this objective, the Commission delegated authority to the Bureau to develop and finalize a Cost Catalog in the *2020 Supply Chain Order*. The Commission’s rules provide that eligible providers may rely upon the predetermined estimated costs identified in the Catalog when submitting their cost estimates with their requests for funding allocation. The Bureau contracted with Widelity Inc. (Widelity) to produce a preliminary catalog containing a non-exhaustive list of cost categories and a range of cost estimates for communications equipment and services potentially eligible for reimbursement. Widelity developed the preliminary catalog based on a series of confidential interviews with communications industry stakeholders to understand the process and costs associated with removing, replacing, and disposing of covered communications equipment and services. In the *Catalog PN*, the Bureau sought comment on the preliminary catalog, the suggested ranges of estimated costs and cost categories identified therein, and how the Catalog should inform the Reimbursement Program. Widelity subsequently conducted a thorough review of the preliminary catalog, based on comments received in response to the *Catalog PN*, and conducted additional engagement with communications industry stakeholders and the Bureau, resulting in additional improvements to the Catalog.

71. After considering comments received in response to the *Catalog PN*, and in consultation with Widelity, the Bureau revises and finalizes the Catalog as set forth in this document. The final Catalog includes as an attachment a chart indexing changes from the preliminary catalog to the final Catalog. In particular, the Bureau added an index number to reference line item cost categories, clarified certain expenses that it finds are highly variable, clarified units of measurement, clarified cost categories and descriptions, amended certain ranges of cost estimates, and corrected typographical errors. For the reasons discussed in this document, the Bureau adopts the Catalog in Appendix C of the PN for use in the Reimbursement Program. The Catalog will be made available on the Commission’s website, and the line

items and cost estimate averages taken from the ranges identified in the Catalog will be incorporated into the online filing portal for use by applicants when completing the FCC Form 5640, Application Request for Funding Allocation.

72. The Catalog identifies cost categories and a range of estimated costs that providers of advanced communications services would typically incur when removing, replacing, and disposing of covered communications equipment or service. The Bureau emphasizes the Catalog is not intended to be a definitive or exhaustive list of all reimbursable expenses but rather is an additional tool to help applicants with their application submissions. Inclusion or exclusion in the Catalog of a particular category of costs should not be interpreted as a determination whether the expense will be eligible for reimbursement. Applicants may reference the line item cost estimates identified in the Catalog when submitting their initial cost estimates. Consistent with the Secure Networks Act, applicants relying on the Catalog when requesting a funding allocation will still be required to provide supporting materials substantiating their cost estimates with documentation such as quotes or invoices before receiving a disbursement of funds for reimbursement. To the extent that certain reimbursable expenses are not explicitly listed in the Catalog or certain cost categories do not fully account for an applicant's reimbursable expenses, applicants may request reimbursement by submitting individualized cost estimates, with supporting materials substantiating the costs. The cost estimates identified in the final Catalog do not guarantee the ultimate disbursement of funds for any individual expense. Participants' requests for reimbursement will be evaluated based on supporting documentation regardless of whether the initial cost estimates were based on the Catalog or individualized cost estimates.

73. As noted in this document, cost estimates based on the Catalog will be the average of the low- and high-end range of cost estimates identified in the Catalog. If an applicant believes a cost estimate identified in the Catalog does not fully account for its specific circumstances or a cost category is not identified in the Catalog, the applicant may provide an individualized cost estimate. Applicants providing individualized cost estimates will be required to submit additional supporting documentation (e.g., vendor

quotes) and certify that the cost estimate is made in good faith. All cost estimates are subject to review by Commission staff, with the assistance of the Reimbursement Program Fund Administrator, to ensure that an expense is eligible for reimbursement under the costs reasonably incurred standard.

74. The Bureau received 13 comments in response to the *Catalog PN*, including comments addressing the preliminary catalog. Comments addressing the preliminary catalog were generally favorable; however, commenters also proposed changes to the preliminary catalog. Commenters requested clarifications to the units of measurement for particular cost estimates, requested modifications or clarifications to certain cost categories, and requested modifications to certain ranges of cost estimates. Commenters proposed changes to the access layer, distribution layer, and core layer equipment, as well as software and services. Commenters also requested clarification on whether certain costs are reimbursable under the Reimbursement Program. The Bureau addresses these comments in the following. The Bureau also highlights modifications to the Catalog proposed by Widelity based on its own thorough review of the preliminary catalog and additional engagement with communications industry stakeholders.

75. *Clarifying Units of Measurement.* USTelecom—The Broadband Association (USTelecom) asked the Commission to clarify whether wavelength division multiplexing (WDM) and optical transport network (OTN) equipment “prices are ‘per node’ and . . . not ‘per route.’” WDM and OTN equipment is typically priced in the communications industry on a per node basis as opposed to per route, and the Bureau clarifies that the range of cost estimates for WDM and OTN equipment in the Catalog is priced on a per node basis. USTelecom also asked the Commission to clarify “whether the range of prices identified in the preliminary Catalog for the ‘existing collocation’ expense type” are “per-month or a flat fee for each lease.” Because collocation is typically priced on a per-site, flat-fee basis, as opposed to a per-month basis, the Bureau revises the Catalog to clarify that the range of cost estimates for collocation is priced on a per-site basis to more accurately describe the per-unit cost of these expenses.

76. *Requests to Include Additional Cost Categories.* CCA asked the Commission to “include in the Cost Catalog an entry for preparation of the

cell site closeout package, which may include photos, red line/as-built drawings, documents, and other relevant information to confirm that the site has been completed to specified standards and requirements.” The Bureau agrees. The Bureau finds that cell site closeout costs may be reasonably necessary to remove and replace covered communications equipment or services, and revised the Catalog to include under the “Services,” “Site Work” cost category, a subcategory for “Closeout Package—Microwave” and general “Closeout Package.” The range of cost estimates for these new cost categories was developed by Widelity based on confidential interviews with communications industry stakeholders.

77. RWA requested the Bureau add an “Attorney fees” cost category to the Catalog for “legal fees spent on the advocacy surrounding the development of the rules,” or “legal fees related to the ongoing rulemaking process.” The Bureau notes that the preliminary catalog included a “Participation in FCC Rulemaking” cost category with a range of cost estimates. The Bureau denies RWA's request because attorney's fees related to the rulemaking proceeding are not reasonably necessary for the removal, replacement, and disposal of covered communications equipment or services. The Bureau modifies the Catalog to remove the “Participation in FCC Rulemaking” cost category and range of cost estimates identified in the preliminary Catalog. The Bureau clarifies, however, that certain attorney's fees and legal expenses incurred for purposes of participating in the Reimbursement Program, such as preparing application forms, reimbursement forms, extension requests, and waiver requests, may be reimbursable to the extent they are reasonably incurred for the removal, replacement, and disposal of covered communications equipment and services and the allocation request is substantiated with supporting documentation. The Bureau also notes that, for example, attorney fees associated with negotiating and reviewing vendor contracts and legal fees associated with zoning and permitting are included in the Catalog range of cost estimates and potentially eligible for reimbursement.

78. *Clarifying Reimbursable Expenses.* CCA asked the Commission to provide “additional clarification on allowable reimbursements for internal employee time, including what type of documentation will be required.” As CCA noted, the preliminary catalog included a range of cost estimates

related to internal labor costs, including carrier internal project management. The Bureau recognizes that the Reimbursement Program will demand significant employee time and resources. Internal labor costs, like other program costs, are reimbursable to the extent they are reasonably incurred removing, replacing, and disposing of covered communications equipment and services. However, for internal labor costs to be reimbursable, they must be entirely related to transition efforts, that is, the costs would not have been incurred but for Reimbursement Program participation removing, replacing, and disposing of covered communications equipment and services. In other words, participants are only eligible to recover that portion of employee time attributable to transitioning equipment and services, not unrelated employee time or expenses related to overhead. Labor costs associated with normal system or network maintenance and administration, conducted in the ordinary course of business, are not reimbursable. The Bureau will review internal labor costs with heightened scrutiny to ensure that such expenses are reasonably necessary for removal, replacement, and disposal of covered communications equipment or services, and to avoid waste, fraud, and abuse in the Program. Generally, the Bureau expects cost estimates for internal labor to be lower than cost estimates for outside services for the same work.

79. The Bureau finds that the Catalog adequately identifies and accounts for employee time, *i.e.*, internal labor costs, that could be quantified for a range of cost estimates based on pricing data submitted by industry stakeholders to Widelity. For example, the Catalog includes a range of cost estimates for internal labor including project management and engineer/staff network operations which are on a per person per month basis. The Bureau makes no changes to the Catalog with respect to internal labor costs. Internal labor costs identified in the Catalog are reimbursable to the extent they are reasonably incurred removing, replacing, and disposing of covered communications equipment and services. Applicants may rely on the Catalog to estimate internal labor costs for their application submissions where applicable but will be required to submit additional documentation accounting for actual costs during the reimbursement stage to ensure that reimbursement funds are entirely related to transition efforts.

80. Applicants seeking reimbursement for internal labor costs that are not

identified in the Catalog will be required to submit individualized cost estimates and documentation and certify that the estimates are made in good faith. In particular, to ensure that internal labor costs are entirely related to transition efforts, such costs must be estimated on a per-hour and per-project basis, providing both an estimate of labor hours to be incurred for each project and the internal labor rate to be used. Evidence of the salary/hourly rate of internal labor must be provided to establish the reimbursable portion of labor costs. Labor rates may be inclusive of salary and benefits. When submitting cost estimates for internal labor costs, the applicant should provide the employee hourly rates, a description of the work performed, and the number of hours to be worked (*e.g.*, copies of employee timesheets or paystubs with hours worked, and Internal Revenue Service Form W-2, Wage and Tax Statement).

81. The Bureau will exercise its discretion in determining whether the hours and/or labor rates satisfy the costs reasonably incurred standard. When submitting actual costs for reimbursement for internal labor, participants should provide: A report listing the hours incurred for each transition task, the applicable labor rate, and the resulting cost; and copies of employee timesheets showing hours worked on each transition task, by day. Timesheet hours must match the totals reported by the task in this document. Timesheets either may come from the participants' time and expense reporting systems or can be manually prepared using spreadsheets or other means. The Bureau may request additional supporting information for internal labor costs, such as payroll, human resources, or financial records.

82. RWA argues that costs associated with "long term maintenance contracts or managed service contracts to maintain and operate Huawei and ZTE networks may need to be terminated prior to the service terms being completed and that the costs associated with the termination . . . should be reimbursed as part of the costs associated with replacing the networks." Observing that "other prepaid service contracts may need to be terminated prior to the service terms being completed," RWA argues that "[t]hese costs should be eligible for reimbursement and included in the Cost Catalog because they are outlays already made that are not otherwise recoverable." The Bureau rejects RWA's request because these expenses are incurred to maintain Huawei and ZTE networks that the Reimbursement

Program is designed to replace. These expenses are not reasonably necessary to remove, replace, and dispose of covered communications equipment and services.

83. The Bureau does, however, clarify that early termination fees incurred by providers terminating long term service contracts, managed service contracts, or other prepaid contracts entered into prior to their application submission may be reimbursable to the extent they are reasonably necessary for removing, replacing, and disposing of covered communications equipment and services. The Bureau will not reimburse early termination fees for contracts entered into after June 30, 2020, as Congress has established that date as the eligibility cut-off for eligible expenses. Beyond our statutory obligation, after June 30, 2020, the date on which the Public Safety and Homeland Security Bureau released orders designating Huawei and ZTE as covered companies under our rule § 54.9, no Universal Service Funds could be used to purchase, obtain, maintain, improve, modify, or support Huawei or ZTE equipment or services. The Bureau declines to reward business decisions where a participant should be on notice to not enter into arrangements with such fees given the program's goals to incentivize providers to remove, replace, and dispose of Huawei and ZTE equipment and services. Participants seeking reimbursement for early termination fees must provide supporting documentation, including copies of vendor contracts with the early termination fee provisions.

84. CCA requested that certain integration costs be included in the Catalog. CCA requested that any Citizens Broadband Radio Service (CBRS) equipment being replaced should include "the costs of re-integration of the new CBRS equipment with Spectrum Access Systems." Because Spectrum Access Systems (SAS) integration costs may be reasonably necessary to replace CBRS equipment, these costs may be reimbursable under the program. The Bureau revises the Catalog to include cost categories for access layer and distribution layer SAS Integration Costs and a range of cost estimates based on Widelity's confidential interviews with communications industry stakeholders.

85. CCA also requested inclusion in the Catalog of a cost category for "third-party integration costs" such as "billing software, messaging platforms, roaming services, WEAS systems, and robocall blocking services." While these expenses are not in the Catalog, some of these expenses may be reimbursable.

However, the Bureau rejects CCA's request because network integration costs are highly variable, making it difficult to develop a quantifiable range of cost estimates based on the record and information provided by communications industry stakeholders to Widelity. As noted in this document, the final Catalog does, however, include specific integration costs, such as SAS integration, that are specific to the type of equipment which may be eligible for reimbursement. Participants seeking reimbursement for network integration costs not identified in the Catalog will need to provide individualized cost estimates with supporting documentation.

86. RWA asked the Commission to modify the Catalog to include "VoLTE compatible replacement subscriber handsets" to replace "CDMA-capable voice services on some handheld devices." Relatedly, CCA asked the Commission to modify the Catalog to clarify that replacements to "add, upgrade, or replace HSS, IMS, PCRF, etc. to support UMTS/LTE/VoLTE devices" fall within the catalog's "purview." In the *2021 Supply Chain Order*, however, the Commission rejected RWA's request, finding "CDMA-capable handsets not produced or provided by Huawei or ZTE ineligible for reimbursement under the Reimbursement Program rules because replacing such handsets with VoLTE-compatible subscriber handsets is not reasonably necessary to the removal, replacement, and disposal of covered communications equipment or service." Consistent with the *2021 Supply Chain Order*, the Bureau declines to modify the Catalog to include handsets and other end user customer premises equipment (CPE) outside of the limited CPE already accounted for in the Catalog.

87. RWBC asked the Commission to modify the Catalog to "include cost estimates for deploying fiber backhaul equipment," arguing that "fiber backhaul facilities should be considered comparable to microwave backhaul facilities under the 'Emerging Technologies' compatibility standard." Similarly, USTelecom asked the Commission to clarify whether leasing "additional capacity on a long-term basis (like a fiber IRU) that would support the parallel network" is eligible for reimbursement. In the *2021 Supply Chain Order*, however, the Commission did not consider "replacing microwave backhaul with fiber backhaul . . . necessary for the removal, replacement, and disposal of" covered communications equipment or services." Instead, the Commission

viewed such "fiber link replacements as a technology upgrade, and not a reasonable, comparable replacement." As the Commission explained in the *2021 Supply Chain Order*, if the participant decides to upgrade its equipment, it will bear the difference in cost between the comparable replacement and the upgrade, must provide price quotes for the comparable replacement with its application, as opposed to relying on the cost estimates in the Catalog, and must certify that the estimated cost is in good faith. Fiber backhaul facilities and additional capacity would be considered an upgrade, not a reasonable, comparable replacement. Accordingly, the Bureau declines to add this equipment as a separate cost category to the Catalog.

88. Ericsson argues that the preliminary catalog "only included Internet of Things (IoT) software licenses associated with core network nodes," which does "not reflect the need to replace existing Machine-to-Machine ('M2M') and IoT software licenses in the Radio Access Networks ('RAN') nodes." Ericsson asked the Commission to "expand the current Catalog to include specific RAN software licenses for existing functionality, such as M2M, Cat-M1, Narrowband IoT, and similar items" because it would "ensure the continuation of IoT capabilities in one frequency band in all sectors of an existing LTE site with typical 2, 4, and 8-port radios." The Bureau declines to implement Ericsson's request because the functionality cited, Internet of Things capabilities, is not reasonably necessary for core network operations and therefore is outside of the scope of the Catalog. The cost categories Ericsson requests to include in the Catalog are not part of the core network but rather are used by end users to connect to advanced communications services. In the *2021 Supply Chain Order*, the Commission found that "Internet of Things devices, used by end users to access and utilize advanced communications services are distinctly different from the cell sites, backhaul, core network, etc. used to operate a network and provide advanced communications services," and were "not reasonably necessary to the removal, replacement, and disposal of covered communications equipment or service."

89. Vantage Point argues that "annual software or license fees" are "a true cost of network replacement and should be included in Catalog replacement estimates." While these expenses may be reimbursable, the Bureau declines to implement Vantage Point's proposed

change because specific software licensing fees are already included in the Catalog based on Widelity's engagement with industry stakeholders. Participants seeking reimbursement for software and licensing fees not identified in the Catalog will need to provide individualized cost estimates with supporting documentation.

90. *Requests to Clarify or Modify Cost Categories*. CCA asks us to "clarify that the full range of 911 implementation costs are reasonable," including "third-party integration costs." The Catalog includes cost estimates for "911 and E911 Services and Test Services" which the Bureau finds are sufficiently specific. To the extent that there are additional costs associated with 911 and E911 (Enhanced 911) implementation as CCA suggests, there is no evidence in the record or provided to Widelity that would form a basis for altering the Catalog 911 and E911 services cost categories. Accordingly, the Bureau declines to implement the change proposed by CCA.

91. USTelecom asked the Commission to clarify that the "Leasing" cost category is not limited to "wireless networks," but that "wireline networks may also need to obtain or modify leases, such as, for example, for space in third-party datacenters." In particular, USTelecom asserts that the "existing colocation" expense type is "unclear." The Bureau clarifies that providers of wireline networks may be eligible for reimbursement of leasing expenses, including colocation expenses, reasonably incurred in removing, replacing, or disposing of covered communications equipment and services. The Bureau declines, however, to modify the Catalog to account for costs of leasing space in third-party data centers. The Bureau notes that there is no documentation in the record to quantify costs for leasing space in third-party data centers, and Widelity did not receive cost data on leasing space in third-party data centers.

92. *Amendments to the Range of Cost Estimates*. Commenters requested that the Bureau modify the range of cost estimates for certain cost categories identified in the preliminary Catalog. Mavenir argues that the low range of cost estimates identified in the preliminary Catalog for "'Open vRAN eNodeB', 'RAN (Open RAN/vRAN) Components' or [Distributed Unit] . . . need to be changed to reflect that costs provided by Mavenir." The Bureau agrees with Mavenir that it should modify the Catalog to reduce the low end of the range of estimated costs for "Open vRAN eNodeB," and "RAN (Open RAN/vRAN Components)" to

reflect the lower pricing information Mavenir submitted to Widely. Accordingly, the Bureau implements these clarifications in the Catalog. However, the Bureau rejects Mavenir's request to lower the low end of the range of cost estimates for the distribution layer Distributed Unit cost category because Widely had already factored in the pricing information Mavenir submitted to Widely when developing the range of cost estimates for the preliminary catalog. Because the Bureau finds the range of cost estimates for Distributed Unit identified in the preliminary catalog to be reasonable, the Bureau includes it in the final Catalog.

93. USTelecom asked the Commission to "reexamine and confirm the appropriate prices" for WDM and OTN equipment. USTelecom asserted that it was "unclear why" cost estimates for access layer "Access WDM & OTN" equipment "matches" core layer "Metro WDM & OTN" equipment, "yet the apparently similar" distribution layer "Metro WDM & OTN" cost estimates are "very different." To remove a potential source of confusion for participants, the Bureau removed the core layer "Metro WDM & OTN" cost category since this equipment is identical to distribution layer WDM and OTN equipment and thus the cost estimates were duplicative. As a result, the Bureau adjusted the range of cost estimates for "WDM & OTN—Core Equipment" to reflect the removal of distribution layer WDM and OTN equipment and the associated range of cost estimates. Accordingly, the Bureau adopts this revision in the Catalog. WDM and OTN associated equipment costs are included for the access layer, distribution layer, and core layer equipment cost categories.

94. USTelecom states that a member has "Huawei equipment that would appear to be classified as Coaxial Media Converters in the proposed catalog" and reports that it "paid well in excess of the maximum allowed," and "the cost to replace Huawei with equal functionality will range from \$13,000–\$16,000 per replacement." USTelecom notes that the carrier "typically refers to" the "Coaxial Media Converters" equipment as a "cable modem termination system (CMTS) and, while CMTS systems are generally deployed in a cable operator's headend, these particular Huawei CMTS devices are field-deployed." Because the Bureau finds that the costs for replacing CMTS are reasonably necessary to comply with the Reimbursement Program, the Bureau finds that the Catalog should be revised to account for CMTS costs. The Bureau agrees with USTelecom that the high-end cost estimate should be \$16,000 per

node but, based on cost estimates recommended by Widely based on industry engagement, the Bureau finds that the low-end cost estimate should be \$8,500 per node. The Bureau modifies the Catalog to include this range of cost estimates for CMTS (per node).

95. CCA asks us to "add the costs of cell site routers to the Catalog, with an estimated cost of \$3,000 per site" because "[e]ach cell site typically has a router installed." The preliminary catalog identified a Distribution Layer cost subcategory and range of cost estimates for "Cell Site Routers." The Bureau revised the Catalog to include additional Distribution Layer cost subcategories and ranges of cost estimates for small, medium, and large cell site routers based on Widely's additional engagement with industry stakeholders. The Bureau finds that Widely's thorough survey of communications industry manufacturers and service providers reasonably identified relevant ranges of estimated costs for cell site routers. To the extent that applicants disagree with the Catalog cost estimates, they may submit individualized cost estimates along with supporting documentation.

96. The Bureau also takes this opportunity to clarify that costs associated with removing, replacing, and disposing of wired (Wi-Fi) and wireless routers that constitute CPE are not be reimbursable under the program and revise the Catalog accordingly. The preliminary catalog included a subcategory (without cost estimates) for "Smart Home" CPE but clarified that "IP cameras, wifi doorbells, wifi, light switches, etc. would not be reimbursable." In the preliminary Report, Widely noted that for wireless networks, CPE can include an "internal modem and broadband router possibly with a wireless access point to distribute a signal throughout the premises or office," and for wired networks, CPE can include a "broadband router, or a premise gateway with wireless (Wi-Fi) capabilities." In the *2021 Supply Chain Order*, the Commission found that certain CPE equipment including end-user handsets were "distinctly different from cell sites, backhaul, core network, etc. used to operate a network and provide advanced communications services." In particular, the Commission found this equipment was not reasonably necessary to the removal, replacement and disposal of covered communications equipment. Wired (Wi-Fi) and wireless routers may constitute CPE used by end users to access non-core network elements and, consistent with the *2021 Supply Chain Order*, are

not reasonably necessary for the removal, replacement, and disposal of covered communications equipment or services. Accordingly, the Bureau revises the Catalog "Smart Home" subcategory to clarify that "Wi-Fi Routers" would not be reimbursable under the program.

97. Airspan argues that the "Cost Catalog's pricing appears grossly inflated," noting that "some of the lower bound cost estimates listed in the Cost Catalog are as much as three times (3x) the price Airspan currently offers for equivalent hardware and other network elements," and that network equipment and services are becoming less expensive by the day due to the ongoing evolution of network architecture design and equipment manufacturing." Airspan did not sufficiently quantify with specificity the changes to the range of cost estimates it envisioned. The Bureau thus declines to modify the Catalog in response to Airspan's comment because it believes that Widely's thorough survey of communications industry manufacturers and service providers reasonably identified relevant ranges of estimated costs. The Bureau notes that it modified the Catalog in parts to reduce the low-end of the range of cost estimates where appropriate.

98. Vantage Point argues that the preliminary Catalog underestimates shipping costs in Alaska, failing to account for "shipping costs to any other major Alaskan port," other than Seattle to Dutch Harbor, and failing to account for "inland transportation costs." The Bureau declines to modify the Catalog to account for additional shipping costs in Alaska raised by Vantage Point. The Catalog accounts for shipping costs to Alaska based on the longest shipping route, Seattle to Dutch Harbor, as an example for the costs typically incurred. Cost estimates for other outlying regions, which vary depending on multiple cost factors, including distance, time of year, freight weight, etc., would be too variable to include in the Catalog. To the extent that providers believe the Catalog does not adequately represent their shipping costs, they may submit individualized cost estimates with supporting documentation.

99. *Widely Proposed Revisions.* Widely also proposed various modifications, clarifications, and improvements to the preliminary catalog, based on additional engagement with communications industry stakeholders and its own thorough review. Widely proposed various clarifications to the descriptions of the cost categories. For example, Widely proposed clarifying that the "Virtual/

Cloud Core Deployment Cloud—Virtual IMS” cost category range of estimated costs is for equipment providing service to “up to 100,000 subscribers.” Widely also proposed revising the description for “Antenna—LTE (Long Term Evolution)” to represent costs for a typical 10-port antenna, instead of an 8-port antenna, resulting in a decrease to the low-range of cost estimates from \$2,087 to \$1,479. Widely also proposed adding additional cost subcategories to provide further specificity and guidance to applicants. For example, Widely proposed adding a Distribution Layer Equipment cost category for “Hybrid Cable & Radio Jumpers, Tower Ancillary Components” with a range of cost estimates. Widely also proposed changes to the range of cost estimates proposed in the preliminary catalog to more accurately reflect reasonable costs typically incurred managing a network. For example, Widely proposed increasing the high-end of the range of cost estimates for “Tower/Installation Crews,” “Mobilization Less than or Equal to 250 Miles (2–4 Member Crew),” from \$3,000 to \$6,000.

100. Because the Bureau finds that Widely’s proposed modifications and clarifications improve the accuracy and quality of the Catalog and will aid participants preparing their initial cost estimates, it revises the Catalog to include additional changes identified by Widely. A complete listing of the changes to the preliminary catalog that are reflected in the final Catalog are included as an attachment to the Catalog in Appendix C of the PN.

101. *Highly Variable Expenses.* For certain expenses identified in the preliminary catalog—such as costs associated with network security equipment, network automation, and network integrator services—a range could not be quantified, most often due to the highly variable nature of the cost. Taxes, for example, vary by state and locality and/or tax exemption and therefore could not be quantified for the Catalog. The same holds true for special access site costs which vary by site and region. For these expenses, while the Bureau recognizes they are potentially reimbursable, applicants will not be able to rely on the Catalog as there is no quantified range. Accordingly, for such expenses, applicants will need to provide an individual cost estimate with supporting documentation. The Bureau has moved those expense descriptions to the back of the Catalog merely as an acknowledgement that it has considered such costs and recognize they are potentially eligible for reimbursement

even though a cost estimate range could not be quantified.

#### C. Final Replacement List

102. The Bureau adopts a final List of Categories of Suggested Replacement Equipment and Services (Replacement List) to guide providers removing, replacing, and disposing of covered communications equipment and services. Section 4(d)(1) of the Secure Networks Act directs the Commission to “develop a list of suggested replacements of both physical and virtual communications equipment, application and management software, and services or categories of replacements of both physical and virtual communications equipment, application and management software and services.” The list must be “technology neutral and may not advantage the use of reimbursement funds for capital expenditures over operational expenditures.” Accordingly, in the *2020 Supply Chain Order*, Commission mandated the development of a Replacement List “that will identify the categories of suggested replacements of real and virtual hardware and software equipment and services to guide providers removing covered communications equipment from their networks.” and directed the Bureau to issue a public notice announcing the Replacement List. The Bureau sought and received comment on a preliminary Replacement List prepared by Widely in the *Catalog PN*. After considering the comments addressing the preliminary Replacement List received in response to the *Catalog PN*, the Bureau declines to make any changes to the preliminary Replacement List.

103. Santel Communications Cooperative, Inc. (Santel) asked the Bureau to “add a statement in the Replacement List acknowledging that replacing covered equipment with other advanced communications services equipment, specifically including [fiber-to-the-premises (FTTP)] equipment, qualifies for reimbursement under the Supply Chain Reimbursement Program.” In the *2021 Supply Chain Order*, however, the Commission explained that it generally views fiber link replacements, including FTTP, as a technology upgrade and not a reasonable, comparable replacement for covered communications equipment and services. Participants may upgrade communications equipment and services under the Reimbursement Program but, as the Commission explained, will ultimately bear the difference in cost between the comparable replacement and the upgrade. Because cost determinations

are very case-by-case specific, and FTTP is generally considered an upgrade, not a reasonable, comparable replacement, the Bureau declines to adopt Santel’s proposed modification to the Replacement List.

104. ADTRAN seeks to “incorporate a ‘Buy American’ preference into the suggested Replacement Equipment.” However, when Congress created the Reimbursement Program it did not express a preference for providers to replace covered communications equipment and services with equipment and services provided by U.S. companies. Similarly, and by ADTRAN’s own admission, Congress did not include a “Buy American” preference for the Reimbursement Program in sections 901 or 906 of the Secure Networks Act. Furthermore, in the *2020 Supply Chain Order* the Commission explained that the Replacement List should “provide carriers with the flexibility to select the equipment or services that fit their needs from categories of equipment and services.” Consistent with the *2020 Supply Chain Order*, the Bureau provides participants with the flexibility to select U.S. and non-U.S. equipment or services (excluding, of course, Huawei and ZTE equipment or services) that satisfy their obligations under the Reimbursement Program. Accordingly, the Bureau declines to adopt ADTRAN’s proposed modification to the Replacement List.

105. Accordingly, for the reasons stated herein, the Bureau adopts the preliminary replacement list proposed in the *Catalog PN*, without changes, as the final Replacement List for use in the Reimbursement Program. Consistent with the *2020 Supply Chain Order*, the Bureau will publish the final Replacement List on the Commission’s website and issue a public notice at least annually announcing any updates to the Replacement List, to the extent there are any updates, to ensure that the Replacement List remains current. The final Replacement List is attached as Appendix D of the PN.

#### D. Widely Report

106. The Bureau also sought comment in the *Catalog PN* on the Supply Chain Reimbursement Program Study (Report) prepared by Widely. The Report represents the views of Widely, not the views of the Commission or the Bureau, and is not an official Commission document. While the Bureau appreciates comments received addressing and proposing changes to the Report, the Bureau did not intend for further revisions to the Report by Widely and instead sought comment

only to help gauge the adequacy and sufficiency of the subjects covered in the Report as the Bureau works to implement the Reimbursement Program. Specifically, the Report was intended “as an industry and technology overview and explains Widely’s methodologies used to develop the initial version of the proposed Catalog and Replacement List.” Comments on the Report are relevant only to the extent they inform the finalization of the Catalog and Replacement List. The final Catalog will be used by participants to estimate initial costs, and the final Replacement List will serve as a suggested guide to participants replacing equipment and services. Accordingly, the Bureau finds it unnecessary to require further revisions to the Widely Report.

### III. Procedural Matters

#### E. Paperwork Reduction Act

107. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198. The Commission has submitted the information collection requirements contained in the *2020 Supply Chain Order*, including FCC Form 5460, to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on those requirements.

#### F. Congressional Review Act

108. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, OMB, concurs, that these requirements are non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Bureau will send a copy of this document to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

109. *Legal Authority*. The Bureau establishes procedures for the Reimbursement Program pursuant to the authority contained in section 4 of the Secure Networks Act, as amended, 47 U.S.C. 1603, and § 1.50004(p) of the Commission’s rules, 47 CFR 1.50004(p).

110. *Treasury Offset*. The U.S. Department of the Treasury (Treasury) has a number of collection tools, including the Treasury Offset Program (TOP), whereby it collects delinquent

debts owed to Federal agencies and states by individuals and entities, by offsetting those debts against Federal monies owed to the debtors. As noted in the *Reimbursement Process PN*, TOP will apply to disbursements from the Reimbursement Program.

Reimbursement Program participants owing past-due debt to a Federal agency or a state may have all or part of their disbursement payments offset by Treasury to satisfy such debt. Prior to referral of its debt to Treasury, an entity is notified of the debt owed, including repayment instructions. If the referred debt of a Reimbursement Program participant remains outstanding at the time of a disbursement payment from the Reimbursement Program to that participant, the participant will be notified by Treasury that some or all of its payment has been offset to satisfy an outstanding Federal or state debt. Program participants that owe past due Federal or state debts that have been referred to Treasury are encouraged to resolve such debts prior to submitting their Application Request for Funding Allocation. The Bureau lacks discretion to deviate from the requirements of the TOP.

111. RWA recognizes the Commission lacks the authority to deviate from the TOP requirements but “encourages the Reimbursement Program Fund Administrator and the FCC to work through any debt collection issues with the applicant prior to funds being released so that an applicant can cure any outstanding debts in order to receive funding.” The Bureau will endeavor to work with participants, to the extent practicable, on Treasury Offset debt collection issues in connection with the disbursement process. Participants are, however, encouraged to proactively identify and resolve any outstanding Federal and state debt issues before participating in the Reimbursement Program that could lead to a Treasury Offset.

112. *Do Not Pay*. Absent comment on the issue, the Commission adopts the proposal for the Bureau in coordination with the Commission’s Office of Managing Director to “conduct a thorough review of the federal ‘Do Not Pay’ system database to verify an applicant’s eligibility for payments and awards” before distributing the funding. Pursuant to the Payment Integrity Information Act of 2019 (PIIA), the Commission is required to ensure that a thorough review of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any federal funds.” The Department of

Treasury’s Do Not Pay system is designed to decrease improper payments in Federal programs such as the payment of funds to ineligible recipients, overpayment, or underpayment.

113. Under the PIIA, the Commission is required to verify the eligibility of the funding recipient in multiple databases before allocating and distributing the funding. The Reimbursement Program Fund Administrator will initially check whether an applicant is identified in the Do Not Pay system. If an applicant is ineligible for funding under the Do Not Pay system, the Reimbursement Program Fund Administrator will notify the applicant and provide an opportunity for the applicant to expeditiously resolve the matter with the Do Not Pay system. The Bureau will not allocate funding to the applicant if an applicant is ineligible for funding under the Do Not Pay system. If a check of the Do Not Pay system results in a finding that a Reimbursement Program applicant is ineligible for funding or payment, the Commission will withhold funding and/or payments as appropriate. The Program Administrator may work with the applicant to give it an opportunity to resolve its listing in the Department of the Treasury’s Do Not Pay system if the applicant can produce evidence that its listing in the Do Not Pay system should be removed. However, the applicant or program participant will be responsible for working with the relevant agency to correct its information before funding can be allocated or payment can be made by the Commission.”

114. *Red Light Rule*. In the *Reimbursement Procedures PN*, the Bureau sought comment on waiving the Commission’s “red light rule” for all funding allocations and disbursements from the Reimbursement Program. RWA supported this proposal. Accordingly, the Bureau will waive the “red light rule” for the Reimbursement Program as discussed in this document.

115. The Commission’s “red light rule” prevents parties who are delinquent on debts owed to the Commission from receiving benefits from the Commission while the debts remain unpaid. The Commission adopted the “red light rule” in implementation of the Federal Debt Collection Improvement Act of 1996 that sought to “maximize collections of delinquent debts owed to the Government . . .” The Commission has the authority to waive the “red light rule” for “good cause shown” under the Commission’s rules. The Commission can waive compliance with its own regulations when “particular facts



would make strict compliance [with the regulation] inconsistent with the public interest." The Bureau finds that the waiver of the "red light rule" is justified in this instance given the national security risks posed to U.S. networks by Huawei and ZTE covered communications equipment and services.

116. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." 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 concerns" under the Small Business Act. A "small business concern" is one that: (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).

117. The Commission prepared Initial Regulatory Flexibility Analyses (IRFAs) in connection with the *2020 Supply Chain Declaratory Ruling*, 85 FR 47211, August 4, 2020, *2020 Supply Chain Second Further Notice of Proposed Rulemaking (FNPRM)*, 85 FR 48134, August 10, 2020, and the *2021 Supply Chain Third FNPRM*, 86 FR 15165, March 22, 2021. The Commission sought written public comment on the proposals in the *2020 Supply Chain Declaratory Ruling*, *2020 Supply Chain Second FNPRM*, and the *2021 Supply Chain Third FNPRM*, including comments on the IRFAs. No comments were filed addressing the IRFAs. The Commission included Final Regulatory Flexibility Analyses (FRFAs) in connection with the *2020 Supply Chain Order* and the *2021 Supply Chain Order*.

118. This document establishes procedures for the Reimbursement Program to implement the rules adopted by the Commission for the Reimbursement Program in the *2020 Supply Chain Order* and in the *2021 Supply Chain Order*. In particular, this document establishes procedures for, among other things, determining program eligibility and participating in the program, including the filing and processing of applications. The procedures established in this document flow from the proposals set forth in the

*2020 Supply Chain Declaratory Ruling*, *2020 Supply Chain Second FNPRM*, and the *2021 Supply Chain Third FNPRM* and discussed in the IRFAs accompanying those Notices, and are consistent with the requirements established in the *2020 Supply Chain Order* and the *2021 Supply Chain Order* and addressed in the FRFAs accompanying those Orders. Accordingly, no changes to our earlier analyses are required.

119. The Bureau has determined that the impact on the entities affected by the requirements contained in this document will not be significant. The effect of these measures is to establish for the benefit of those entities, including small entities, the procedures for filing an application consistent with existing rules, to participate in the Reimbursement Program to obtain funding support to remove from their networks, replace, and dispose of communications equipment and service considered a national security risk.

120. The Bureau therefore certifies that the requirements of this document will not have a significant economic impact on a substantial number of small entities. The Bureau will send a copy of the document including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act. In addition, the document and this final certification will be sent to the Chief Counsel for Advocacy of the SBA, and will be published in the **Federal Register**.

Federal Communications Commission.

**Cheryl Callahan,**

*Assistant Chief, Telecommunications Access Policy Division, Wireline Competition Bureau.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket No. 21-60; RM-11844; DA 21-1038; FR ID 45283]

### Television Broadcasting Services Superior and York, Nebraska

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** On March 10, 2021, the Media Bureau, Video Division (Bureau) issued a *Notice of Proposed Rulemaking (NPRM)* in response to an amended rulemaking petition filed by Gray Television Licensee, LLC (Gray), the licensee of KSNB-TV, channel 4 (NBC/

MyNetwork), Superior, Nebraska. Gray requested that the Commission delete channel 4 from Superior and allot it to York, Nebraska in the DTV Table of Allotments and substitute channel 24 for channel 4 at York in the Table consistent with the technical parameters set forth in its Amended Petition. For the reasons set forth in the *Report and Order* referenced below, the Bureau amends FCC regulations to delete channel 4 from Superior and allot it to York, and then substitute channel 24 for channel 4 at York consistent with the technical parameters set forth in its amended petition.

**DATES:** Effective August 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** Joyce Bernstein, Media Bureau, at (202) 418-1647 or [Joyce.Bernstein@fcc.gov](mailto:Joyce.Bernstein@fcc.gov).

**SUPPLEMENTARY INFORMATION:** The proposed rule was published at 86 FR 15180 on May 21, 2021. Because Gray's proposal that the Bureau allot channel 24 to York is not mutually exclusive with its existing channel 4 allotment at Superior and would result in removal of Superior's sole local transmission outlet, the *NPRM* sought comment on whether to waive section 1.420(i) of the Commission's rules regarding mutual exclusivity, and the Commission's allotment policy disfavoring the removal of a community's sole first local service. Gray filed comments in support of the petition reaffirming its commitment to apply for channel 24 and filed amended comments at the Bureau's request to more fully address the waiver issues. In addition to KSNB-TV, Gray is the licensee of KOLN, Lincoln, Nebraska. KOLN's tower collapsed in 2020 and according to Gray, given the imminent failure of KSNB-TV's existing technical facility, rebuilding KSNB-TV on channel 24 at the new KOLN tower would resolve VHF-related reception issues in certain areas of KSNB-TV's current predicted service area, and save several hundred thousand dollars in construction costs.

With respect to the mutual exclusivity requirement, the Commission adopted section 1.420 to allow a television station to request a new community of license without subjecting the station to the risk of losing its license to competing applications if the change in community of license was mutually exclusive with the station's current allotment, so that the change would not deprive potential future applicants of the opportunity to apply for a new station to serve the area. Gray demonstrated that multiple channels are currently available for future allotment in the Superior/York/Lincoln, Nebraska area and, thus, because the underlying