

■ 5. Section 2.949 is amended by adding paragraph (c) as follows:

§ 2.949 Recognition of laboratory accreditation bodies.

\* \* \* \* \*

(c) The Commission will not recognize a laboratory accreditation body that has any affiliation with a foreign adversary as designated by the U.S. Department of Commerce at 15 CFR 7.4.

■ 6. Section 2.960 is amended by adding paragraph (d) as follows:

§ 2.960 Recognition of Telecommunication Certification Bodies (TCBs).

\* \* \* \* \*

(d) The Commission will not recognize any TCB for which any entity identified on the Covered List, as established pursuant to § 1.50002 of this chapter, has, possesses, or otherwise controls an equity or voting interest of 10% or more.

■ 7. Section 2.962 is amended by revising paragraph (e)(2) and adding paragraphs (e)(6) through (e)(9) as follows:

§ 2.962 Requirements for Telecommunication Certification Bodies.

\* \* \* \* \*

(e) \* \* \*

(2) The Commission will notify a TCB in writing of its intention to withdraw or limit the scope of the TCB's recognition and provide at least 60 days for the TCB to respond. In the case of a TCB designated and recognized pursuant to an bilateral or multilateral mutual recognition agreement or arrangement (MRA), the Commission shall consult with the Office of the United States Trade Representative (USTR), as necessary, concerning any disputes arising under an MRA for compliance with the Telecommunications Trade Act of 1988 (Section 1371-1382 of the Omnibus Trade and Competitiveness Act of 1988).

(i) The Commission will withdraw its recognition of a TCB if:

(A) The TCB's designation or accreditation is withdrawn, if the Commission determines there is just cause for withdrawing the recognition;

(B) The TCB requests that it no longer hold its designation or recognition;

(C) The TCB fails to provide the certification required in paragraph (8); or

(D) The TCB fails to fulfill its obligations to the Commission to ensure that no authorization is granted for any equipment that is produced by any entity identified on the Covered List, established pursuant to § 1.50002 of this chapter.

(ii) The Commission will limit the scope of equipment that can be certified by a TCB if its accreditor limits the scope of its accreditation or if the Commission determines there is good cause to do so.

(iii) The Commission will notify a TCB in writing of its intention to withdraw or limit the scope of the TCB's recognition and provide at least 60 days for the TCB to respond. In the case of a TCB designated and recognized pursuant to an bilateral or multilateral mutual recognition agreement or arrangement (MRA), the Commission shall consult with the Office of the United States Trade Representative (USTR), as necessary, concerning any disputes arising under an MRA for compliance with the Telecommunications Trade Act of 1988 (Section 1371-1382 of the Omnibus Trade and Competitiveness Act of 1988).

\* \* \* \* \*

(6) The Commission will not recognize as a TCB any organization in which any entity identified on the Covered List, as established pursuant to § 1.50002 of this chapter, has, possesses, or otherwise controls an equity or voting interest of 10% or more.

(7) A TCB must have an organizational and management structure in place, including personnel with specific training and expertise, to verify that no authorization is granted for any equipment that is produced by any entity identified on the Covered List, established pursuant to § 1.50002 of this chapter.

(8) Each recognized TCB must certify to the Commission, no later than [30 DAYS AFTER THE EFFECTIVE DATE OF A FINAL RULE], and no later than 30 days after any relevant change in the required information takes effect that no entity identified on the Covered List has, possesses, or otherwise controls an equity or voting interest of 10% or more of the TCB.

(9) Each recognized TCB must provide to the Commission, no later than [90 DAYS AFTER THE EFFECTIVE DATE OF A FINAL RULE], and no later than 30 days after any relevant change in the required information takes effect, documentation identifying any entity that holds a 5% or greater direct or indirect equity or voting interest in the TCB.

\* \* \* \* \*

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 10-90, 18-143, 19-126, 24-144; AU Docket Nos. 17-182, 20-34; GN Docket No. 20-32; FCC 24-64; FR ID 226925]

Connect America Fund, Connect America Fund Phase II Auction, The Uniendo a Puerto Rico Fund and the Connect USVI Fund, Rural Digital Opportunity Fund, Rural Digital Opportunity Fund Auction, Establishing a 5G Fund for Rural America, Letters of Credit for Recipients of High-Cost Competitive Bidding Support

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on changes to its rules regarding letters of credit for recipients of high-cost support awarded through competitive bidding. Specifically, the Commission seeks comment on changing the rules governing which United States banks are eligible to issue such letters. It also seeks comment on modifying the letter of credit rules for Connect America Fund Phase II (CAF II) support recipients that have met all of their deployment and reporting obligations, along with allowing certain Rural Digital Opportunity Fund (RDOF) support recipients to lower the value of their letters of credit.

DATES: Comments are due on or before August 5, 2024 and reply comments are due on or before August 19, 2024. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed below as soon as possible.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). You may submit comments, identified by WC Docket Nos. 10-90, 18-143, 19-126, 24-144; AU Docket Nos. 17-182, 20-34; GN Docket No. 20-32, by any of the following methods:

- Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: https://www.fcc.gov/ecfs/.

- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. *All filings must be addressed to the Secretary, Federal Communications Commission.*

- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8 a.m. and 4 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

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

**FOR FURTHER INFORMATION CONTACT:**

Nathan Eagan at [nathan.eagan@fcc.gov](mailto:nathan.eagan@fcc.gov), Wireline Competition Bureau, 202-418-7400.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's notice of proposed rulemaking (NPRM) in WC Docket Nos. 10-90, 18-143, 19-126, 24-144; AU Docket Nos. 17-182, 20-34; GN Docket No. 20-32; FCC 24-64, adopted June 6, 2024 and released June 7, 2024. The full text of this document is available for public inspection during regular business hours at Commission's headquarters 45 L Street NE, Washington, DC 20554 or at the following internet address: <https://docs.fcc.gov/public/attachments/FCC-24-64A1.pdf>.

**Synopsis****I. Introduction**

1. In the NPRM, the Commission seeks comment on modifying Letter of Credit (LOC) rules for Universal Service Fund High-Cost support authorized through a competitive process. The Commission also seeks comment on modifying the required value of a letter of credit for recipients of the RDOF support. Finally, it seeks comments on making the waiver of certain aspects of the LOC rules permanent for recipients of CAF II support to align with the

RDOF LOC requirements. The Commission is seeking comment in these areas to explore potential ways to facilitate providers' compliance with program requirements while facilitating broadband deployment in unserved and underserved areas, and helping providers to meet their deployment milestones.

2. Currently, the Commission's rules require that entities authorized to receive High-Cost support authorized through a competitive process have an LOC from a United States bank with a Weiss bank safety rating of B- or better. When the Commission first adopted this rule, approximately 3,600 banks qualified to issue letters of credit. In the last 2 years, however, nearly half of those banks have lost their eligibility to issue LOCs as they have seen their Weiss rating fall below a B-. Therefore, many carriers authorized to receive CAFF II Auction or RDOF support face the possibility of having their support withheld until they obtain a new LOC from a qualifying bank, and these carriers must incur increased costs and administrative burdens associated with obtaining a new LOC from a qualifying bank. Accordingly, the Commission seeks comment on whether the Commission should modify the current requirement of a B- or better Weiss safety rating.

3. In addition, RDOF support recipients are required to maintain LOCs that increase in value on an annual basis. Banks issuing LOCs generally require RDOF support recipients to maintain sufficient cash reserves to support the LOC, which impacts the financial resources available for the provider's operations, including deployment. As part of RDOF's rules, support recipients that meet their optional or required deployment milestone are allowed to reduce the value of their required LOCs to one year of their total support once Universal Service Administrative Company (USAC) has verified deployment. This flexibility was intended to balance our responsibility to protect program funds while simultaneously reducing the financial burdens on RDOF support recipients to participate in the program as they met their deployment milestones. In the NPRM, the Commission seeks comment on providing additional flexibility by allowing an RDOF support recipient to lower the value of its LOC to one year of support if it has deployed service to 10 percent of its locations by the end of its second year of support, instead of 20 percent, and the Commission seeks comment on whether such a waiver would apply to recipients whose two-

year optional milestone has already occurred.

4. Finally, the Commission seeks comment on making our waiver of certain aspects of the CAF II LOC rules permanent, and thereby continuing to allow CAF II support recipients that have met their deployment and reporting obligations to follow the RDOF's LOC rules, and maintain LOCs at lower values.

**II. Discussion**

5. *Weiss Bank Safety Rating.* In the NPRM, the Commission seeks targeted comment on whether and how to change the sections of the letter of credit rules requiring a minimum safety rating for issuing financial institutions. Currently, Auction 903 and 904 support recipients are required to obtain a letter of credit from United States banks maintaining a Weiss bank safety rating of B- or better. In light of the developments in the banking industry, the Commission seeks comment on this requirement. The Commission also seeks comment on whether to change the rule requiring United States banks to maintain a Weiss bank safety rating of B- or better for future recipients of support from the 5G Fund. If the Commission decides to alter those rules, the Commission seeks comment on what requirements to adopt for banks issuing letters of credit to support recipients, to further the dual goals of securing the financial commitments made through Auctions 903 and 904, and any auction of 5G Fund support, while maintaining a sufficiently expansive pool of issuing banks to enable broad participation in the programs by providers, and especially small providers. The Commission seeks comment on whether there are alternative, reliable ratings to use for assessing a bank's suitability for issuing an LOC to support recipients; or whether the Commission should continue to utilize only Weiss ratings, but accept a lower grade for bank eligibility. In making any changes to the issuing bank eligibility rules, how can the Commission minimize any potential public interest harms and continue to responsibly steward the funds disbursed through CAF II Auction and RDOF programs as well as the 5G Fund? The Commission anticipates that any changes to the bank eligibility rules could also apply to other FCC programs that currently have the same Weiss bank safety rating requirement. The Commission seeks comment on this.

6. When the Commission adopted its requirement that banks maintain a Weiss bank safety rating of B- or better, it reasoned that Weiss offered "an

independent and objective perspective of the safety of the banks it rates based on capitalization, asset quality, profitability, liquidity, and stability indexes.” The Commission also determined that using the Weiss ratings would significantly increase the number of banks that could issue LOCs to support recipients, compared to a previous program that had more restrictive bank eligibility requirements, and that this change would encourage small entities to participate in Auction 903. However, while approximately 3,600 banks were eligible to issue LOCs at the time of the Commission’s previous order in 2016, that number has decreased by nearly half in the past two years. The Commission seeks comments on any potential reasons for the significant number of decline in banks meeting this rating standard, and whether the conditions relating to that decline relate to the factors the Commission cared about when creating the initial LOC requirement. The Commission also seeks comments on whether these ratings changes have burdened entities, in particular small entities, that receive Auction 903 or 904 support. The Commission seeks specific examples demonstrating how the requirement burdens carriers and affects their ability to serve consumers. The record and the petitions certain carriers have filed seeking relief from the Weiss rating requirement indicate this is an issue worth exploring. If the Commission ultimately concludes it is in the public interest to change the eligibility requirement for U.S. banks permitted to issue LOCs to support recipients, the Commission seeks comment on how to best adopt changes that are still consistent with the Commission’s rationale in adopting the original Weiss rating requirement.

7. First, the Commission seeks comment on any alternatives to using the Weiss bank safety rating. The Commission notes that the objective is to protect the Universal Service Fund and expenditures, by ensuring that carriers have an LOC that can be relied upon, while simultaneously permitting carriers to choose from a reasonably wide range of banks that can issue LOCs for purposes of complying with program rules. The Commission seeks comment on alternative approaches that would balance these objectives.

8. The Commission seeks specific comment on Bank of America’s (BOA) proposed alternative method of determining a bank’s eligibility. BOA proposed that a U.S. bank could be eligible to issue LOCs to auction support recipients if the bank had either: (1) a Weiss bank safety rating of B – or better;

or (2) a long-term unsecured credit rating issued by a widely-recognized credit rating agency that is equivalent to a BBB – or better rating by Standard & Poor’s, which is the requirement for non-U.S. banks. How would the Commission apply this proposed standard? Is the term “widely-recognized” credit rating agency a bright-line rule that Commission staff could easily apply? What constitutes a widely-recognized agency? Would Commission staff or the Administrator be able to quickly and easily determine a bank’s long-term unsecured credit rating? Are these ratings publicly available and free to access? If these ratings are not publicly available and free to access, how would Commission staff or the Administrator verify a bank’s rating? As noted, Commission staff or the Administrator should not be required to make any discretionary judgments about a bank’s eligibility. Would this proposal provide additional alternatives to small businesses that have won support in Auction 903 or 904 or that may win support in a 5G Fund auction? The Commission also seeks comment more generally on alternative rating systems and alternative approaches to rating systems that could be used to evaluate the fitness of a U.S. bank, including any alternatives adopted by other agencies. What are the advantages or disadvantages of those rating systems and other approaches?

9. As another alternative, the Bank Policy Institute proposes that the “FCC reconsider its use of Weiss Ratings” and accept “letters of credit from any federally-supervised bank with an investment grade-rating for banks of \$100 billion or more in total assets or with a certificate that the bank is “well capitalized” for banks with assets below \$100 billion.” The Commission seeks comment on this proposal. The Bank Policy Institute also argues that if the Commission wishes to use a credit-rating organization, it should use one of the ten nationally recognized credit rating statistical organizations which, unlike Weiss, are subject to SEC regulation. The Commission also seeks comment on the Bank Policy Institute’s contention that using ratings from credit-rating organizations would be inconsistent with section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

10. Second, the Commission seeks comment on whether continuing to use only the Weiss ratings, but instead allowing issuing banks to have a lower bank safety rating, would provide a solution. Weiss currently rates 4,526 banks, and 3,923 of them have a bank safety rating of C – or better. According

to Weiss, a C rating means “This is a cautionary or yellow flag. In the event of a recession or major financial crisis, the Commission feels this company may encounter difficulties in maintaining its financial stability.” Would using that threshold address the issues that have been raised and still protect the Fund? The Commission notes that the LOC plays a vital role in ensuring ability to recoup funds in the event that an auction support recipient fails to complete its deployment obligations, and the Commission needs to be certain that the banks issuing the LOCs will be able to honor them. Weiss’s ratings are publicly available and free to use, which allows for bright-line determinations about a bank’s eligibility. Are there other advantages or disadvantages with using Weiss ratings but changing the requirement from B – or higher to C – or higher? Would changing the requirement from a minimum of a B – to C+ or C strike a better balance? The Commission notes that an interested party has suggested that any Weiss-rated bank with “certain of the five Weiss indices” “at a certain level” should be eligible to issue LOCs to participants in the programs that award high-cost support through competitive bidding. The Commission seeks comment on that proposal, and on how such a proposal could work. Are there any issues the Commission should consider with regard to administering and implementing a change in the rules regarding bank eligibility? If so, the Commission seeks comment on those issues, along with any potential solutions.

11. *RDOF Letter of Credit Reduction*. The Commission seeks comment on potential changes to the rules requiring an increase in the value of an LOC for RDOF support recipients. An RDOF recipient has raised the concern of “the economic pressures being brought to bear on current RDOF recipients in light of the astronomical increase in broadband deployment costs,” and says those pressures can be addressed by relief from the rules regarding an LOC’s value. This recipient pointed out that because “banks generally require these LOCs to be cash collateralized, RDOF recipients must tie up significant portions of their free cash to serve as collateral for the LOC, which, in turn, means that these funds cannot be used for build out of RDOF networks.” This recipient specifically asks that all RDOF support recipients be allowed to reduce their LOCs to one year of their total authorized support.

12. The Commission seeks comment on the burdens of maintaining the LOC values currently required by the rules,

and what could provide relief related to the value of the LOC to address this concern. Have the rules requiring LOCs to increase in value on an annual basis impacted RDOF support recipients' ability to meet their deployment obligations? One specific option the Commission seeks comment on is allowing RDOF support recipients who have deployed service to at least 10%, rather than 20%, of their locations by the end of their second year of support to lower the value of their LOCs to one year of their total support upon verification by USAC. Does 10% "demonstrate concrete progress in building its network" as the Commission reasoned when it adopted a 20% optional milestone? Generally, what are the public interest harms and public interest benefits of a 10% two-year optional milestone? How should the Commission account for the fact that the two-year optional milestone has already passed for those RDOF carriers authorized in 2021? What, if any, form of additional LOC relief would be in the public interest for those carriers since they must meet the required 40% milestone by December 31, 2024?

13. The Commission emphasizes that any such change would be limited to the optional milestone and would not impact the requirement that all RDOF support recipients must deploy service to 40% of eligible locations by the end of their third year of support. In the event that an RDOF support recipient then failed to timely meet its 40% deployment obligation, the value of its LOC would need to increase to reflect the amount required under the current rules.

14. *CAF II Auction Letter of Credit Waiver*. The Commission separately seeks comment on a proposal made in the record to amend the relevant CAF II Auction rules to mirror the RDOF LOC rules. With a rule change, CAF II support recipients that have met all of their deployment and reporting obligations would be able to continue to follow the RDOF LOC rules through the end of CAF-II. The Bureau previously granted waivers allowing CAF II providers to follow the RDOF LOC rules because of the continued hardship posed by the COVID-19 pandemic. Are those conditions that justified multiple waivers still present? If those conditions have improved, would the public interest otherwise be served by providing this relief permanently? The Commission seeks specific examples showing why such relief remains necessary. Alternatively, would it be in the public interest to extend the waiver another year rather than making permanent rule changes?

15. *Digital Equity and Inclusion*. Finally, the Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, the Commission seeks comments on how the proposals in the NPRM may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

### III. Procedural Matters

16. *Paperwork Reduction Act Analysis*. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, 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, see 44 U.S.C. 3506(c)(4).

17. *Regulatory Flexibility Act*. 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." Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible impact of potential rule and/or policy changes contained in the NPRM on small entities. The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the NPRM and must have a separate and distinct heading designating them as responses to the IRFA.

18. *Ex Parte Presentations*. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte*

presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b) of the Commission's rules. In proceedings governed by the Commission's rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

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

### IV. Initial Regulatory Flexibility Analysis

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

### *A. Need for, and Objectives of, the Proposed Rules*

21. In the NPRM, the Commission seeks comment regarding the rules determining a bank's eligibility to issue LOCs for winners of Auction 903 and 904 support, along with winners of 5G Fund support and Phase II fixed support from the Puerto Rico/USVI Fund. The Commission's rules currently require recipients for support to maintain a letter of credit from a United States bank with a Weiss bank safety rating of B – or better. More than 1,600 U.S. banks that had previously been eligible to issue LOCs to support recipients have seen their Weiss bank safety ratings fall below a B – in the past two years and, correspondingly, lost their eligibility to supply support recipients with LOCs. The Commission recognizes that the current rules may burden those support recipients who wish to maintain their existing relationship with a bank that previously issued them an LOC. The Commission seeks comments on using a different Weiss letter grade as the threshold for bank eligibility. The Commission alternatively seeks comments on using a different rating system to evaluate a bank's health. The Commission also seeks comments on allowing Auction 904 support recipients who have deployed service to at least 10% of their required locations by the end of their second year of support to lower the value of their LOCs to one year of support. Finally, the Commission seeks comments on allowing Auction 903 support recipients that have met their deployment and reporting obligations to continue to maintain their LOCs under the Auction 904 rules.

### *B. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply*

22. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act." A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

23. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. Therefore, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

24. Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2022, there were approximately 530,109 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

25. Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." U.S. Census Bureau data from the 2022 Census of Governments indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,845 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 11,879 special purpose governments (independent school districts) with enrollment populations of less than 50,000. Accordingly, based on the 2022 U.S. Census of Governments data, the Commission estimates that at least 48,724 entities fall into the category of "small governmental jurisdictions."

26. The small entities that may be affected are Wireline Providers, Wireless Carriers and Service Providers, and internet Service Providers.

27. *All Other Information Services.* This industry comprises establishments primarily engaged in providing other information services (except news

syndicates, libraries, archives, internet publishing and broadcasting, and Web search portals). The SBA small business size standard for this industry classifies firms with annual receipts of \$30 million or less as small. U.S. Census Bureau data for 2017 show that there were 704 firms in this industry that operated for the entire year. Of those firms, 556 had revenue of less than \$25 million. Consequently, we estimate that the majority of firms in this industry are small entities.

### *C. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities*

28. In the NPRM, the Commission seeks comment on alternative methods of evaluating a bank's ability to provide a LOC to winners of Auction 903 and 904 support, along with winners of 5G Fund auctions. The NPRM specifically seeks comment on modifying the rules to allow more banks to become or remain eligible to issue LOCs to Auctions 903 and 904 support recipients and to 5G Fund support recipients, which may alter reporting, recordkeeping, and compliance obligations for small entities that receive support. The NPRM also seeks comments on allowing more Auction 904 support recipients to lower the value of their LOCs.

29. The potential changes in the NPRM are intended to reduce the administrative burden on recipients of Auctions 903 and 904 support and 5G Fund support. The potential changes the Commission seeks comment on would allow support recipients, including small entities, to minimize their expenses by maintaining their existing LOC with the bank that issued it. As a result, if there is an economic impact on small entities as a result of these proposals, however, the Commission expects the impact to be a positive one. Any potential changes the Commission seeks comment on would not add any additional compliance requirements for small entities, or additional costs for professional skills, because support recipients are already required to maintain a LOC under the current rules. The proposed changes would allow support recipients to maintain their existing LOCs instead of obtaining new ones. The Commission also seeks comments on allowing Auction 904 support recipients who have deployed service to at least 10% of their required locations by the end of their second year of support to lower the value of their LOCs. Finally, the Commission seeks comment on allowing Auction 903 support recipients that have met their deployment and reporting obligations to

maintain LOCs in accordance with Auction 904's rules.

*D. Steps Taken To Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered*

30. The RFA requires an agency to describe any significant alternatives that could minimize impacts to small entities that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): "(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities."

31. In the NPRM, the Commission takes steps to minimize the economic impact on small entities and considers significant alternatives by proposing and seeking input on alternative proposals designed to balance our goal of allowing providers to obtain an LOC from a number of different banks while also ensuring these banks are able to fulfill those LOCs in the event that the LOCs need to be drawn upon. With these goals in mind, in the NPRM, the Commission sought comment on whether a different standard for evaluating banks would allow providers to obtain LOCs from a wider range of banks while simultaneously protecting our investment and the Universal Service Fund.

32. The Commission also considered alternatives to the existing rules, by seeking comment on alternative

standards that could be used to evaluate the health and suitability of a bank. For example, Bank of America proposed on alternative method of determining a bank's eligibility that includes the current Weiss rating of B- or better or a long-term unsecured credit rating issued by a widely-recognized credit rating agency that is equivalent to a BBB- or better rating by Standard & Poor's, which is the requirement for non-U.S banks. In light of the economic burdens that auction support recipients could face by being required to obtain new LOCs from different banks, the Commission sought comments on the most effective ways of allowing those support recipients to maintain their LOCs with the banks that originally issued them, as long as the Commission is confident that the bank's economic health is sufficient.

33. The matters discussed in the NPRM are designed to ensure the Commission has a better understanding of both the benefits and the potential burdens associated with the different actions and methods before adopting its final rules. To assist in the Commission's evaluation of the economic impact on small entities, as a result of actions the Commission has proposed in the NPRM, and to better explore options and alternatives, the Commission has sought comment from the parties. In particular, the Commission seeks comment on whether any of the economic burdens associated with the filing, recordkeeping and reporting requirements described can be minimized for small businesses. Through comments received in response to the NPRM and the IRFA, including costs and benefits information and any alternative proposals, the Commission expects to more fully consider ways to minimize the economic impact on small entities. The Commission's evaluation

of the comments filed in this proceeding will shape the final alternatives it considers, the final conclusions it reaches, and the actions it ultimately takes in this proceeding to minimize any significant economic impact that may occur on small entities as a result of any final rules that are adopted.

*E. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

34. None.

**V. Ordering Clauses**

35. Accordingly, *it is ordered*, pursuant to the authority contained in sections 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 214, 254, 303(r), and 403, and §§ 1.1 and 1.421 of the Commission's rules, 47 CFR 1.1 and 1.421, that the notice of proposed rulemaking *is adopted*.

36. *It is further ordered* that, pursuant to the authority contained in sections 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 214, 254, 303(r), and 403, and §§ 1.1 and 1.421 of the Commission's rules, 47 CFR 1.1 and 1.421, *notice is hereby given* of the proposals described in the notice of proposed rulemaking.

37. *It is further ordered* that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on the notice of proposed rulemaking on or before August 5, 2024, and reply comments on or before August 19, 2024.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

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