offense is classified as a felony and is punishable by fines of up to $25,000 and imprisonment for up to 5 years. OIG may also impose civil money penalties, in accordance with section 1128A(a)(7) of the Act (42 U.S.C. 1320a–7a(a)(7)), or exclusion from the Federal health care programs, in accordance with section 1128(b)(7) of the Act (42 U.S.C. 1320a–7(b)(7)).

Since the statute on its face is so broad, concern has been expressed for many years that some relatively innocuous commercial arrangements may be subject to criminal prosecution or administrative sanction. In response to the above concern, section 14 of the Medicare and Medicaid Patient and Program Protection Act of 1987, Public Law 100–93 § 14, the Act, § 1128B(b), 42 U.S.C. 1320a-7b(b), specifically required the development and promulgation of regulations, the so-called ''safe harbor'' provisions, specifying various payment and business practices that, although potentially capable of inducing referrals of business reimbursable under the Federal health care programs, would not be treated as criminal offenses under the anti-kickback statute and would not serve as a basis for administrative sanctions. OIG safe harbor provisions have been developed ''to limit the reach of the statute somewhat by permitting certain non-abusive arrangements, while encouraging beneficial and innocuous arrangements'' (56 FR 35952, July 29, 1991). Health care providers and others may voluntarily seek to comply with these provisions so that they have the assurance that their business practices will not be subject to liability under the anti-kickback statute or related administrative authorities. The OIG safe harbor regulations are found at 42 CFR part 1001.

B. OIG Special Fraud Alerts

OIG has also periodically issued Special Fraud Alerts to give continuing guidance to health care providers with respect to practices OIG finds potentially fraudulent or abusive. The Special Fraud Alerts encourage industry compliance by giving providers guidance that can be applied to their own practices. OIG Special Fraud Alerts are intended for extensive distribution directly to the health care provider community, as well as to those charged with administering the Federal health care programs.

In developing Special Fraud Alerts, OIG has relied on a number of sources and has consulted directly with experts in the subject field, including those within OIG, other agencies of the Department, other Federal and State agencies, and those in the health care industry.

C. Section 205 of the Health Insurance Portability and Accountability Act of 1996

Section 205 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104–191 § 205, the Act, § 1128D, 42 U.S.C. 1320a–7d, requires the Department to develop and publish an annual notice in the **Federal Register** formally soliciting proposals for modifying existing safe harbors to the anti-kickback statute and for developing new safe harbors and Special Fraud Alerts.

In developing safe harbors for a criminal statute, OIG is required to engage in a thorough review of the range of factual circumstances that may fall within the proposed safe harbor subject area so as to uncover potential opportunities for fraud and abuse. Only then can OIG determine, in consultation with the Department of Justice, whether it can effectively develop regulatory limitations and controls that will permit beneficial and innocuous arrangements within a subject area while, at the same time, protecting the Federal health care programs and their beneficiaries from abusive practices.

II. Solicitation of Additional New Recommendations and Proposals

In accordance with the requirements of section 205 of HIPAA, OIG last published a **Federal Register** solicitation notice for developing new safe harbors and Special Fraud Alerts on December 29, 2011 (76 FR 89104). As required under section 205, a status report of the public comments received in response to that notice is set forth in Appendix F.[1] OIG is not seeking additional public comment on the proposals listed in Appendix F at this time. Rather, this notice seeks additional recommendations regarding the development of new or modified safe harbor regulations and new Special Fraud Alerts beyond those summarized in Appendix F.

A detailed explanation of justifications for, or empirical data supporting, a suggestion for a safe harbor or Special Fraud Alert would be helpful and should, if possible, be included in any response to this solicitation.

A. Criteria for Modifying and Establishing Safe Harbor Provisions

In accordance with section 205 of HIPAA, we will consider a number of factors in reviewing proposals for new or modified safe harbor provisions, such as the extent to which the proposals would affect an increase or decrease in:

- Access to health care services,
- The quality of health care services,
- Patient freedom of choice among health care providers,
- Competition among health care providers,
- The cost to Federal health care programs,
- The potential overutilization of health care services, and
- The ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

In addition, we will also take into consideration other factors, including, for example, the existence (or nonexistence) of any potential financial benefit to health care professionals or providers that may take into account their decisions whether to (1) order a health care item or service or (2) arrange for a referral of health care items or services to a particular practitioner or provider.

B. Criteria for Developing Special Fraud Alerts

In determining whether to issue additional Special Fraud Alerts, we will consider whether, and to what extent, the practices that would be identified in a new Special Fraud Alert may result in any of the consequences set forth above, as well as the volume and frequency of the conduct that would be identified in the Special Fraud Alert.

Dated: December 20, 2012.

Daniel R. Levinson,

Inspector General.

[FR Doc. 2012–31107 Filed 12–27–12; 8:45 am]

BILLING CODE 4152–01–P

[1] The OIG *Semiannual Report to Congress* can be accessed through the OIG Web site at *http://oig.hhs.gov/publications/semiannual.asp.*

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 10–90; FCC 12–138]

Connect America Fund

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission seeks comment in this Further Notice of Proposed Rulemaking on potential modifications to the rules governing Connect America Phase I incremental support to further accelerate the deployment of broadband facilities to

consumers who lack access to robust broadband.

DATES: Comments are due on or before January 28, 2013 and reply comments are due on or before February 11, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit comments, identified by WC Docket No. 10–90, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Ryan Yates, Wireline Competition Bureau, (202) 418–0886 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Federal Communications Commission's (Commission) Further Notice of Proposed Rulemaking (NPRM) in WC Docket No. 10–90, and FCC 12–138, adopted November 14, 2012, and released November 19, 2012. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is also available on the Commission's web site at *http://www.fcc.gov.*

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 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: (1) The Commission's Electronic Comment Filing System (ECFS); (2) the Federal Government's eRulemaking Portal; or (3) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/*or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.
  - For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet email. To get filing instructions, filers should send an email to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.
  - Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
  - U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington, DC 20554.

In addition, one copy of each pleading must be sent to the Commission's duplicating contractor, Best Copy and Printing, Inc, 445 12th Street SW., Room CY–B402, Washington, DC 20554; Web site: *www.bcpiweb.com;* phone: 1–800–378–3160. Furthermore, two copies of each pleading must be sent to Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street SW., Room 5–A452, Washington, DC 20554; email: *Charles.Tyler@fcc.gov* and one copy to Ryan Yates, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street SW., Room 5–B441A, Washington, DC 20554; email: *Ryan.Yates@fcc.gov.*

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. Copies may also be purchased from the Commission's duplicating contractor, BCPI, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI through its Web site: *www.bcpiweb.com,* by email at *fcc@bcpiweb.com,* by telephone at (202) 488–5300 or (800) 378–3160 (voice), (202) 488–5562 (tty), or by facsimile at (202) 488–5563.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov;* phone: (202) 418–0530 or TTY: (202) 418–0432.

I. Introduction

1. On November 18, 2011, the Commission released the *USF/ICC Transformation Order and FNPRM,* 76 FR 73830, November 29, 2011 and 76 FR 78384, December 16, 2011, which comprehensively reforms and modernizes the high-cost universal service and intercarrier compensation systems. Recognizing, among other facts, that over 80 percent of the more than 18 million Americans unserved by broadband live in price cap territories,

the Commission provided for two phases of funding to make broadband-capable networks available to as many unserved locations as possible in those areas. In Connect America Phase I, the Commission froze existing high-cost support for price cap carriers and provided up to $300 million of additional, incremental support in 2012 in order to advance deployment of broadband-capable infrastructure while it implements Phase II. In Phase II, the Commission provided for up to $1.8 billion to be spent each year, over a period of five years, to further advance deployment of broadband-capable infrastructure and sustain services in price cap territories through ''a combination of a forward-looking cost model and competitive bidding.''

2. Of the initial $300 million in Phase I incremental support allocated to price cap carriers to support the deployment of broadband-capable networks to currently unserved locations, approximately $115 million was accepted. Because the *USF/ICC Transformation Order,* 76 FR 73830, November 29, 2001, calls for making the additional incremental support available in the coming months, we now seek comment in this Further Notice of Proposed Rulemaking (FNPRM) on potential modifications to the rules governing Connect America Phase I incremental support to further accelerate the deployment of broadband facilities to consumers who lack access to robust broadband. These changes would expand on the steps already taken in Phase I earlier this year, while we continue to implement Phase II.

II. Discussion

3. Building on the success of the first round of Phase I, we now seek comment on rule changes that would provide further opportunities to advance our overarching goal to use available funds to rapidly and efficiently deploy broadband networks throughout America. Given our interest in disbursing the available funds to bring robust broadband-capable networks to consumers and businesses as soon as possible, we intend to proceed expeditiously with this rulemaking.

A. Options for Utilizing Remaining 2012 Connect America Phase I Funding

4. Of the $300 million in Connect America Phase I incremental support initially allocated in 2012 to promote broadband deployment, approximately $185 million remains. We seek comment on whether to modify our rules for Phase I incremental support or instead use such funding in Phase II. Under either option, we propose to use these remaining funds to support further broadband deployment in the areas those funds were originally targeted to support—areas served by price cap carriers and their rate-of-return affiliates that are costly for the private sector to serve.

1. Modifications for a New Round of Connect America Phase I

5. We propose several changes to Connect America Phase I that build on the success of the first round of funding and use the remaining $185 million of incremental support and any future Phase I funding with maximum impact. First, we propose to expand the definition of unserved areas to include any census block lacking access to broadband with speeds of 4 Mbps downstream and 1 Mbps upstream, which would be consistent with the minimum standard for broadband service required from carriers receiving Connect America Phase I incremental support and would be in line with the Commission's broadband speed benchmark for Connect America Phase II recipients. Second, we propose to conduct a challenge process, to be completed before carriers have the opportunity to elect to receive additional funding, to develop a list of census blocks eligible for funding. Third, we seek comment on several proposals to distribute the next round of Phase I funding, including tying funding to the construction of second-mile fiber, tying funding to the estimated costs of deployment in an area, and maintaining the $775 per unserved location metric. Finally, we propose that the remaining 2012 funds be made available under these revised rules to further expand access to broadband-capable networks. We seek comment on the costs and benefits of each proposal, and how those approaches might impact small businesses and whether there are alternatives that would minimize impacts on small businesses. We also seek comment on alternatives in the event we do not adopt these rule changes.

6. *Expanding the Areas Eligible for Phase I.* Under our current rules, carriers accepting Phase I incremental support are required to deploy broadband to one unserved location for each $775 in incremental support they accept. For these purposes, the Commission specified that locations would be eligible if, according to the then-current version of the National Broadband Map, those locations were in areas that did not have access to fixed terrestrial broadband with a minimum speed of 768 kbps downstream and 200 kbps upstream. As the Commission explained, Phase I was initially targeted to bring high-speed Internet access to consumers who lacked any broadband access at all, even though there are many other consumers who did not have broadband that meets our standard of 4 Mbps downstream and 1 Mbps upstream.

7. Given the success of the first round of Phase I in targeting support to those areas lacking any form of high-speed Internet access, we now propose to broaden Phase I by permitting carriers to accept additional funds to target consumers and businesses that are in areas unserved by broadband that meets our 4 Mbps downstream and 1 Mbps upstream standard. We seek comment on this proposal.

8. Such an approach would further the objective of ensuring that all Americans can, at a minimum, take advantage of modern Internet applications, such as voice over Internet protocol and streaming video. If we were to take such an approach, we propose to designate an area as unserved by broadband with speeds of 4 Mbps downstream and 1 Mbps upstream if it is shown on the National Broadband Map as unserved by fixed terrestrial broadband with an advertised speed of at least 3 Mbps downstream and 768 kbps upstream. Using 3 Mbps downstream and 768 kbps upstream as a proxy for 4 Mbps downstream and 1 Mbps upstream is consistent with the Commission's prior approach in the *USF/ICC Transformation Order* and uses the best data currently available on the National Broadband Map. This baseline would be the starting point for the challenge process discussed below. The 4 Mbps downstream and 1 Mbps upstream standard is consistent with what is required from carriers receiving Connect America Phase I incremental support and is also in line with the Commission's broadband speed benchmark for Phase II. Is a different standard for initially determining what locations are unserved by 4 Mbps upstream and 1 Mbps downstream broadband more appropriate?

9. *Challenge Process.* The Commission relies on the National Broadband Map in many contexts, including as a tool to target funding appropriately in Phase I of the Connect America Fund. Some commenters, however, have suggested the National Broadband Map may contain inaccuracies that materially impact the targeting of support as the Commission intended.

10. As an alternative to having carriers rely exclusively on the National Broadband Map to determine eligible areas, we propose to utilize a limited

challenge process to allow interested parties to provide updates to the National Broadband Map for purposes of any additional round of Phase I funding. We seek comment on this proposal.

11. Within 15 days of release of this FNPRM, we direct the Bureau to publish a list of eligible census blocks shown on the current version of the National Broadband Map as unserved by fixed terrestrial broadband with an advertised speed of 3 Mbps downstream and 768 kbps upstream. The Bureau will solicit public input on updates, revisions, and other potential corrections to the National Broadband Map data. In particular, the Bureau should seek comment on areas where coverage is either overstated (i.e., census blocks are listed as served where they are in fact unserved) or understated (i.e., census blocks are listed as unserved when they are in fact served). The Bureau also should seek comment on areas listed as unserved on the map that are served through the Broadband Initiatives Program or the Broadband Technology Opportunities Program. The most useful comments will be those that list specific census blocks that are inaccurately reported on the map, along with a detailed explanation of why the commenter believes the areas are inaccurately reported. Comments are also sought on steps parties have taken to bring the alleged errors to the attention of the relevant state mapping entity or any other entity, and, if they have, the outcome of any of those discussions. Finally, commenters claiming that an entity does not provide service as reflected on the National Broadband Map are encouraged to serve a copy of their comments on the entity whose service area the commenter is challenging.

12. Where the Bureau finds that the evidence demonstrates that it is more probable than not that the National Broadband Map inaccurately portrays coverage of a particular area, we propose that the Bureau deem that census block as served or unserved, as appropriate, for purposes of Phase I incremental support. We propose that the Bureau would give more weight to comments supported by tests (with the testing methodology described and the underlying data provided) and/or engineering certifications where appropriate. We propose that the Bureau publish a revised list, after the public comment described above, which will then become the list of areas eligible for Phase I support going forward. The census blocks on this list would be deemed unserved, and carriers would meet buildout obligations by deploying to unserved locations in those areas. We seek comment as to whether this is a workable approach that can be implemented quickly so that a finalized list of eligible census blocks would become available shortly after adoption of the revised rules under consideration in this FNPRM.

13. *Alternative Proposals for Distributing Phase I Funding.* We seek comment on several proposals to distribute the next round of Phase I funding, including tying funding to the construction of second-mile fiber, tying funding to the estimated costs of deployment in an area, and maintaining the $775 per location metric.

14. The first proposal would require carriers to satisfy their buildout obligations for incremental support based on a metric that measures the number of miles of fiber deployed for a defined dollar amount, with a requirement to connect to a minimum number of unserved locations per mile. Under this proposal, carriers accepting Phase I incremental support would be required to meet their buildout obligations by building a certain number of miles of fiber for a specified amount of support accepted. We propose that a carrier would be permitted to count any fiber it builds between its central office and an unserved location, where that location is unserved by the carrier with 4 Mbps downstream and 1 Mbps upstream broadband, and that location is within a census block not served by any other provider, which would be determined as proposed above. This would allow carriers maximum flexibility in determining how to invest Phase I support to deploy new fiber. We seek comment on this proposal.

15. We seek comment on the specific metric that would be adopted to implement this approach. We note that Windstream, in its July 2012 request for a waiver of the Phase I incremental support deployment requirement, has suggested that it could deploy fiber to high-cost rural areas with a subsidy of $35,784 per mile. Is there any significant variation in the cost per fiber mile among price cap carriers? If we were to adopt this proposal, should we adopt a uniform metric for all recipients of Phase I support and what should that dollar value per miles of fiber deployed be? Is the figure Windstream suggests appropriate? We note that the Commission has structured the Connect America Phase I program in a way that would enable recipients to seek a ruling from the Internal Revenue Service that such Phase I incremental support is a contribution to capital under section 118 of the U.S. Internal Revenue Code. The funding is a governmental payment to private parties for the express purpose of their making capital investments—the deployment of fiber and related broadband facilities—to achieve the Commission's public policy purpose of extending broadband-capable infrastructure to unserved Americans. Should we establish the dollar amount based on a pre-tax or post-tax figure?

16. If we were to require carriers to satisfy buildout requirements by reporting on miles of fiber deployed, we propose also to require that a minimum average number of unserved locations per route mile of fiber be served, averaged over the entirety of the fiber the carrier seeks credit for under Connect America Phase I. In this context, we note that Windstream indicated that, if its waiver petition were granted, it would deploy broadband, on average, to approximately ten locations defined as unserved, under our existing definition, per mile of fiber deployed. We note that requiring service to an average minimum number of unserved locations would be one way to prevent a carrier from deploying Connect America fiber almost entirely in areas already served by an unsubsidized competitor, with just a small number of unserved customers. It would also support our goal of bringing broadband-capable infrastructure to as many unserved homes and businesses as possible. Is requiring deployment to a minimum number of unserved locations per route mile an appropriate requirement for Phase I support, given the goal of quickly maximizing the number of locations that become served with this finite amount of support? How many locations per mile should be required, and should that figure be altered depending on whether we update our definition of eligible areas to be those that do not have 4 Mbps downstream and 1 Mbps upstream broadband, as proposed above? Are there other factors or exceptions to this approach that should be considered by the Commission?

17. As an alternative or in addition to a predefined requirement to deploy to a number of unserved locations per mile of fiber deployed, should we require carriers to certify that they have ranked potential fiber deployments by the number of unserved locations that would be served by each route deployment and have selected the fiber routes with the highest number of unserved locations per mile? If we were to adopt such a requirement, would we need to adopt additional measures in order to monitor and enforce the accuracy of such certifications?

18. We also seek input on any additional rule modifications we should adopt to prevent subsidizing fiber in areas served by unsubsidized competitors. Although we wish to avoid providing support to carriers in areas where an unsubsidized competitor provides service without support, we are at the same time mindful that if we prohibit support to any fiber construction that could theoretically benefit a geographic area with an unsubsidized competitor, such a restriction could unreasonably deprive many unserved consumers from obtaining broadband, to the extent the fiber to connect those customers would need to traverse a geographic area that is served. Given the tradeoff between encouraging fiber construction and not wanting to provide subsidies that unfairly skew competition, we seek comment on how to design a workable standard to meet our policy objectives that could be implemented quickly and efficiently. For example, should we require that no more than a specified percentage of the fiber route miles traverse census blocks where there is an unsubsidized competitor? Should the carrier be required to build more miles of fiber to meet its buildout obligations if that fiber could potentially serve areas with unsubsidized competitors? Should support be reduced on a prorated basis if a length of fiber serves locations that are both served and unserved by an unsubsidized competitor?

19. We also invite comment on whether to impose any other restrictions on where a carrier may build fiber that it wishes to count toward its buildout obligations.

20. Under our existing rules, carriers are required to deploy broadband to two-thirds of the required number of locations within two years, and all required locations within three years. We seek comment on what deployment milestones would be appropriate if we were to provide support for fiber deployment with or without a per-location requirement. Should, for instance, we require that two-thirds of the route miles be deployed within two years, and all of the route miles be deployed within three years?

21. We seek comment on what information carriers should be required to provide about their deployments at the time of acceptance and after meeting any deployment milestones, if we were to require carriers to meet buildout obligations based on a metric of miles of fiber deployed. Should carriers be required at the time of acceptance to specify the census blocks where the fiber would be deployed, consistent with our current Phase I incremental support requirements? Should they be required at the time of acceptance to provide fiber route maps? Should such maps be required as they reach the two-year and three-year deployment milestones? Should they be required, either the time of initial acceptance or the two- or three-year deployment milestones, to provide geocoded location information for unserved locations that gain service as a result of Phase I incremental support? We seek comment on whether we should require that any such information be made available to the public or whether carriers should be permitted to provide that information on a confidential basis.

22. In an ex parte letter filed in the spring, before Phase I acceptances were submitted, Windstream suggested that before a carrier would be eligible to meet buildout obligations by deploying fiber facilities, it should first be required to provide broadband to any unserved location in its territory that could be connected at a cost below a fixed benchmark. Only after all those locations had been served could the carrier then meet buildout requirements based on the metric of miles of fiber deployed. Should we adopt this two-step approach as an alternative to the single-step proposal, which would require carriers to meet buildout obligations through a combination of a miles of fiber metric and a fixed-cost per location metric, similar or the same as that used in the first round of Connect America Phase I funding?

23. In order to be eligible for funding under this option, should carriers be required to provide some level of matching funding for each mile of fiber they seek to count toward buildout obligations? If so, how much matching funding should be required? Should carriers be required to disclose the amount of matching funding either they or third parties provide for Phase I buildout?

24. If the Bureau adopts a greenfield model for Phase II, should fiber built to meet obligations in Phase I be excluded from support under any Phase II model we develop? Excluding Phase I fiber would avoid the issue of providing double support for fiber construction (i.e., providing support to construct a mile of fiber in Phase I, then providing support to construct that same mile again in Phase II). How would such an exclusion work in practice? One obstacle to excluding Phase I fiber from Phase II support is that the Bureau would not likely receive information regarding actual fiber deployments in a time frame needed before finalizing a cost model to determine support amounts to be offered to price cap carriers. What rule changes would need to be adopted to address this timing issue? Finally, if carriers accept Phase I funding for fiber builds, what is the likely impact on their willingness to accept Phase II funding for the remainder of their qualifying areas? Does it serve the public interest to advance broadband deployment in Phase I even if carriers may be less likely to accept the funding and service obligations in Phase II?

25. The second proposal would tie funding to the estimated costs of deployment in an area. As the Commission recognized in the *USF/ICC Transformation Order,* distributing universal service support through a forward-looking cost model—and scaling the amount of support to the costs of serving a particular area—incentivizes providers to deploy service efficiently, while advancing our goals to provide universal access. Because ''CAF Phase I incremental support is designed to provide an immediate boost to broadband deployment in areas that are unserved by any broadband provider,'' the Commission declined to await the development of the more complete Phase II cost model and instead relied on the existing high-cost proxy model to distribute support. The Commission relied on that model to estimate the forward-looking costs of serving a location in each wire center served by price cap carriers and their affiliates. Under this proposal, the $775-per-location-metric would be adjusted based on the estimated cost to serve a location in a particular wire center.

26. Using the existing high-cost proxy model, the Bureau can estimate the average cost per location of deploying broadband-capable infrastructure for a given wire center. By analyzing this data in aggregate, the Bureau could determine the mean and median estimated cost for all wire centers (i.e., determine what would be the average nationwide cost per location of deploying to locations, at the wire center level).

27. Under this approach, how should we determine what is the baseline cost that would be used to anchor the upward or downward adjustments in support per location? In *USF/ICC Transformation Order,* the Commission examined cost estimates from the National Broadband Plan and the ABC Plan in determining that $775 per location was sufficient to cover the ''median cost of a brownfield deployment of broadband to low-cost unserved census blocks.'' Should we set $775 per location as the baseline support amounts for wire centers whose already estimated costs are at or near the

median (i.e., setting the baseline by looking at all wire centers)? If we were to use the median wire center cost figure as the baseline, a carrier extending service to unserved locations in a wire center where the average cost equal to that baseline would receive $775 in support per location. A carrier extending service to locations in a wire center with below baseline costs would receive less than $775 of support per location, while a carrier extending service to locations in a wire center with above baseline costs would receive greater than $775 of support per location.

28. We already have some data that may shed some insights into the estimated costs of deployment given the acceptances of $775 per location by many carriers. Should we instead correlate the locations where carriers accepted $775 of support with the already estimated costs to establish the baseline (i.e., setting the baseline by looking at the wire centers that carriers actually deployed to in the first round of Phase I)?

29. Once we have established a baseline per-location amount, should we scale the per-location support amounts for other wire centers proportionately (so that an area expected to cost twice as much as the baseline would receive twice the support) or dollar for dollar (so that an area expected to cost $100 more per year than the baseline would receive $875 per location)? Should we establish minimum and maximum support amounts per location to ensure that we adequately incentivize deployment in an efficient manner? We are also mindful that costs could vary greatly between locations within a single wire center: Some locations within a wire center could cost considerably more to deploy to than the wire center average, while other locations could cost considerably less. We seek comment on how we should handle this variability. Is there a more granular metric than wire center average costs that we could use to set support amounts?

30. We expect that determining the per-location support amounts for each wire center would be relatively trivial once we have determined a baseline and scaling mechanism because we have already estimated the costs of deploying infrastructure in each price cap wire center. As such, we would delegate to the Bureau authority to create a list of the per-location support amount for each wire center, based on each wire center's average deployment cost, within fifteen days of adopting an order if we adopted this proposal. We also expect that buildout obligations of carriers would remain the same under this proposal, with two small changes. First, the two-year and three-year commitments would be premised on serving a sufficient number of locations to justify two-thirds of the total support claimed by a carrier. Second, as with 2012 Phase I support, carriers would not be bound by the initial list of locations to be served, but the locations actually served after two years and three years would be compared to the support amounts in each wire center for purposes of fulfilling the buildout obligations.

31. The third proposal would allow carriers to accept support based on our current metric of one unserved location per $775 accepted. We note that carriers that accepted funds in the first round of Phase I incremental support likely will use those funds to build to the lower-cost locations in their territories, leaving generally higher-cost locations remaining, which would raise the average cost to connect to a location in the next round of funding and militate in favor of using a figure higher than $775. However, we also note that if we expand our definition of eligible areas, it could reduce the average cost per location. We accordingly seek comment on whether we now should modify the $775 per location metric.

32. *Adding Remaining 2012 Phase I Incremental Support into Phase I Support for 2013.* We propose to combine the remaining $185 million in 2012 Phase I incremental support with whatever funding is made available for Phase I in 2013, employing any revised rules we adopt in response to this FNPRM. Our rules currently provide that if Connect America Phase II is not implemented to be effective by January 1, 2013, the Bureau would follow the same rules to conduct a second round of Phase I support. The amount of support available would be determined based on the length of the term the Bureau establishes for the second round—set based on the Bureau's expectation of when Phase II will begin—but ordinarily would not exceed the annual budget of $300 million. Augmenting any 2013 Phase I support with the remaining Phase I funds, however, could dramatically increase the impact of the next round of Phase I incremental support. If the Bureau were, for example, to set a term of six months for Phase I in 2013, the amount of money available would, under existing rules, be $150 million. Combining the $185 million remaining from the first round of Phase I with such an amount would more than double the scope of a second round of Phase I. We seek comment on this approach.

33. We seek comment on how funding should be allocated in the event we add the remaining funds from the first round of Phase I into a future round of Phase I. One approach would be to allocate any funding a carrier previously declined to that carrier, in addition to the funding it would otherwise be allocated for the future round. An alternative approach would be to allocate support to carriers based on carriers' original allocations, regardless of the amount of funding a carrier took 2012. Under such an approach, all carriers would have their 2013 allocations increased by a fixed percentage. A third approach would recalculate the per-carrier support amounts using the same distribution process used for the initial round of Phase I set forth in section 54.312(b)(1) of our rules, but recalculating the funding threshold so that the total amount of incremental support available in Phase I would be distributed. Under such an approach, the support available to a carrier in 2013 would be the recalculated amount minus the amount accepted in 2012 Phase I support. We seek comment on these potential approaches.

34. We also propose to allow carriers to accept additional funding if other carriers choose not to accept their full allocation. Under existing rules, the allocation to each carrier serves two functions: It guarantees a set amount of funding for each carrier (regardless of the choices of other carriers) and sets the upper limit on how much each carrier may accept. We propose to modify our rules to eliminate that upper limit and permit carriers to seek support up to the entire amount of available Phase I funding. Under such an approach, each carrier would still be guaranteed funding up to their allocation as described in the previous paragraph. If the total requested funding from all carriers is less than the amount available, each carrier would receive the amount it requested; if carriers collectively request support in excess of the amount available, support above each carrier's allocation would be distributed in proportion to the relative allocations between carriers requesting additional support. Such an approach should enable us to maximize the benefit to consumers of the limited funds that are available. We seek comment on how specifically such an allocation process should work, particularly in the case where carriers request more funding than has been made available. Should we, for example, permit carriers to revise their original proposed acceptances downward once

allocations have been set, in order to ensure that carriers will be able to use the amounts of support they receive?

35. *Timing Issues for Any Future Round of Support.* We anticipate that we will act promptly in this proceeding. We recognize, however, that the effective date of any modifications we might adopt in this rulemaking would be after the December 15 deadline by which the Bureau is currently required to issue a Public Notice for the next round of Phase I incremental support funding. We therefore acknowledge we need to modify the timing of the December 15, 2012 announcement regarding Phase I allocations for 2013. We hereby waive the current deadline and postpone such announcement until after we have had the opportunity to act on the record developed in response to this notice.

36. We propose to permit the Bureau to establish the deadlines for all necessary announcements and elections so as to manage efficiently any future funding opportunities involving Phase I incremental support. In the *USF/ICC Transformation Order,* the Commission delegated authority to the Bureau to establish the term lengths of any future round of incremental support. We propose to permit the Bureau to schedule any necessary future round of Phase I incremental support in its discretion, provided that: (i) The term of any round of incremental support should not exceed a year; (ii) the Bureau should set the term of rounds so that Phase I incremental support continues no later than when Phase II begins actual disbursements of support; and (iii) the Bureau shall offer any future round of Phase I incremental support subject to the previously established overall limitation that funding for Phase I incremental support should not exceed $300 million per year, excluding any amounts carried forward from the previous round consistent with any direction the Commission provides in this proceeding. We seek comment on this proposal.

2. Adding Remaining Phase I Incremental Support Into Phase II

37. An alternative approach would be to apply any funding remaining from Phase I to our overall budget for Connect America Phase II. In the *USF/ICC Transformation Order,* the Commission established a budget for Phase II in price cap areas of up to $1.8 billion annually. Increasing that budgeted amount might allow more locations to be supported in Phase II and also potentially encourage carriers to deploy broadband-capable networks more rapidly.

38. Phase I incremental support was designed to be an interim measure until Phase II can be implemented. Adding any remaining funds from Phase I into the budget for Phase II could help to achieve the longer term goals of Connect America Phase II. Moreover, as Connect America Phase I is scheduled to transition to Phase II in 2013, expanding the Phase II budget provides a mechanism to begin distributing the remaining Phase I funds in a prompt and seamless manner.

39. We seek comment on whether we should apply these funds to Phase II, and, if we were to do so, what adjustments to Phase II would be appropriate. Should the public interest obligations in Phase II should be altered if additional funding were provided? Should we use the money to accelerate deployment milestones, or should we expand the overall scope of Phase II? How might different levels of funding affect these obligations?

40. As another alternative approach, we also seek comment as to whether the remaining Phase I incremental support should be used to reduce high-cost demand below the $4.5 billion budget established by the Commission in the *USF–ICC Transformation Order,* thereby reducing the amount contributors need to pay into the Universal Service Fund.

B. Oversight and Accountability for Phase I Incremental Support

41. Above, we seek comment on potential modifications to the rules that will govern any future incremental support. In this section, we seek comment on several issues that have arisen in the initial implementation of Phase I. In particular, we seek comment on measures to ensure we have the tools to monitor compliance with existing obligations for support that has already been accepted, whether certain reporting requirements should be modified for recipients of second round incremental support, and whether certain Phase I data should be afforded confidential treatment.

42. *Incremental Support Reporting Requirements.* As noted above, under existing rules, carriers accepting Phase I incremental support are required to deploy broadband to a number of unserved locations equal to the amount of support they accept, divided by $775. Carriers are required to deploy to two-thirds of the total number of required locations within two years, and they must complete deployment within three years. The acceptance of Connect America Phase I incremental support comes with a number of reporting requirements designed to ensure that support is targeted appropriately and that carriers meet the obligations they take on when they accept support. First, when carriers accept support, they are required to identify, by census block and wire center, where they intend to deploy broadband to satisfy their obligation. Those initial filings, however, do not bind the carriers to deploy only to in those areas, or to every location in those areas. Rather, the initial filings are only good faith statements of the carriers' initial intentions—carriers may deploy broadband to other eligible locations instead, though, if they do so, they are required to identify where they in fact deployed. In addition, as part of their annual filings under section 54.313 of our rules, carriers are required to certify that they have met any two- or three-year deployment milestone that passed in the year covered by that filing. Along with their certifications, carriers are required to specify the number of locations in each census block and wire center to which they have deployed broadband. And, to assist the Commission and the Administrator in validating carriers' deployments, carriers are required to provide, upon request, sufficient information about the location of actual deployments to allow confirmation of the availability of service and the eligibility of each location for support.

43. We propose a minor modification to the Phase I reporting obligations to strengthen our ability to monitor compliance with our rules for carriers that have already accepted Phase I incremental support as well as for any future rounds of funding. Specifically, we propose that each carrier, with its two- and three-year milestone certifications, would provide geocoded latitude and longitude location information, along with census block and wire center information, for each location the carrier intends to count toward its deployment requirement. Specific location information would assist the Commission and the Administrator in comparing actual deployed locations against the National Broadband Map that was current as of the date the carrier accepted funding, confirming that all deployed locations were eligible for support. We also propose to clarify that in the event a carrier intends to deploy to areas other than those identified in the carrier's initial acceptance, it is permitted (but not required) to make a supplemental filing providing updated deployment plans at any time. Compliance with our rules will be determined based on the carrier's final deployment certification, which would identify where the carrier

did, in fact, deploy. These changes should improve accountability in the program. We do not expect that these requirements would impose a significant or unexpected burden on any carrier that has accepted incremental support. We seek comment on these proposals.

44. *Confidentiality of Phase I Elections.* Of the seven carriers that accepted Connect America Phase I support, four made claims of confidentiality for the location information they submitted along with their election of funding. The carriers claiming confidentiality alleged that public disclosure could give competitors insight into the carriers' network buildout plans, which the competitors could then exploit for operational and marketing purposes. We note that public disclosure is generally the preferred option, as it promotes oversight and accountability of the parties involved. This is especially true where public funds are being employed. We therefore seek comment on whether to grant or deny the requests for confidentiality that carriers have made regarding location data in their Connect America Phase I incremental support elections. If we grant these requests for confidentiality, should such confidentiality end in two or three years, when the buildout plans of these carriers will have been completed according to the buildout obligations of Phase I? Additionally, independent of how we handle the currently pending requests for confidentiality, we seek comment as to whether and to what extent carriers should be permitted to request confidential treatment of future Connect America Phase I funding elections.

III. Procedural Matters

A. Initial Regulatory Flexibility Act Analysis

45. As required by the Regulatory Flexibility Act of 1980, as amended (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 this FNPRM. Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the FNPRM. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

B. Need for, and Objectives of, the Proposed Rules

46. The FNPRM seeks comment on a variety of issues relating to modifications of Connect America. As discussed in this FNPRM, the Commission believes that making these modifications will aid in efficiently achieving the goals of Connect America and broadband deployment generally. Bringing robust, affordable broadband to all Americans is the infrastructure challenge of the 21st century. To allow the Commission to help meet this challenge, the FNPRM asks for comment in a number of specific areas.

Modifications for a New Round of Connect America Phase I

47. In this FNPRM, the Commission seeks comments on several alternatives that would allow the remaining funds to be used in Phase I.

48. The Commission proposes to expand the definition of unserved location to include locations that, while having some access to high-speed broadband, do not have service meeting the Connect America goal of 4 Mbps downstream and 1 Mbps upstream. The Wireline Competition Bureau would generate a list of eligible areas that lack 4 Mbps downstream and 1 Mbps upstream broadband service, and the public would be invited to bring challenges to that list.

49. The Commission seeks comment on three alternatives to satisfying Connect America Phase I buildout obligations. First, the Commission also seeks comment on allowing carriers to meet buildout obligations based on the number of miles of fiber deployed. Comment is sought on how fiber should be credited toward buildout obligations, how much fiber must be built for every dollar of support received, whether a minimum number of homes should per served per mile of fiber, where carriers should be restricted in building fiber, what information carriers should be required to provide, whether carriers should be required to provide matching funds, and whether fiber built with these funds should be excluded from future Connect America funding opportunities. Second, the Commission alternatively seeks comment on scaling the $775 based on the average deployment cost for a wire center, such that costlier wire centers would receive support per location above $775, while cheaper wire centers would receive support per location below $775. Third, the Commission seeks comment on changing the requirement that carriers connect to one unserved location for every $775 of support receive without regard to the costs of a particular wire center.

50. The FNPRM proposes that the remaining funds from the first round of Connect America Phase I would be combined with any Phase I support for 2013, and all the funds would be distributed through a single round of funding. Comment is sought on how such funds should be distributed, especially in light of the fact that carriers accepted different amounts of funding for the first round of Phase I. In the proposed 2013 round of Phase I, carriers would be allowed to accept above their originally allocated amount of funding. Comment is sought on how funding should be allocated, particularly in the event that carriers accept more funds in total than have been made available.

51. The existing December 15, 2012 deadline for the Wireline Competition Bureau to announce the 2013 round of Phase I is waived to allow time for the rule changes discussed in this FNPRM to go into effect.

Adding Remaining Phase I Incremental Support Into Phase II

52. As an alternative to the approach discussed above, this FNPRM seeks comment on adding the remaining funds from Phase I into Connect America Phase II. Commenters are encouraged to provide input on how the obligations for Phase II should be adjusted in light of this additional funding. Rather than placing funds into Phase II, this FNPRM also seeks comment on using the remaining incremental support to reduce the budget for high-cost universal service, which would reduce the amount of universal service contribution required from carriers.

Oversight and Accountability for Phase I Incremental Support

53. This FNPRM also seeks comment on modifying the reporting requirements for carriers accepting Connect America Phase I incremental support. A carrier would be required to provide specific geocoded latitude and longitude information for locations the carrier wishes to count toward buildout obligations. The FNPRM also requests comment on the extent to which carriers should be granted confidentiality on these and other reports.

C. Legal Basis

54. The legal basis for any action that may be taken pursuant to the FNPRM is contained in sections 1, 4(i), 4(j), 214, 218–220, of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996.

D. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

55. 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.

56. *Small Businesses.* Nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA.

57. *Wired Telecommunications Carriers.* The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. According to Census Bureau data for 2007, there were 3,188 firms in this category, total, that operated for the entire year. Of this total, 3,144 firms had employment of 999 or fewer employees, and 44 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small.

58. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the FNPRM.

59. *Incumbent Local Exchange Carriers (incumbent LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to incumbent local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by rules adopted pursuant to the FNPRM.

60. We have included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

61. *Competitive Local Exchange Carriers (competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Of the 72, seventy have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the FNPRM.

62. *Internet Service Providers.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. According to Census Bureau data for 2007, there were 3,188 firms in this category, total, that operated for the entire year. Of this total, 3,144 firms had employment of 999 or fewer employees, and 44 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small. In addition, according to Census Bureau data for 2007, there were a total of 396 firms in the category Internet Service Providers (broadband) that operated for the entire year. Of this total, 394 firms had employment of 999 or fewer employees, and two firms had employment of 1,000 employees or more. Consequently, we estimate that the majority of these firms are small entities that may be affected by rules adopted pursuant to the FNPRM.

63. *All Other Information Services.* The Census Bureau defines this industry as including ''establishments primarily engaged in providing other information services (except news syndicates, libraries, archives, Internet publishing and broadcasting, and Web search portals).'' Our action pertains to interconnected VoIP services, which could be provided by entities that provide other services such as email, online gaming, web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The SBA has developed a small business size standard for this category; that size standard is $7.0 million or less in average annual receipts. According to Census Bureau data for 2007, there were 367 firms in this category that operated for the entire year. Of these, 334 had annual receipts of under $5.0 million, and an additional 11 firms had receipts of between $5 million and $9,999,999. Consequently, we estimate that the

majority of these firms are small entities that may be affected by our action.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

64. In this FNPRM, the Commission seeks public comment on modifications to Phase I of Connect America. Depending on which modifications the Commission adopts could be subject to additional compliance requirements.

65. If the Commission puts in place a system whereby price cap carriers may meet buildout requirements through fiber deployment, carriers will likely be required to report where they intend to build fiber they wish to count toward their obligations. This reporting requirement would affect any small entities that are also price cap carriers. Those carriers would also be subject to compliance requirements in meeting their buildout obligations.

F. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

66. The RFA requires an agency to describe any significant, specifically small business, alternatives 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 rules 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.''

67. The FNPRM seeks comment from all interested parties. The Commission is aware that some of the proposals under consideration may impact small entities. Small entities are encouraged to bring to the Commission's attention any specific concerns they may have with the proposals outlined in the FNPRM, and the Commission will consider alternatives that reduce the burden on small entities.

68. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the FNPRM, in reaching its final conclusions and taking action in this proceeding. The reporting, recordkeeping, and other compliance requirements in the FNPRM could have an impact on both small and large entities. The Commission believes that any impact of such requirements is outweighed by the accompanying public benefits. Further, these requirements are necessary to ensure that the statutory goals of Section 254 of the Act are met without waste, fraud, or abuse.

69. In the FNPRM, the Commission seeks comment on several issues and measures that may apply to small entities in a unique fashion. If price cap carriers are permitted to use Connect America funds to build fiber facilities, any small businesses accepting funding would be required to report where they intend to build such fiber. This is only a minor burden in addition to the current requirement of reporting what unserved locations a carrier plans to connect to, and that burden is outweighed by the benefit of funding to build such facilities.

G. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

70. None.

H. Initial Paperwork Reduction Act of 1995 Analysis

71. This document contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

I. Ex Parte Presentations

72. *Permit-But-Disclose.* The proceeding this Notice initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

J. Filing Requirements

73. *Comments and Replies.* 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). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the

Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

74. *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* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

75. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be publically available online via ECFS. These documents will also be available for public inspection during regular business hours in the FCC Reference Information Center, which is located in Room CY–A257 at FCC Headquarters, 445 12th Street SW., Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m.

76. *Additional Information.* For additional information on this proceeding, contact Ryan Yates of the Wireline Competition Bureau, Telecommunications Access Policy Division, *ryan.yates@fcc.gov,* (202) 418–0886.

IV. Ordering Clauses

77. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 4(i), 4(j), 214, and 218–220 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 154(i), 154(j), 214, 218–220, and 1302, *notice is hereby given* of the proposals and tentative conclusions described in this Notice of Proposed Rulemaking.

78. *It is further ordered* that the December 15, 2012 deadline for the Wireline Competition Bureau to announce future rounds of Phase I incremental support *is waived.*

79. *It is further ordered* that the authority necessary to perform the functions described in paragraphs 15 and 16 of this document *is delegated* to the Wireline Competition Bureau.

80. *It is further ordered* that the Reference Information Center, Consumer and Governmental Affairs Bureau, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Communications common carriers, reporting and record keeping requirements, telecommunications, telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

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

PART 54—UNIVERSAL SERVICE

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

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Amend § 54.312 by revising introductory paragraph (b) and by adding paragraph (c) to read as follows:

§ 54.312 Connect America Fund for Price Cap Territories—Phase I.

* * * * *

(b) *Incremental Support Accepted in 2012.* Beginning January 1, 2012, support in addition to baseline support defined in paragraph (a) of this section will be available for certain price cap local exchange carriers and rate-of-return carriers affiliated with price cap local exchange carriers as follows. This paragraph applies only to support accepted before January 1, 2013.

* * * * *

(c) *Incremental Support After 2012.* Support in addition to baseline support defined in paragraph (a) of this section will be available for certain price cap local exchange carriers and rate-of-return carriers affiliated with price cap local exchange carriers as follows. This paragraph applies only to support accepted after December 31, 2012.

(1) A carrier may initially accept any amount of funding up to the total amount of funding available, regardless of the carrier's initial allocation under paragraph (b)(1) of this section.

(2) A carrier accepting incremental support must deploy a mile of fiber for every $[[X]] in support it accepts, providing broadband to [[Y]] locations unserved by broadband with speeds of 4 Mbps downstream and 1 Mbps upstream per mile of fiber.

(3) *A carrier may elect to accept or decline incremental support.* A holding company may do so on a holding-company basis on behalf of its operating companies that are eligible telecommunications carriers, whose eligibility for incremental support, for these purposes, shall be considered on an aggregated basis. A carrier must provide notice to the Commission, relevant state commissions, and any affected Tribal government, stating the amount of incremental support it wishes to accept and identifying the areas by wire center and census block in which the designated eligible telecommunications carrier will deploy fiber to meet its deployment obligation, along with a fiber route map of planned deployments, or stating that it declines incremental support. Such notification must be made within 90 days of being notified of any incremental support for which it would be eligible. Along with its notification, a carrier accepting incremental support must also submit a certification that the locations to be served to satisfy the deployment obligation are within census blocks that are deemed unserved areas in a public notice to be published by the Wireline Competition Bureau; that, to the best of the carrier's knowledge, the locations are, in fact, unserved by fixed broadband; that the carrier's current capital improvement plan did not already include plans to complete broadband deployment within the next three years to the locations to be counted to satisfy the deployment obligation; and that incremental support will not be used to satisfy any merger commitment or similar regulatory obligation.

3. Amend § 54.313 by adding paragraphs (b)(3) and (b)(4) to read as follows:

§ 54.313 Annual Reporting Requirements for High-Cost Recipients.

* * * * *

(b) * * *

(3) For a carrier meeting deployment obligations under § 54.312(c), in its next annual report due after two years after filing a notice of acceptance of funding pursuant to § 54.312(c), a certification that the company has deployed no fewer than two-thirds of the required miles of fiber and connected to no fewer than two-thirds of the required number of locations, accompanied by a list of all locations deployed to, including census block, wire center, and geocoded latitude and longitude location

information for each location, and a fiber route map for any fiber deployed to reach those locations; and

(4) In its next annual report due after three years after filing a notice of acceptance of funding pursuant to § 54.312(c), a certification that the company has deployed all required miles of fiber and connected to the required number of locations, accompanied by a list of all locations deployed to, including census block, wire center, and geocoded latitude and longitude location information for each location, and a fiber route map for any fiber deployed to reach those locations, and a certification that the company is offering broadband service of at least 4 Mbps downstream and 1 Mbps upstream, with latency sufficiently low to enable the use of real-time communications, including Voice over Internet Protocol, and with usage caps, if any, that are reasonably comparable to those in urban areas.

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[FR Doc. 2012–31084 Filed 12–27–12; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Part 538

[GSAR Case 2006–G507; Docket 2009–0013; Sequence 1]

RIN 3090–A177

General Services Administration Acquisition Regulation (GSAR); GSAR Case 2006–G507; Rewrite of GSAR Part 538, Federal Supply Schedule Contracting

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Proposed rule; withdrawal.

SUMMARY: The General Services Administration has agreed to withdraw GSAR Case 2006–G507; Rewrite of General Services Acquisition Regulation (GSAR) Part 538, Federal Supply Schedule Contracting. Due to the variety of issues addressed in the GSAR Part 538 Rewrite, and strong stakeholder interest, the General Services Administration believes that an agency review of the current implementation plan for this GSAR case is appropriate.

DATES: *Effective date:* December 28, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Dana Munson, Procurement Analyst, at 202–357–9652, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division (MVCB), 1275 First Street, 7th Floor, Washington, DC 20417, 202–501–4755. Please cite GSAR Case 2006–G507, Proposed rule; withdrawal.

SUPPLEMENTARY INFORMATION: GSA has agreed to withdraw GSAR Case 2006–G507; Rewrite of General Services Acquisition Regulation (GSAR) Part 538, Federal Supply Schedule Contracting, which was published in the **Federal Register** at 74 FR 4596, January 26, 2009. There were 36 public comments received in response to the Advanced Notice of Proposed Rulemaking.

This rule proposed amendments to the GSAR to update text addressing GSAR Part 538: Subpart 538.1, Definitions; Subpart 538.4, Administrative Matters; Subpart 538.7, Acquisition Planning; Subpart 538.9, Contractor Qualifications; Subpart 538.12, Acquisition of Commercial Items—FSS; Subpart 538.15, Negotiation and Award of Contracts; Subpart 538.17, Administration of Evergreen Contracts; Subpart 538.19, FSS and Small Business Programs; Subpart 538.25, Requirements for Foreign Entities; Subpart 538.42, Contract Administration and Subpart 538.43, Contract Modifications.

GSA is opening a series of new GSAR cases to modernize the Federal Supply Schedules (FSS) program. The new GSAR cases will focus on the areas that require immediate modernization to maintain currency in the FSS program as well as strategically position the FSS program to meet the current and future needs of ordering activities.

List of Subjects in 48 CFR Part 538

Government procurement.

Dated: December 18, 2012.

Joseph A. Neurauter,

Senior Procurement Executive & Deputy Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration.

[FR Doc. 2012–31056 Filed 12–27–12; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

[GSAR Case 2012–G503; Docket 2012–0018; Sequence 1]

RIN 3090–AJ31

General Services Administration Acquisition Regulation (GSAR); Industrial Funding Fee (IFF) and Sales Reporting

AGENCY: Office of Acquisition Policy, General Services Administration.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to revise the GSAR clause and to address the use of the Industrial Funding Fee (IFF) under the Multiple Award Schedules (MAS) Program. The proposed revisions will reflect the current use of the IFF to include the ability to offset losses in other Federal Acquisition Service (FAS) programs and fund initiatives that benefit other FAS programs. This change will benefit GSA and the MAS Program by facilitating transparency and open government, and more accurately define the current MAS Program operations while simultaneously complying with the recommendations of the GSA Office of Inspector General (OIG). This proposed rule is part of the General Services Administration Acquisition Manual (GSAM) rewrite Project, in which all parts of the regulation are being reviewed and updated to include new statutes, legislation, policies, and to delete outdated information and obsolete forms.

DATES: Interested parties should submit written comments to the Regulatory Secretariat on or before February 26, 2013 to be considered in the formulation of the final rule.

ADDRESSES: Submit comments identified by GSAR Case 2012–G503 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments by searching for ''GSAR Case 2012–G503''. Follow the instructions provided to ''Submit a Comment''. Please include your name, company name (if any), and ''GSAR Case 2012–G503'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., 7th Floor, ATTN: Hada Flowers, Washington, DC 20417.

Instructions: Please submit comments only and cite GSAR Case 2012–G503 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Dana Munson, General Services Acquisition Policy Division, GSA, 202–357–9652 or email *Dana.Munson@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules, contact