FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 10–90, 14–58, 09–197, 16–271; RM 11868; FCC 23–60; FR ID 160132]

Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support; ETC Annual Reports and Certifications; Telecommunications Carriers Eligible To Receive Universal Service Support; Connect America Fund—Alaska Plan; Expanding Broadband Service Through the ACAM Program

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) adopts the Enhanced Alternative Connect America Cost Model (A–CAM) program as a voluntary path for supporting the widespread deployment of 100/20 Mbps broadband service throughout the rural areas served by carriers currently receiving A–CAM support and in areas served by legacy rate-of-return support recipients. In adopting this program, the Commission furthers its long-standing goals by promoting the universal availability of voice and broadband networks, while also taking measures to minimize the burden on the nation's ratepayers.

DATES: Effective August 17, 2023, except for §§ 54.308(e)(2), 54.308(e)(6), 54.313(f)(1)(i), 54.313(f)(6)(i), 54.313(f)(6)(ii), 54.313(f)(6)(iii), 54.316(a)(9), 54.316(b)(8). The Commission will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: For further information, please contact, Theodore Burmeister, Special Counsel, Telecommunications Access Policy Division, Wireline Competition Bureau, at *Theodore.Burmeister@fcc.gov* or Jesse Jachman, Deputy Division Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, at *Jesse.Jachman@fcc.gov* or 202–418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (*Order*) in WC Docket Nos. 10–90, 14–58, 09–197, 16–271; RM 11868; FCC 23–60, adopted on July 23, 2023 and released on July 24, 2023. The full text of this document is available at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-23-60A1.pdf*.

I. Introduction

1. With this final rule, the Commission takes significant next steps in achieving its goal of ensuring all consumers, even those living in the costliest areas in the nation, have access to affordable and reliable broadband service so that they can work, learn, engage, and obtain essential services no matter where they live. The Commission also focuses on the future and seek comment on how to reform its high-cost programs so that it can continue to efficiently promote broadband deployment and meaningfully support networks long term in the face of a significantly changing broadband landscape.

2. In this final rule, the Commission adopts the Enhanced A–CAM program as a voluntary path for supporting the widespread deployment of 100/20 Mbps broadband service throughout the rural areas served by carriers currently receiving A–CAM support and in areas served by legacy rate-of-return support recipients. In adopting this program, the Commission furthers its long-standing goals by promoting the universal availability of voice and broadband networks, while also taking measures to minimize the burden on the nation's ratepayers. The Commission also adopts requirements for the Enhanced A–CAM program to complement existing Federal, state, and local funding programs, so that broadband funding can be used efficiently to maximize the deployment of high-quality broadband service across the United States.

II. Report and Order Adopting Enhanced Alternative Connect America Cost Model

3. In this final rule, the Commission adopts the Enhanced A–CAM program to promote the widespread deployment of 100/20 Mbps broadband across areas served by A–CAM recipients and rate-of-return carriers eligible to receive legacy support. The Commission adopts deployment and service obligations to align deployment with the requirements of the Infrastructure Investment and Jobs Act (Infrastructure Act), encourages the deployment of affordable broadband service, and allows the Commission to monitor compliance with the program rules. Next, the Commission extends by 10 years beyond the remaining five years, for a total of 15 years, the term of support for electing carriers, and sets a methodology for determining support amounts for locations without 100/20 Mbps broadband service within a potential budget of no more than $1.27 billion annually, or no more than $1.33 billion annually if certain conditions are met, using an updated version of the A–CAM. Finally, the Commission makes eligible for Enhanced A–CAM all current A–CAM recipients as well as rate-of-return carriers eligible to receive legacy support, and adopt a voluntary election process for eligible carriers.

4. The Commission concludes that it is in the public interest to adopt Enhanced A–CAM before Broadband, Equity, Access, and Deployment Program (BEAD Program) grants are made, and thus the Commission requires in the following that carriers make their elections by no later than October 1, 2023 to ensure alignment with the expected BEAD Program timeline as required by the Infrastructure Act. By proceeding now with Enhanced A–CAM, the Commission is able to complement and bolster congressionally appropriated programs, like the BEAD Program. Importantly, the Commission obligates carriers electing Enhanced A–CAM to serve 100% of unserved locations with service levels consistent with the standard established in the Infrastructure Act. This requirement helps establish a Federal enforceable commitment and alleviates the need for BEAD and other broadband funding for these areas, allowing those funds to be used for other means like extending networks further or funding other broadband initiatives. The Commission also establishes a framework to avoid duplicating existing efforts from other government programs funding broadband deployment. The Commission acknowledges that some commenters urge them to wait until the BEAD Program and other Federal funding programs have allocated their funding, or at least have determined how to allocate funding, before deciding how to proceed with supporting the remaining areas without 100/20 Mbps or faster service with universal service support. However, the Commission disagrees that standing by would serve the public interest.

5. Instead, the Commission finds that proceeding now to fund these areas with universal service support is an efficient use of Federal funds. Enhanced A–CAM builds upon years and billions of dollars of universal service support by leveraging rate-of-return carriers' existing networks to incrementally increase broadband speeds across eligible areas and supporting the ongoing operations of those networks. The Commission is not convinced that it would be more efficient for another program to overbuild these areas by funding competitive carriers to deploy new networks, particularly when it has already committed years of long-term

universal service support to these areas. Although it is possible that a rate-of-return carrier will successfully compete for support through an alternative funding program, it is also possible that other providers may cherry pick and receive funding for certain portions of a rate-of-return carrier's study area, leading to multiple funding programs supporting different locations within the service area and delays in deployment to the remaining locations while the Commission determines how to fill in any gaps with universal service support. Instead, the Commission concludes that obligating one service provider with an existing supported network to serve 100% of unserved locations across its study area now will provide more certainty that the unserved locations in rate-of-return carriers' study areas will be served with broadband at speeds of 100/20 Mbps in a timely manner.

6. As explained in more detail in the following, the Commission requires carriers authorized for Enhanced A–CAM to serve all Enhanced A–CAM required locations in their study areas. The Commission delegates to the Wireline Competition Bureau (the Bureau) to determine the exact set of locations that must be served based on the Fabric, the Broadband Data Collection (BDC), and further deduplication of enforceable commitments. Although Enhanced A–CAM required locations in each study area will be identified at the time Enhanced A–CAM offers are made, the Bureau may make adjustments, by no later than the end of 2025, to identify: (1) locations in the Fabric when the Bureau sets final obligations; (2) locations that were already served by an unsubsidized competitor at the time the offer was made but this competitive service was not reflected in the BDC; and (3) locations that were subject to an enforceable commitment for the deployment of broadband of 100/20 Mbps or greater at the time the offer was made. In making adjustments to the Enhanced A–CAM required locations, the Bureau will determine which vintage of National Broadband Map data best reflects serviceable locations and broadband coverage at the time of the offer. If there is a substantial decrease in the number of locations, Enhanced A–CAM support will be decreased according to the procedures adopted herein. However, if the number of locations that must be served increases, the Enhanced A–CAM carrier may receive additional support if consistent with the available budget, but such increases are not guaranteed. Because Enhanced A–CAM carriers are the incumbent provider in their service areas, the Commission expects that they are in the best position to know the number of locations in their study areas and the availability of competitive broadband alternatives. Therefore, the Commission finds that Enhanced A–CAM carriers are well positioned to know the maximum number of locations they may have to serve and based on their knowledge of their study areas determine whether they should accept Enhanced A–CAM funding.

7. While the Commission recognizes that funding these areas through the universal service program will increase the contribution factor, as it explains in the following, the Commission has adopted a budget that balances its goals of supporting universal access to voice and broadband service, and minimizing the burden on contributors. The Commission is also not persuaded by commenters' speculation that it should not act now because congressionally mandated funding programs could ''obviate the need'' for any additional funding in these areas. Because the Commission has the ability now to efficiently support deployment across these areas in a manner that is complementary to other funding programs, it does not believe it would serve the public interest to further delay deployment so that the Commission can wait and see if certain locations remain stranded with no or inferior service after funding programs have finished allocating their funds.

8. Finally, the Commission adopts requirements and safeguards for Enhanced A–CAM that address other concerns expressed by commenters requesting that it waits before implementing Enhanced A–CAM. In response to concerns that areas will not be served as quickly as they might be if they were funded by the BEAD Program, the Commission, in the following, aligns the deployment timeline for Enhanced A–CAM recipients with the timeline required by the Infrastructure Act. And while it is not possible to know whether a service provider that received BEAD Program funding or funding from another program may have provided ''comparable (or better) service at a lower price,'' the Commission also adopts performance requirements that align with the Infrastructure Act, and subject Enhanced A–CAM recipients to performance testing to ensure those performance requirements will be met. Additionally, the Commission subjects Enhanced A–CAM recipients to the reporting requirements and non-compliance measures that it applies to all high-cost support recipients so that it can monitor and incentivize deployment.

9. *Final Deployment Obligations.* The Commission adopts deployment obligations requiring every Enhanced A–CAM recipient to deploy, by the end of 2028, 100/20 Mbps or faster broadband service, with latency of 100 milliseconds or less, to all Enhanced A–CAM required locations in their service areas. In the context of this Enhanced A–CAM program, Enhanced A–CAM carriers are required to deploy to those locations for which voice and terrestrial broadband services of speeds 100/20 Mbps or faster are not yet available or lack an enforceable commitment for deployment (''Enhanced A–CAM required locations''). These deployment obligations are designed to maximize the Enhanced A–CAM program's compatibility with the Infrastructure Act and BEAD Program, which also require deployment of 100/20 Mbps or faster broadband to all locations within a funded ''project'' and will exclude areas covered 100% by existing Federal, state, or local commitments to deploy broadband at such speeds. By committing support through Enhanced A–CAM to deploy broadband at these speeds to electing carriers' required locations, the Commission will avoid overlap with the BEAD Program and help more Americans become connected at modern broadband speeds.

10. Moreover, since the Commission adopted the original A–CAM program, the nature and use of broadband internet access services have continued to change. The Infrastructure Act defines an ''underserved location'' as a location that lacks reliable service with latency characteristics sufficient to support real-time, interactive applications at speeds below 100/20 Mbps. The Commission believes the same deployment goal would be appropriate to future-proof the next iteration of A–CAM to the maximum extent possible. The Commission thus rejects the ACAM Broadband Coalition's (Coalition) earlier proposal to deploy 100/20 Mbps or faster service to only 90% of eligible locations and 25/3 Mbps or faster service to the remaining 10% of eligible locations. The Commission also rejects suggestions that Enhanced A–CAM recipients be required to deploy broadband with symmetrical download and upload speeds. Requiring 100 Mbps upload speed is at odds with the congressional determination in the Infrastructure Act.

11. Consistent with past A–CAM offers, the Commission will determine compliance with deployment obligations based on meeting the minimum service levels regardless of

technology. The Commission does, however, require Enhanced A–CAM recipients to provide voice service to their required locations. The Commission's high-cost program historically supported traditional voice services until 2011, when the Commission reformed the program to support networks capable of providing both voice and broadband services. Consistent with the Commission's universal service goals of connecting Americans to both kinds of services, A–CAM carriers, like other high-cost support recipients, must already provide voice service along with broadband service to their required locations.

12. More specifically, the Commission requires a carrier electing Enhanced A–CAM to provide 100/20 Mbps or faster broadband and voice service to all Enhanced A–CAM required locations within its study area, as determined by the National Broadband Map as of the date of the Enhanced A–CAM offer with adjustments adopted by the Bureau no later than the end of 2025, including extremely high-cost locations and locations that currently receive no support because their estimated cost to serve is below the support threshold. A carrier electing Enhanced A–CAM must also continue serving locations where it already provides 100/20 Mbps or faster broadband service. Conversely, Enhanced A–CAM recipients are not required to provide broadband to locations where, in addition to voice service, there is existing 100/20 Mbps or faster broadband service using wireline or terrestrial fixed wireless technology, offered by an unsubsidized competitor, or where any carrier has an enforceable Federal or state commitment to deploy 100/20 Mbps or faster broadband service.

13. In doing so, the Commission declines to adopt the Coalition's proposed ''two-pronged analysis'' for identifying areas to be excluded due to competitive overlap. Under the Coalition's proposed analysis, the Commission would first make a determination for each Enhanced A–CAM provider and unsubsidized competitor at the state level before making a separate determination at the census block level. The Coalition's proposal would, in the Commission's judgment, likely result in funding for many locations that are already served with 100/20 Mbps by an unsubsidized competitor. The Commission excludes such locations to ensure that its limited universal service funds may help bring broadband at today's standards to as many areas as possible, while avoiding spending in areas where there either is existing broadband service of the same quality or for which carriers are already committed to deploy such service in exchange for other Federal or state support.

14. Consistent with the Broadband DATA Act and the Broadband Interagency Coordination Act, Enhanced A–CAM offers will be made using location data from Fabric v.2, broadband coverage data from the National Broadband Map, and Federal broadband funding data from the National Broadband Funding Map. The Commission recognizes that there are ongoing efforts to improve the accuracy of each data set, and those maps will continue to be refined over the coming months. To avoid unnecessarily duplicating Federal broadband funding, the Commission directs the Bureau to coordinate the areas under consideration for Enhanced A–CAM offers with other Federal agencies, *e.g.,* the Rural Utilities Service, the National Telecommunications and Information Administration (NTIA), and the Department of Treasury, and to remove from eligibility locations already subject to enforceable commitments to deploy 100/20 or faster broadband service.

15. Complete information on Federal commitments will likely not be available in the National Broadband Funding Map at the time Enhanced A–CAM offers are made or elected, and the Map is not expected to include information regarding commitments made using state funds. Accordingly, the Commission directs the Bureau and Office of Economics and Analytics to adjust carriers' lists of required deployment locations as more complete data become available. These adjustments specifically shall reflect locations and broadband deployment that existed at the time Enhanced A–CAM offers were made, but were not reflected in the Fabric or the National Broadband Map, and locations for which an enforceable commitment to deploy had been made prior to Enhanced A–CAM offers but were not included in the National Broadband Funding Map. The Commission directs the Bureau to conduct a process, as necessary, to identify enforceable commitments not reflected in the National Broadband Funding Map. Because these adjustments are consistent with the BEAD Program's requirements, the Commission expects that they will not result in de-confliction issues that may cause unnecessary duplication between Enhanced A–CAM and BEAD. Further, as discussed in the following, the Bureau should adjust deployment obligations where BEAD awards are made for Tribal locations and the Enhanced A–CAM carrier and the Tribal government mutually agree to forego Enhanced A–CAM deployment obligations. The Commission anticipates that the Bureau will make all adjustments to the required deployment locations no later than December 31, 2025.

16. The Commission directs the Bureau to treat as served and therefore exclude in the Enhanced A–CAM offers any locations for which 100/20 Mbps or faster service is provided only by an unsubsidized competitor via terrestrial fixed wireless technology utilizing entirely unlicensed spectrum. Although the Commission acknowledges that this approach is not consistent with NTIA's BEAD Program, it declines to depart from the Commission's long-standing policy of technological neutrality at this time. The Commission recognizes that there are concerns regarding the accuracy of claimed deployment by fixed wireless providers utilizing entirely unlicensed spectrum. In particular, some parties assert that, although such providers may be able to serve many locations with fixed wireless technology utilizing entirely unlicensed spectrum, they may not be able to simultaneously serve all locations within their coverage footprint. However, to the extent that any such coverage claims may be deficient, there have been and will continue to be opportunities for carriers electing Enhanced A–CAM to challenge such claims through the BDC processes. In fact, Enhanced A–CAM carriers will have ample time to challenge any deficient claims made with respect to the National Broadband Map associated with Fabric v.3, after the release of this final rule and to be incorporated in the Bureau's adjustment Enhanced A–CAM carriers' obligations and support.

17. The Commission adopts a deployment timeline that aligns with the Infrastructure Act's requirements. The Infrastructure Act requires that carriers in the BEAD Program complete deployment of 100/20 Mbps or faster broadband to all locations within four years, and, as NTIA notes, aligning the Enhanced A–CAM and BEAD Program deployment timelines will ''help[ ] eliminate gaming by providers seeking to delay deployments.'' The Commission expects that BEAD Program deployment will not begin until after completion of the processes laid out by NTIA. If the Commission were to adopt deployment milestones that provided significantly more time for Enhanced A–CAM carriers to deploy broadband than for carriers under the BEAD Program, its adoption of Enhanced A–CAM could

actually prevent rural consumers in high-cost areas from being served with broadband as quickly as the BEAD Program requires. The Commission reiterates that, in adopting this program, it intends to maximize the effect of Federal dollars to bring broadband to high-cost areas, consistent with its universal service goals. The Commission thus rejects the Coalition's proposal to require complete deployment within eight years and adopt a deployment timeline for Enhanced A–CAM ending in 2028.

18. Still, the Commission recognizes that there may be unforeseen delays causing BEAD Program broadband deployment to not be entirely complete until 2030 in certain states and that these delays may affect Enhanced A–CAM carriers as well. Although the Commission declines at this time to adopt a final deployment milestone permitting Enhanced A–CAM carriers to complete deployment by 2030, to ensure that the Enhanced A–CAM and BEAD Program deployment timelines remain aligned and to account for possible unforeseen circumstances, the Commission directs the Bureau to consider, in 2027, whether a one-year extension for Enhanced A–CAM carriers' final deployment milestones would be appropriate in light of any such BEAD Program deployment delays.

19. *Interim Deployment Milestones.* The Commission adopts interim deployment milestones requiring Enhanced A–CAM recipients to make continuous progress with deployment until their final milestones at the end of the fourth year of Enhanced A–CAM support. At the end of a carrier's second year of Enhanced A–CAM support, the carrier must deploy 100/20 Mbps or faster broadband service to at least 50% of required new locations, and the carrier must deploy such service to an additional 25% of required new locations at the end of each subsequent year, until the carrier deploys to 100% of required new locations at the end of the fourth year of Enhanced A–CAM support.

20. The following table summarizes Enhanced A–CAM carriers' deployment milestones:

ENHANCED A–CAM INTERIM AND FINAL DEPLOYMENT MILESTONES

Milestone date	Deployment milestone requirement
December 31, 2025	N/A.
December 31, 2026	50% of required locations.
December 31, 2027	75% of required locations.
December 31, 2028	100% of required locations.

NTIA has not established specific interim deployment milestones for the BEAD Program—instead, allowing states and territories to establish such milestones; the interim deployment milestones the Commission adopts allows it to monitor progress with the goal of achieving buildout to all required locations by 2028, consistent with the Infrastructure Act's four-year, final deployment milestone. As noted in this document, if there are any changes to the BEAD Program's four-year timeline at a later date, the Bureau will consider whether such common circumstances require modifying the interim and final deployment milestones for Enhanced A–CAM as well.

21. Finally, as the Commission tentatively concluded in the *Enhanced A–CAM NPRM,* 87 FR 36283, June 16, 2022, Enhanced A–CAM carriers' interim and final deployment milestones will supersede the existing deployment milestones required by the A–CAM I and A–CAM II programs. Subjecting Enhanced A–CAM carriers to a single set of deployment milestones will reduce administrative complexity for both the Commission and for carriers, while holding Enhanced A–CAM carriers to a new, higher standard for broadband deployment. However, to ensure that A–CAM I and A–CAM II carriers have continued in good faith to deploy broadband pursuant to the terms of their existing A–CAM commitments, carriers electing Enhanced A–CAM must still report in the Universal Service Administrative Company's (USAC) High Cost Universal Broadband (HUBB) portal any progress made this year (2023) towards their existing A–CAM I and A–CAM II deployment milestones. Carriers that elect Enhanced A–CAM, whether currently receiving A–CAM I, A–CAM II, or legacy support, that do not meet their existing deployment milestone due by December 31, 2023, will be subject to the compliance regime set forth in § 54.320(d)(1) of the Commission's rules. As discussed below, any support withholding or recovery will be based on support at the time the carrier is notified of non-compliance.

22. *Deployment Compliance Gaps.* Enhanced A–CAM recipients will also be subject to the same support withholding and recovery provisions currently applicable to A–CAM carriers and other high-cost support recipients. Pursuant to the Commission's rules, if a high-cost support recipient does not satisfy its final deployment obligation within twelve months of the final milestone deadline, USAC will recover ''the percentage of support that is equal to 1.89 times the average amount of support per location received in the state for that carrier over the term of support for the relevant number of locations plus 10 percent of the eligible telecommunications carrier's (ETC) total relevant high-cost support over the support term for that state.'' For high-cost support recipients that fail to meet their interim deployment milestones, carriers with a compliance gap of five percent or more are subject to quarterly reporting and potentially support withholding/recovery based on the level of non-compliance. The non-compliance procedures apply until the carrier failing to meet its interim deployment milestone reports a compliance gap of less than five percent. These generally applicable provisions will likewise apply to Enhanced A–CAM recipients.

23. *Performance Measures Requirements.* Similarly, Enhanced A–CAM recipients will be subject to the same performance testing requirements as other high-cost support recipients. It is a priority of the Commission to ensure that high-cost support recipients deploy to required locations on time and at the level of service required. Accordingly, the Commission requires that high-cost support recipients annually test and report the speed and latency of a random sample of locations. Carriers that fail to meet the required performance standards are subject to additional reporting and may have a percentage of universal service support withheld based on the level of non-compliance, but those carriers that later come into compliance may have their support restored. Enhanced A–CAM recipients will therefore be subject to performance testing. The Commission delegates to the Bureau the authority to implement and clarify further details, including the specific schedule, regarding the performance measures testing regime for Enhanced A–CAM.

24. *Federal Funding Coordination Requirements.* As a condition of receiving Enhanced A–CAM support, the Commission requires carriers to make efforts to avoid duplicative Federal broadband funding. First, the Commission requires Enhanced A–CAM recipients to participate, in good faith, in any relevant BEAD Program challenge processes or other processes conducted by states or other BEAD Program eligible entities to determine eligibility of locations for the BEAD Program, to otherwise coordinate with states, Tribes, and other eligible entities to help avoid duplicative Federal broadband funding, and to certify their compliance with this obligation annually. This requirement will also extend to any other Federal broadband

funding program and related processes. By engaging in these processes, carriers will help ensure that more Americans in high-cost areas will have access to broadband, consistent with the Infrastructure Act's goals, as well as the Commission's goals for Enhanced A–CAM.

25. Second, the Commission requires, as a condition of receiving Enhanced A–CAM support, that carriers not receive or use BEAD Program funding or other future Federal grant funding, unless otherwise specified herein, that supports broadband deployment to those locations for which they are receiving Enhanced A–CAM support, and the Commission requires Enhanced A–CAM recipients to certify their compliance with this obligation annually. The Commission imposes this requirement as an additional measure to ensure that Enhanced A–CAM recipients use support as intended, consistent with the Commission's goals for the program. Under this requirement, Enhanced A–CAM recipients may seek BEAD funding for locations that are not eligible for Enhanced A–CAM because they are served with at least 100/20 Mbps by an unsubsidized competitor (and not also served by the Enhanced A–CAM carrier), but which are eligible for BEAD because service is not considered ''reliable broadband'' pursuant to BEAD. Similarly, Enhanced A–CAM recipients may seek other Federal funding for locations that are not eligible for Enhanced A–CAM.

26. Third, as the Commission further discusses later in this final rule, it requires carriers to identify, when electing Enhanced A–CAM, the broadband technologies (*e.g.,* fiber to the premises) with which they intend to fulfill their Enhanced A–CAM deployment obligations. This information may assist states and other BEAD Program eligible entities in identifying which areas remain eligible for BEAD Program funding. This information may also be relevant to other Federal broadband funding programs.

27. *Affordability Requirement.* The Commission requires Enhanced A–CAM recipients to participate in the Affordable Connectivity Program (ACP) as a condition of receiving Enhanced A–CAM support. The Commission continues to emphasize that ''[p]romoting access to affordable, high-speed broadband is a priority for the Commission,'' and the ACP plays an important role in helping low-income consumers obtain affordable internet services. Beyond the Commission, the Infrastructure Act requires subgrantees of NTIA's BEAD Program to offer at least one ''low-cost broadband service option.''

28. Commenters broadly supported requiring Enhanced A–CAM carriers to address affordability. The Coalition, for example, advocated for ''making enrollment in ACP a condition of participation'' while asking that the Commission ''refrain . . . from adopting specific product characteristics for the affordable option under ACP,'' consistent with NTIA's decision to ''grant[ ] states the flexibility to set the parameters that best serve the needs of residents within their jurisdictions'' as part of the BEAD Program. Similarly, the California Public Utilities Commission (California PUC) argued that the Commission should ''require all carriers participating in Enhanced A–CAM to offer broadband plans that are affordable to low-income households either by participating in the ACP or by creating their own low-cost plans.'' The California PUC explained that programs supporting broadband infrastructure in unserved areas improve broadband availability but do not necessarily ensure that broadband is affordable for consumers in those areas, even though affordability may be a greater concern in rural and high-cost areas.

29. The Commission agrees that it is appropriate to require Enhanced A–CAM carriers to participate in the ACP, and further encourages participating carriers to offer an affordable broadband option. Accordingly, as part of the Enhanced A–CAM offer and as a condition for receiving Enhanced A–CAM support, carriers must certify annually their participation in ACP or a substantially similar successor program. If a carrier accepts the Enhanced A–CAM offer and subsequently elects not to participate or ceases to participate in ACP or a substantially similar successor program, the carrier will be considered in default of its obligations. The Commission also requires that the carrier annually describe and certify its compliance with this affordability requirement in the FCC Form 481. The Commission further directs the Bureau to take further action to implement this requirement, as necessary.

30. The Commission declines, however, to make any changes to the ACP itself, including by adopting an ''enhanced'' ACP benefit of up-to-$75 per month for households served by high-cost support recipients, as suggested by the NTCA—The Rural Broadband Association (NTCA). The Infrastructure Act's direction to the Commission to create an enhanced ACP benefit for service provided in certain high-cost areas by providers experiencing particularized economic hardship is under consideration by the Commission, and it believes that proceeding is the more appropriate vehicle to resolve those issues in accordance with the statute's directive. The Commission also finds that the record regarding whether it should provide an increased ACP benefit for households served by support from the high-cost program remains undeveloped in this proceeding and is best addressed in a proceeding focused on that issue in the ACP.

31. *Additional Obligations.* Finally, the Commission notes that Enhanced A–CAM recipients will be subject to other obligations generally required of high-cost support recipients. Under the *USF/ICC Transformation Order,* 76 FR 73830, November 29, 2011, and subsequent orders, ETCs subject to broadband public interest obligations must provide broadband at rates that are reasonably comparable to offerings of comparable broadband services in urban areas, with usage allowances reasonably comparable to those available through comparable offerings in urban areas. Likewise, Enhanced A–CAM recipients will be required to file annual reports pursuant to § 54.313, will be subject to the existing audit and record retention requirements applicable to all ETCs pursuant to § 54.320, and will be required to make available Lifeline service to qualifying low-income consumers.

32. The Commission adopts a budget for the Enhanced A–CAM offers totaling no more than $1.27 billion annually, or no more than $1.33 billion annually if certain conditions are met, over a 15-year term beginning January 1, 2024. This figure includes the existing A–CAM budget, ($1.1 billion per year over five years, 2024–2028), plus an additional 10-year extension, for a total 15-year support term (2024–2038). The total budget amount will be distributed at a constant annual support amount of up to $1.27 billion per year. The Commission also delegates to the Bureau the authority to increase the overall budget by $1 billion, up to no more than $1.33 billion annually, if it determines that this additional support will allow substantial increases in deployment or if such support is needed to increase support to Enhanced A–CAM carriers because of updates to the National Broadband Map.

33. In setting the budget for Enhanced A–CAM, the Commission is mindful of its longstanding goals adopted in the *USF/ICC Transformation Order* to ''ensure universal availability of modern networks capable of providing voice and broadband,'' and to ''minimize the

universal service burden on consumers and businesses.'' The Commission's goal is to provide support that is sufficient but not excessive so as not to impose an unnecessary burden on consumers and businesses who ultimately pay to support the Universal Service Fund (USF). The Commission wants to provide enough support to substantially increase the deployment of high-speed broadband to currently unserved locations in rural areas, and to maintain the provision of such service where it is already deployed. At the same time, as stewards of the USF, the Commission is mindful of the effect increases in overall support have on the contribution factor. The Commission believes the budget it has adopted appropriately balances these objectives.

34. The deployment obligations set above are ambitious and will require additional support to achieve. The requirement to provide 100/20 Mbps to 100% of required locations is a substantial increase to both the level of service and the scope of coverage. Further, the number of unserved locations has increased because of the evolving standard for unsubsidized competitors to 100/20 Mbps or faster, from 10/1 Mbps for A–CAM I and 25/3 Mbps for A–CAM II. In addition, locations that might previously have been identified as served by the Commission's Form 477 data are now recognized as unserved by the more granular information in the Commission's National Broadband Map. Finally, where carriers have deployed 100/20 Mbps locations in reliance on the A–CAM I and A–CAM II support commitments through the end of the current terms, the Commission assumes some level of continuing support will be required.

35. The Commission finds that the Enhanced A–CAM budget appropriately balances these concerns. The Commission estimates that Enhanced A–CAM offers may support deployment to approximately 1 million Enhanced A–CAM required locations, as well as continuing support for locations to which A–CAM carriers have already deployed 100/20 Mbps service, while the effect on the contribution factor will be relatively small. If every A–CAM recipient elects the Enhanced A–CAM offer, the revised budget would add $166 million per year, or $41.5 million per quarter, to the current quarterly universal service demand of $1,947.08 million, an increase of approximately 2%. Based on the current contribution base, this would increase the contribution factor by .7 percentage point. The Commission believes the benefits of supporting this standard of deployment to millions of locations outweighs this limited increase to the contribution factor.

36. Finally, the Commission delegates to the Bureau the ability to increase the budget up to an additional $1 billion over the term of support, if it finds that doing so will improve significantly the amount of deployment that would be expected to occur through Enhanced A–CAM. For example, the Bureau may increase the funding cap set forth below to permit an extra $1 billion in the offer amounts, if it estimates that doing so would result in more acceptances of Enhanced A–CAM offers and, accordingly, more commitments to deploy 100/20 Mbps or faster service to locations currently without that level of service. Changes within the funding parameters discussed below, including those for currently served locations, may also be considered, if they would result in higher acceptance rates and more commitments to deploy to unserved locations. Alternatively, the $1 billion or a portion thereof may be reserved to provide additional support if warranted if updates to the National Broadband Map result in increased deployment obligations. An increase of $1 billion to the total 15-year budget would increase the annual demand for universal service by approximately $66.7 million, which would result in an additional .3 percentage point increase to the contribution factor, using the third quarter 2023 forecasted contribution base and funding requirements.

37. The Commission declines to adopt an annual inflation adjustment to the Enhanced A–CAM support amounts, as proposed by the Coalition. Adjusting support annually to account for inflation would require the Commission to reduce the initial annual Enhanced A–CAM support amounts to accommodate future inflation-driven increases or such adjustments could result in support in excess of the budget adopted here. Even small inflation adjustments would, over the term of support, cause Enhanced A–CAM to exceed the budget significantly. Inflation adjustments would undermine the benefits of budgetary certainty provided by fixed, model-based support, including the ability to control the future impact of the mechanism on the contribution factor.

38. The Commission recognizes that maintaining this budget will require parameters and funding limitations to calculate the offers, including funding caps as past A–CAM offers have used. It is possible that some current A–CAM I and A–CAM II carriers will not elect the Enhanced A–CAM offers as a result, finding the support amounts to be insufficient in comparison to the obligations. If a current A–CAM I or A–CAM II carrier declines the offer of Enhanced A–CAM support, the carrier will continue to receive A–CAM support until 2026 or 2028, consistent with its current authorizations. The Commission will consider what support, if any, is required in a future proceeding, consistent with the concurrently adopted Notice of Inquiry (NOI).

39. In the following, the Commission sets forth the process for calculating Enhanced A–CAM offers. First, the Commission uses an updated version of A–CAM to estimate the cost for each location served by eligible A–CAM and legacy rate-of-return carriers. Second, the Commission sets the parameters for calculating support for currently unserved locations.

40. *Model Cost Estimates.* For the Enhanced A–CAM offers, the Commission will use cost estimates from an updated version of A–CAM that incorporates the location data from the Fabric v.2 to calculate the average cost per location in each census block served by an A–CAM or CAF BLS recipient. The Broadband DATA Act requires that, after the creation of the Broadband Serviceable Location Fabric and associated maps, the Commission use those maps ''when making any new award of funding with respect to the deployment of broadband internet access.'' While the Commission does not believe that the Broadband DATA Act prescribes any particular method for estimating the cost of serving locations, cost estimates from the current version of A–CAM would be nearly impossible to reconcile with location and broadband coverage data from the Fabric and the National Broadband Map. Because prior versions of A–CAM used 2010 census block boundaries, while the Fabric uses 2020 census block boundaries, there are significant differences in census block location counts, including many census blocks that do not have model-estimated costs but have Fabric locations. Rerunning the model with Fabric locations will provide more accurate estimates of the cost of serving unserved and underserved locations in a census block and minimize the amount of reconciliation that will be required in the calculation of offers.

41. *Support for Required Locations.* In calculating support for Enhanced A–CAM required locations, the Commission retains the basic principles of, but make critical changes to, the methodology it used to calculate support amounts in prior A–CAM offers.

Generally, A–CAM I and A–CAM II carriers receive support based on the model-estimated monthly cost of serving locations in eligible census blocks above a funding threshold of $52.50 per month, subject to a per-location cap on support of $200 per month for most locations. As described in the following, the Enhanced A–CAM offers will use the National Broadband Map to determine eligible locations, rather than census block eligibility, use a revised funding threshold of $63.69 for non-Tribal locations, and utilize a combination of per-location caps and percentages of uncapped support to limit funding above the threshold.

42. For purposes of determining Enhanced A–CAM offers, the Commission updates the funding threshold for non-Tribal locations to $63.69. The funding threshold is the Commission's estimate of the amount of revenue per location, per month, that a carrier can reasonably obtain from end-users. The current funding threshold of $52.50 was established in 2014, as the Commission was developing the original Connect America Cost Model, and was determined by multiplying an estimated Average Revenue Per User (ARPU) of $75 by an estimated take rate of 70%. With nine years having passed, the Commission believes the estimated ARPU used there is stale, and should be updated to reflect the revenue a carrier may reasonably expect to recover from its customers now. The Commission believes the rate benchmark for 25/3 Mbps in the most recent Urban Rate Survey reflects a reasonable estimate of end-user rates for a modern broadband network. Multiplying that rate benchmark of $90.98 by the 70% take rate yields a funding threshold of $63.69. Raising the funding threshold will have a direct impact on the distribution of Enhanced A–CAM support, causing support to be allocated to relatively higher cost locations than would have occurred if the prior funding threshold of $52.50 had been used. The Commission notes that changing the funding threshold in this manner does not require carriers to change their end-user rates, which are not set by the Commission.

43. Consistent with the Coalition's proposal, support amounts for required locations in Enhanced A–CAM offers will be based on the greater of two alternative methodologies: (1) the model-estimated cost of serving the locations above the funding threshold up to a funding cap, or; (2) an alternative percentage of the difference between the model-estimated cost of serving the locations and the funding threshold (*i.e.,* the uncapped support amount). In prior A–CAM offers, only the first methodology was used. For example, for A–CAM II, for non-Tribal locations, carriers received support equal to the amount the model-estimated costs for serving a particular location that exceeded $52.50 per month, up to $200 per month. The Coalition proposed increasing the funding cap to $300. The Coalition also proposed applying the second methodology, equaling 80% of the uncapped support amount, when it provided more support. The Commission finds that including an alternative funding percentage will have the effect of providing additional support to locations with estimated costs that significantly exceed the funding cap. The Commission believes increasing the support to the very high-cost locations is appropriate, given the requirement for each electing carrier to serve 100% of its required locations with 100/20 Mbps service. As such, each carrier's support will be determined at the state level, which will include all its study areas in a state if it has more than one study area.

44. The Commission does not specify at this time the funding cap or alternative funding percentage to be applied, and instead delegates to the Bureau the authority to set, in an Order prior to or concurrently with the Enhanced A–CAM offers, both the funding cap and an alternative funding percentage within guidelines set below. This delegation is necessary because the Commission cannot determine funding caps or funding percentages that would produce support amounts within the budget it adopts in this document until it has the updated model results. The Commission therefore directs the Bureau to aim for a funding cap for non-Tribal areas that is no higher than $300 per location per month, with an alternative funding percentage between 40% and 80%. While the Coalition's proposal of a $300 per location per month funding cap and an 80% alternative funding percentage may not fit within the budget the Commission establishes in this document, these funding guidelines set the Coalition's proposal as the upper boundary of support for Enhanced A–CAM required locations. The lower boundary on the alternative funding percentage ensures that an extra measure of support is provided to carriers that have a significant number of locations that are much higher than the funding cap. In setting the funding cap and the alternative funding percentage, the Bureau should balance the need to ensure adequate funding for as many locations as possible, while also taking into account the cost of serving extremely high-cost locations, and also fitting within the budget support for locations that are currently served, as discussed below.

45. *Support for Locations Served with 100/20 Mbps by the Incumbent Local Exchange Carrier (ILEC).* The Commission limits support for locations that are currently served with 100/20 Mbps by the ILEC. In light of the budget that the Commission adopts in this document, it finds that targeting new support primarily to unserved locations would achieve its goal of widespread 100/20 Mbps deployment better than providing additional Enhanced A–CAM support to locations that already are capable of that level of service. In concluding that a full measure of support is not necessary for ILEC-served locations, the Commission finds that a carrier's deployment of 100/20 Mbps service with existing A–CAM support demonstrates that existing A–CAM support was sufficient to promote deployment, and that it is not necessary to further incentivize deployment for carriers that elect to participate in the Enhanced A–CAM program.

46. The Commission recognizes that consumers at locations served with 100/20 Mbps or faster service by the ILEC only and not by an unsubsidized competitor will remain dependent on the Enhanced A–CAM carrier to maintain at least their current level of service. Those carriers will therefore continue to experience ongoing operational and depreciation costs associated with these already-constructed locations. The Commission therefore concludes that such locations should receive at least 50% of their current support A–CAM support amount for the duration of the Enhanced A–CAM term. Furthermore, in consideration of the available budget adopted herein, additional support for operating expenses and depreciation may be reasonable. Therefore, the Commission delegates to the Bureau the authority to determine whether support for these locations should be increased above the 50% rate, within the overall budget set by the Commission, up to 75% of the support that they would have received under A–CAM I or A–CAM II. While this range is somewhat less than $200 cap for served locations proposed by the Coalition, given the capital recovery that has already occurred for these locations, the Commission concludes a slight reduction from the prior A–CAM I or A–CAM II support levels is justified. Furthermore, because a primary purpose of this ongoing support is to ensure the

maintenance (or improvement) of service to locations that would otherwise be unserved, the Commission further extends the support for ILEC-only served locations to locations that were ineligible for prior A–CAM offers but which are not served with 100/20 Mbps or faster service by a competitor. In making this determination, the Bureau will take into consideration whether there is sufficient funding available to provide additional funds for already-constructed locations, once the Bureau has set a reasonable cap and alternative funding percentage for unserved locations.

47. While the Commission declines to adopt the Coalition's proposal to provide additional support for Enhanced A–CAM for locations served with 100/20 Mbps by unsubsidized competitors, it finds that limited support is warranted to address costs incurred by Enhanced A–CAM recipients as a result of their expanded network obligations. Unlike with prior A–CAM offers, the Enhanced A–CAM program requires providers to deploy service to all eligible Enhanced A–CAM locations in their study areas. This expanded obligation to build such a network comes with certain costs associated, which additional support will help to defray. As a proxy to calculate support toward such costs, the Commission adopts limited support for locations served by the ILEC with service of at least 100/20 Mbps or greater and either (1) are served by an unsubsidized competitor with 100/20 Mbps or greater or (2) will be served by another provider subject to an enforceable commitment for deployment pursuant to another Federal or state program at the time the Enhanced A–CAM offer is extended. Dedicating additional funding to provide service to locations that are or will be served, without support from high-cost universal service mechanisms or other Federal programs, would not be a judicious use of the budget the Commission adopts in this document. However, in order to provide support to offset costs associated with their expanded networks, the Commission limits the Enhanced A–CAM offer to the total amount of support that those locations would have received pursuant to the A–CAM through the end of the existing A–CAM term, or 33% per month of their current A–CAM rate but these payments will continue for an additional 10 years beyond the original A–CAM term. This support will be paid over the Enhanced A–CAM term in order to minimize the burden on payers into the USF.

48. *Tribal Broadband Factor.* The Commission next adopts a Tribal Broadband Factor for Enhanced A–CAM, as it did for A–CAM II, to address the unique challenges of deploying high-speed broadband in rural Tribal communities. The Commission found then that the assumptions underlying the $52.50 funding threshold, which is based on nationwide assumptions about take rates and potential average revenues per subscriber, may be unrealistic in rural, Tribal areas, given the concentration of low-income individuals and few business subscribers. The Commission agrees with the National Tribal Telecommunications Association that the Tribal Broadband Factor continues to be necessary and should be included in Enhanced A–CAM offers. The Commission will use a funding threshold reduced by 25 percent in Tribal areas, as it did for A–CAM II. Because the Commission raises the funding threshold to $63.69, in this document, the funding threshold for Tribal locations will therefore be set at $47.76. The Commission also instructs the Bureau to use a funding cap for Tribal lands that is $15.93 higher than the funding cap for non-Tribal lands to effectuate the Tribal Broadband Factor. The Commission also will use the same definition of ''Tribal lands'' that it adopted for A–CAM II. The Commission expects that Enhanced A–CAM providers serving Tribal areas will immediately engage the relevant Tribal governments regarding deployment to Tribal locations and continue to participate in Tribal engagement throughout the support term, as required under its rules.

49. *Support Adjustments due to Updated Deployment Obligations.* In this document, the Commission directs the Bureau to establish a process for updating the deployment obligations for carriers electing Enhanced A–CAM due to improvements in information related to locations, broadband coverage, and Federal and state funding. Further, as discussed in the following, there may be instances in which Enhanced A–CAM carriers and Tribal governments mutually agree to forego the Enhanced A–CAM deployment obligations for Tribal locations that are awarded BEAD funds. In most cases, the Commission expects the change will be *de minimis* and therefore will not require an amendment to the amount of Enhanced A–CAM authorized by them. Consistent with prior A–CAM offers, the Commission sets the *de minimis* threshold at 5% of the obligation, so that if the number of locations to which a carrier is obligated to deploy service are at least 95% of the obligated locations reflected in the authorization, no further adjustment to support will be required. To be clear, the Commission does not provide the same 5% flexibility that it previously provided to A–CAM carriers, which afforded carriers the unilateral flexibility to meet only 95% of their deployment obligations. For Enhanced A–CAM, the only basis for a reduction in obligations would be improved information associated with locations, broadband coverage, or enforceable commitments to deploy 100/20 Mbps as of the date the Enhanced A–CAM offer is made, or a mutual agreement with a Tribal government to forgo deployment obligations to Tribal locations. The Commission directs the Bureau to provide, in the order setting forth the funding caps and alternative funding percentages, a methodology to gradually reduce support where the number of locations to which a carrier is obligated to deploy is less than 95% but greater than 85% of the obligated locations in the authorization. The methodology should balance the need to avoid wasteful spending on locations to which it is no longer necessary to obligate deployment with the need to avoid creating inappropriate disincentives for carriers to accurately report location data in a timely fashion. If the number of locations to which the Enhanced A–CAM carrier is required to deploy is less than 85% of the obligated locations in the authorization, the carrier's support will be recalculated consistent with the support parameters set forth above. This re-authorization will prevent a windfall to carriers electing Enhanced A–CAM in cases where they are likely to be aware that material errors or deficiencies in their favor in the Fabric, the National Broadband Map, or the National Broadband Funding Map.

50. In the alternative case, in which deployment obligations are increased as the data improves because additional broadband serviceable locations are identified, additional funding will be provided only to the extent that it would not cause the Enhanced A–CAM program to exceed the budget set forth in this document. Allowing unlimited post-authorization increases to support could cause Enhanced A–CAM to exceed the budget, but it is likely that at least some of the budgeted funds will not be allocated, either because not all eligible carriers will elect Enhanced A–CAM or because of reductions in support due to decreased deployment obligations in accordance with the procedures the Commission sets in this

document. In addition, it is within the Bureau's delegated authority to reserve some or all of the extra $1 billion provided in the budget, above, to address increased deployment obligations. While this creates an asymmetrical risk for carriers electing offers—their support will decrease if their deployment obligations are later reduced, but their support may not increase if their deployment obligations are later increased and there are insufficient funds available under the budget—the Commission finds that the carriers are well-placed to assess this risk when they accept the offer. The Commission emphasizes that the adjustments to deployment obligations and, if appropriate, a reduction in support will only be made based on circumstances that in fact existed at the time of the offer. The Commission believes that the carriers typically understand where in their service areas there are, in fact, broadband serviceable locations, deployment by unsubsidized competitors, and enforceable commitments to deploy broadband. They should not accept the Enhanced A–CAM offer if they believe the amount of support offered is insufficient, nor should they expect a windfall if they recognize the support offered is excessive, based on facts known to them but not reflected in the publicly available data used to calculate offers.

51. *Transitional Support for Legacy Carriers.* The Commission has a ''longstanding objective of transitioning away from legacy rate-of-return support mechanisms'' based on embedded costs to programs based on forward-looking costs designed to incentivize operational efficiencies by providers. For this reason, in addition to current A–CAM I and A–CAM II carriers, the Commission extends Enhanced A–CAM offers to carriers eligible to receive legacy support. To encourage participation, the Commission will provide electing legacy carriers with a fixed support transition, or ''glide path,'' from legacy support to their Enhanced A–CAM support amounts. The path will depend on whether or not the legacy carrier's 2022 support, based on the Connect America Fund Broadband Loop Support (CAF BLS) and High Cost Loop Support (HCLS), exceeds the annual amount of the Enhanced A–CAM offer.

52. For legacy carriers whose 2022 support claims are equal to or greater than the Enhanced A–CAM offer, the Commission adapts a glide path from proposals by NTCA and the Southeastern Rural Broadband Alliance for a voluntary pathway to incentive regulation. Specifically, legacy carriers eligible for and electing Enhanced A–CAM will receive frozen support equal to their year 2022 support claims for six years, beginning January 1, 2024. Over the next five years, beginning January 1, 2030, their support will step down to 80% of their 2022 support amount, in 4% increments. Finally, beginning January 1, 2035, electing carriers will then transition to model-based Enhanced A–CAM support, following the three-tiered transition schedule set forth in § 54.311 of the Commission's rules. Legacy carriers electing Enhanced A–CAM would be required to deploy 100/20 Mbps or faster broadband service and voice service to 100% of the serviceable locations in their study areas, subject to the same interim milestones and deployment obligations as other Enhanced A–CAM participants.

53. As the Commission has previously found, ''a tiered transition is preferable because it recognizes the magnitude of the difference in support for particular carriers.'' Further, ''[b]y specifying in advance how this transition will occur, carriers will have all the information necessary to evaluate the possibility of electing model support.'' Pursuant to § 54.311(e) of the Commission's rules, which addresses a carrier's transition from receiving higher amounts to lower amounts of support, the transition payments are based on the percentage difference between model support and legacy support: if the difference between legacy and model-based support is 10% or less, the carrier will have a one-year transition; if greater than 10% but not more than 25%, then the transition period will be four years; and if the difference is greater than 25%, then the transition will occur over the full-term of the plan, with no extra transition support only in the final year of the term. For the purpose of calculating transitional support pursuant to this final stage, the Commission adopts a base year support amount equal to 80% of 2022 claims. The Commission recognizes this final transition schedule may extend past the end of the support term it adopts for Enhanced A–CAM.

54. For an electing legacy carrier whose 2022 claims are less than its Enhanced A–CAM support offer, the Commission provides a transition to the carrier's full Enhanced A–CAM support, after the initial freeze, over a five-year period. Under this transition, support will be stepped up in five annual increments until the Enhanced A–CAM support level is reached by the electing carrier in 2034. This approach minimizes the impact to the Fund caused by demand increases on the legacy high-cost budget resulting from the transition payments in years 2030–2034. That is, electing carriers that are transitioning downward will incur 4% reductions in 2022 baseline support annually during years 2030–2034, which will work to offset the demand increases caused by electing carriers transitioning upwards.

55. The Commission finds having an extended transition glide path to Enhanced A–CAM for legacy carriers is warranted. Moving legacy return carriers to model-based support furthers the Commission's core reform principles of: (1) ''Control[ling] the size of USF as it transitions to support broadband, including by reducing waste and inefficiency;'' (2) ''Requir[ing] accountability from companies receiving support to ensure that public investments are used wisely to deliver intended results;'' and (3) ''Transition[ing] to incentive-based policies that encourage technologies and services that maximize the value of scarce program resources and the benefits to all consumers.'' The Commission has also emphasized the need ''to phase in reform with measured but certain transitions, so companies affected by reform have time to adapt to changing circumstances.''

56. The Commission is embarking on its third offering of model-based A–CAM support. Many legacy carriers have already committed to A–CAM I and A–CAM II offerings, and the Commission provided a glide path with each offering to ease and encourage carriers to accept a predictable, fixed support amount in exchange for broadband deployment obligations. A number of legacy carriers, however, continue to find the business case for moving to model-based support uneconomical. Accordingly, for these remaining legacy carriers, the Commission finds a more generous glide path is needed to encourage the transition as compared to earlier A–CAM offerings.

57. The proposal suggested by NTCA and the Southeastern Rural Broadband Alliance envisions an incentive regulation option that would serve as an alternative to Enhanced A–CAM for legacy carriers. The Commission rejects this proposal to offer a separate incentive regulation option, but it finds the proposal can also serve as an important building block to further encourage the transition of legacy carriers to Enhanced A–CAM support. This approach also provides several administrative efficiencies. For example, the Commission by using a frozen, fixed support path to Enhanced A–CAM can thus leverage earlier A–CAM efforts to address ancillary issues such as matters related to tariffing and rate regulation. Adopting the new

incentive regulation plan as proposed by NTCA and the Southeastern Rural Broadband Alliance, at this time, would in contrast require the Commission to address such issues anew for which there is limited advance time before carriers will need to complete the election process this fall. Further, by building on the proposal for an Enhanced A–CAM transition path, instead of having a completely new incentive-based option, the Commission eliminates the need to administer an additional support program and can better ensure the alignment of support terms and timelines. That said, NTCA and the Southeastern Rural Broadband Alliance can propose additional incentive-based options for legacy carriers in the associated NPRM proceeding if they find additional options are necessary.

58. The Commission predicts the overall impact of these glide paths on the high-cost support budget will result in a decrease in support demand as it endeavors to constrain demand to decrease the USF contribution factor. As the Commission has acknowledged, ''American consumers and businesses ultimately pay for USF, and that if it grows too large this contribution burden may undermine the benefits of the program by discouraging adoption of communications services.'' By capping support at the 2022 level for electing carriers for six years, the Commission prevents future demand increases on the legacy high-cost support budget. While those electing carriers whose Enhanced A–CAM offer exceeds their 2022 support levels will receive an increase in support, increasing over years 7–11 to the Enhanced A–CAM offer of support. The Commission estimates that such increases will be more than offset by those carriers phasing down and then transitioning from higher legacy support levels to the level of their Enhanced A–CAM support offer.

59. The Commission declines to apply different deployment obligations to legacy carriers electing Enhanced A–CAM than will be applied Enhanced A–CAM carriers generally. The Southeastern Rural Broadband Alliance, as part of its incentive regulation path option, proposed to exclude serviceable locations in an area where ''a provider submits cost data indicating the extreme cost to provide 100/20 Mbps service (*e.g.,* when capital expenditures are estimated to be greater than $25,000 per location).'' And that for such locations, ''there could be a process by which companies could provide service via alternative technologies.'' While the Commission is sympathetic of the effort required to offer service to the hardest-to-reach areas of the country, it declines to adopt such an exclusion for the Enhanced A–CAM glide path. The Commission is committed to extending 100/20 Mbps or faster broadband and voice service to all Americans, including those living in high-cost areas. Further, to ensure locations funded with high-cost support do not become eligible for BEAD, and thus receive duplicative funding, the Commission must create a path to an enforceable commitment to serve all locations. If the Commission permits an exception allowing electing legacy carriers to escape the obligation to serve not-yet-identified locations subject to some future process, states applying the BEAD eligibility rules will not be able to determine whether an enforceable commitment has been made and may therefore be required to determine that there is no enforceable commitment for any locations. The Commission therefore cannot permit such an exclusion. Further, states, unlike this Commission, will have the ability to conclude that locations are extremely high-cost and therefore find a carrier's commitment to serve using a technology other than reliable broadband would still satisfy BEAD's requirements.

60. *Eligibility.* The Commission adopts its proposal to permit each current A–CAM I or A–CAM II participant to elect, on a state-by-state basis, whether to participate in the Enhanced A–CAM program. The Commission will also extend eligibility (on a state-by-state basis) to rate-of-return carriers that are eligible to receive legacy support. Rate-of-return carriers that choose not to accept Enhanced A–CAM support offers will continue to receive support under the terms of their existing A–CAM authorizations or legacy rate-of-return plans.

61. Consistent with the Commission's decision to provide capped support to locations where an A–CAM I or A–CAM II participant has already deployed broadband at speeds at 100/20 Mbps or greater, the Commission will permit all A–CAM I and A–CAM–II participants to elect to participate in the Enhanced A–CAM program even if a service provider has already deployed broadband at speeds of 100/20 Mbps or faster throughout its service area. The Commission is persuaded that it would be an effective use of Enhanced A–CAM funds to support the ongoing provision of 100/20 Mbps or faster service for the support term of Enhanced A–CAM and to provide service providers with the resources they need to repay loans and offer affordable rates. The Commission expects its decision to cap monthly support for these locations at an amount lower than that awarded to unserved locations will help balance its objectives of using support efficiently and ensuring that consumers remain served at these high speeds.

62. Moreover, consistent with the Commission's longstanding objective of transitioning away from legacy rate-of-return support mechanisms and providing high-cost support based on a carrier's forward-looking, efficient costs, it will permit rate-of return carriers eligible to receive legacy support to elect to participate in the Enhanced A–CAM program instead. Commenters generally supported extending an offer to all rate-of-return carriers that are eligible to receive legacy support to maximize options for carriers and to maximize participation in the Enhanced A–CAM program. However, the Commission balances this objective with its longstanding goal of minimizing the overall burden of universal service contributions on American consumers and businesses. Specifically, in this document, the Commission takes measures to lessen the impact on the budget by freezing Enhanced A–CAM support for legacy carriers for six years at 2022 levels if their Enhanced A–CAM offer is more than their total 2022 legacy support (*i.e.,* CAF BLS and HCLS) in the relevant state, and then gradually increasing their support to Enhanced A–CAM levels.

63. The Commission notes that legacy rate-of-return carriers authorized to receive Enhanced A–CAM support will have requirements related to tariffs. Enhanced A–CAM recipients must exit the National Exchange Carrier Association (NECA) Common Line pool, although they have the option of continuing to use NECA to tariff their Common Line and Consumer Broadband-Only Loop charges. Such carriers must coordinate with NECA on making any required tariff filings in order to ease the administrative burden associated with implementation of any changes. Once USAC confirms that an authorized carrier has notified NECA of its intention to exit the Common Line pool, USAC may disburse A–CAM support. Pursuant to the *Rate-of-Return BDS Order,* 83 FR 67098, December 28, 2018, Enhanced A–CAM recipients that have not already done so will also be eligible to move their business data services offerings to incentive regulation.

64. The Commission will permit otherwise eligible existing A–CAM and legacy rate-of-return carriers that are currently not in compliance with the deployment obligations associated with their current support programs to participate in the Enhanced A–CAM

program. However, to protect the public's funds, the Commission will take certain steps to reduce the Enhanced A–CAM support they receive until they come into compliance with their existing obligations. These steps will ensure that carriers cannot avoid compliance with existing obligations by accepting new obligations.

65. Specifically, an existing A–CAM support recipient that has missed its December 31, 2022 service milestone and that is currently having its support withheld pursuant to one of the § 54.320(d)(1) non-compliance tiers, will continue to remain subject to the support withholding associated with that non-compliance tier once its Enhanced A–CAM support term begins. The existing A–CAM support recipient will continue to receive its existing level of support that it received pursuant to its previous A–CAM program, excluding the support withholding associated with the applicable non-compliance tier, until it comes into compliance. At the time that the support recipient reports that it is eligible for Tier 1 status for the December 31, 2022 service milestone pursuant to its original obligation (*i.e.,* at the previous A–CAM program performance requirements and for the number of locations required by the December 31, 2022 service milestone), the support recipient will have its support fully restored to the level of support it is eligible to receive pursuant to the Enhanced A–CAM program, and USAC will repay any funds that were recovered or withheld.

66. An existing A–CAM support recipient that misses the December 31, 2023 service milestone for its previous A–CAM program will receive its ongoing Enhanced A–CAM support once its Enhanced A–CAM support term begins, but if its compliance gap with the December 31, 2023 service milestone makes it eligible for a § 54.320(d)(1) non-compliance tier that requires support withholding, the Commission will withhold a percentage of the support recipient's ongoing Enhanced A–CAM support as required by the relevant non-compliance tier. At the time that the support recipient reports that it is eligible for Tier 1 status for the December 31, 2023 service milestone pursuant to its original obligation (*i.e.,* at the previous A–CAM program performance requirements and for the number of locations required by the December 31, 2023 service milestone), it will have its support fully restored and USAC will repay any funds that were recovered or withheld.

67. If the Commission determines that a legacy rate-of-return carrier receiving Enhanced A–CAM support has not met its legacy obligation to offer 25/3 Mbps to a required number of locations in its service area as required by December 31, 2023, it will treat the 25/3 Mbps deployment obligation as a continuing obligation and subject the rate-of-return carrier to the § 54.320(d)(1) non-compliance tiers depending on the size of its compliance gap. Accordingly, the Commission will withhold a portion of the rate-of-return carrier's ongoing Enhanced A–CAM support as required by the applicable non-compliance tier. If it is verified that the rate-of-return carrier has come into compliance within the one-year cure period, the carrier will have its support fully restored and USAC will repay any funds that were recovered or withheld. If the rate-of-return carrier does not come into compliance within the one-year cure period, the Commission will recover support associated with the original five-year support term pursuant to § 54.320(d)(2) for the locations to which it did not commercially offer 25/3 Mbps service. However, that carrier will be permitted to remain in the Enhanced A–CAM program and will continue to receive any remaining Enhanced A–CAM support. Like all high-cost recipients, Enhanced A–CAM participants will also remain subject to the Commission's other sanctions for non-compliance with the terms and conditions of high-cost funding, including but not limited to the Commission's existing enforcement procedures and penalties, reductions in support amounts, potential revocation of ETC designations, and suspension or debarment.

68. The Commission declines to expand eligibility to include competitive service providers as part of this Enhanced A–CAM offer. The Commission is not persuaded that it would be an efficient use of funds at this time. While the Commission has increasingly relied on competitive processes for delivery of high-cost funding, areas funded by A–CAM carriers present distinct challenges to competitive entry. In areas served by price cap carriers, the Commission provided a limited term of model-based support to incumbents with the goal of moving towards allocating support on a competitive basis in the relevant areas. In contrast, the Commission adopted A–CAM as a longer-term support program with the goal of providing certainty and stability to permit the incumbent service providers to invest for the future. While the Commission acknowledges its approach precludes other service providers from participating that may also be qualified to offer service in these areas, it would be inefficient now to fund competitive carriers in A–CAM areas where incumbent service providers have existing long-term funding commitments. Moreover, the record lacks suggestions for how to efficiently implement a competitive process. Instead, the Commission concludes that it is better to address this issue on a longer term basis in the context of its proceeding regarding the future of high-cost support. In the concurrently adopted NOI, the Commission seeks to build a record on how to reform its high-cost programs in the face of the changing broadband landscape and specifically ask about alternatives to using a cost model, including using competitive processes.

69. At the same time, the Commission recognizes the benefits of competitive processes to allocate government funding for broadband deployment. Thus, if the incumbent declines the Enhanced A–CAM offer, the Commission expects the unserved locations will become eligible for support through a competitive process (the BEAD Program).

70. *Elections.* The Commission delegates to the Bureau the authority to implement the process for carriers to elect to receive Enhanced A–CAM support, consistent with the same procedures adopted for its carriers electing to receive A–CAM II support. Commenters supported adopting the same procedures. Like with A–CAM II, elections will be voluntary, irrevocable, and made on a state-by-state basis.

71. The Commission requires that carriers make their elections by no later than October 1, 2023. The Commission believes this timing should ensure that elections are made in time for states and grantees to be made aware of which areas will be subject to an enforceable commitment for the deployment of qualifying broadband, and thus ineligible for BEAD funding. If any of the dependent deadlines or timeframes are extended, the Commission grants the Bureau the flexibility to similarly extend the deadline for elections as long as the elections take place in time for the acceptances to qualify as an enforceable commitment for the deployment of qualifying broadband as defined by the BEAD Program Funding (BEAD Program NOFO).

72. The Commission also requires carriers that accept an Enhanced A–CAM offer to identify in their election letters the technologies they plan to use to meet their Enhanced A–CAM deployment obligations. The Enhanced A–CAM deployment obligations are technologically neutral. The Commission expects that A–CAM

participants will disclose in good faith the technologies they intend to use to facilitate coordination with other funding programs. The Commission finds that requiring such disclosures will further its goal to maximize the deployment of high-quality broadband service by helping states and other eligible entities set allocations for the BEAD Program and further the efficient use of Federal broadband funding, including additional programs funded by other Federal agencies. The Commission directs the Bureau to make the acceptances public to inform, among other processes, the BEAD Program challenges conducted by states or other eligible entities and prevent any duplication of support to a location where it is determined that the Enhanced A–CAM service provider plans to deploy a technology that would satisfy the requirements for being deemed an enforceable commitment for the deployment of qualifying broadband to a location. Because acceptances will be made public, a carrier accepting an Enhanced A–CAM offer should not include any confidential trade secrets or commercial information in its acceptance.

73. *Participation Threshold.* The Commission also adopts a minimum carrier participation threshold for implementing the Enhanced A–CAM program. Specifically, the Commission concludes that it may not serve the public interest to proceed if existing A–CAM participants collectively choose to accept Enhanced A–CAM offers that in total cover less than 50% of the unserved locations that are eligible for support across all the offers to current A–CAM recipients. The Commission will exclude from this formula any locations covered by offers received by legacy rate-of-return carriers eligible to receive legacy support. While the Commission encourages legacy rate-of-return carriers to elect Enhanced A–CAM and expect that many will do so, it will not forecast a reasonable participation rate for those carriers. If the 50% participation threshold is not reached, the Commission will not proceed with the Enhanced A–CAM program.

74. The Commission believes that a minimum level of participation in Enhanced A–CAM will prevent the proliferation of high-cost mechanisms, each with its own rules and administrative requirements, and each self-selected by carriers to maximize universal service support. NTCA opposes the imposition of a participation threshold because it claims the Enhanced A–CAM program will most efficiently and effectively serve these areas. However, the Commission's goal for the Enhanced A–CAM program is to maximize the efficient use of universal service funds—both by leveraging existing A–CAM-supported networks to support the widespread deployment of 100/20 Mbps or faster broadband throughout rate-of-return carriers' service areas, and by preventing the duplication of funds across support programs in these areas. If fewer than half of the unserved locations included in offers to current A–CAM recipients are supported through Enhanced A–CAM, it seems unlikely that this goal will be met. The Commission also is not persuaded that it should decline to adopt a participation threshold simply because some commenters assume that ''a very substantial number'' of carriers will accept offers. Instead, the Commission finds that adopting a minimum participation threshold is a prudent approach that will enable us to safeguard the public funds by reassessing the program in the event that elections are too low to achieve its goals.

75. *Tribal Government Engagement.* The Commission has long recognized the deep digital divide that persists between Tribal lands and the rest of the country and emphasized that engagement between Tribal governments and communications providers, either currently providing service or contemplating the provision of service on Tribal lands, is vitally important to the successful deployment and provision of service. All recipients of high-cost support that serve Tribal lands must, pursuant to § 54.313(a)(5) of the Commission's rules, demonstrate that it has engaged with Tribal governments on a range of issues, including compliance with local rights of way, land use permitting facilities siting, and environmental and cultural preservation review processes, as well as Tribal business and licensing requirements, that are necessary for a carrier to obtain before fulfilling its deployment and service obligations. Through these obligatory Tribal engagements, and as demonstrated through successfully satisfying deployment obligations through previous high-cost programs, carriers receiving high-cost support through previous universal service programs should have received consent from the local Tribal government to satisfy the requisite permissions to deploy to certain locations. Further, because carriers that accept an Enhanced A–CAM offer already have an annual obligation to demonstrate they meaningfully engaged with the Tribal governments in their supported areas as existing high-cost support recipients, the Commission expects that they will be able to leverage any preexisting coordination and collaboration to immediately engage the relevant Tribal governments with respect to the steps necessary to complete the deployment required by Enhanced A–CAM. As such, and to continue the necessary consultation between carriers and the Tribal governments that oversee the lands which may contain eligible Enhanced A–CAM locations, Enhanced A–CAM carriers will also remain subject to the ongoing annual Tribal engagement obligations. Any carrier accepting an Enhanced A–CAM offer should be prepared to serve all locations in its study area, including those on Tribal lands.

76. In addition to an annual obligation to demonstrate they meaningfully engaged with the Tribal governments in their supported areas, the Commission requires carriers receiving Enhanced A–CAM support to initiate engagement with any relevant Tribal governments within 90 days of the Bureau extending an Enhanced A–CAM offer. In engaging with Tribal governments, Enhanced A–CAM carriers must be aware that the BEAD Program will not recognize the acceptance of an Enhanced A–CAM offer as an enforceable commitment for the deployment of qualifying broadband, ''unless it includes a legally binding agreement, which includes a Tribal Government Resolution, between the Tribal Government of the Tribal Lands encompassing that location, or its authorized agent, and a service provider offering qualifying broadband service to that location.'' The Commission expects carriers that intend to accept Enhanced A–CAM offers will act in good faith to provide the relevant Tribe(s) with an opportunity to consent to the Enhanced A–CAM carrier's deployment of broadband in the Tribal area. To further the objectives of encouraging deployment on Tribal lands by facilitating communications between service providers and the Tribal governments, and avoiding duplicative support across Federal programs, the Commission expects that carriers that intend to accept Enhanced A–CAM offers will take reasonable steps necessary to obtain Tribal consent meeting the BEAD Program requirements in time for states and other eligible entities to conduct their challenge processes to identify locations that are eligible for BEAD Program funding. If the state concludes that there is no Tribal Government Resolution or

legally binding agreement expressing consent as required by the BEAD Program NOFO, the Tribal locations eligible for Enhanced A–CAM support may, according to the BEAD Program NOFO, nonetheless become eligible for BEAD support.

77. To balance the Commission's goals of avoiding duplicative spending across Federal programs against the important and necessary engagement with Tribal governments over the deployment and provision of services over Tribal lands, if a state awards BEAD funds to another service provider to serve locations subject to an Enhanced A–CAM authorization, the Commission permits the Enhanced A–CAM carrier and the Tribal government to notify the Bureau that they mutually agree to forego the A–CAM deployment obligation, and the Bureau is directed to adjust the Enhanced A–CAM recipient's support and deployment obligations. The BEAD awards, unlike the other bases for adjustments to deployment obligations and support the Commission adopts in this document, would necessarily occur after the Enhanced A–CAM offers are made. The Commission finds, however, that carriers considering their Enhanced A–CAM offers will have adequate notice that Tribal locations may be de-authorized at a later date. The Commission finds that performing these adjustments is necessary to avoid duplication of funding across Federal programs.

78. *Adjusting the High-Cost Budget for Carriers Remaining on Legacy Support.* As the Commission has in previous A–CAM elections, it re-set the legacy support budget for CAF BLS and HCLS to reflect the exit from the budget control mechanism of newly electing A–CAM carriers. To effectuate this reset, the Commission set the legacy budget for 2024–25 at a level equal to 2023–24 legacy support claims less any frozen support received by carriers transitioning from legacy support to Enhanced A–CAM. The Commission will consider additional budget updates for legacy carriers proposed by NTCA and the Southeastern Rural Broadband Alliance in the concurrently adopted NPRM, as such proposals would benefit from additional comment by interested parties.

79. Recalibrating the budget now provides the added benefit of mitigating the uncertainty to the remaining legacy carriers caused by application of the Commission's budget control mechanism as the Commission considers additional budget updates. Support demand has outpaced the Commission's predictive judgments made in the *December 2018 Rate-of-Return Reform Order,* 84 FR 4711, February 19, 2019. The growth in projected support by carriers is due, in part, to an increased conversion of voice lines to broadband-only lines, which receive a higher support amount, and an increase in the number of new customers subscribing to broadband-only lines. This has ultimately resulted in projected estimated support demand substantially exceeding the annual high-cost budget in recent years and thus triggering the Commission's budget control mechanism. Absent recalibration, carriers would be under annual threat of increasing budget constraints going forward and the uncertainty of obtaining waiver relief while the Commission considers important and necessary budget updates.

80. *HCLS Cap.* As the Commission has done previously with respect to A–CAM elections, it directs NECA to rebase the cap on HCLS to reflect the election of model-based support by HCLS-eligible rate-of-return carriers. In the first annual HCLS filing following the election of model-based support, NECA shall calculate the amount of HCLS that those carriers would have received in the absence of their election, subtract that amount from the HCLS cap, then recalculate HCLS for the remaining carriers using the rebased amount.

81. *Cybersecurity and Supply Chain Risk Requirements.* The Commission requires Enhanced A–CAM carriers to implement operational cybersecurity and supply chain risk management plans by January 1, 2024—the start of the Enhanced A–CAM support term. The Commission also requires carriers to submit such plans to USAC, and certify that they have done so, by January 2, 2024 or within 30 days of approval under the Paperwork Reduction Act, whichever is later. Failure to submit the plans and make the certification shall result in 25% of monthly support being withheld until the carrier comes into compliance. The Commission's actions emphasize the critical importance of cybersecurity and supply chain risk management in modern broadband networks, consistent with broader initiatives across the Federal government, while striking an appropriate balance to ensure compliance with this important requirement that avoids disproportionate disruption to carriers' support.

82. Adopting this risk management requirement is necessary to ensure that the Enhanced A–CAM program does not deprive rural consumers in high-cost areas of broadband service that is as secure as the service deployed pursuant to other Federal funding initiatives, including through the BEAD Program. The BEAD Program will not fund areas where there is an enforceable commitment by an entity to build broadband. Therefore, if receipt of Enhanced A–CAM funding were not conditioned upon comparable cybersecurity and supply chain risk management requirements, the receipt of Enhanced A–CAM funding would likely leave those rural consumers served by Enhanced A–CAM carriers without comparable protection.

83. Consistent with the BEAD Program, carriers' cybersecurity risk management plans must reflect the latest version of the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity, and must reflect an established set of cybersecurity best practices, such as the standards and controls set forth in the Cybersecurity & Infrastructure Security Agency Cybersecurity Cross-sector Performance Goals and Objectives or the Center for internet Security Critical Security Controls. Carriers' supply chain risk management plans must incorporate the key practices discussed in NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry, and related supply chain risk management guidance from NIST 800–161.

84. If an Enhanced A–CAM carrier makes a substantive modification to its cybersecurity or supply chain risk management plan, the Commission requires that carrier to submit its updated plan to USAC within 30 days of making that modification. A modification to a cybersecurity or supply chain risk management plan will be considered as substantive if at least one of the following conditions apply:

• There is a change in the plan's scope, including any addition, removal, or significant alternation to the types of risks covered by the plan (*e.g.,* expanding a plan to cover new areas such as supply chain risks to Internet of Things devices or cloud security could be a substantive change);

• There is a change in the plan's risk mitigation strategies (*e.g.,* implementing a new encryption protocol or deploying a different firewall architecture);

• There is a shift in organizational structure (*e.g.,* creating a new information technology department or hiring a Chief Information Security Officer);

• There is a shift in the threat landscape prompting the organization to recognize that emergence of new threats or vulnerabilities that weren't previously accounted for in the plan;

• Updates are made to comply with new cybersecurity regulations, standards, or laws;

• Significant changes are made in the supply chain, including offboarding major suppliers or vendors, or shifts in procurement strategies that may impact the security of the supply chain; or

• A large-scale technological change is made, including the adoption of new systems or technologies, migrating to a new information technology infrastructure, or significantly changing the information technology architecture.

Further, in their FCC Form 481 filings following each subsequent support year, carriers shall certify that they have maintained their plans, whether they have submitted modifications in the prior year, and the date any modifications were submitted. At any point during the support term, if an Enhanced A–CAM carrier does not have in place operational cybersecurity and supply chain risk management plans meeting the Commission's requirements, it directs the Bureau to withhold 25% of the Enhanced A–CAM carrier's support until the Enhanced A–CAM carrier is able to come into compliance. The requirements the Commission adopts here will improve the cybersecurity of the nation's broadband networks and protect consumers from online risks such as fraud, theft, and ransomware that can be mitigated or eliminated through the implementation of accepted security measures.

85. The Commission also takes steps to mitigate concerns that development and implementation of cybersecurity plans are expensive and time consuming particularly for eligible carriers. The Commission affords carriers flexibility to include standards and controls in their cybersecurity management plans that are reasonably tailored to their business needs. The Commission believes that implementation of these approaches would facilitate the nation's cybersecurity goals.

86. The Commission's approach will also likely reduce compliance costs by allowing carriers that have already implemented the NIST Framework for Improving Critical Infrastructure Cybersecurity to comply with this requirement without redoing their plan so long as they implement an established set of cybersecurity best practices. To further mitigate costs for small providers, as suggested by NTCA, the Commission encourages Enhanced A–CAM providers to take advantage of existing Federal government resources designed to share supply chain security risk information with trusted communications providers and suppliers and facilitate the creation of cybersecurity and supply-chain risk management plans.

III. Procedural Matters

A. Paperwork Reduction Act

87. This final rule has new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA) Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new and modified information collection requirements contained in this proceeding. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, it previously sought specific comment on how they might further reduce the information collection burden for small business concerns with fewer than 25 employees. The Commission describes impacts that might affect small businesses, which includes most businesses with fewer than 25 employees.

B. Congressional Review Act

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

89. *Effective Date.* The Commission concludes that good cause exists to make this final rule effective immediately upon publication in the **Federal Register**, pursuant to section 553(d)(3) of the Administrative Procedure Act, except for those portions containing information collection requirements that have not been approved by the OMB. Agencies determining whether there is good cause to make an order take effect less than 30 days after **Federal Register** publication must balance the necessity for immediate implementation against principles of fundamental fairness that require that all affected persons be afforded reasonable time to prepare for the effective date.

90. Here, the Commission finds that implementing the rules for the Enhanced A–CAM program as expeditiously as possible is necessary for aligning Enhanced A–CAM offers with the allocation of support through the BEAD program to avoid the duplication of funds across programs and promote the efficient use of Federal funds in supporting broadband deployment. The Commission concludes that furthering this objective outweighs any potential impact on affected parties. This final rule does not require affected parties to take any specific action until the Bureau extends Enhanced A–CAM offers, and this final rule delegates to the Bureau the task of implementing the process for carriers to accept offers, consistent with the same procedures the Commission adopted for carriers electing to receive A–CAM II support. Accordingly, even with immediate implementation, eligible rate-of-return carriers will still be afforded reasonable time to take any necessary steps to prepare to accept an Enhanced A–CAM offer before and after the Bureau extends such offers.

91. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support, Notice of Proposed Rulemaking* (*Enhanced ACAM FNPRM*) released in May of 2022. The Commission sought written public comment on the proposals in the *Enhanced ACAM NPRM,* including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

92. In this final rule, the Commission adopts the Enhanced A–CAM program as a voluntary path for supporting the widespread deployment of 100/20 Mbps broadband service throughout the rural areas served by carriers currently receiving A–CAM support and in areas served by rate-of-return carriers eligible to receive legacy support by the end of 2028. In adopting this program, the Commission furthers its long-standing goals by promoting the universal availability of voice and broadband networks, while also taking measures to minimize the burden on the nation's ratepayers. The Commission also adopts requirements for the Enhanced A–CAM program to complement existing Federal, state, and local funding programs, so that broadband funding can be used efficiently to maximize the deployment of high-quality broadband service across the United States.

93. In exchange for the commitment to complete this deployment, the Commission will extend offers to current A–CAM carriers and current legacy support recipients within a

budget totaling no more than $1.27 billion annually, or no more than $1.33 billion annually if certain conditions are met, over a 15-year term beginning January 1, 2024. The Commission requires that carriers make their Enhanced A–CAM elections by no later than October 1, 2023 to ensure alignment with the expected BEAD Program timeline as required by the Infrastructure Act and obligate them to serve 100% of unserved locations with service levels consistent with the standard established in the Infrastructure Act. The Commission also establishes a framework to avoid duplicating existing efforts from other government programs funding broadband deployment. To address the unique challenges of deploying high-speed broadband in rural Tribal communities, the Commission also adopts a Tribal Broadband Factor for Enhanced A–CAM. The Commission adopts requirements and safeguards for Enhanced A–CAM that address other concerns expressed by commenters requesting that they wait before implementing Enhanced A–CAM. In response to concerns that areas will not be served as quickly as they might be if they were funded by the BEAD Program, the Commission aligns the deployment timeline for Enhanced A–CAM recipients with the timeline required by the Infrastructure Act. The Commission also requires performance requirements that align with the Infrastructure Act, and subject Enhanced A–CAM recipients to the reporting requirements and non-compliance measures that we apply to all high-cost support recipients so that they can monitor and incentivize deployment. The Commission also adopts a minimum carrier participation threshold of 50% for implementing the Enhanced A–CAM program. As the Commission extends Enhanced A–CAM offers to carriers serving Tribal lands, it requires Enhanced A–CAM recipients engage, within 90 days of their Enhanced A–CAM elections and at least annually thereafter, with relevant Tribal government(s) regarding deployment to Tribal locations.

94. 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 rules adopted herein. 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 that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

95. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes, 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 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.

96. 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 2020, there were approximately 447,689 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.

97. 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 2017 Census of Governments indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,931 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

98. Small entities potentially affected by the rules herein include Wired Telecommunications Carriers, Local Exchange Carriers (LECs), Incumbent Local Exchange Carriers (Incumbent LECs), Competitive Local Exchange Carriers (LECs), Interexchange Carriers (IXCs), Local Resellers, Toll Resellers, Other Toll Carriers, Prepaid Calling Card Providers, Wireless Telecommunications Carriers (except Satellite), Cable and Other Subscription Programming, Cable Companies and Systems (Rate Regulation), Cable System Operators (Telecom Act Standard), All Other Telecommunications, Wired Broadband internet Access Service Providers (Wired ISPs), Wireless Broadband internet Access Service Providers (Wireless ISPs or WISPs), internet Service Providers (Non-Broadband), All Other Information Services.

99. In this final rule, the Commission adopts rules that will create recordkeeping, reporting and other compliance obligations for small and other recipients of the Enhanced A–CAM program. The Commission adopts a 15-year support term and deployment obligations that require every Enhanced A–CAM recipient to deploy, over a four-year term, 100/20 Mbps or faster broadband service, with latency of 100 milliseconds or less, and usage allowances reasonably comparable to those available through comparable offerings in urban areas, to all unserved locations in their service areas. Enhanced A–CAM recipients must also offer voice service to their required locations, and must offer their voice and broadband services at rates that are reasonably comparable to offerings of comparable services in urban areas. Additionally, Enhanced A–CAM recipients must participate in the Affordable Connectivity Program as well as any successor program and describe and certify their compliance with this requirement. Enhanced A–CAM carriers must also implement operational cybersecurity and supply chain risk management plans by January 1, 2024, submit and certify such plans, and file updates for the plans when there are substantive modifications with 30 days of the modification. Enhanced A–CAM carriers must annually certify that they have maintained their cybersecurity and supply chain risk management plans, report whether they filed any substantive modifications, and the date the modification was filed.

100. Like all high-cost support recipients, Enhanced A–CAM recipients must participate in the Lifeline Program. Enhanced A–CAM recipients also remain subject to the Commission's National Security Supply Chain proceeding and remain subject to the annual requirement to demonstrate they

meaningfully engaged with the Tribal governments in their supported areas. To the extent a carrier's Enhanced A–CAM offer covers Tribal lands, the Commission requires Enhanced A–CAM recipients engage, within 90 days of the Bureau extending an Enhanced A–CAM offer, and at least annually thereafter—as they currently are, with relevant Tribal government(s) regarding deployment to Tribal locations.

101. The Commission also adopts interim deployment milestones. Specifically, at the end of a carrier's second year of Enhanced A–CAM support, the carrier must deploy 100/20 Mbps or faster broadband service to at least 50% of required new locations, and the carrier must deploy such service to an additional 25% of required new locations at the end of each subsequent year, until the carrier deploys to 100% of required new locations at the end of the fourth year of Enhanced A–CAM support. Enhanced A–CAM recipients will also be subject to the same performance testing requirements as other high-cost support recipients, along with the same support withholding and recovery provisions currently applicable to A–CAM carriers and other high-cost support recipients, with the exception that the Commission does not extend to Enhanced A–CAM the flexibility for A–CAM carriers to deploy to only 95% of their required locations by the end of their final milestone without a reduction in support.

102. To make efforts to avoid duplicative Federal broadband funding, Enhanced A–CAM recipients will be required to participate, in good faith, in any relevant BEAD Program challenge processes conducted by the states or other BEAD Program eligible entities. Additionally, they will be required to certify annually that they are not receiving or using BEAD Program funding or other future Federal grant funding, unless otherwise specified herein, that supports broadband deployment to those areas in which they are receiving Enhanced A–CAM support. Eligible carriers that elect to participate in the Enhanced A–CAM program must identify in their election letters the technology they intend to use to meet their deployment obligations on a state-by-state basis. Legacy rate-of-return carriers that choose to accept an Enhanced A–CAM offer will have requirements related to their tariffs. To monitor the use of Enhanced A–CAM support to ensure that it is being used for its intended purposes, support recipients will be required to file location data on an annual basis in the online High Cost Universal Broadband (HUBB) portal and to make certifications when they have met their service milestones. Recipients must also file annual FCC Form 481 reports. Additionally, support recipients will be subject to the annual § 54.314 certifications and the same record retention and audit requirements as other high-cost ETCs.

103. The Commission does not have sufficient information on the record to determine whether small entities will be required to hire professionals to comply with its decisions or to quantify the cost of compliance for small entities. The Commission, however, anticipates the approaches it has taken to implement the requirements will have minimal or de minimis cost implications and may reduce compliance requirements for small entities that may have smaller staff and fewer resources.

104. The RFA requires an agency to provide, ''a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in this final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.''

105. The Commission has considered the economic impact on small entities in reaching its final conclusions and taking action in this proceeding. The rules that the Commission adopts in this final rule will provide greater certainty and flexibility for all carriers, including small entities. For example, the Commission adopts a process for calculating Enhanced A–CAM offers that takes into account the challenges that all Enhanced A–CAM recipients, including small businesses, may face in serving high-cost areas. Specifically, the Commission adopts a voluntary election process that allows each eligible carrier to consider whether accepting an Enhanced A–CAM offer will be most beneficial to that carrier. The Commission adopts a Tribal Broadband Factor to address the unique challenges for deploying high-speed broadband in rural Tribal communities. Moreover, the Commission delegated to the Bureau consideration of whether Enhanced A–CAM support should be increased to cover operational costs for carriers that already deployed broadband at speeds of 100/20 Mbps, which may ease the economic burden on small carriers.

106. The Commission creates a voluntary pathway to model-based support for small carriers that currently receive support under legacy embedded cost support mechanisms. The Commission also provides transitional support to those legacy rate-of-return carriers that accept an Enhanced A–CAM offer that is lower than their existing legacy support, easing the economic burden on small entities that choose to accept Enhanced A–CAM offers by giving them time to adapt to the reduction in support. The legacy carriers that elect model-based support will also be eligible to elect incentive regulation for their business data service offerings, reducing the economic burden of providing those services. The Commission also takes action to re-set the legacy support budget for CAF BLS and HCLS to reflect the exit from the budget control mechanism of newly electing A–CAM carriers. This recalibration will mitigate the uncertainty for rate-of-return carriers that continue to receive legacy support, many of which are small businesses, caused by application of the Commission's budget control mechanism as the Commission considers additional budget updates. Absent recalibration, carriers would be under annual threat of increasing budget constraints going forward and the uncertainty of obtaining waiver relief while the Commission considers important and necessary budget updates.

107. The Commission also considered the Coalition's proposal to require complete deployment within eight years, but rejects this in favor of a four-year deployment timeline for Enhanced A–CAM, beginning in 2025 and ending in 2028. The additional time may favor small carriers who may require more time to implement a construction and deployment plan, however that timeline runs counter to the Commission's goal of achieving buildout to all locations within four years. Instead, the Commission directs the Bureau to consider, in 2027, whether a one-year extension for Enhanced A–CAM carriers' final deployment milestones would be appropriate in light of any such BEAD Program deployment delays. In adopting cybersecurity requirements, the Commission took steps to mitigate concerns that development and implementation of cybersecurity plans are expensive and time consuming. The Commission affords carriers flexibility to include standards and controls in their cybersecurity management plans that are reasonably tailored to their business needs. The Commission's approach will also likely reduce compliance costs because it allows carriers that have already implemented the NIST Framework for Improving Critical Infrastructure Cybersecurity to comply with the requirement without

redoing their plan so long as they implement an established set of cybersecurity best practices. To further mitigate costs for small providers the Commission encouraged Enhanced A–CAM carriers to take advantage of existing Federal government resources designed to share supply chain security risk information with trusted communications providers and suppliers and facilitate the creation of cybersecurity and supply-chain risk management plans.

108. Finally, the reporting requirements the Commission adopts for all Enhanced A–CAM support recipients are tailored to ensuring that support is used for its intended purpose and so that it can monitor the progress of recipients in meeting their service milestones. The Commission finds that the importance of monitoring the use of the public's funds outweighs the burden of filing the required information on all entities, including small entities, particularly because much of the information that it requires they report is information the Commission expects they will already be collecting to ensure they comply with the terms and conditions of support and they will be able to submit their location data on a rolling basis to help minimize the burden of uploading a large number of locations at once.

IV. Ordering Clauses

109. Accordingly, *it is ordered,* pursuant to the authority contained in sections 4(i), 214, 218–220, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 214, 218–220, 254, 303(r), and 403, and §§ 1.1 and 1.425 of the Commission's rules, 47 CFR 1.1 and 1.425 this Report and Order *is adopted*. The Report and Order *shall be effective* upon publication in the **Federal Register**, except for portions containing information collection requirements in §§ 54.308, 54.313 and 54.316 that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of these provisions.

110. *It is further ordered* that part 54 of the Commission's rules *is amended* as set forth in the following, and that any such rule amendments that contain new or modified information collection requirements that require approval by the OMB under the Paperwork Reduction Act *shall be effective* after announcement in the **Federal Register** of OMB approval of the rules, and on the effective date announced therein.

List of Subjects in 47 CFR Part 54

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

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

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

PART 54—UNIVERSAL SERVICE

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

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

■ 2. Amend § 54.5 by revising the definition of ''High-cost support'' to read as follows:

§ 54.5 Terms and definitions.

* * * * *

High-cost support. ''High-cost support'' refers to those support mechanisms provided pursuant to subparts D, J, K, L, M, and O of this part.

* * * * *

■ 3. Amend § 54.308 by revising paragraph (a)(1) introductory text and adding paragraphs (a)(1)(v), (a)(3) and (e) to read as follows:

§ 54.308 Broadband public interest obligations for recipients of high-cost support.

(a) * * *

(1) Carriers that have elected to receive Connect America Fund-Alternative Connect America Cost Model (CAF–ACAM) support pursuant to § 54.311, other than Enhanced A–CAM support, are required to offer broadband service at actual speeds of at least 10 Mbps downstream/1 Mbps upstream to a defined number of locations as specified by public notice, with a minimum usage allowance of 150 GB per month, subject to the requirement that usage allowances remain consistent with mean usage in the United States over the course of the term. In addition, such carriers must offer other speeds to subsets of locations, as specified in paragraphs (a)(1)(i) through (v) of this section:

* * * * *

(v) After December 31, 2023, to the extent that an Enhanced A–CAM carrier was previously subject to the foregoing deployment obligations pursuant to A–CAM I, Revised A–CAM I, or A–CAM II, the Enhanced A–CAM carrier will instead be subject to § 54.308(a)(3).

* * * * *

(3) An Enhanced A–CAM carrier, as defined by § 54.311(a)(4), must offer broadband speeds of at least 100 Mbps downstream/20 Mbps upstream to 100 percent of locations in its study areas within the state by the end of 2028.

(i) Enhanced A–CAM required locations are those locations identified in the National Broadband Map within the carrier's service area where voice and terrestrial broadband services of speeds 100 Mbps downstream/20 Mbps upstream or faster are not yet available or lack an enforceable commitment for deployment of such broadband service. In the context of Enhanced A–CAM, an enforceable commitment exists where a carrier commits to deploying broadband service as a condition of any federal or state grants or other funding. The Wireline Competition Bureau shall provide a list of Enhanced A–CAM required locations for each carrier concurrently with the Enhanced A–CAM offer pursuant to § 54.311(a), and will update such list to reflect any additional information related locations, broadband coverage, or enforceable commitments determined to have existed at the time of the offer.

(ii) An Enhanced A–CAM carrier that has reported deployment of 100 Mbps downstream/20 Mbps upstream or faster service to particular locations in its Enhanced A–CAM study area(s) in the National Broadband Map or the Universal Service Administrative Company's High Cost Universal Broadband Portal must maintain the same or faster service at those locations through the end of the Enhanced A–CAM term.

* * * * *

(e) *Enhanced A–CAM Cybersecurity and Supply Chain Risk Management Requirements.* (1) An Enhanced A–CAM carrier shall implement operational cybersecurity and supply chain risk management plans meeting the requirements of this section by January 1, 2024.

(2) An Enhanced A–CAM carrier shall certify that it has implemented plans required under paragraph (e)(1) of this section and submit the plans to the Administrator by January 2, 2024 or within 30 days of approval under the Paperwork Reduction Act, whichever is *later.*

(3) Enhanced A–CAM carriers that fail to comply with Enhanced A–CAM cybersecurity and supply chain risk

management requirements are subject to the following non-compliance measures:

(i) The Wireline Competition Bureau shall direct the Administrator to withhold 25 percent of the Enhanced A–CAM carrier's monthly support for failure to comply with paragraph (e)(2) of this section until the carrier makes the required certification and submits the required plans.

(ii) At any time during the support term, if an Enhanced A–CAM carrier does not have in place operational cybersecurity and supply chain risk management plans meeting the requirements of this section, Wireline Competition Bureau shall direct the Administrator to withhold 25 percent of the carrier's monthly support.

(iii) Once the carrier comes into compliance, the Administrator shall stop withholding support, and the carrier will receive all of the support that had been withheld pursuant to this section.

(4) An Enhanced A–CAM carrier's cybersecurity risk management plans shall reflect the latest version of the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity, and shall reflect an established set of cybersecurity best practices, such as the standards and controls set forth in the Cybersecurity & Infrastructure Security Agency (CISA) Cybersecurity Cross-sector Performance Goals and Objectives or the Center for Internet Security Critical Security Controls.

(5) An Enhanced A–CAM carrier's supply chain risk management plans shall incorporate the key practices discussed in NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry, and related supply chain risk management guidance from NIST 800–161.

(6) If an Enhanced A–CAM carrier makes a substantive modification to its plans under this section, the carrier shall file an updated plan with the Administrator within 30 days of making the modification. A modification to a plan under this section is substantive if at least one of the following conditions apply:

(i) There is a change in the plan's scope, including any addition, removal, or significant alternation to the types of risks covered by the plan (*e.g.,* expanding a plan to cover new areas such as supply chain risks to Internet of Things devices or cloud security could be a substantive change);

(ii) There is a change in the plan's risk mitigation strategies (*e.g.,* implementing a new encryption protocol or deploying a different firewall architecture);

(iii) There is a shift in organizational structure (*e.g.,* creating a new information technology department or hiring a Chief Information Security Officer);

(iv) There is a shift in the threat landscape prompting the organization to recognize that emergence of new threats or vulnerabilities that weren't previously accounted for in the plan;

(v) Any updates made to comply with new cybersecurity regulations, standards, or laws;

(vi) Significant changes in the supply chain, including offboarding major suppliers or vendors, or shifts in procurement strategies that may impact the security of the supply chain; or

(vii) Any large-scale technological changes, including the adoption of new systems or technologies, migrating to a new information technology infrastructure, or significantly changing the information technology architecture.

■ 4. Amend § 54.311 by:

■ a. Revising paragraphs (a) introductory text, (a)(2) and (3);

■ b. Adding paragraph (a)(4);

■ c. Revising paragraphs (b) and (c);

■ d. Revising paragraph (d) introductory text;

■ e. Adding paragraphs (d)(3) and (4);

■ f. Revising paragraph (e) introductory text; and

■ g. Adding paragraphs (e)(4)(iii), (e)(5) and (6), and (f);

The revisions and additions read as follows:

§ 54.311 Connect America Fund Alternative-Connect America Cost Model

(a) *Voluntary election of model-based support.* A rate-of-return carrier (as that term is defined in § 54.5) receiving support pursuant to subparts K or M of this part shall have the opportunity to voluntarily elect, on a state-level basis, to receive Connect America Fund–Alternative Connect America Cost Model (CAF–ACAM) support as calculated by the Alternative–Connect America Cost Model (A–CAM) adopted by the Commission in lieu of support calculated pursuant to subparts K or M of this part, subject to the conditions specific to each A–CAM offer as determined by the Commission. Any rate-of-return carrier not electing support pursuant to this section shall continue to receive support calculated pursuant to those mechanisms as specified in Commission rules for high-cost support.

* * * * *

(2) For the purposes of this section, ''Revised A–CAM I'' refers to carriers initially authorized to receive CAF–ACAM support as of January 24, 2017, and were subsequently authorized to receive CAF–ACAM pursuant to a revised offer on April 29, 2019. For such carriers, the first program year of CAF–ACAM is 2017.

(3) For the purposes of this section, ''A–CAM II'' refers to carriers initially authorized to receive A–CAM support on August 22, 2019 or November 13, 2020. For such carriers, the first program year of CAF–ACAM is 2019.

(4) For purposes of this section, ''Enhanced A–CAM'' refers to carriers authorized to receive Enhanced A–CAM support after October 1, 2023. For the purpose of determining deployment obligations for such carriers, the first program year of CAF–ACAM is 2025.

(b) *Geographic areas eligible for support.* (1) CAF–ACAM model-based support, except for Enhanced A–CAM support, will be made available for a specific number of locations in census blocks identified as eligible for each carrier by public notice. The eligible areas and number of locations for each state identified by the public notice shall not change during the term of support identified in paragraph (c) of this section.

(2) Enhanced A–CAM support will be made available for each carrier's service areas within the state, in consideration for the deployment and maintenance obligations described in § 54.308(a)(3).

(c) *Term of support.* CAF–ACAM model-based support shall be provided to A–CAM I carriers for a term that extends until December 31, 2026, to Revised A–CAM I and A–CAM II carriers for a term that extends until December 31, 2028, and to Enhanced A–CAM carriers for a term that extends from January 1, 2024, until December 31, 2038.

(d) *Interim deployment milestones.* Recipients of CAF–ACAM model-based support must meet the following interim milestones with respect to their deployment obligations set forth in §§ 54.308(a)(1)(i) and 54.308(a)(3).

* * * * *

(3) For the purposes of A–CAM I, Revised A–CAM I, and A–CAM II, compliance shall be determined based on the total number of fully funded locations in a state. Carriers that complete deployment to at least 95 percent of the requisite number of locations will be deemed to be in compliance with their deployment obligations. The remaining locations that receive capped support are subject to the standard specified in § 54.308(a)(1)(ii).

(4) Enhanced A–CAM carriers must complete deployment of 100/20 Mbps

service to a number of locations equal to 50 percent of locations required by § 54.308(a)(3)(i) by the end of 2026, 75 percent of requisite locations by the end of 2027, and 100 percent of requisite locations by the end of 2028. After December 31, 2023, to the extent that an Enhanced A–CAM carrier was subject to the interim deployment milestones set forth in § 54.311(d)(1) and (2), the Enhanced A–CAM carrier will instead be subject to the interim deployment milestones set forth in this paragraph (d)(4).

(e) *Transition to CAF–ACAM Support.* An A–CAM I, Revised A–CAM I, A–CAM II, or Enhanced A–CAM carrier not previously subject to A–CAM support, any of whose final model-based support is less than the carrier's legacy rate-of-return support in its base year as defined in paragraph (e)(4) of this section, will transition as follows:

* * * * *

(4) * * *

(iii) For Enhanced A–CAM carriers not previously subject to A–CAM I, Revised A–CAM I, or A–CAM II, the amount of high-cost loop support and Connect America Fund—Broadband Loop Support disbursed to the carrier for 2022 without regard to prior period adjustments related to years other than 2022, as determined by the Administrator as of July 31, 2023 and publicly announced prior to the election period for the voluntary path to the model. The first year of the transition pursuant to this paragraph (e) will be 2035.

(5) An Enhanced A–CAM carrier not previously subject to A–CAM I, Revised A–CAM I, or A–CAM II, and whose final model-based support is less than the carrier's legacy rate-of-return support in its base year as defined in paragraph (e)(4)(iii) of this section, will transition from its frozen base year support to its full Enhanced A–CAM support on the following schedule:

(i) In 2024–2029, it will receive its frozen base year support.

(ii) In 2030, it will receive its base year support minus 4% of the base year support;

(iii) In 2031, it will receive its base year support minus 8% of the base year support;

(iv) In 2032, it will receive its base year support minus 12% of the base year support;

(v) In 2033, it will receive its base year support minus 16% of the base year support;

(vi) In 2034, it will receive its base year support minus 20% of the base year support;

(vii) In 2035–2038, it will transition to its Enhanced A–CAM support pursuant to paragraphs (e)(1) through (3) of this section.

(6) An Enhanced A–CAM carrier that was previously subject to A–CAM I, Revised A–CAM I, or A–CAM II and will continue to receive transitional support consistent with its prior A–CAM I, Revised A–CAM I, or A–CAM II authorization, and will not have its transitional support amount adjusted to reflect its Enhanced A–CAM support amounts.

(f) *Legacy Carrier Transitioning to Higher Enhanced A–CAM.* An Enhanced A–CAM carrier that was not subject to A–CAM I, Revised A–CAM I, or A–CAM II and whose final model-based support is more than the carrier's legacy rate-of-return support in its base year as defined in paragraph (f)(2) of this section, will transition from its frozen base year support to its full Enhanced A–CAM support.

(1) The transition will occur on the following schedule:

(i) In 2024–2029, it will receive its frozen base year support.

(ii) In 2030, it will receive its base year support plus 20% of the difference between its base year support and its Enhanced A–CAM support;

(iii) In 2031, it will receive its base year support plus 40% of the difference between its base year support and its Enhanced A–CAM support;

(iv) In 2032, it will receive its base year support plus 60% of the difference between its base year support and its Enhanced A–CAM support;

(v) In 2033, it will receive its base year support plus 80% of the difference between its base year support and its Enhanced A–CAM support; and

(vi) In 2034, it will receive its Enhanced A–CAM support.

(2) The carrier's base year support for purposes of the calculation of transition payments is the amount of high-cost loop support and Connect America Fund—Broadband Loop Support disbursed to the carrier for 2022 without regard to prior period adjustments related to years other than 2022, as determined by the Administrator as of July 31, 2023 and publicly announced prior to the election period for the voluntary path to the model.

■ 5. Amend § 54.313 by revising paragraph (f)(1) introductory text, (f)(1)(i), and adding paragraph (f)(6) to read as follows:

§ 54.313 Annual reporting requirements for high-cost recipients.

* * * * *

(f) * * *

(1) Beginning July 1, 2015 and Every Year Thereafter. The following information:

(i) If the rate-of-return carrier is receiving support pursuant to subparts K and M of this part, a certification that it is taking reasonable steps to provide upon reasonable request broadband service at actual speeds of at least 25 Mbps downstream/3 Mbps upstream, with latency suitable for real-time applications, including Voice over internet Protocol, and usage capacity that is reasonably comparable to comparable offerings in urban areas as determined in an annual survey, and that requests for such service are met within a reasonable amount of time; if the rate-of-return carrier receives CAF–ACAM support, except for Enhanced A–CAM support, a certification that it is meeting the relevant reasonable request standard; if the carrier is receiving Enhanced A–CAM support, a certification that it is offering broadband service with latency suitable for real-time applications, including Voice over internet Protocol, and usage capacity that is reasonably comparable to comparable offerings in urban areas; or if the rate-of-return carrier is receiving Alaska Plan support pursuant to § 54.306, a certification that it is offering broadband service with latency suitable for real-time applications, including Voice over internet Protocol, and usage capacity that is reasonably comparable to comparable offerings in urban areas, and at speeds committed to in its approved performance plan to the locations it has reported pursuant to § 54.316(a), subject to any limitations due to the availability of backhaul as specified in paragraph (g) of this section.

* * * * *

(6) Enhanced A–CAM carriers must provide the following:

(i) Enhanced A–CAM carriers must certify that, in the previous calendar year, they participated, in good faith, in any relevant BEAD Program challenge processes or other processes conducted by states or other BEAD Program eligible entities to determine the eligibility of locations for the BEAD Program, and that they otherwise coordinated with states, Tribes, and other eligible entities to help avoid duplicative federal broadband funding. Additionally, Enhanced A–CAM carriers must certify that, in the previous calendar year, they complied with the obligation not to receive or use BEAD Program funding or other future federal grant funding, unless otherwise specified by the Commission or Bureau, that supports broadband deployment for those locations for which they are receiving Enhanced A–CAM support.

(ii) Enhanced A–CAM carriers must describe how and certify that, in the previous calendar year, they continued to participate in the Affordable Connectivity Program or any substantially similar successor program, as required by the terms of their Enhanced A–CAM offers.

(iii) Enhanced A–CAM carriers must certify that they have maintained their cybersecurity and supply chain risk management plans pursuant to § 54.308(e), report whether they filed any substantive modifications pursuant to § 54.308(e)(6) in the prior year, and report the date they filed any substantive modifications.

* * * * *

■ 6. Amend § 54.316 by adding paragraph (a)(9), revising paragraph (b)(2), and adding paragraph (b)(8) to read as follows:

§ 54.316 Broadband deployment reporting and certification requirements for high-cost recipients.

(a) * * *

(9) Recipients subject to the requirements of § 54.308(a)(3) shall report the number of locations for each state and locational information, including geocodes, indicating whether they are offering service providing speeds of at least 100 Mbps downstream/20 Mbps upstream.

(b) * * *

(2) Rate-of-return carriers electing CAF–ACAM support pursuant to § 54.311, other than Enhanced A–CAM carriers, shall provide:

* * * * *

(8) Enhanced A–CAM carriers shall provide, no later than March 1 following each service milestone specified in § 54.311(d)(3), a certification that by the end of the prior calendar year, it was offering broadband meeting the requisite public interest obligations to the required percentage of its required locations in the state.

* * * * *

[FR Doc. 2023–16674 Filed 8–16–23; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 203, 204, 206, 212, 215 and 235

[Docket DARS–2023–0002]

RIN 0750–AL57

Defense Federal Acquisition Regulation Supplement: Defense Commercial Solutions Opening (DFARS Case 2022–D006)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2022 that authorizes DoD to acquire innovative commercial products and commercial services using general solicitation competitive procedures. This final rule also implements a section of the National Defense Authorization Act for Fiscal Year 2023.

DATES: Effective August 17, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanette Snyder, 703–508–7524.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 88 FR 6605 on January 31, 2023, to implement section 803 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2022 (Pub. L. 117–81). Section 803 modifies 10 U.S.C. 2380c (redesignated as 10 U.S.C. 3458) to give DoD the authority to acquire innovative commercial products and commercial services through a competitive selection of proposals resulting from a general solicitation and the peer review of such proposals. Section 803 of the NDAA for FY 2022 also repealed section 879 of the NDAA for FY 2017, which authorized a pilot program providing the same authority for a limited period of time. In addition, section 814 of the NDAA for FY 2023 (Pub. L. 117–263) amended 10 U.S.C. 3458 by striking ''fixed-price incentive fee contracts'' and inserting ''fixed-price incentive contracts''. Therefore, this final rule incorporates this statutory amendment. One respondent submitted a public comment in response to the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comment in the development of the final rule; however, no changes were made to the rule as a result of the comment received. A discussion of the comment and a summary of significant changes is provided, as follows:

A. Summary of Significant Changes From the Proposed Rule

Section 814 of the NDAA for FY 2023 (Pub. L. 117–263) amended section 3458 of title 10, United States Code, by striking ''fixed-price incentive fee contracts'' and inserting ''fixed-price incentive contracts''. Therefore, this final rule amends DFARS 212.7002(b) to clarify the contract types that may be used in conjunction with a commercial solutions opening.

B. Analysis of Public Comments

Comment: One respondent submitted a comment regarding banking practices involving Oregon.

Response: This comment is outside the scope of this rule.

C. Other Changes

This final rule removes the reference to section 803 of the NDAA for FY 2022 (Pub. L. 117–81) at DFARS 212.7000, since the authority for commercial solutions openings is now codified at 10 U.S.C. 3458. The new DFARS section 203.104–1 is reformatted to reflect standard drafting conventions. The new paragraph at 206.102 is moved to new section 206.102–70 to reflect standard drafting conventions. In section 212.102 paragraph (a)(i)(B), the obsolete term ''commercial item determination'' is replaced with ''commercial product or commercial service determination.'' This change was included in the final rule for DFARS Case 2018–D066, published at 88 FR 6578 on January 31, 2023; however, the change was not made in the Code of Federal Regulations.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold, for Commercial Products Including Commercially Available Off-the-Shelf Items, and for Commercial Services

This rule does not create any new solicitation provisions or contract clauses. It does not impact any existing solicitation provisions or contract clauses, or their applicability to contracts valued at or below the simplified acquisition threshold, for commercial products including commercially available off-the-shelf items, or for commercial services.