

§ 2553.12 Definitions.

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Adequate staffing level. The number of project staff or full-time equivalent needed by a sponsor to manage the AmeriCorps Seniors project operations considering such factors as: Number of budgeted volunteers, number of volunteer stations, and the size of the service area.

AmeriCorps. The Corporation for National and Community Service, established pursuant to section 191 of the National and Community Service Act of 1990, as amended, 42 U.S.C. 12651, which operates as AmeriCorps.

AmeriCorps Seniors. The collective name for the Senior Companion Program (SCP), the Foster Grandparent Program (FGP), the Retired and Senior Volunteer Program (RSVP), and Demonstration Programs, all of which are established under parts A, B, C, and E, title II of the Act.

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■ 24. In § 2553.25, revise paragraphs (c) and (h) to read as follows:

§ 2553.25 What are a sponsor's administrative responsibilities?

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(c) Employ project staff, including a project director, to accomplish project objectives and manage the functions and activities delegated to project staff for AmeriCorps Seniors project(s) within its control. The project director may participate in activities to coordinate project resources with those of related local agencies, boards, or organizations. Staffing must be sufficient to support the size, scope, and quality of project operations.

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(h) Comply with, and ensure that Memorandums of Understanding require all volunteer stations to comply with, all applicable civil rights laws and regulations, including non-discrimination based on disability.

■ 25. In § 2553.72, revise paragraph (a) paragraph heading and paragraphs (a)(1) and (c) to read as follows:

§ 2553.72 What are project funding requirements?

(a) *Is non-AmeriCorps support required?* (1) An AmeriCorps grant may be awarded to fund up to 90 percent of the total project cost.

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(c) *May AmeriCorps restrict how a sponsor uses locally generated contributions in excess of the non-AmeriCorps support required?* Whenever locally generated contributions to RSVP projects are in excess of the non-AmeriCorps funds required (10 percent of the total cost),

AmeriCorps may not restrict the manner in which such contributions are expended, provided such expenditures are consistent with the provisions of the Act.

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■ 26. In § 2553.91, revise paragraph (c)(1) to read as follows:

§ 2553.91 What legal limitations apply to the operation of the RSVP volunteer program and to the expenditure of grant funds?

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(c) * * *

(1) An agency or organization to which AmeriCorps Seniors volunteers are assigned or which operates or supervises any AmeriCorps Seniors program shall not request or receive any compensation from AmeriCorps Seniors volunteers or from beneficiaries for services of AmeriCorps Seniors volunteers.

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§§ 2553.12 through 2553.108 [Amended]

■ 27. In addition to the amendments set forth above, in §§ 2552.12 through 2552.108:

■ a. Remove the word “CNCS” and add in its place the word “AmeriCorps”, wherever it appears; and

■ b. Remove the word “non-CNCS” and add in its place the word “non-AmeriCorps”, wherever it appears.

Fernando Laguarda,
General Counsel.

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 54**

[WC Docket Nos. 10–90, 16–271, 18–143, 19–126; AU Docket No. 20–34; FCC 24–77; FR ID 201594]

Wireline Competition Bureau Seeks Comment on Leveraging the Broadband Serviceable Location Fabric for High-Cost Support Mechanism Deployment Obligations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Wireline Competition Bureau (WCB or the Bureau) seeks comment on using the data included in the Broadband Serviceable Location Fabric (Fabric) to update and verify compliance with certain High-Cost program support recipients' deployment obligations.

DATES: Comments are due on or before March 15, 2024, and reply comments are due on or before April 1, 2024.

ADDRESSES: *Instructions for Filing Comments.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

• *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.

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

• Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

• U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

• Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand Delivery Policy, Public Notice, 35 FCC Rcd 2788, 2788–89 (OS 2020).

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

FOR FURTHER INFORMATION CONTACT: For further information, please contact, Heidi Lankau, Telecommunications Access Policy Division, Wireline Competition Bureau, at Heidi.Lankau@fcc.gov or (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Public Notice in WC Docket Nos. 10–90, 16–271, 18–143, 19–126 and AU Docket No. 20–34;

DA 24–77, released on January 25, 2024. The full text of this document is available at the following internet address: <https://docs.fcc.gov/public/attachments/DA-24-77A1.pdf>.

Availability of Documents.

Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 45 L Street NE, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

Filing Requirements. Comments and reply comments exceeding 10 pages must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with § 1.49 and all other applicable sections of the Commission's rules. The Bureau directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. The Bureau also strongly encourages parties to track the organization set forth in this document in order to facilitate its internal review process.

Ex Parte Presentations—Permit-But-Disclose. The proceeding this document initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing

them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

I. Introduction

1. In this document, the Bureau seeks comment on using the data included in the Fabric to update and verify compliance with certain High-Cost program support recipients' deployment obligations. Generally, the Bureau proposes to leverage the Fabric to provide support recipients a reliable data source for determining locations and to maximize the number of consumers that are served by recipients of various High-Cost support mechanisms.

II. Discussion

2. The Bureau proposes using the Fabric as the data source to revise and verify deployment obligations for a number of the high-cost support mechanisms, including Rural Digital Opportunity Fund (RDOF), Alternative-Connect America Cost Model (A–CAM) I and II, the Bringing Puerto Rico Together Fund (Uniendo a Puerto Rico Fund), the Connect USVI Fund, and the Alaska Plan to promote universal access to broadband across the areas funded by these programs. The Bureau seeks comment on the proposal and on specific issues related to location total adjustments or verifications for each program.

3. The Commission proposes to use the Fabric to identify the actual number of residential and small business units in each relevant high-cost support recipient's service area, *i.e.*, the number of high cost-eligible locations. Because the Broadband Data Act directs the Commission to include in the Fabric “all locations in the United States where fixed broadband internet access service can be installed,” and to iteratively update the Fabric, including by incorporating the results of challenges submitted by stakeholders, improved and more updated data sets, and

updates to reflect on-the-ground changes, the Bureau expects the Fabric is and will continue to be the most comprehensive and up-to-date source available to identify all the high-cost eligible locations in the eligible census blocks within a support recipient's service area. The Fabric identifies BSLs, which are locations “where fixed mass-market broadband internet access service has, or could be, installed.” Moreover, because the Fabric must “serve as the foundation upon which all data relating to the availability of fixed broadband internet access service . . . shall be reported and overlaid,” the Fabric will help facilitate the Bureau's future coordination with other agencies to avoid duplicative funding.

4. In identifying the high-cost eligible locations that are relevant to a high-cost support recipient's service area, the Bureau proposes to exclude group quarters locations, which are currently included as BSLs in the Fabric, from revised locations totals to remain consistent with its previous guidance to exclude such locations from the Bureau's High-Cost support mechanism location counts. The Bureau also proposes that if a portion of a parcel is inside an eligible census block, but the BSL structure located on the parcel falls outside of the census block, the BSL will not be counted towards a support recipient's location total, consistent with its other High-Cost programs. The Bureau notes that for support programs where the location totals were determined by the Connect America Cost Model (CAM) or A–CAM, these models assigned locations to census blocks using 2010 Census data that was updated to 2011 counts using Census Bureau 2011 county estimates. Because the Fabric incorporates 2020 Census data, the Bureau plans to overlay 2010 census blocks over the Fabric locations to determine updated location counts. Are there any further adjustments or implications the Bureau should consider in using this approach?

5. The Bureau seeks comment on its proposal to use the Fabric as the source for data on supported locations and on the adjustments it proposes here. Should the Bureau use any sources to supplement its use of the Fabric? If the Bureau does rely on the Fabric as a source, are the adjustments it has identified appropriate? Are there other adjustments the Bureau would need to make to ensure it is accurately identifying the high cost-eligible locations located in the eligible census blocks in each support recipient's service area? Commenters suggesting that different sources should be used or that different adjustments should be

made for one support mechanism and not another should explain the characteristics of the particular support mechanism that require different sources or adjustments.

6. As directed by the Commission, the Bureau seeks comment on how to implement the Commission's framework for adjusting required location totals based on an updated location data source for RDOF. Specifically, the Bureau seeks comment on the timing for when it should announce new location totals, how it should adjust support in certain circumstances where there are significantly more or fewer locations in a service area than estimated by the CAM, standards the Bureau should use for waivers and determining whether requests for service are reasonable, and how it should apply the framework to support recipients that have multiple performance tiers associated with their winning bids.

7. Given the Commission's direction that WCB adopt revised location totals by the end of the sixth calendar year, the Bureau seeks comment on when it should consult the location data source to identify the relevant residential and small business units and announce revised location totals. If WCB adopts its proposal to use the Fabric as the location source for RDOF, the Bureau proposes that it announce revised location totals for each support recipient within a reasonable time after the Fabric version expected to be released in June 2027 is made available to licensees. The Federal Communications Commission (Commission) typically releases an updated Fabric approximately every six months, in around June and December. The Bureau expects that using the version of the Fabric that is expected to be released in June 2027 would provide sufficient time for WCB to recalculate location totals prior to December 31, 2027, which is the sixth year service milestone for RDOF support recipients authorized in 2021.

8. The Bureau anticipates that using the version of the Fabric expected to be released in June 2027 will balance its objectives of ensuring that the revised location totals are based on the most up-to-date location data and also giving support recipients notice of their revised location totals prior to the sixth year service milestone. Because support recipients will have the opportunity to access earlier versions of the Fabric, they will be able to monitor the addition of any locations to the Fabric and plan accordingly so they are prepared to serve any new BSLs once revised location totals are announced. The Bureau seeks comment on this proposal and on whether there are any sound

reasons for adopting and announcing revised location totals earlier or later than proposed. Commenters proposing that WCB use different location data sources for RDOF should address timing considerations for their proposed sources.

9. The Bureau also proposes to adopt revised location totals for all support recipients at the same time, rather than waiting to the following year to adopt revised location totals for support recipients authorized in 2022 and 2023. Such an approach may mean that locations built after the Bureau announces revised location totals will not be included in the new totals and that support recipients authorized in 2022 and 2023 will have an extra year to meet their eighth year service milestone if they have newly identified locations when compared to those authorized in 2021. However, the Bureau expects the benefits of the administrative efficiency of determining and announcing all revised location totals at once will outweigh any potential concerns this approach may raise, particularly given that any locations built after the revised location totals and prior the end of the eighth year of support will be subject to the requirement that the support recipient serve the location upon reasonable request. The Bureau seeks comment on this rationale and on any other suggestions for how it can reconcile the requirement to announce revised locations by the sixth year service milestone with the fact that RDOF authorizations span multiple years.

10. The Bureau seeks comment on how to implement the Commission's framework for support recipients that must deploy to additional locations once WCB announces revised location totals. Specifically, the Bureau seeks comment on implementing the Commission's decision to give an opportunity for those support recipients to seek additional support relief if their new location count exceeds the CAM locations within their service area in each state by more than 35%. For such support recipients, the Bureau proposes to increase support on a pro rata basis for each location over the 35% threshold based on the average support amount per location.

11. The Bureau also seeks comment on any alternatives. For example, the Bureau could require a support recipient to seek a waiver of the requirement to serve a certain number of locations, but it expects it would be administratively burdensome to have to address such waivers on a case-by-case basis. Further, such an approach would potentially leave locations stranded

without service and ineligible for other funding programs. As another alternative, the Bureau could provide additional time for locations above the 35% threshold to be served, but this would further delay the provision of broadband to these locations.

12. Additionally, the Bureau seeks comment on whether WCB should set any parameters for the flexibility support recipients have to seek to have their new location counts adjusted to exclude additional locations. Specifically, the Commission explained that support recipients could seek to exclude additional locations that it determines are ineligible, unreasonable to deploy to, or part of a development newly built after year 6 for which the cost and/or time to deploy would be unreasonable. Should the Bureau set up a process by which support recipients must notify the Bureau that their new location total includes locations that they would like to be excluded so that those locations can become eligible for other funding programs? Should the Bureau require that support recipients notify them in the relevant docket by a specific date during the support term? Are there any standards or procedures the Bureau could adopt to balance this flexibility with the Commission's goal of "seek[ing] to ensure the availability of broadband and voice services to as many rural consumers and small businesses . . . by the end of the ten-year term as possible"?

13. For example, the Bureau proposes that if a support recipient seeks to have its new location total adjusted to remove locations it claims are ineligible, that support recipient must first successfully challenge the location as part of the Broadband Data Collection's (BDC) Fabric challenge process if the Bureau uses the Fabric to revise location totals. This would enable the Bureau to conserve administrative resources by leveraging the Commission's existing process and would also help to maintain consistency between the Fabric and the support recipient's obligations.

14. The Bureau also seeks comment on what criteria it should consider when determining whether a location is unreasonable to serve. Given the Commission's goal of maximizing RDOF support to serve as many consumers and small businesses as possible, the Bureau expects that it would not routinely grant requests to exclude locations from a support recipient's new location total.

15. The Bureau seeks comment on how to implement the Commission's framework for support recipients that have fewer actual locations in the eligible census blocks in their service area than estimated by the CAM.

16. *Prior to the sixth year service milestone.* First, the Commission directed support recipients to notify WCB no later than March 1st following the fifth year of deployment if there are fewer locations than were included in the RDOF auction. The Bureau proposes that if such a support recipient claims to have served all existing locations in the eligible census blocks prior to WCB announcing revised location totals, it would permit the support recipient to rely on the latest version of the Fabric available to Fabric licensees to demonstrate that there are no other locations left to serve and to request a verification that it has served all the locations identified in the Fabric. If a verification determines that the support recipient has served all existing locations prior to the sixth year service milestone, the Bureau proposes permitting the support recipient to close out its letter of credit. The Bureau expects changes in the Fabric will not be significant enough that it would be necessary for support recipients to keep their letters of credit open to secure any additional deployment that may be required after WCB revises location totals. Moreover, any non-compliance issues can be handled pursuant to the Commission's rules. The Bureau seeks comment on these assumptions and on whether it would be more advantageous to take another approach like requiring support recipients to wait until it announces the revised support totals before closing out their letters of credit once their deployment has been verified.

17. Because a support recipient with fewer locations than estimated by the CAM must serve all of its initial, model-estimated locations by the sixth year service milestone, the Bureau seeks comment on requiring a support recipient that has already been verified to have served all existing locations to serve any locations that are newly identified prior to the sixth year service milestone, up to the CAM-estimated location total. If the Bureau were to adopt this approach, should it announce after each Fabric release whether there are any new locations identified by the Fabric in the eligible census blocks served by a support recipient which the Bureau already verified has served all previously existing locations? If so, should WCB require that the support recipient serve the newly identified locations by the sixth year service milestone at the latest or by some other reasonable amount of time after WCB announces the newly identified locations? The Bureau seeks comment on the administrative challenges of

monitoring the Fabric to identify new locations on a rolling basis and on the burdens of having to serve newly identified locations prior to the sixth year service milestone.

18. As an alternative, should WCB instead wait until it officially revises location totals for all support recipients to identify any newly added locations for those support recipients that it has already verified have served 100% of existing locations? If so, should such support recipients have until the eighth year service milestone to serve any of the newly identified locations? Are there any other alternatives for how the Bureau can ensure that new locations are timely served?

19. The Bureau seeks comment on, for added protection, whether and how it should withhold a certain percentage of support for support recipients if it permits them to close out their letters of credit prior to sixth year service milestone because there are fewer existing locations than estimated by the CAM and the Bureau has verified they have served all existing locations. For example, should the Bureau withhold support for all RDOF support recipients, or because WCB will only reduce support once it announces revised location totals if the revised location total is less than 65% of the CAM-estimated locations, should it only withhold support in circumstances where the number of locations the RDOF support recipient has served is less than 65% of the CAM-estimated total? Should the Bureau withhold support on a pro rata basis based on the gap between the CAM-estimated locations and the locations that do exist? As an alternative, should the Bureau withhold support on a pro rata basis for only the number of locations that bring the location total below the 65% threshold, if applicable? Should the support recipient be entitled to have all of its withheld support restored and its support payments resumed for any newly added locations once it has demonstrated that it is now offering the required service to any newly added locations? Or, for administrative efficiency, should support be restored and support payments resumed after the six year service milestone once it has been verified how many locations the support recipient has served? Given the Commission's rules provide broad authority to take other non-compliance measures, is it even necessary to withhold support to protect the public's funds under these circumstances? The Bureau also seeks comment on any alternatives, with a particular focus on how to balance administrative efficiency

with its responsibility to protect the public's funds.

20. If a support recipient is unable to meet interim service milestones because there are significantly fewer existing locations than estimated by the CAM, the Commission directed such support recipients to seek a waiver of the relevant interim service milestones. The Bureau proposes finding good cause exists to waive the relevant interim service milestones if the support recipient demonstrates with Fabric data that it has identified all existing locations in its service area and USAC verifies that the support recipient offers service meeting the relevant Commission requirements to all existing locations. Generally, the Commission's rules may be waived for good cause shown. Waiver of the Commission's rules is appropriate only if both: (1) special circumstances warrant a deviation from the general rule, and (2) such deviation will serve the public interest.

21. The Bureau proposes finding that the fact that the Fabric shows that there are no more locations to serve in the relevant service area would constitute special circumstances to warrant a waiver. Moreover, the Bureau would find the waiver would serve the public interest because the support recipient could use any resources tied up by maintaining a letter of credit towards deploying more voice and broadband service, and the Commission would still have the ability to take further non-compliance measures if the support recipient does not serve any newly added locations as required. The Bureau seeks comment on its proposal and on any alternative approaches. For example, WCB could handle waivers on a case-by-case basis, but it expects such an approach to be unnecessarily onerous for both the petitioner and WCB when there is already an objective data source that both can rely on to confirm the existence of locations.

22. *Post WCB's announcement of revised location totals.* The Bureau seeks comment on how to implement the requirement that it reduce support for those support recipients for which the revised location count is less than 65% of the CAM locations. The Bureau proposes interpreting the Commission's direction that support be reduced on a pro rata basis by the number of reduced locations to mean that WCB would apply the pro rata support reduction to the number of locations that bring the location total below the 65% threshold. This would avoid the inequity of support recipients being subject to no support reduction if their revised location total is 65% of the CAM-

estimated location total, but being subject to a pro rata support reduction for all of the locations that make up the gap between the CAM estimated location total and the revised location total if their revised location total is 64% or less of the CAM estimated location total.

23. A number of support recipients were authorized to receive support for multiple performance tiers in a state. The Bureau proposes that when revising the location totals for such support recipients, it proportionally adjust their location totals for each performance tier so that the Bureau maintains the same ratio of locations across all performance tiers for the new location total as what was authorized under the initial deployment obligation. This approach is consistent with the Commission's direction that compliance with service milestones be determined at the state level, so that a recipient will be in compliance with service milestones if it offers service meeting the relevant performance requirements to the required percentage of locations across all of the relevant eligible census blocks in the state. As an alternative, should the Bureau just require that the support recipient serve more locations at the higher speed tier than the lower speed tier without requiring the support recipient to serve a set percentage of locations at each speed tier? The Bureau seeks comment on these options and on whether any other approaches would better align with such support recipients' deployment plans. For example, WCB could assign any new locations the performance tier associated with the census block where the location is located. This approach could better reflect RDOF support recipients' initial plans given a winning bidder had to assign a performance tier to each census block group when bidding, but the approach would not account for the flexibility the Commission afforded RDOF support recipients when deciding to measure compliance on a state-level basis.

24. RDOF support recipients must offer the required service upon reasonable request to any locations built after WCB announces revised location totals and prior to the end of the eighth year of support, excluding any locations that do not request service or that have exclusive arrangements with other providers. The Bureau proposes to rely on Fabric data to identify any new locations as of the end of the eighth year of support and confirm compliance with this requirement. The Bureau seeks comment on this proposal and on whether any other data sources should be consulted.

25. The Bureau also seeks comment on criteria for determining whether a request is reasonable. What kinds of parameters would appropriately balance the burden on RDOF support recipients of serving newly built locations with the Commission's goal of maximizing RDOF support to serve as many consumers and small businesses as possible?

26. The Bureau proposes to leverage Fabric data to simplify the location adjustment process for the Bringing Puerto Rico Together Fund and the Connect USVI Fund. Specifically, the Bureau proposes to require support recipients to submit a document in the relevant docket that identifies when there is a discrepancy between estimated locations and actual locations as shown by the Fabric. Rather than duplicate the map data by requiring support recipients to submit individual geocodes for each location shown by the Fabric, the Bureau proposes it is sufficient for support recipients to incorporate the data from the Fabric in their filings by reference and certify that the Fabric accurately depicts the number of actual locations in their service area based on their independent review of the relevant area. To the extent a carrier claims that the Fabric does not accurately depict the number of locations, the service recipient must submit challenges as part of the BDC location challenge process to either add or remove locations from the Fabric. The Bureau seeks comment on whether this proposal meets the Commission's requirement that support recipients submit evidence of existing locations and meets the Commission's objective of adequately verifying the number of locations that exist in the Territories post-hurricane.

27. Are there any alternatives that better achieve this objective? For example, since the process is mandatory for all support recipients, should WCB instead conduct an internal review of the Fabric data to identify where there might be discrepancies rather than having the support recipients conduct an independent review and file a notification with the Commission? How would this approach be consistent with the Commission's requirement that the support recipient submit data as part of this process?

28. The Bureau proposes that rather than provide a separate opportunity for stakeholders to comment on support recipients' filings, it will rely on the BDC's location challenge process for administrative efficiency. For example, once support recipients have notified the Bureau that there is a location discrepancy based on Fabric data or WCB alternatively conducts an internal

review, it could wait a reasonable amount of time for stakeholders to file challenges to the Fabric to seek to have locations removed or added. The Commission seeks comment on this approach and suggestions for how much time it should provide to stakeholders to file challenges and for challenges to be resolved, understanding that the Fabric is only updated twice each year. If the Bureau adopts this approach, what would be a reasonable amount of time to wait for challenges? Should the Bureau require stakeholders to notify WCB if they are going to file challenges? Is it necessary to wait for challenges from stakeholders if they have already had ample opportunity to challenge the Fabric data prior to this process? That is, rather than set aside a certain amount of time for challenges, should the Bureau just rely on any challenges that have already been incorporated into the data at the time WCB conducts its review of the data?

29. Once any challenges to the Fabric from stakeholders have been adjudicated, the Bureau proposes finding that the support recipient has met its burden of proof to receive a downward adjustment in its location total and a corresponding pro rata support reduction for the number of locations reflected in the Fabric data. Are there any alternative approaches that would better further the Commission's objective of providing stakeholders with an opportunity to review and comment on the existence of locations without duplicating existing Commission processes?

30. When should WCB conduct the location readjustment process? The Commission anticipated that the process would occur within one year of the announcement of winning bidders, but later explained the process had been delayed. How much time do service providers need to adjust to any changes to their support and location totals so that they can meet the 100% service milestone by December 31, 2027?

31. The Bureau also seeks comment on leveraging Fabric data if a support recipient requests a reassessment of its obligations no later than the beginning of the fifth year of support, *i.e.*, 2026. Should the Bureau adopt the same or similar process for the reassessment that it adopts for the location adjustment process? What other information might be instructive for WCB to collect from support recipients to reassess their obligations? Given that the adjustment process has been delayed, should the Bureau just combine this assessment with the location adjustment process for administrative efficiency? Are there any benefits or drawbacks for service

providers or the public in giving support recipients an opportunity to have their obligations reassessed independently of the location adjustment process?

32. The Bureau also seeks comment on how to adjust support if the number of locations in a municipio or island is higher than what was initially determined. Should WCB increase support on a pro rata basis for any additional locations if the actual number of locations is higher? Are there any other approaches the Bureau should use for adjusting support? The Commission has reiterated that Bringing Puerto Rico Together Fund and the Connect USVI Fund support recipients must serve all locations in their supported areas.

33. The Bureau proposes to permit A-CAM I & A-CAM II recipients to seek a downward adjustment in their location totals by using the Fabric to demonstrate the actual number of locations in their service areas. Should the Bureau adopt the same process it proposes in this document for support recipients of the Bringing Puerto Rico Together Fund and the Connect USVI Fund—*i.e.*, requiring support recipients to request a downward adjustment in the docket and incorporating Fabric data by reference? If so, should the Bureau also provide an opportunity for stakeholders to file challenges to the Fabric through the National Broadband Map or in the BDC system in response to the notification or should the Bureau rely on prior challenges that are already incorporated into the data at the time of WCB's review? Should WCB apply a preponderance of the evidence standard consistent with the standard adopted for the Connect America Fund Phase II auction Eligible Location Adjustment Process, The Bringing Puerto Rico Together Fund, and the Connect USVI Fund? If so, should WCB find that the standard has been met if it verifies that the Fabric data is consistent with the support recipient's requested adjustment? The Bureau seeks comment on these issues and on any alternatives.

34. Although A-CAM recipients have a variety of broadband speed obligations within their service areas, they are able to meet their obligations by deploying to any location within the eligible area. Accordingly, if the Bureau grants a downward adjustment in the location total, it proposes reducing the location total on a pro rata basis so that it would reduce the number of locations proportionally across all of the speed tiers. Similarly, the Bureau also proposes to reduce support on a pro rata basis. The Bureau seeks comment on these proposals and whether WCB

should use any alternative approaches for reducing location totals and support amounts.

35. The Bureau also seeks comment on the timing for when WCB should give A-CAM recipients an opportunity to seek a downward adjustment. For administrative efficiency, should the Bureau offer a one-time opportunity for A-CAM recipients to seek a downward adjustment? If so, when would it be an appropriate time to offer this opportunity so as to maximize the number of locations that are identified, but also give support recipients enough time to adjust their plans prior to the end of the support term? For example, the Bureau could require that A-CAM providers with support terms that end in 2028 to submit their request for a downward adjustment based on the latest release of Fabric data prior to end of the sixth year support, consistent with the Commission's requirement that WCB make location adjustments for RDOF recipients, which also have a 10-year support term, prior to the sixth year of support.

36. It is the Bureau's expectation that Alaska Plan participants will offer voice and broadband service to 100% of the locations in remote communities, including those locations not connected to the road system, at performance levels consistent with the type of middle mile commercially available in the community. The rationale is that while the communities are remote and isolated, the locations within the communities are in relatively close proximity. To avoid stranding locations in the Alaska Plan participants' service areas without access to broadband service, the Bureau proposes to use Fabric data to identify all locations within each Alaska Plan participant's service area and adjust the Alaska Plan recipient's required location total to account for any locations not already included in the location total pursuant to WCB's delegated authority to approve changes to deployment obligations. The Bureau seeks comment on whether Fabric data is the best source for identifying such locations, and whether other sources should be used including submissions from the carrier.

37. Specifically, the Bureau could conclude that a comprehensive source like the Fabric had not been released when deployment obligations were reassessed in 2021 and that it would serve the public interest to further revise deployment obligations to ensure they accurately reflect the facts on the ground. If the Bureau were to take this step, when would be an appropriate time to revise deployment obligations so that Alaska Plan participants are able to

complete deployment to all relevant locations by the end of the support term, *i.e.*, December 31, 2026? Should stakeholders have a defined period of time to make any final challenges to the Fabric through the National Broadband Map or in the BDC system so that the revised obligations incorporate any successful challenges? What other steps could WCB take to make certain that all locations in Alaska Plan recipients' service areas have access to voice and broadband service through the Alaska Plan?

III. Procedural Matters

A. Initial Paperwork Reduction Act

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

39. *Supplemental Initial Regulatory Flexibility Analysis*. As required by the Regulatory Flexibility Act of 1980 (RFA), the Bureau has prepared this Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this document. The supplemental IRFA supplements the Commission's Initial Regulatory Flexibility Analyses (IRFAs) in connection with the *USF/ICC Transformation FNPRM*, 76 FR 78384, December 16, 2011, *April 2014 Connect America FNPRM*, 79 FR 39196, July 9, 2014, *2018 Rate-of-Return Reform NPRM*, 83 FR 17968, April 25, 2018, and *Rural Digital Opportunity Fund NPRM (NPRMs and FNPRMs)*, 84 FR 43543, August 21, 2019, and Final Regulatory Flexibility Analyses (FRFAs) in connection with the *USF/ICC Transformation Order*, 76 FR 73830, November 29, 2011, *2016 Rate-of-Return Reform Order*, 81 FR 24282, April 25, 2016, *2018 Rate-of-Return Reform Order*, 83 FR 18951, May 1, 2018, *Alaska Plan Order*, 81 FR 69696, October 7, 2016, and *Rural Digital Opportunity Fund Order*, 85 FR 13773, March 10, 2020. Written public comments are requested on this

Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the same deadline for comments specified in this document. The Commission will send a copy of the document, including this Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the document and Supplemental IRFA (or summaries thereof) will be published in the **Federal Register**.

40. *Need for, and Objectives of, the Proposed Rules.* This document proposes to leverage the Fabric, the “common dataset of all locations in the United States where fixed broadband internet access service can be installed, as determined by the Commission,” to provide recipients with a reliable data source for determining locations and to maximize the number of consumers that are served by recipients of various High-Cost support mechanisms. This includes using the Fabric to identify the actual number of residential and small businesses in each relevant high-cost support recipient’s service area. The Commission delegated to WCB the authority to revise deployment obligations, and adjust funded locations and funding levels for support recipients’ service areas. For RDOF, this document seeks to determine how to implement the Commission’s framework for adjusting required location totals based on an updated location source. For the Bringing Puerto Rico Together Fund and the Connect USVI Fund, this document proposes and seeks comment on procedures for leveraging Fabric data to simplify the location adjustment process for these programs. For A-CAM I & II, this document considers permitting recipients to seek a downward adjustment in their location totals by using the Fabric to demonstrate the actual number of locations in their service areas. For the Alaska Plan, this document seeks to determine whether and how to adjust participants’ required location totals to include all locations within each Alaska Plan participants’ service area as identified by the Fabric.

41. *Legal Basis.* The statutory basis for the Bureau’s proposed action is authorized pursuant to sections 4(i), 5(c), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C 154(i), 155(c), 214, 254, 303(r), and 403.

42. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and

policies, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

43. As noted in this document, Regulatory Flexibility Analyses were incorporated in the *USF/ICC Transformation FNPRM, April 2014 Connect America FNPRM, 2018 Rate-of-Return Reform NPRM, Rural Digital Opportunity Fund NPRM, USF/ICC Transformation Order, 2016 Rate-of-Return Reform Order, 2018 Rate-of-Return Reform Order, Alaska Plan Order, and Rural Digital Opportunity Fund Order*. In those analyses, the Commission described in detail the small entities that might be significantly affected. Accordingly, in the document, for the Supplemental IRFA, the Bureau hereby adopts by reference the descriptions and estimates of the number of small entities from these previous Regulatory Flexibility Analyses.

44. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* For the relevant High-Cost programs, the Public Notice proposes and seeks comment on streamlined procedures that will leverage existing processes for maintaining the accuracy of the Fabric to minimize the burdens on support recipients, including small businesses, in demonstrating how many actual locations are within their service areas. These proposals may require modifications to the current compliance obligations for small and other providers based upon the proposed methodologies for adjusting support for RDOF, A-CAM, Bringing Puerto Rico Together Fund, and Connect USVI Fund providers based on the number of locations in their service areas that may impact their ability to meet their service obligations. Additionally, the compliance obligations for small and other providers may be impacted by proposals on certain parameters for identifying the locations that high-cost recipients are required to serve—for generally identifying which Fabric locations are relevant to the high-cost support obligations, and more specifically for identifying which locations must be served after the Bureau conducts its recount for RDOF—

which may result in an increase or decrease in the number of locations certain support recipients, including small businesses, are required to serve. The Commission anticipates the proposals discussed in the Public Notice will have minimal cost implications because they impact recipients who are currently receiving support from the relevant programs and much of the required information is already collected to ensure compliance with the terms and conditions of support.

45. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”

46. Among the alternatives considered that may impact small entities is whether the Bureau should require RDOF support recipients to seek a waiver of, or require additional time to meet, the requirement to serve more locations when their new location count exceeds the CAM locations within their service areas in each state by more than 35%, though addressing such waivers on a case-by-case basis may prove to be administratively burdensome and potentially leave locations stranded without service and ineligible for other funding programs. The Bureau also considers whether it should wait until the Bureau officially revises location totals for all support recipients to identify any newly added locations for those RDOF support recipients that WCB has already verified serve 100% of existing locations, and if so, whether these recipients should have until the eighth year service milestone to serve any of the newly identified locations. Additionally, in regards to multiple performance tier requirements, the Bureau considers whether after the recount it should require that the RDOF support recipients serve more locations at the higher speed tier than the lower speed tier without requiring that the support recipient serve a set percentage of locations at each speed tier, or instead whether the Bureau should

assign locations the performance tier associated with the census block where the location is located. When a carrier receiving Bringing Puerto Rico Together Fund or Connect USVI Fund support claims that Fabric does not accurately depict the number of locations, the Bureau considers whether WCB should conduct an internal review of the Fabric data to identify where there might be discrepancies instead of having the support recipients conduct an independent review and file a notification with the Commission.

Before reaching any final conclusions and taking any final actions however, the Bureau expects to review the comments filed in response to this document and more fully consider the economic impact and alternatives for small entities.

47. As noted in this document, the Bureau seeks comment on how the proposals in the document could affect the IRFAs and FRFAs. Such comments must be filed in accordance with the same filing deadlines for responses to this document and have a separate and

distinct heading designating them as responses to the IRFAs and FRFAs.

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

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

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