



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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Internet: www.fcc.gov
TTY: 888-835-5322

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WIRELINE COMPETITION BUREAU FINALIZES APPLICATION FILINGS, PROCEDURES, COST CATALOG, AND REPLACEMENT LIST FOR THE SECURE AND TRUSTED COMMUNICATIONS NETWORKS REIMBURSEMENT PROGRAM

WC Docket No. 18-89

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I. INTRODUCTION

1. By this Public Notice, the Wireline Competition Bureau (Bureau) adopts final procedures for, and provides eligible providers of advanced communications services with additional guidance regarding, the application filing and reimbursement process for the \$1.9 billion Secure and Trusted

Communications Networks Reimbursement Program (Reimbursement Program).¹ After considering comments received in response to the *Reimbursement Process Public Notice*,² the Bureau finalizes the information fields on the new FCC Form 5640, which participants must submit to request funding allocations and disbursements from the Reimbursement Program, as well as the procedures governing the submission of and any modifications made to that form. Acting Chairwoman Rosenworcel has announced a “target date” of October 29, 2021 to open the Reimbursement Program filing window to begin accepting applications.³ Prior to the target date, the Bureau will announce in a forthcoming public notice when it will open the Reimbursement Program online portal and begin accepting applications, and the filing window closing date. Finally, after considering comments received in response to the *Catalog Public Notice*,⁴ the Bureau also finalizes with this Public Notice the Catalog of Eligible Expenses and Estimated Costs (Catalog) and the List of Categories of Suggested Replacement Equipment and Services (Replacement List) which will be made available on the Commission’s website.⁵

II. BACKGROUND

2. The Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act) directs the Commission to establish the Reimbursement Program.⁶ The Reimbursement Program will reimburse providers of advanced communications services with ten million or fewer customers for costs incurred in the removal, replacement, and disposal of covered communications equipment or services that pose a national security risk, i.e., communications equipment or services produced or provided by Huawei Technologies Company (Huawei)⁷ or ZTE Corporation (ZTE),⁸ that were obtained by providers on or before June 30, 2020.⁹

¹ The rules adopted by the Commission in 47 CFR § 1.50004, and cited herein, contain new or modified information collection requirements subject to approval from the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, Pub. L. 104-13, before becoming effective. Accordingly, those rule subparts requiring OMB approval are currently denoted as “reserved” in the Electronic Code of Federal Regulations, eCFR.gov. To find the full text of the adopted rule, see Appx. A to the *2020 Supply Chain Order*, as amended by Appx. A to the *2021 Supply Chain Order. Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Second Report and Order, 35 FCC Rcd 14284, 14374-83, Appx. A (2020) (*2020 Supply Chain Order*); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Third Report and Order, FCC 21-86, 2021 WL 3024271, at 49-51, Appx. A (Jul. 14, 2021) (*2021 Supply Chain Order*).

² *Wireline Competition Bureau Seeks Comment on Secure and Trusted Communications Networks Reimbursement Program Application Filings and Process*, WC Docket No. 18-89, Public Notice, DA 21-607 (WCB May 24, 2021) (*Reimbursement Process Public Notice*).

³ See *2021 Supply Chain Order*, Stmt. of Acting Chairwoman Jessica Rosenworcel at *1, <https://docs.fcc.gov/public/attachments/FCC-21-86A2.pdf>.

⁴ *Wireline Competition Bureau Seeks Comment on a Report and Preliminary Cost Catalog and Replacement List to Help Providers Participate in the Supply Chain Reimbursement Program*, WC Docket No. 18-89, Public Notice, DA 21-355 (WCB Mar. 25, 2021) (*Catalog Public Notice*).

⁵ Information related to the FCC’s supply chain proceeding and the Reimbursement Program is available at <https://www.fcc.gov/supplychain>.

⁶ Secure and Trusted Communications Networks Act of 2019, Pub. L. No. 116-124, § 4(a)-(c), 134 Stat. 158 (2020) (codified as amended at 47 U.S.C. §§ 1601–1609) (Secure Networks Act).

⁷ See generally *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs – Huawei Designation*, PS Docket No. 19-351, Order, 35 FCC Rcd 6604 (PSHSB 2020) (*Huawei Designation Order*).

⁸ See generally *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs – ZTE Designation*, PS Docket No. 19-352, Order, 35 FCC Rcd 6633 (PSHSB 2020) (*ZTE Designation Order*).

3. On December 10, 2020, the Commission adopted the *2020 Supply Chain Order*, which established the Reimbursement Program.¹⁰ Along with adopting rules to create the Reimbursement Program, the Commission directed the Bureau to create reimbursement forms that “establish the timing and calculate the amount of the allocations,”¹¹ “develop a final Catalog of Eligible Expenses [(Catalog)] . . . , and make other determinations regarding eligible costs and the reimbursement process.”¹² The Commission also delegated to the Bureau authority to “adopt the necessary policies and procedures . . . to protect against waste, fraud, and abuse.”¹³ The Commission further authorized the Bureau “to engage contractors to assist in the reimbursement process and the administration of the Reimbursement Program.”¹⁴ On December 27, 2020, Congress appropriated \$1.895 billion in funding in the Consolidated Appropriations Act, 2021 (CAA) to “carry out” the Reimbursement Program.¹⁵

4. On March 25, 2021, the Bureau released a public notice seeking comment on a report discussing the removal, replacement, and disposal process and a preliminary Catalog and Replacement List prepared at the Bureau’s direction by the consulting firm Widelity, Inc. (Widelity).¹⁶ On April 28, 2021, the Bureau announced the selection of Ernst & Young LLP as the Reimbursement Program Fund Administrator to assist the Bureau with processing applications and administering the Reimbursement Program.¹⁷ The Bureau then released a public notice on May 24, 2021 seeking comment on the proposed application filing process, forms, and information fields contained on application requests for funding allocations and reimbursement claim requests for the Reimbursement Program.¹⁸ We received a total of 13 comments in response to the *Catalog Public Notice*, and 7 comments in response to the *Reimbursement Process Public Notice*.¹⁹

5. On July 13, 2021, the Commission adopted the *2021 Supply Chain Order*, which

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⁹ See 47 U.S.C. §§ 1603(c), 1608 (stating “‘advanced communications service’ has the meaning given the term ‘advanced telecommunications capability’ in section 706 of the Telecommunications Act of 1996”); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Report and Order, Further Notice of Proposed Rulemaking, and Order, 34 FCC Rcd 11423, 11475-76, para. 140 (2019) (*2019 Supply Chain Order and Further Notice*); *2021 Supply Chain Order* at 21, para. 46.

¹⁰ *2020 Supply Chain Order*.

¹¹ *Id.* at 14358, para. 180.

¹² *2020 Supply Chain Order*, 35 FCC Rcd at 14358, para. 180; see also 47 CFR § 1.50004(p) (“The Commission delegates authority to the [Bureau] to adopt the necessary policies and procedures relating to allocations, draw downs, payments obligations, and expenditures of money from the Reimbursement Program to protect against waste, fraud, and abuse and in the event of bankruptcy, to establish a [Catalog] and predetermined cost estimates, review the estimated cost forms, issue funding allocations for costs reasonably incurred, set filing deadlines, and review information and documentation regarding progress reports, allocations, and final accountings.”).

¹³ *2020 Supply Chain Order*, 35 FCC Rcd at 14358, para. 181.

¹⁴ *Id.*

¹⁵ Consolidated Appropriations Act, 2021, Pub. L. No. 116–260, Title IX—Broadband Internet Access Service, § 906(2), 134 Stat. 1182 (2020) (CAA).

¹⁶ *Catalog Public Notice* at 2; see Widelity, Inc., <https://widelity.com/about-widelity/> (last visited Jun. 11, 2021). Widelity, Inc. is a consulting firm that specializes in providing network engineering consultation services.

¹⁷ *Wireline Competition Bureau Announces Selection of the Secure and Trusted Communications Networks Reimbursement Program Fund Administrator*, WC Docket No. 18-89, Public Notice, DA-21-490, 2021 WL 1719301, at 1 (WCB Apr. 28, 2021); see also *2020 Supply Chain Order*, 35 FCC Rcd at 14358, para. 181 (“[The Commission] authorizes the Wireline Competition Bureau to engage contractors to assist in the reimbursement process and the administration of the Reimbursement Program.”).

¹⁸ *Reimbursement Process Public Notice* at 1.

¹⁹ Appx. E.

amended the Commission's rules to incorporate the CAA amendments to the Secure Networks Act.²⁰ Specifically, the *2021 Supply Chain Order* (1) increased the customer eligibility cap for participation in the Reimbursement Program from 2 million or fewer customers to 10 million or fewer customers; (2) modified the type of equipment and services eligible for reimbursement to be limited to communications equipment and services produced or provided by Huawei or ZTE that are on the Covered List; (3) adjusted the date by which equipment or services must have been obtained to be eligible for Reimbursement Program funds to June 30, 2020; (4) adopted the prioritization scheme created in the CAA; (5) clarified the definition of "provider of advanced communications service" for the purposes of the Reimbursement Program; and (6) clarified portions of the Reimbursement Program to assist eligible providers seeking reimbursement.²¹

III. DISCUSSION

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

6. We adopt the application and reimbursement procedures and finalize forms for the Reimbursement Program proposed in the *Reimbursement Process Public Notice*.²²

1. Application Request for Funding Allocation Form

7. In the *Reimbursement Process Public Notice*, we provided a representative sample of the questions to be included in the FCC Form 5640 Application Request for Funding Allocation and sought comment on those information fields.²³ We received persuasive comments regarding various fields applicants would complete in the new proposed form and, in response, we have implemented some modifications, and will proceed with finalizing that form.

8. We proposed in the *Reimbursement Process Public Notice* "requiring applicants to identify in their application for each location site: (1) where covered communications equipment or services are located (e.g., address, longitude and latitude, etc.) and documentation supporting the acquisition/existence of such covered equipment or services; and (2) the itemized cost estimates, taken from the Catalog where applicable, that are associated with the removal, replacement, and disposal of covered equipment and services at each site."²⁴ Several commenters argued that requiring specific information about equipment at the application stage is burdensome on small carriers and some carriers may not have access to the information.²⁵ The Rural Wireless Broadband Coalition recommended that instead of requiring such information at the application stage, the Application Request for Funding Allocation should, after the equipment is removed, populate a field for the make, model, and number of units for the removed equipment.²⁶

²⁰ See generally *2021 Supply Chain Order*.

²¹ *Id.* at 1, para. 2.

²² *Reimbursement Process Public Notice* at 3. The Bureau, in a future public notice, will provide additional guidance to Reimbursement Program participants on satisfying the Commission's disposal requirement. See *2020 Supply Chain Order*, 35 FCC Rcd at 14358, para. 179 ("We expect the Wireline Competition Bureau to provide participants with additional guidance to help participants with the disposal and verification process.").

²³ See *Reimbursement Process Public Notice*, Appx. A.

²⁴ See *id.* at 4.

²⁵ See CCA Reimbursement Process Public Notice Comments at 5-7 (stating the Commission should allow "reasonable up-front descriptions of covered equipment, followed by later confirmation."); Rural Wireless Broadband Coalition Reimbursement Process Public Notice Comments at 3-5, 8 ("Matching equipment to specific sites is impracticable, in most cases.").

²⁶ Rural Wireless Broadband Coalition Reimbursement Process Public Notice Comments at 8; see also Letter from Alexi Maltas, Senior V.P. & General Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-89, (continued...)

9. We decline to modify the proposed site-specific information collected. The identification and tracking of site-specific information on covered and replacement communications and services, as well as on cost estimates, helps to ensure funds are spent for the purpose intended and protects against waste, fraud, and abuse. This information assists in determining program eligibility for the removal, replacement, and disposal of Huawei and ZTE equipment or services obtained on or before June 30, 2020 and facilitates the assessment of applicants' cost estimates for allocation purposes. We acknowledge that requiring site-specific information is more burdensome than a self-certification requirement. Including the more detailed site-specific information, however, will ensure that the Reimbursement Program Fund Administrator will be able to properly allocate the \$1.895 billion and will limit the risk that incorrect estimates unnecessarily deplete the Reimbursement Program to the detriment of other applicants. Additionally, any increased costs associated with preparing applications that include site-specific information are potentially eligible for Reimbursement Program support, decreasing the financial burden on applicants when preparing applications.²⁷ We, therefore, conclude that the benefits of the site-specific filing requirement outweigh any burden on the carriers. We recognize, however, that the information provided is made in "good faith and that all information provided . . . is true and correct to the best of Applicant's knowledge," based on the prior exercise of reasonable due diligence, at the time the application is filed.²⁸ The Bureau will provide a process for participants to file modifications to their applications if more accurate information subsequently becomes available.²⁹

10. *Additional Requested Form Changes.* Several commenters sought changes or clarifications to the proposed information fields included in the Application Request for Funding Allocation. Nokia proposed changes to the questions concerning the use of Open Radio Access Network (Open RAN) technology interface standards by applicants.³⁰ Specifically, Nokia requested that the fields indicating that applicants selected Open RAN solutions be removed because the fields show a preference for Open RAN.³¹ We disagree. These questions are merely intended to help the Commission track technology choices by providers and do not suggest or otherwise encourage an applicant to select a particular technology solution. Accordingly, we fail to see how these questions show a preference for certain types of network architecture and decline to remove these questions.

11. Mavenir Systems, Inc. (Mavenir) separately requested several changes to the proposed information fields.³² Specifically, Mavenir requested that we strike the use of "O RAN" to avoid confusion between Open RAN generally and the O RAN Alliance, that we specify an applicant is using fronthaul Radio Access Network and Core Network, and that we specify that an applicant is compliant with O-RAN Alliance 7.2 fronthaul standards rather than the more generally stated "O-RAN Alliance

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at 1-2 (filed July 15, 2021) (urging "Commission to reconsider the level of detail required in the initial application stage") (CCA July 15, 2021 *Ex Parte*).

²⁷ See 47 CFR § 1.50004(p) (delegating authority to the Bureau to issue "funding allocations for costs reasonably incurred").

²⁸ See *Reimbursement Process Public Notice*, Appx. A, Item Number 58.

²⁹ See *infra* III.A.9 (discussing modifications). As to the additional concerns raised by RWA, the online application will allow applicants to designate a site as "other" and provide a text field to describe the nature of the site, e.g., warehouse. See *RWA Reimbursement Process Public Notice Comments* at 3. However, this should not be used to replace more specific site information if it is available. The online application will also provide a separate field for applicants to identify costs estimates not contained, or different than those listed, in the Catalog. *Id.* at 4. We will also allow applicants to identify costs not associated with specific site locations, e.g., network-wide costs that apply to several site locations such as disposal costs or software upgrades and other soft costs.

³⁰ See *Reimbursement Process Public Notice*, Appx. A, Item Numbers 51-54; *Nokia Reimbursement Process Public Notice Comments* at 12.

³¹ *Nokia Reimbursement Process Public Notice Comments* at 12.

³² *Mavenir Reimbursement Process Public Notice Comments* at 1-2.

standards.”³³ Additionally, Mavenir suggested two additions to the information fields inquiring whether applicants are using equipment or service compliant with the 3GPP X2 standard and other 3GPP open interfaces, and if so, whether there is an associated fee to make the equipment interoperable or open.³⁴ To reduce confusion, we remove the general O-RAN question that was in item 51 on the proposed Application Request for Funding Allocation.³⁵ Additionally, we modify items 53 and 54 to ask applicants if the “equipment or service is compliant with O-RAN Alliance standards, such as O-RAN Alliance 7.2 fronthaul standards.”³⁶ While the O-RAN Alliance 7.2 fronthaul standard is currently a leading standard, work continues on this developing standard, and updates continue to be published. For example, on June 29, 2021, after Mavenir and others filed their comments, the O-RAN Alliance published a Third White Paper, “O-RAN Minimum Viable Plan and Acceleration towards Commercialization.”³⁷ In the Third White Paper, the O-RAN Alliance wrote that “[f]uture O-RAN releases will extend the [Minimum Viable Plan] with new features and functionalities as these inputs and priorities evolve.”³⁸ We want to ensure the information collected on the Application Request for Funding Allocation addresses whether the equipment is compatible with any future standards that are adopted as the O-RAN Alliance continues its work. Finally, we include the two questions regarding 3GPP X2 standard and open interfaces because these questions are helpful in analyzing technology trends.

12. ADTRAN, Inc. (ADTRAN) suggested incorporating a “country of origin” line item into the Application Request for Funding Allocation, which would support a “buy American” policy.³⁹ Specifically, ADTRAN requests for the Application Request for Funding Allocation to include a question about the replacement equipment manufacturer’s country of origin.⁴⁰ ADTRAN argued that such information collection would be consistent with the Open RAN-related line items.⁴¹ We find that including a “country of origin” question on the Application Request for Funding Allocation will further help the Commission track and analyze technology trends without increasing the overall burden on applicants. Accordingly, we will modify the Application Request for Funding Allocation to include a question about the replacement equipment manufacturer’s country of origin.

13. The Rural Wireless Association (RWA) requested clarifications and additions to the FCC Form 5640 Application Request for Funding Allocation. In particular, RWA argued that form changes were necessary because the Commission had yet to address whether there would be further prioritization within the three levels prioritized by Congress in the Secure Networks Act.⁴² In the *2021 Supply Chain Order*, the Commission rejected RWA’s request to provide additional sub-prioritization categories

³³ *Id.*

³⁴ *Id.* at 2.

³⁵ See *Reimbursement Process Public Notice*, Appx. A, Item Number 51.

³⁶ *Id.*, Appx. A, Item Numbers 53 and 54.

³⁷ O-RAN Alliance, O-RAN Minimum Viable Plan and Acceleration towards Commercialization (June 29, 2021), <https://static1.squarespace.com/static/5ad774cce74940d7115044b0/t/60daf34f041acf553658bb34/1624961876380/O-RAN+Minimum+Viable+Plan+and+Acceleration+towards+Commercialization+White+Paper+29+June+2021.pdf> (O-RAN Alliance White Paper).

³⁸ O-RAN Alliance White Paper at 78. O-RAN Alliance states, “[t]he O-RAN ALLIANCE will continue to work towards the vision of a fully open and intelligent RAN through the definition of innovative use cases and a secure network architecture that can be deployed commercially with interoperable verified multi-vendor solutions.” O-RAN Alliance White Paper at 25.

³⁹ ADTRAN Reimbursement Program Public Notice Comments at 2-6.

⁴⁰ *Id.* at 2-3.

⁴¹ *Id.* at 6.

⁴² RWA Reimbursement Program Public Notice Comments at 2.

outside of the scheme advanced by Congress.⁴³ Thus, we find the changes requested by RWA would be inconsistent with the Commission's rules.

14. *Administrative and Form Consistency Changes.* We will further require, as proposed, that applicants obtain and identify in their applications an FCC Registration Number (FRN) issued by the Commission Registration System (CORES), a Data Universal Numbering System (DUNS) number or where applicable, a DUNS+4 number, and that applicants register with the System for Award Management (SAM) and provide the SAM Commercial and Government Entity (CAGE) Code in their applications. No commenter objected to these proposals.⁴⁴ An FRN is an identifying number that is assigned to entities doing business with the Commission.⁴⁵ Registration in the SAM provides the Commission with an authoritative source for information necessary to provide funding to applicants and to ensure accurate reporting pursuant to the Federal Funding Accountability and Transparency Act.⁴⁶ The DUNS number or, where applicable, the DUNS+4 number, provides necessary banking information to assist the Commission in the electronic payment of funds to program recipients.⁴⁷

15. Separately, to reflect changes adopted in the *2021 Supply Chain Order*, we modify the question on the FCC Form 5640 concerning whether the applicant has obtained covered communications equipment or services.⁴⁸ The CAA amended the Secure Networks Act to modify the covered communications equipment and services eligible for the Reimbursement Program.⁴⁹ The Commission in the *2021 Supply Chain Order* implemented these changes by changing its rules to limit equipment and services eligible for the reimbursement to communications equipment or services produced or provided by Huawei and ZTE that are purchased, leased, or otherwise obtained on or before June 30, 2020.⁵⁰ Accordingly, we have made the necessary changes to the FCC Form 5640 to ask the applicant whether it has “previously purchased, leased or otherwise obtained communications equipment or services on the Covered List that were produced or provided by Huawei or ZTE, including their affiliates and subsidiaries, on or before June 30, 2020.”⁵¹

16. We have also added a question for applicants to indicate whether the cost estimate provided by the applicant includes a technology upgrade over a comparable replacement. This information will help the Bureau and the Reimbursement Program Fund Administrator identify requests involving technology upgrades. As the Commission stated in the *2021 Supply Chain Order*, “[p]articipants may obtain Reimbursement Program support for an amount equivalent to the cost estimate of a comparable replacement” but noted that if “a participant ultimately decides to upgrade to a higher quality, more advanced, non-comparable replacement, then the program participant will bear the

⁴³ *2021 Supply Chain Order* at 29, para. 65.

⁴⁴ RWA explicitly took no issue with these requirements. RWA Reimbursement Program Public Notice Comments at 2.

⁴⁵ Applicants can register with CORES here: <https://apps.fcc.gov/cores/userLogin.do>.

⁴⁶ 31 U.S.C. § 6101 note. Applicants can register with the SAM here: <https://www.sam.gov/SAM/>. SAM registration requires additional information including: Data Universal Numbering System (DUNS) number, Taxpayer Identification Number (TIN) or Employment Identification Number (EIN), and bank routing and account number for Electronic Funds Transfer (EFT). The CAGE code is a five-character identifier, which is used by entities doing business with the Federal government to provide banking and other related information.

⁴⁷ SAM Non-Federal User Guide § 4.3.1.6.1 (“If your entity has more than one bank account that needs to be listed on the registration, you will need to create DUNS+4. The DUNS+4 should be created if the registered entity only has one physical location but more than one bank account. The DUNS+4 is a user generated four-digit number.”).

⁴⁸ See *Reimbursement Process Public Notice*, Appx. A, Item Number 25.

⁴⁹ See CAA § 901.

⁵⁰ *2021 Supply Chain Order* at 70, para. 45.

⁵¹ See *Reimbursement Process Public Notice*, Appx. A, Item Number 25.

difference in cost between the comparable replacement and the technology upgrade solution chosen.”⁵² The added question will help identify participants seeking a technology upgrade solution so that the Reimbursement Program Fund Administrator and the Bureau can review the applications accordingly. Participants are reminded that, when seeking a technology upgrade, they will need to include a vendor quote for the comparable replacement in addition to a vendor quote for the upgrade they wish to purchase.⁵³ Finally, we have also made minor changes to the language of certain questions to improve clarity and assist applicants.

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

2. Online Filing Portal

18. As proposed, we will use an online filing portal to receive and process Application Requests for Funding Allocation and to coordinate the interactions between program participants, the Reimbursement Program Fund Administrator, and the Bureau.⁵⁴ No commenters addressed this approach. Applicants and recipients will electronically submit all filings related to the Reimbursement Program, including the Application Request for Funding Allocation, using an online filing portal. We will allow applicants to submit applications at either the holding company level or individual/subsidiary level as proposed.⁵⁵ We strongly recommend, however, that applicants file a single application at the holding company level to optimize administrative efficiency by reducing the number of filings requiring processing.

19. Commenters supported our proposal to consider the use of Excel batch uploads of information to facilitate the completion of applications.⁵⁶ To facilitate application preparation and ease the filing burden on applicants, we will develop the capability to allow batch uploads for targeted and specific portions of the applications.⁵⁷ Additionally, some commenters requested that the Commission ensure there will be sufficient support for issues associated with filings in the portal.⁵⁸ We agree and will make support available to applicants for issues with the portal. Specifically, a Reimbursement Program Fund Administrator helpline and an email address will be designated for Reimbursement Program applicants to address questions related to their application and reimbursement request submissions. We will also provide additional details on the online filing process through webinars and other outreach activities.

⁵² *2021 Supply Chain Order* at 36-37, paras. 88, 91 (“In particular, we reiterate, as previously stated in the *2020 Supply Chain Order*, that 4G Long Term Evolution (LTE) network equipment or service, which would include VoLTE technology, would be treated as a comparable replacement for an older mobile wireless network for purposes of the Reimbursement Program.”) (citation omitted).

⁵³ *See id.* at 37-38, paras. 91-92.

⁵⁴ *Reimbursement Process Public Notice* at 3.

⁵⁵ *Id.* at 5.

⁵⁶ CCA Reimbursement Process Public Notice Comments at 4; RWA Reimbursement Process Public Notice Comments at 3.

⁵⁷ For example, we are working towards facilitating batch uploads for the site-location and equipment identification information contained in the Application Request for Funding Allocation. Separately, as requested by RWA, we will evaluate the use of .zip upload files for providing supporting documentation. RWA Comment at 3.

⁵⁸ CCA Reimbursement Process Public Notice Comments at 4-5.

3. Filing Window

20. *Timing and Length.* We adopt our proposals related to the Application Request for Funding Allocation filing window. Per section 1.50004(b) of the Commission's rules, the Bureau will announce the opening of an initial filing window in a subsequent public notice when the online filing portal is ready to begin accepting applications.⁵⁹ In that public notice, the Bureau will also announce the duration of the initial filing window.⁶⁰ Consistent with the *2021 Supply Chain Order*, the Bureau has discretion to set the length of the initial filing window, which is not limited to 30 days and may be longer if the Bureau finds that applicants need help navigating the application filing portal to compile the necessary documentation required for the filing requirements.⁶¹ RWA, in its comments, indicated a 60-day filing window would ensure that applicants could timely file their Application Requests for Funding Allocation.⁶² We agree with RWA that applicants would benefit from having a longer filing window and will consider this comment when we determine the duration of the filing window. We are working toward a target date of late October for the opening of the filing window.⁶³ We anticipate that the filing window period will run at least 60 days, and potentially longer. Until the filing window closes, we will allow applicants to initiate, save, submit, and make changes to submitted applications as proposed.⁶⁴

4. Reimbursement Program Eligibility Verification

21. In the *2021 Supply Chain Order*, the Commission amended its rules to align eligibility for the Reimbursement Program with the CAA's amendments to the Secure Networks Act.⁶⁵ Consistent with the CAA, as implemented by the *2021 Supply Chain Order*, participation in the Reimbursement Program is limited to providers of advanced communications service with 10 million or fewer customers.⁶⁶ As the Commission determined in the *2020 Supply Chain Order*, "customers" is interpreted to include customers of the applicant and customers of any affiliate taking advanced communications service from the provider and its affiliates as of the date the application is filed.⁶⁷ Eligibility to participate in the Reimbursement Program is limited to "providers of advanced communications service," which is defined as providers of "high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology with connection speeds of at least 200 kbps in either direction."⁶⁸ A school, library or health care provider, or consortium thereof, providing facilities-based non-commercial educational broadband service connections of at least 200 kbps in one direction would qualify as a provider of advanced

⁵⁹ 47 CFR § 1.50004(b).

⁶⁰ The Rural Wireless Broadband Coalition (RWBC) indicated that the process is burdensome on applicants and that it will take a significant amount of time to gather the information necessary to file an application request for funding allocation. RWBC Reimbursement Process Public Notice Comments at 8. RWBC suggests delaying the opening of the filing window by six months if the Commission adopted its proposed processes. *Id.* at 8. As we have not yet announced the opening of the filing window and have provided notice of our expectations and the information required in the application, we do not find it in the public interest to delay the opening of the filing window by six months. Moreover, given the national security threat posed by the communications equipment and services that will be removed, replaced, and disposed of, time is of the essence and we intend to open the filing window in due course.

⁶¹ *2021 Supply Chain Order* at 39, para. 95.

⁶² See RWA Reimbursement Process Public Notice Comments at 4-5.

⁶³ See *2021 Supply Chain Order* (accompanying statement by Acting Chairwoman Rosenworcel (July 14, 2021)).

⁶⁴ *Id.* at 5.

⁶⁵ *2021 Supply Chain Order* at 5, para. 11.

⁶⁶ *Id.*

⁶⁷ *2020 Supply Chain Order*, 35 FCC Rcd at 14333, para. 114.

⁶⁸ 47 CFR § 1.50001(a).

communication service for the purposes of the Reimbursement Program and is eligible for reimbursement funding.⁶⁹ The Commission in the *2021 Supply Chain Order* also modified the scope of covered communications equipment and services eligible for Reimbursement Program support consistent with the amendments to the Secure Networks Act by the CAA.⁷⁰ The modification limits eligibility for reimbursement to communications equipment or services produced or provided by Huawei or ZTE obtained on or before June 30, 2020.⁷¹

22. We will review, with the assistance of the Reimbursement Program Fund Administrator, Application Requests for Funding Allocation to verify Reimbursement Program eligibility as required by the Commission's rules.⁷² The Application Request for Funding Allocation contains questions to assist with Reimbursement Program eligibility verification. For example, each applicant must answer "yes" or "no" as to whether it is a provider of advanced communications service with 10 million or fewer customers.⁷³ Applicants must also indicate "yes" or "no" to whether they have obtained covered communications equipment or service eligible for Reimbursement Program support on or before June 30, 2020.⁷⁴ In addition, applicants are required to identify the eligible covered communications equipment or service that they intend to remove, replace, and dispose of with Reimbursement Program support by site location.

23. The standard the Commission adopted to determine whether a provider is classified as a provider of advanced communications service is the same standard used to determine whether a provider must file FCC Form 477 to report broadband deployment data, i.e., the provision of a facilities-based broadband connection to an end user with a speed of at least 200 kbps in either direction.⁷⁵ Accordingly, as part of our internal verification process, we will cross-check applicants against the list of FCC Form 477 filers as of the most recent filing deadline. Applicants not identified on the most recent FCC Form 477 filer list may need to provide additional information to support Reimbursement Program eligibility in response to a Reimbursement Program Fund Administrator request for information.⁷⁶

24. We find the validation of eligibility using FCC Form 477 filing information, coupled with requesting additional information evidencing eligibility where an entity has not recently filed an FCC Form 477, appropriate in our efforts to ensure the Reimbursement Program supports providers of advanced communications services with 10 million or fewer customers and protect against waste, fraud, and abuse.⁷⁷

⁶⁹ *2020 Supply Chain Order*, 35 FCC Rcd at 14332-33, para. 112.

⁷⁰ *2021 Supply Chain Order* at 16-21, paras. 13-45.

⁷¹ *Id.* at 21-22, paras. 46-48. In the *2021 Supply Chain Order*, the Commission clarified that Huawei and ZTE equipment obtained but not in use could potentially be eligible for reimbursement. *Id.* at 23 & n.157.

⁷² 47 CFR § 1.50004(d).

⁷³ See *Reimbursement Process Public Notice*, Appx. A, Item Number 23.

⁷⁴ See *id.*, Appx. A, Item Number 25

⁷⁵ *Id.* at 2-3.

⁷⁶ See *Reimbursement Process Public Notice*, Appx. A, Item Number 23 ("Note: If Applicant answers "yes" and there is no record of the applicant filing the Form 477 "Local Telephone Competition and Broadband Reporting" to report broadband deployment in the most recent reporting period, then Applicant will need to provide additional information supporting attestation."). Applicants that should have filed an FCC Form 477 but did not will need to provide additional documentation demonstrating Reimbursement Program eligibility and may separately have to file a Form 477, if required.

⁷⁷ 47 U.S.C. § 1603(e)(1) ("The Commission shall take all necessary steps to avoid waste, fraud, and abuse with respect to the Program.").

5. Cost Estimates

25. As required by the Secure Networks Act and the Commission's rules, the Application Request for Funding Allocation requires applicants to submit initial estimates of costs reasonably incurred for the permanent removal, replacement, and disposal of covered communications equipment or services.⁷⁸ Both the Secure Networks Act and the Commission's rules require applicants to provide cost estimates in their applications.⁷⁹ The Secure Networks Act specifically states that the "Commission shall require an applicant to provide an initial reimbursement cost estimate at the time of application, with supporting materials substantiating the costs," which the Commission "may require an applicant to . . . update," and "submit additional supporting materials."⁸⁰

26. To help applicants submit cost estimates with their applications, the Commission permitted applicants to rely on estimated costs identified in the Catalog, which contains categories of quantifiable costs typically incurred in the removal, replacement, and disposal process. For costs not covered by the Catalog, or if applicants want to use a cost estimate that differs from the Catalog, the applicant can instead provide an individualized cost estimate supported by documentation (e.g., vendor quotes).⁸¹ The finalization of the Catalog is discussed in Part III.B of this Public Notice, but here we address the proposals and comments related to the submission of cost estimates generally.

27. *Technology Upgrades.* In the *2021 Supply Chain Order*, the Commission clarified that "the 'costs reasonably incurred' standard . . . make[s] providers responsible for the additional incremental cost of funding upgrades that exceed what is reasonably necessary to transition to a comparable replacement."⁸² The Commission acknowledged that whether an upgrade is a "reasonable, comparable replacement necessary for the transition" to a replacement "will likely depend on the facts in each case."⁸³ The Commission directed the Bureau, with the assistance of the Reimbursement Program Fund Administrator, to "first consider whether the cost is typically incurred when transitioning from covered communications equipment and services to a replacement."⁸⁴ Other factors we may consider include the "costs in relation to the alternative equipment and services and the capabilities and functions performed by the replacement equipment and service as compared to the equipment and services removed."⁸⁵

28. As provided in the *2021 Supply Chain Order*, participants may obtain Reimbursement Program support for an amount equivalent to the cost estimate of a comparable replacement.⁸⁶ Participants electing to upgrade their equipment or service in excess of the costs of a comparable replacement, however, bear the difference in cost between the comparable replacement and the technology upgrade.⁸⁷ Participants seeking funding for a technology upgrade in excess of the costs of a comparable replacement will be required to provide price quotes for the comparable replacement with

⁷⁸ See 47 U.S.C. § 1603(d)(2)(B); 47 CFR § 1.50004(c)(1)(i) (not yet effective).

⁷⁹ See *id.*

⁸⁰ 47 U.S.C. § 1603(d)(2)(B)(ii).

⁸¹ 47 CFR § 1.50004(c)(1)(i) (not yet effective); *2020 Supply Chain Order*, 35 FCC Rcd at 14339-40, paras. 128-129.

⁸² *2021 Supply Chain Order* at 36-37, para. 88.

⁸³ *Id.* at 37, para. 89.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.* at 37-38, para. 91.

⁸⁷ *Id.*

their Application Request for Funding Allocation—they may not rely on the cost estimates contained in the Catalog—and they must also separately certify that the cost estimate is made in good faith.⁸⁸

29. While the Commission encourages providers to upgrade their networks, Congress directed the Commission to “preclude network upgrades that go beyond the replacement of covered communications equipment or services from eligibility.”⁸⁹ Providers are responsible for the additional incremental costs of funding upgrades that exceed what is reasonably necessary to transition to a comparable replacement.⁹⁰ In the *2021 Supply Chain Order*, the Commission found, as a general matter, expenses incurred replacing microwave backhaul with fiber backhaul or replacing last-mile fixed wireless links with fiber-to-the-premises (FTTP) are not reasonably necessary to transition to a comparable replacement.⁹¹ Thus, consistent with the *2021 Supply Chain Order*, while we will view fiber replacements as a technology upgrade, not a reasonable, comparable replacement, Reimbursement Program participants may be reimbursed for a portion of their expenses up to the difference in cost between a comparable replacement and the fiber upgrade.⁹² However, additional sources of federal funding outside the scope of Reimbursement Program may be available to applicants for fiber deployments which could account for costs that exceed the costs of a comparable replacement. We encourage providers to explore all available funding options to upgrade their networks with fiber. Additionally, the Commission found that handset upgrades and certain other customer-premises equipment (CPE) are ineligible for reimbursement because replacing such handsets is not reasonably necessary to the removal, replacement, and disposal of covered communications equipment or service.⁹³

30. *Average Catalog Cost Estimate.* Separately, we adopt our proposals in the *Reimbursement Process Public Notice* related to the submission of cost estimates for the purposes of granting funding allocations. We adopt our proposal to base our evaluation of applicant’s cost estimates on the average between the minimum and maximum range of estimated costs for a particular itemized expense listed in the Catalog, rather than allowing applicants to choose any amount within the cost estimate range.⁹⁴ The preliminary catalog included a low-end and high-end range of cost estimates for each particular itemized expense identified to help develop a record on reasonable expenses associated with the relevant expenses. In addition to a range of cost estimates, the final Catalog now includes the average between the low-end and high-end range of cost estimates for each itemized expense identified. Applicants relying on Catalog cost estimates for their applications will select the predetermined average cost estimate for a particular itemized expense identified in the Catalog as opposed to providing a cost estimate that is within the range of cost estimates.⁹⁵ This approach will reduce the likelihood of applicants overestimating costs, and will thus minimize overallocation of limited funding to the detriment of other Reimbursement Program participants. Some commenters object to the use of average cost estimates, arguing that equipment types within the ranges are too varied, and that applicants will regularly exceed the averages.⁹⁶ We reject this argument. If an applicant finds that a Catalog cost estimate average

⁸⁸ 47 CFR § 1.50004(c)(1)(i) (not yet effective); *2021 Supply Chain Order* at 37-38, para. 91.

⁸⁹ *2021 Supply Chain Order* at 36, para. 88 (quoting H.R. Rep. No. 116-352, at 8 (2019)).

⁹⁰ *Id.*

⁹¹ *Id.* at 37, para. 90.

⁹² *See 2021 Supply Chain Order* at 37-38, paras. 90-91.

⁹³ *Id.* at 38-39, para. 93.

⁹⁴ *Reimbursement Process Public Notice* at 3-4.

⁹⁵ *Id.* at 3.

⁹⁶ Nokia Reimbursement Process Public Notice Comments at 6-7; RWA Reimbursement Process Public Notice Comments at 3 (requesting that additional documentation not be required if the estimate is above the average but within the range of the Catalog range); *see also* CCA July 15, 2021 *Ex Parte* at 2 (raising concerns about use of average cost).

does not fully account for its costs, or if a cost category is not identified in the Catalog, applicants are permitted to provide individualized cost estimates based on supporting documentation (e.g., vendor quotes) and certify the cost estimate is made in good faith.⁹⁷ This approach balances the Commission's goals of protecting against waste, fraud, and abuse while facilitating the production of estimates of costs reasonably incurred by applicants.

31. As indicated above, we will also collect cost-estimate information on a site-specific basis because it enables the review of cost estimates for reasonableness and promotes clear identification and tracking to assist with the invoicing process, as well as protecting against waste fraud and abuse. Applicants may, however, report in their applications network-wide costs, such as disposal costs or software upgrades, that apply to several site locations.⁹⁸

32. Nokia asks us to permit applicants to submit cost estimates that are based on reasonable costs incurred by the applicant over an 18-month project timeline.⁹⁹ We decline to accept a cost estimate covering such a lengthy period of time. The removal, replacement, and disposal term provided for in the Secure Networks Act and the Commission's rules ends one year after the participant receives its initial disbursement of support.¹⁰⁰ Accordingly, participants should submit cost estimates accounting for a one-year term as currently provided under the Commission's rules that commences when the participant receives its initial draw down disbursement.

6. Reviewing Applications

33. The Commission's rules direct the Bureau to review applications to determine completeness, program eligibility, and the reasonableness of cost estimates.¹⁰¹ The Bureau must "approve or deny" applications no later than 90 days after the close of the relevant filing window.¹⁰² If additional time is needed to review the applications, the Bureau may extend the deadline up to an additional 45 days.¹⁰³ Consistent with the Secure Networks Act, the Commission's rules state "[i]f the . . . Bureau determines that an application is materially deficient (including by lacking an adequate cost estimate or adequate supporting materials), the . . . Bureau shall provide the applicant a 15-day period to cure the defect before denying the application."¹⁰⁴ We sought comment on additional facets of the review process and received limited comment on the opportunity to cure and the filing of amendments during the 90-day review period as discussed herein.¹⁰⁵

⁹⁷ See 47 CFR § 1.50004(c)(1)(i), (v) (not yet effective). Individualized cost estimates are made in lieu of the Catalog estimates.

⁹⁸ See *Reimbursement Process Public Notice* at 4.

⁹⁹ Nokia Reimbursement Process Public Notice Comments at 5 ("We ask that the Commission provide certainty that all carriers have 18 months to complete their network swaps (not 12 months) immediately, prior to commencement of the application process, so that all cost estimates take into account (at least) an 18 month time horizon rather than 12 months.").

¹⁰⁰ 47 CFR § 1.50004(h); 47 U.S.C. § 1603(h); Secure Networks Act § 4(h).

¹⁰¹ 47 CFR § 1.50004(d).

¹⁰² 47 U.S.C. § 1603 (d)(3)(A)(i); 47 CFR § 1.50004(d).

¹⁰³ 47 U.S.C. § 1603(d)(3)(A)(ii); 47 CFR § 1.50004(d). The Bureau may grant the 45-day extension if it determines that an excessive number of applications have been filed during the window and additional time is needed to review the applications.

¹⁰⁴ 47 CFR § 1.50004(d)(1).

¹⁰⁵ *Reimbursement Process Public Notice* at 5.

34. The 90-day review period will commence on the next business day following the close of the filing window, per the Commission's rules.¹⁰⁶ As proposed, after the filing window closes and the 90-day review period commences, the Reimbursement Program Fund Administrator will conduct an initial review of the applications to help the Bureau determine whether the applications are initially considered eligible and acceptable for filing and to evaluate the gross estimate demand contained in those applications.¹⁰⁷ The Bureau will then issue a public notice "announcing those applications initially found eligible" and acceptable for filing, and those applications considered materially deficient.¹⁰⁸ The Reimbursement Program Fund Administrator will proceed with processing those applications considered acceptable. Applicants filing applications found unacceptable for filing will need to amend and provide additional information demonstrating program eligibility before the Reimbursement Program Fund Administrator can proceed with processing their applications as acceptable for filing.

35. *15-Day Opportunity to Cure.* As required by the Secure Networks Act and the Commission's rules, we will give applicants whose applications are found materially deficient a 15-day opportunity to cure the deficiency before their application is denied.¹⁰⁹ As proposed, we will individually notify each applicant that its application is deficient and that it has 15 days to cure all of the identified deficiencies.¹¹⁰ Such notice will be distinct from the public notice announcing applications accepted for filing and applications with material defects. RWA questions whether the 15-day cure period starts on the date of the public notice release or the individual notification date.¹¹¹ Accordingly, we clarify the 15-day cure period will commence on the date of the individual email notification is sent by the Commission and received by the applicant.

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

37. *Requests for Additional Information.* During the application review process there may be multiple instances where the Reimbursement Program Fund Administrator seeks additional information from an applicant prior to an application being granted or denied. These additional opportunities to amend an application or provide supplemental information prior to any official decision will ensure that all applicants have sufficient opportunities to present the most complete application seeking reimbursement, and we clarify that these opportunities are separate and distinct from, and do not count

¹⁰⁶ 47 CFR § 1.50004(d).

¹⁰⁷ *Reimbursement Program Process Public Notice* at 5-6. The evaluation of gross demand estimate will assist the Bureau in determining whether demand for reimbursement funds exceeds the allocated funding, triggering the need for prioritization in accordance with the Commission's rules. 47 CFR § 1.50004(f); *2021 Supply Chain Order* at 24-26, paras. 53-59. In evaluating gross cost estimate demand versus available funding, as well as when calculating net estimate demand after applications are fully processed, we direct the Reimbursement Program Fund Administrator to first account for expenses incurred by the Commission to implement and operate the Reimbursement Program which are provided for by the \$1.9 billion congressional appropriation, e.g., expenses related to the hiring of a Reimbursement Program Fund Administrator, to first determine how much funding is available for allocation. See *Reimbursement Process Public Notice* at 6 & n.40.

¹⁰⁸ *Reimbursement Process Public Notice* at 6 ("Initial findings that an application is eligible and accepted for filing would provide no guarantee that the applicant will ultimately be determined eligible by the Bureau or will receive a funding allocation or disbursement.").

¹⁰⁹ 47 U.S.C. § 1603(d)(3)(B); 47 CFR § 1.50004(d)(1).

¹¹⁰ *Reimbursement Process Public Notice* at 5 & n.39.

¹¹¹ RWA Reimbursement Process Public Notice Comments at 6.

against, the formal 15-day opportunity to cure period. We find this clarification of the process mitigates RWA's concerns of having only a single 15-day cure period.¹¹²

38. *Amendments during the Application Review Period.* As proposed, we will allow applicants to make amendments to the filings during the 90-day review period.¹¹³ Additionally, we adopt our proposal to deny, as a general matter, amendment requests to an Application Request for Funding Allocation that would result in an increase to the total cost estimate.¹¹⁴ We therefore deny RWA's request to allow increases to applicant cost estimates.¹¹⁵ Reimbursement Program support is limited and subject to prioritization requirements should demand exceed supply. Allowing amendments to increase cost estimates would hinder the review of applications within the statutory 90-day review period, as the Reimbursement Program Fund Administrator would need to restart its cost estimate review for reasonableness with each amendment filed. Moreover, amendments increasing total cost estimate demand could ultimately delay the issuance of allocations to all participants because the Bureau and Reimbursement Program Fund Administrator will not be able to determine if prioritization is necessary until all applications are processed and the last application is granted.

39. We also reject Nokia's request to allow applicants to build in an overrun allowance of 10% to account for unexpected costs. Nokia asks that applicants receive a funding allocation for 10% more than their reported cost estimates.¹¹⁶ Applicants are required by the Commission's rules to provide good-faith cost estimates for removal, replacement, and disposal.¹¹⁷ Applicants are thus encouraged to provide cost estimates that are as accurate as possible based on all available information. Allowing applicants to build in overrun allowances would undermine the goal of the Reimbursement Program of efficiently allocating funding support to help as many eligible providers as possible.

40. *45-Day Extension Period.* As proposed, and consistent with the Secure Networks Act,¹¹⁸ we direct the Reimbursement Program Fund Administrator to advise the Bureau, based on its initial review of the applications filed, whether to extend the 90-day deadline for granting or denying applications by up to an additional 45-day period.¹¹⁹ The Reimbursement Program Fund Administrator shall indicate whether it needs additional time to review the applications based on the number and complexity of the applications received. If the Bureau finds an extension justified, it will issue a public notice announcing the extension of the 90-day review period by a specified duration, not to exceed 45 days.

7. Funding Allocation

41. *Allocation.* Based on the cost estimates provided by applicants, the Reimbursement Program Fund Administrator will recommend for the Bureau's consideration a funding allocation for each approved application. The Bureau will review each recommendation and, following any modifications to cure deficiencies following the 15 day cure period, will either grant or deny the application and proceed with issuing the allocation. Should total allocation demand exceed the funding available, the

¹¹² *Id.* at 6 (arguing that a single 15-day cure period will be very difficult for small carriers to meet and should only be invoked as a last resort).

¹¹³ See *supra* III.A.1 (providing additional details on the filing of amendments).

¹¹⁴ *Reimbursement Process Public Notice* at 7.

¹¹⁵ RWA Reimbursement Process Public Notice Comments at 8 (asserting that recipients should be allowed to submit requests beyond the allocated funds in case Congress appropriates more funding for the Program).

¹¹⁶ Nokia Reimbursement Process Public Notice Comments at 9.

¹¹⁷ 47 CFR § 1.50004(c)(1)(i) (not yet effective).

¹¹⁸ Secure Networks Act § 4(d)(3)(A)(ii).

¹¹⁹ *Reimbursement Process Public Notice* at 5.

Reimbursement Program Fund Administrator's allocation recommendations will be adjusted in accordance with the prioritization scheme required by the amended Secure Networks Act and adopted by the Commission in the *2021 Supply Chain Order*.¹²⁰

42. *No Allocation Adjustments.* As directed by the Commission in the *2020 Supply Chain Order*, "the funding amount allocated represents the maximum amount eligible for draw down by an eligible provider unless a subsequent funding allocation is made."¹²¹ Accordingly, we emphasize that once the Bureau makes a funding allocation determination, the Bureau will not adjust the funding allocation amount even if there is a change in the participant's plans or if actual costs exceed estimated costs. To the extent a participant requires funding in excess of its allocated amount, the participant will be required to file a new application in a subsequent filing window, if and when such a filing window is announced. The Bureau will only issue funding disbursements for reasonable expenses actually incurred.¹²²

43. *Allocation Announcement Schedule.* We adopt our proposal to periodically release public notices announcing funding recipients and the amount of their funding allocations as well as to notify recipients directly by email.¹²³ No commenter filed comments on this proposal. This approach ensures administrative efficiency while also providing transparency to Reimbursement Program applicants and recipients, as well as the public.

8. Reimbursement Claim Requests

44. Pursuant to the Commission's rules, after eligible providers receive funding allocations and incur actual costs, they must file reimbursement claims along with supporting invoices and other cost documentation to draw from their allocation.¹²⁴ Each Reimbursement Program recipient must file at least one reimbursement claim within one year of the approval of its Application Request for Funding Allocation.¹²⁵ Failure to file within the year will result in the expiration of the funding allocation and the provider will be unable to receive any reimbursement funds from the allocation as the unused funds would revert back to the Reimbursement Program.¹²⁶ The Commission would be able to then reallocate to other applications in a future filing window any funds from the expired allocation.¹²⁷ In this section, we adopt proposals related to the filing of reimbursement claims and extensions of the reimbursement claim deadline permitted under the Commission's rules.

45. *Filing Reimbursement Claim Requests.* We adopt several of our proposals related to processing recipients' requests for reimbursement and will finalize the FCC Form 5640 Reimbursement Claim Request as proposed.¹²⁸ Additionally, we adopt our proposal to allow recipients to submit multiple Reimbursement Claim Requests as they incur expenses throughout the reimbursement period.¹²⁹ The Bureau, with the assistance of the Reimbursement Program Fund Administrator, will review and grant or

¹²⁰ 47 CFR § 1.50004(f); *2021 Supply Chain Order* at 24-26, paras. 53-59.

¹²¹ See *2020 Supply Chain Order*, 35 FCC Rcd at 14347, para. 152.

¹²² See *infra* III.A.8 (discussing Reimbursement Claim Requests Process).

¹²³ *Reimbursement Process Public Notice* at 6.

¹²⁴ See 47 CFR § 1.50004(g) (not yet effective); *2020 Supply Chain Order*, 35 FCC Rcd at 14353, para. 165.

¹²⁵ 47 CFR § 1.50004(g)(1) (not yet effective).

¹²⁶ *2020 Supply Chain Order*, 35 FCC Rcd at 14353, para. 165.

¹²⁷ *Id.*

¹²⁸ *Reimbursement Process Public Notice*, Appx. B.

¹²⁹ *Id.* at 6-7.

deny Reimbursement Claim Requests for actual costs reasonably incurred.¹³⁰

46. We adopt the approach for processing Reimbursement Claim Requests proposed in the *Reimbursement Process Public Notice*.¹³¹ Accordingly, using the features available in the online filing portal, recipients will be required to link actual costs incurred and the supporting invoice documentation to their itemized cost estimates previously filed with the Bureau to complete the claim.¹³² Recipients must submit invoices through the online portal as attachments to their Reimbursement Claim Requests.¹³³ With each invoice submitted, recipients must provide specific details related to the invoice (vendor name, date issued, description of contents, etc.) to assist reviewers in linking invoices to specific itemized cost estimates. Further, recipients seeking disbursements must have previously provided a vendor and supplier quote associated with the invoice included with the Application Request for Funding Allocation before submitting the Reimbursement Claim Request.¹³⁴ Recipients who have not yet provided a vendor and supplier quote associated with the invoice because they relied on the Catalog cost estimates when completing their Application Request for Funding Allocation will need to file a modification before submitting the Reimbursement Claim Request. The Reimbursement Program Fund Administrator will not review Reimbursement Claim Requests that rely on invoices not substantiated by a corresponding quote previously filed.¹³⁵

47. Pursuant to the Commission's rules and the *2020 Supply Chain Order*, recipients may seek reimbursement only for actual expenses incurred during the period beginning on April 17, 2018 and ending at the expiration of the one-year removal, replacement, and disposal term.¹³⁶ Consistent with the *2020 Supply Chain Order*, we will allow providers to obtain reimbursement for costs reasonably incurred prior to the creation and funding of the Reimbursement Program, but on or after April 17, 2018, for the removal, replacement, and disposal of covered equipment and services.¹³⁷ The Bureau must authorize the payments from the Reimbursement Program fund in the United States Treasury to providers that have submitted valid claims for reimbursement.

48. RWA requests the Bureau allow the filing of requests "beyond the allocated funds so that the [Reimbursement Program] Fund Administrator can approve costs even though there may not yet be funding to pay such invoices."¹³⁸ We agree, and the filing portal system will allow recipients to file Reimbursement Claim Requests, even when the amount requested exceeds the amount allocated to the

¹³⁰ *Id.* at 7.

¹³¹ *Id.* at 6-7.

¹³² *Id.* at 7.

¹³³ *Id.*

¹³⁴ While vendor and provider quotes are not required at the funding allocation stage for those relying on the Catalog, we require quotes when requesting disbursement to verify actual costs. *Id.* These quotes if not included in the previously granted Application Request for Funding Allocation would need to be submitted by the participant pursuant to a modification filing.

¹³⁵ See Treasury Financial Manual, Vol. 1, Part 4a, Ch. 3000, § 3040 – Designation of Certifying Officers, <https://tfm.fiscal.treasury.gov/v1/p4/ac3000.html>.

¹³⁶ 47 CFR § 1.50004(g) (not yet effective); *2020 Supply Chain Order*, 35 FCC Rcd 14340-42, paras. 130-35 (“[W]e will reimburse reasonable costs associated with the removal, replacement and disposal of covered equipment that were incurred on or after April 17, 2018 Costs incurred before that date are ineligible.”); *id.* at 14341, para. 133. Any expenses incurred after the one-year term ends are ineligible for reimbursement. *2021 Supply Chain Order* at 41-42, para. 100.

¹³⁷ *2020 Supply Chain Order*, 35 FCC Rcd at 14340-42, paras. 130-33.

¹³⁸ RWA Reimbursement Process Public Notice Comments at 8.

recipient, up until the deadline for filing Reimbursement Claim Requests has expired. These requests will, however, remain in pending status if there is insufficient funding to grant the requests in full.¹³⁹

49. Nokia requests that the Commission expedite disbursements to contractors involved in creating cost estimates for Application Requests for Funding Allocation that are initially accepted for filing prior to allocating the funds to all applicants.¹⁴⁰ Specifically, it argues that expedited disbursements for costs associated with application preparation “will relieve financial stresses on the industry and encourage more complete and accurate applications.”¹⁴¹ The Commission’s rules, however, do not allow for disbursements prior to a funding allocation.¹⁴² Further, the Commission did not establish a separate disbursement process to reimburse for expenses incurred for applications initially found acceptable for filing. Providing a disbursement at this early stage would also trigger the recipient’s obligation to complete the removal, replacement, and disposal process within one year and many applicants would be unable to meet that deadline. That said, costs associated with preparing applications are potentially eligible for reimbursement and applicants may file reimbursement claims for such costs once an allocation is issued.

50. *Reimbursement Claim Request Deadline.* All Reimbursement Claim Requests must be filed no later than 120 days following the expiration of the removal, replacement, and disposal term.¹⁴³ Prior to the expiration of the claim request deadline, recipients under the Commission’s rules are permitted to request and, if timely requested, will automatically receive a 120-day extension.¹⁴⁴ RWA notes that the one-year removal, replacement, and disposal term can be extended and argues that the corresponding 120-day reimbursement claim deadline should also be extended if the underlying one-year term is extended.¹⁴⁵ We agree and confirm that if the Commission or the Bureau extends the one-year removal, replacement, and disposal term, the corresponding 120-day reimbursement claim deadline will also be extended and start from the new extended term date expiration.

51. Finally, as required by the Commission’s rules, after the Reimbursement Claim Request filing deadline, the remaining unclaimed amounts in the allocation will expire. The remaining funds in the expired allocation will be available for Commission reallocation in a future filing window.¹⁴⁶ However, as proposed in the *Reimbursement Process Public Notice*, a timely submitted extension request, while pending, will toll the expiration of the funding allocation.

9. Amendments, Modifications, Administrative Updates, and Notification of Ownership Changes

52. *Amendments, Modifications, and Administrative Updates.* In the *Reimbursement Program Process Public Notice*, we sought comment on proposals to allow program participants to update information on file with the Commission through the filing of amendments, modifications, and/or

¹³⁹ This leaves open the possibility for further Congressional appropriations or other funding that would allow for the granting of such requests. However, if such funding did not become available, then the Bureau would ultimately deny these requests.

¹⁴⁰ Nokia Reimbursement Process Public Notice Comments at 2-4. This request is substantively an untimely filed petition for reconsideration of the *2020 Supply Chain Order*, which established the funding disbursement process. Regardless of the procedural failures, we also reject the request on substantive grounds.

¹⁴¹ *See id.*

¹⁴² 47 CFR § 1.50004(g) (not yet effective) (stating an allocation must be made before a disbursement can occur).

¹⁴³ *Reimbursement Process Public Notice* at 7.

¹⁴⁴ *Id.*

¹⁴⁵ RWA Reimbursement Process Public Notice Comments at 8.

¹⁴⁶ 47 CFR § 1.50004(g)(1)-(2) (not yet effective).

administrative updates. We did not receive comments regarding modifications or administrative updates. We did, however, receive comments objecting to the general denial of amendments to the Application Request for Funding Allocation that would increase cost estimate submissions, as discussed elsewhere herein.¹⁴⁷ Accordingly, we will allow participants to amend, modify, and file administrative updates using the online filing portal.

53. To file an amendment the participant must notify the Reimbursement Program Fund Administrator of its intent to amend its application through the Reimbursement Program Fund Administrator Help Desk.¹⁴⁸ Notification of an intent to amend through the Reimbursement Program Fund Administrator Help Desk is necessary to unlock the underlying application in the online filing portal to allow for the filing of an amendment. This notice of intent to amend alerts the Reimbursement Program Fund Administrator to pause application processing pending the filing of additional changes that may impact the review process. Amendment filings are only permitted for underlying filings that are in a pending status.

54. We also will allow modification filings after an application is granted. For a granted Application Request for Funding Allocation, we will allow recipients to submit modification filings to change itemized expenses and locations identified on their filings and to provide vendor and supplier quotes for review by the Reimbursement Program Fund Administrator.¹⁴⁹ We reiterate that if the modification filing would change the cost of the project, we will not alter the funding allocation issued.¹⁵⁰ Additionally, participants are allowed to file administrative updates for routine, non-material changes to filings such as changes to the applicant's contact information (e.g., address, phone number, and contact name).¹⁵¹ The online filing portal will accept and automatically process administrative updates once filed.¹⁵²

55. *Notifications of Changes in Ownership.* Recognizing that the Reimbursement Program will be administered over multiple years and changes in ownership may occur, we adopt our proposal to adapt the online filing system to account for changes in ownership, including changes due to bankruptcy. Specifically, we will institute a streamlined process whereby, post-consummation, the recipient of record will file a notification signed by both parties to the transaction that includes an explanation of the ownership changes.¹⁵³ In the event of an involuntary change of control and/or ownership, such as, but not limited to, the appointment of a trustee in bankruptcy or a receiver, the process shall include a mechanism for a rightful recipient to file the notification without the signature of the other party to the transaction upon a showing of appropriate documentation regarding the change of control and/or ownership. The Bureau, with the assistance of the Reimbursement Program Fund Administrator, will determine the amount of the funding allocation remaining, i.e., the amount not yet claimed and disbursed through the reimbursement claim process, and how to handle transactions involving the acquisition of discrete network components, e.g., the sale of a portion of the network and not the entire network. Commenters

¹⁴⁷ See *supra* III.A.6 (discussing amendments during the application review period).

¹⁴⁸ We will subsequently provide the public with additional information on how to contact the Reimbursement Program Fund Administrator Help Desk once that capability is made operational.

¹⁴⁹ While such modifications may change the cost of the project, as directed by the Commission in the *2020 Supply Chain Order*, we will not alter the funding allocation issued. See *2020 Supply Chain Order*, 35 FCC Rcd at 14347, para. 152. Any funding remaining at the end of the one-year removal, replacement, and disposal term will revert to the Reimbursement Program for potential allocation to other Reimbursement Program participants. 47 CFR § 1.50004(g)(1)-(2) (not yet effective).

¹⁵⁰ See *2020 Supply Chain Order*, 35 FCC Rcd at 14347, para. 152.

¹⁵¹ *Reimbursement Process Public Notice* at 8.

¹⁵² *Id.*

¹⁵³ Commission requirements related to transfers of control not expressly mentioned herein remain effective.

support this approach.¹⁵⁴ We note, however, that while we are not requiring prior approval for new owners to participate in the Reimbursement Program, the new owners would still have to be eligible to participate in the program to receive funding under the Commission's rules.¹⁵⁵ Providers with more than 10 million customers are not eligible to participate in the Reimbursement Program.¹⁵⁶

10. Removal, Replacement, and Disposal Term

56. Consistent with the Secure Networks Act, the Commission's rules require Reimbursement Program participants to complete the removal, replacement, and disposal process within one year from the initial disbursement of funds.¹⁵⁷ The initial disbursement is deemed to occur on the date on which the Commission first distributes reimbursement funds to the recipient.¹⁵⁸ Participants must file to receive their initial disbursement within one year of receiving the funding allocation approval.¹⁵⁹

57. Both the Secure Networks Act and the Commission's rules authorize extensions of the one-year removal, replacement, and disposal term.¹⁶⁰ Specifically, under section 1.50004(h)(1) of the Reimbursement Program rules, the Commission may grant a general extension of the one-year term by a period of six months to all Reimbursement Program recipients if the Commission: (1) finds the supply of replacement communications equipment or services needed by the recipients to achieve the purposes of the Reimbursement Program is inadequate to meet the needs of the recipients; and (2) provides notice and detailed justification for granting the extension to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.¹⁶¹ In addition, the Bureau may grant individual extensions of time for a period not to exceed six months on a case-by-case basis.¹⁶² The Commission has interpreted the Secure Networks Act to allow grant of multiple individual extensions of time to a participant.¹⁶³ To grant an extension, the Bureau must find that, due to no fault of the recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term.¹⁶⁴

58. Nokia requested a blanket 6-month extension of time, noting that many applicants will have difficulty adhering to a one-year deadline for removal, replacement, and disposal because, under normal circumstances, the process would take approximately one to three years.¹⁶⁵ Additionally, Nokia

¹⁵⁴ RWA Reimbursement Process Public Notice Comments at 9 (supporting not requiring a prior approval process for such ownership changes for purposes of the Reimbursement Program).

¹⁵⁵ See 47 CFR § 1.50004(a).

¹⁵⁶ *Id.*

¹⁵⁷ *2020 Supply Chain Order*, 35 FCC Rcd at 14331, para. 169 (establishing a one-year timeline for removal, replacement, and disposal).

¹⁵⁸ *Id.*

¹⁵⁹ *Id.* at 14354-55, para. 170. Failure to file for initial disbursement by that date will result in the automatic reversion of the funding allocation to the program fund for reallocation to other or future program participants. *Id.*

¹⁶⁰ Secure Networks Act § 4(d)(6)(B)-(C); 47 CFR § 1.50004(h).

¹⁶¹ 47 CFR § 1.50004(h).

¹⁶² *2020 Supply Chain Order*, 35 FCC Rcd at 14354-55, para. 171. The general extension provision authorizes the Commission to issue *sua sponte* a one-time six-month extension to all program recipients. *Id.* at 14355, para. 172. Some commenters indicated carriers may need multiple extensions. See *Copper Valley Wireless Reimbursement Process Public Notice Comments* at 3-4. The Bureau may grant more than one individual extension, and we expect applicants to request extensions as circumstances warrant. See *2021 Supply Chain Order* at 40, para. 96.

¹⁶³ *2020 Supply Chain Order*, 35 FCC Rcd at 14355, para. 173.

¹⁶⁴ 47 CFR § 1.50004(h)(1).

¹⁶⁵ Nokia Reimbursement Process Public Notice Comments at 4-6.

notes that a high number of carriers attempting to replace equipment during the same period of time may delay the process.¹⁶⁶ The Competitive Carriers Association (CCA) also requested a blanket 6-month extension, raising a similar concern in its comments, recognizing that carriers are “managing labor shortages, including limited availability of skilled engineers and 12 tower crews, and an extension will give carriers a more realistic opportunity to navigate staffing challenges.”¹⁶⁷ Copper Valley Wireless, Inc. (Cooper Valley Wireless) asserts that the unique issues facing Alaskan providers will result in multiple extension requests.¹⁶⁸ Thus, Copper Valley Wireless requests successive blanket extensions for Alaskan providers.¹⁶⁹

59. We find these requests for an extension of the term for all future participants are outside the scope of the *Reimbursement Process Public Notice* and we, therefore, decline to address these requests.¹⁷⁰ In addition, we find it premature to consider a general extension before the Reimbursement Program is even launched and any removal, replacement, and disposal terms are established.¹⁷¹ Granting an across-the-board extension at this juncture is counter to Congress’ intent of having a one-year term.¹⁷²

60. In addition, some commenters have expressed concern that the Commission appears to favor O-RAN replacement options and requests that the Commission not grant an applicant’s extension request solely because of the replacement choice.¹⁷³ As we did not seek comment on proposals related to granting term extensions, we find these comments are also outside the scope of the *Reimbursement Process Public Notice*. These comments more accurately relate to the *2021 Supply Chain Order* where the Commission said that some replacement options, such as O-RAN or virtual RAN, may require additional time for system integration.¹⁷⁴ While we recognize it may take longer to implement certain technological solutions, that is only one factor among many that could justify an extension.¹⁷⁵ Regardless, we disagree that the Commission has demonstrated a preference for O-RAN technology solutions as compared to any other solution.

11. Status Updates, Spending Reports, and Final Certification and Update

61. To help mitigate against waste, fraud, and abuse, and consistent with the Secure Networks Act, the Commission required recipients to submit status updates, spending reports, and final

¹⁶⁶ *Id.*

¹⁶⁷ CCA Reimbursement Process Public Notice Comments at 11-12; Letter from Alexi Maltas, Senior V.P. & General Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-89, at 1 (filed July 20, 2021).

¹⁶⁸ Copper Valley Wireless Reimbursement Process Public Notice Comments at 3-4.

¹⁶⁹ *Id.*

¹⁷⁰ *2021 Supply Chain Order* at 41-42, para. 100.

¹⁷¹ *Id.*

¹⁷² Nokia Reimbursement Process Public Notice Comments at 4-6 (requesting the Commission grant the general six-month extension to all applicants and permit participants to request individual extensions after receiving funding allocations); *see* CCA Reimbursement Process Public Notice Comments at 11-12 (requesting the Commission grant a six-month extension of the one-year term to all applicants due to the limited availability of equipment, services, chip shortages, and post-coronavirus recovery efforts); Copper Valley Wireless Reimbursement Process Public Notice Comments at 3-4 (requesting that Commission grant blanket waivers for Alaskan carriers due to the unique circumstances).

¹⁷³ Nokia Reimbursement Process Public Notice Comments at 12-13.

¹⁷⁴ *2021 Supply Chain Order* at 40-41, para. 97.

¹⁷⁵ *Id.*

certifications and updates.¹⁷⁶ We take this opportunity to reiterate these requirements as set forth in the Secure Networks Act and the Commission's rules.

62. *Status Updates.* The Secure Networks Act requires that “[n]ot less frequently than once every 90 days beginning on the date on which the Commission approves an application for a reimbursement under the Program, the recipient of the reimbursement shall submit to the Commission a status update on the work of the recipient to permanently remove, replace, and dispose of the covered communications equipment or services.”¹⁷⁷ The Secure Networks Act also provides that “[n]ot earlier than 30 days after the date on which the Commission receives a status update,” the Commission “shall make such status update public on the website of the Commission.”¹⁷⁸

63. In the *2020 Supply Chain Order*, the Commission required recipients to file the first status updates within 90 days of receiving their funding allocations.¹⁷⁹ In the status updates, recipients are required to report on the efforts undertaken and challenges encountered in permanently removing, replacing, and disposing of their covered communications equipment or services. Recipients shall also report in detail on the availability of replacement equipment in the marketplace so the Commission can assess whether a general, six-month extension permitted by the statute is appropriate. Each status update must include a certification that affirms the information in the update is accurate. The obligation to file status updates expires after the recipient has notified the Commission of the completion of the permanent removal, replacement, and disposal of the covered communications equipment or service pursuant to a final certification.¹⁸⁰ Status updates will be public, consistent with the Commission's rules, and the Commission directed the Bureau to post on the Commission's website the status update filings within 30 days of submission.¹⁸¹

64. *Spending Reports.* The Secure Networks Act requires Reimbursement Program recipients to submit “reports regarding how reimbursement funds have been spent, including detailed accounting of the covered communications equipment or services permanently removed and disposed of, and the replacement equipment or services purchased, rented, leased or otherwise obtained, using reimbursement funds.”¹⁸² In the *2020 Supply Chain Order*, the Commission required Reimbursement Program recipients to file spending reports within 10 calendar days after the end of January and July, starting with the recipient's initial draw down of disbursement funds and terminating once the recipient has filed a final spending report showing the expenditure of all funds received as compared to the estimated costs submitted.¹⁸³ The Commission directed “program participants to submit the final spending report no later than 60 days following the expiration of the program participant's reimbursement claim deadline.”¹⁸⁴ The Bureau is required to make spending reports, except for detailed accounting information, available to the public via a portal on the Commission's website.¹⁸⁵

65. *Final Certifications.* Within 10 days following the expiration of the removal,

¹⁷⁶ 47 CFR § 1.50004(k), (l), (m) (not yet effective); *2020 Supply Chain Order*, 35 FCC Rcd at 14358-61, paras. 183-93.

¹⁷⁷ 47 U.S.C. § 1603(d)(8)(A).

¹⁷⁸ *Id.*

¹⁷⁹ *2020 Supply Chain Order*, 35 FCC Rcd at 14359, para. 183.

¹⁸⁰ *Id.* at 14359, para. 184.

¹⁸¹ 47 CFR § 1.50004(k)(2) (not yet effective).

¹⁸² 47 U.S.C. § 1603(e)(2); *2020 Supply Chain Order*, 35 FCC Rcd at 14359-60, para. 186.

¹⁸³ 47 CFR § 1.50004(l) (not yet effective); *2020 Supply Chain Order*, 35 FCC Rcd at 14359-60, paras. 186-189.

¹⁸⁴ *2021 Supply Chain Order* at 43, para. 104.

¹⁸⁵ 47 CFR § 1.50004(l)(3) (not yet effective).

replacement, and disposal term, recipients must file a final certification with the Commission. The final certification must indicate whether the recipient has fully complied with all terms and conditions of the program, the commitments made in its application, and the timeline submitted.¹⁸⁶ The final certification must also indicate whether the recipient has permanently removed covered communications equipment and services that were in its network as of the date of application submission.¹⁸⁷ Pursuant to the Secure Networks Act and the *2020 Supply Chain Order*, if an applicant indicates that it has not fully complied with all terms of program participation, the applicant must file an updated final certification “when the recipient has fully complied.”¹⁸⁸ Program participants failing to timely submit a final certification or updated final certification may be subject to forfeitures and other penalties.¹⁸⁹

12. Public Search Portal and Confidentiality

66. The Secure Networks Act directed the Commission to make public on the Commission’s website status updates submitted by recipients under the Reimbursement Program.¹⁹⁰ In the *2020 Supply Chain Order*, the Commission directed the Bureau to make filed spending reports available to the public through an online portal.¹⁹¹ The Commission also directed us to treat as presumptively confidential detailed accounting information on the covered communications equipment or services subject to removal, replacement, and disposal, and the replacement equipment or services being reimbursed, and to withhold such disaggregated information from routine public inspection.¹⁹² The Commission also directed us to treat as presumptively confidential “[o]ther information, such as location of the equipment and services; removal or replacement plans that include sensitive information; the specific type of equipment or service; and any other provider specific information,” which the Commission found would likely qualify as trade secrets under the Freedom of Information Act (FOIA) the public release of which could raise security and confidentiality concerns.¹⁹³ However, as a condition of receiving funding, the Commission required Reimbursement Program recipients to provide consent to allow vendors or contractors used by the recipient to release confidential information to an auditor, reviewer, or other representative as part of the auditing process, which is discussed in further detail in Part III.A.13.¹⁹⁴

67. We will treat certain specified information submitted by Reimbursement Program participants as public or presumptively confidential consistent with the Secure Networks Act, the Freedom of Information Act, and the Commission’s rules. As proposed in the *Reimbursement Process Public Notice*, and consistent with our rules, we will make publicly available, through an online search portal, general and summary information submitted by participants.¹⁹⁵ This includes the name of the applicant who submitted a FCC Form 5640, Application Request for Funding Allocation, and the funding

¹⁸⁶ 47 U.S.C. § 1603(e)(4)(A); 47 CFR § 1.50004(m)(1) (not yet effective).

¹⁸⁷ *Id.*

¹⁸⁸ See 47 U.S.C. § 1603(e)(4)(B); 47 CFR § 1.50004(m)(2) (not yet effective); *2020 Supply Chain Order*, 35 FCC Rcd at 14360, para. 190.

¹⁸⁹ *2021 Supply Chain Order* at 43, para. 104.

¹⁹⁰ 47 U.S.C. § 1603(d)(8).

¹⁹¹ *2020 Supply Chain Order*, 35 FCC Rcd at 14370, para. 215.

¹⁹² *Id.* at 14360, para. 189.

¹⁹³ *2020 Supply Chain Order*, 35 FCC Rcd at 14369-70, para. 214 & n.610; *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, 35 FCC Rcd 7821, 7838, para. 56 (2020).

¹⁹⁴ *2020 Supply Chain Order*, 35 FCC Rcd at 14361, para. 193.

¹⁹⁵ As a condition of receiving funding, recipients “must provide consent to allow vendors or contractors used by the recipient in connection with the Reimbursement Program to release confidential information to the auditor, reviewer, or other representative.” 47 CFR § 1.50004(o).

amount requested. This also includes the Reimbursement Program participants selected for funding allocation and the funding amount awarded. Consistent with the *2020 Supply Chain Order*, we will also make public on the Commission's website recipients' filed spending reports.¹⁹⁶ We find that the public interest is best served by making this information available to the public to ensure transparency and accountability.

68. Commenters agreed with the proposal to treat certain sensitive information collected as part of the Program as presumptively confidential and withhold that information from routine public inspection. For example, ADTRAN "fully supports the proposal to maintain the confidentiality of proprietary information with regard to the prices of the replacement equipment and services."¹⁹⁷ ADTRAN asserts that "such information constitutes trade secrets," and ADTRAN "takes steps to protect that information by requiring its customers (and potential customers) to enter into non-disclosure agreements to maintain confidentiality."¹⁹⁸ ADTRAN agrees that "information on the specific replacement equipment and location of that equipment... should not be made publicly-available, particularly because such information on what is critical infrastructure could provide roadmaps to malefactors."¹⁹⁹ RWA agrees with the proposal to treat as presumptively confidential and withhold from public inspection information including "detailed accounting information," "location of the equipment and services; removal or replacement plans that include sensitive information; the specific type of equipment and service; and any other provider specific information that qualifies as trade secrets under the Freedom of Information Act."²⁰⁰

69. Accordingly, as contemplated by the *2020 Supply Chain Order* and proposed in the *Reimbursement Process Public Notice*, we find that certain information likely constitutes confidential commercial or financial information or trade secrets under the FOIA, and consistent with the *2020 Supply Chain Order* and the Commission's rules,²⁰¹ we will treat this information as presumptively confidential and will withhold from routine public inspection such information, including:

- Detailed accounting information on the covered communications equipment or services removed, replaced, and disposed of, and the replacement equipment or services purchased, rented, leased, or otherwise obtained using Reimbursement Program funds;²⁰²
- Vendor price quotes submitted with the FCC Form 5640, Application Request for Funding Allocation, or in a Modification filing;
- Invoices submitted with the FCC Form 5640, Reimbursement Claim Requests;
- Equipment or services location, including address, latitude/longitude, etc.;
- Removal or replacement plans that include sensitive information;
- Specific equipment or service type;

¹⁹⁶ 47 CFR § 1.50004(1)(3) (not yet effective); *2020 Supply Chain Order*, 35 FCC Rcd at 14360, para. 189.

¹⁹⁷ ADTRAN Reimbursement Process Public Notice Comments at 6-7.

¹⁹⁸ *Id.* at 6-7.

¹⁹⁹ ADTRAN Reimbursement Process Public Notice Comments at 7. We note that under FOIA and the Communications Act of 1934, as amended, the Commission is authorized to withhold publication of records containing secret information affecting the national defense. *See* 5 U.S.C. § 552(b)(3) (exempting from required public disclosure under the FOIA records that are specifically exempted from disclosure by another statute); 47 U.S.C. § 154(j) (authorizing the Commission to "withhold publication of records or proceedings containing secret information affecting the national defense").

²⁰⁰ RWA Reimbursement Process Public Notice Comments at 9.

²⁰¹ 47 CFR § 0.457(d).

²⁰² *See* 5 U.S.C. § 552(b); 47 CFR § 0.457(d)(2); *2020 Supply Chain Order*, 35 FCC Rcd at 14360, para. 189.

- Other provider-specific information;²⁰³ and,
- Specific timeline for the permanent removal, replacement, and disposal of covered communications equipment and services.²⁰⁴

We find, consistent with the *2020 Supply Chain Order*, that this information would likely qualify as confidential commercial or financial information or trade secrets under the Freedom of Information Act and therefore should be withheld from routine public inspection.²⁰⁵

70. Finally, we adopt the approach proposed in the *Reimbursement Process Public Notice* to allow filers uploading attachments to the online portal to categorize whether the attachment is “confidential” or “public.” RWA argues that “anything attached to the FCC Form 5640 by an applicant that is clearly marked confidential should be treated as such and withheld from public inspection.”²⁰⁶ We clarify that participants may submit requests to treat documentation as confidential information to be withheld from public inspection; however, such requests must be consistent with FOIA and the Commission’s rules. Requests for confidential treatment that are overbroad or otherwise inconsistent with our rules will be rejected. Attachments designated as “confidential” will be withheld from routine public inspection, subject to FOIA and the Commission’s rules, whereas attachments designated as “public” may be made publicly available.²⁰⁷

13. Audits, Reviews, and Field Investigations

71. The Secure Networks Act directed the Commission to “take all necessary steps to avoid waste, fraud, and abuse with respect to the Program,”²⁰⁸ including “regular audits and reviews of reimbursements under the Program to confirm that recipients of such reimbursements are complying with this Act,” and “random field investigations to ensure that recipients of reimbursements under the Program are performing the work such recipients are required to perform.”²⁰⁹ In the *2020 Supply Chain Order*, the Commission adopted a number of measures as directed by the Secure Networks Act to combat waste, fraud, and abuse, including requiring audits, reviews, and field inspections.²¹⁰ In particular, the Commission directed the Office of the Managing Director (OMD), or a third-party identified by OMD, to prepare a system to audit Reimbursement Program recipients to ensure compliance with the

²⁰³ See 47 CFR § 1.50004(a)(3)(i)(A) (requiring applicants to certify as of the date of application submission that the provider has developed a plan for the permanent removal, replacement, and disposal of covered communications equipment or services); *2020 Supply Chain Order*, 35 FCC Rcd at 14369-70, para. 214 & n.610 (citing 5 U.S.C. § 552(b)(4)).

²⁰⁴ See 47 CFR § 1.50004(a)(3)(i)(A) (requiring applicants to certify as of the date of application submission that the provider has developed a specific timeline for the permanent removal, replacement, and disposal of covered communications equipment or services); *id.* § 1.50005(c)(1)(iv) (requests for funding allocation must include a specific timeline for the permanent removal, replacement, and disposal of covered communications equipment and services).

²⁰⁵ See 5 U.S.C. § 552(b)(4) (exempting from disclosure “trade secrets and commercial or financial information obtained from a person and privileged or confidential”); 47 CFR § 0.457(d)(2) (“In the absence of a request for nondisclosure, the Commission may . . . determine on its own motion that the materials should not be routinely available for public inspection.”); *2020 Supply Chain Order*, 35 FCC Rcd at 14360, para. 189.

²⁰⁶ RWA Reimbursement Process Public Notice Comments at 9.

²⁰⁷ See 47 CFR § 0.459(a)(4) (Commission may use abbreviated means for submitters to request confidential treatment of information); *id.* § 0.459 (procedures for requesting that materials or information submitted to the Commission be withheld from public inspection); *id.* § 0.457 (listing records that are not routinely available for public inspection pursuant to 5 U.S.C. § 552(b)).

²⁰⁸ 47 U.S.C. § 1603(e)(1).

²⁰⁹ *Id.* § 1603(e)(3)(A)-(B).

²¹⁰ *2020 Supply Chain Order*, 35 FCC Rcd at 14331, para. 109.

Commission's rules.²¹¹ Recipients are subject to audits and other investigations to evaluate their compliance with the statutory and regulatory requirements for the program.²¹² To facilitate audits and field investigations, recipients must provide consent to allow vendors or contractors used by the recipient to release confidential information to the auditor, reviewer, or other representative.²¹³ Recipients must also allow any representative appointed by the Commission to enter the premises of the recipient to conduct compliance inspections.²¹⁴

72. In the *2021 Supply Chain Order*, the Commission delegated financial oversight of the Reimbursement Program to OMD, in coordination with the Bureau and the Reimbursement Program Fund Administrator, to ensure that all financial aspects of the program have adequate internal controls.²¹⁵ OMD, in coordination the Bureau, may issue additional directions to the Reimbursement Program Fund Administrator and program participants in furtherance of its responsibilities.²¹⁶ We will continue to work with OMD, any third-party identified by OMD, and the Reimbursement Program Fund Administrator to develop an audit, review, and field investigations process for the Reimbursement Program to protect against waste, fraud, and abuse. Pursuant to the *2020 Supply Chain Order*, participants must allow any representative appointed by the Commission to enter the participant's premises to conduct compliance inspections so, at a minimum, the audit process may include site visits to participant's premises to conduct these compliance inspections.²¹⁷

B. Catalog of Eligible Expenses and Estimated Costs

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

74. Section 4(d)(1) of the Secure Networks Act requires the Commission to “develop a list of suggested replacements” for covered equipment and services and for applicants to submit “initial reimbursement cost estimate[s] at the time of application.”²¹⁸ To accomplish this objective, the Commission delegated authority to the Bureau to develop and finalize a Cost Catalog in the *2020 Supply Chain Order*.²¹⁹ The Commission's rules provide that eligible providers may rely upon the predetermined estimated costs identified in the Catalog when submitting their cost estimates with their requests for funding allocation.²²⁰ The Bureau contracted with Widelity to produce a preliminary catalog containing a non-exhaustive list of cost categories and a range of cost estimates for communications equipment and

²¹¹ *Id.* at 14362, para. 193.

²¹² 47 CFR § 1.50004(o).

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ *2021 Supply Chain Order* at 45-46, para. 113.

²¹⁶ *Id.*

²¹⁷ See *2020 Supply Chain Order*, 35 FCC Rcd at 14361-62, para. 193. As provided for in the statute, a violation of the Secure Networks Act or a regulation adopted pursuant to this statute shall constitute a violation of the Communications Act and, as such, the Commission has authority to impose fines and forfeitures under the Communications Act and Commission's rules. See 47 U.S.C. § 1606; Secure Networks Act § 7; *2020 Supply Chain Order*, 35 FCC Rcd at 14362, para. 194 & n.547 (discussing the Commission's authority to impose fines and forfeitures).

²¹⁸ Secure Networks Act § 4(d)(1), (2)(B); 47 U.S.C. § 1603(d)(1), (2)(B).

²¹⁹ See *2020 Supply Chain Order*, 35 FCC Rcd at 14339, para. 128; see also 47 CFR § 1.50004(p).

²²⁰ See 47 CFR § 1.50004(c)(1)(i) (not yet effective).

services potentially eligible for reimbursement.²²¹ Widelity developed the preliminary catalog based on a series of confidential interviews with communications industry stakeholders to understand the process and costs associated with removing, replacing, and disposing of covered communications equipment and services.²²² In the *Catalog Public Notice*, the Bureau sought comment on the preliminary catalog, the suggested ranges of estimated costs and cost categories identified therein, and how the Catalog should inform the Reimbursement Program.²²³ Widelity subsequently conducted a thorough review of the preliminary catalog, based on comments received in response to the *Catalog Public Notice*, and conducted additional engagement with communications industry stakeholders and the Bureau, resulting in additional improvements to the Catalog.

75. After considering comments received in response to the *Catalog Public Notice* and in consultation with Widelity, we revise and finalize the Catalog as set forth in Appendix C. The final Catalog includes as an attachment a chart indexing changes from the preliminary catalog to the final Catalog. In particular, we added an index number to reference line item cost categories, clarified certain expenses that we find are highly variable, clarified units of measurement, clarified cost categories and descriptions, amended certain ranges of cost estimates, and corrected typographical errors. For the reasons discussed below, the Bureau adopts the Catalog in Appendix C for use in the Reimbursement Program. The Catalog will be made available on the Commission's website, and the line items and cost estimate averages taken from the ranges identified in the Catalog will be incorporated into the online filing portal for use by applicants when completing the FCC Form 5640, Application Request for Funding Allocation.

76. The Catalog identifies cost categories and a range of estimated costs that providers of advanced communications services would typically incur when removing, replacing, and disposing of covered communications equipment or service. We emphasize the Catalog is not intended to be a definitive or exhaustive list of all reimbursable expenses but rather is an additional tool to help applicants with their application submissions.²²⁴ Inclusion or exclusion in the Catalog of a particular category of costs should not be interpreted as a determination whether the expense will be eligible for reimbursement.²²⁵ Applicants may reference the line item cost estimates identified in the Catalog when submitting their initial cost estimates.²²⁶ Consistent with the Secure Networks Act, applicants relying on the Catalog when requesting a funding allocation will still be required to provide supporting materials substantiating their cost estimates with documentation such as quotes or invoices before receiving a disbursement of funds for reimbursement.²²⁷ To the extent that certain reimbursable expenses are not explicitly listed in the Catalog or certain cost categories do not fully account for an applicant's reimbursable expenses, applicants may request reimbursement by submitting individualized cost estimates, with supporting materials substantiating the costs.²²⁸ The cost estimates identified in the final

²²¹ *Catalog Public Notice* at 3.

²²² *Id.*

²²³ *Id.* at 3 & Attach. 2.

²²⁴ *2020 Supply Chain Order*, 35 FCC Rcd at 14340, para. 129.

²²⁵ *See Catalog Public Notice* at 3.

²²⁶ To be considered for funding, applicants are required to submit an initial estimate of costs reasonably incurred removing, replacing, and disposing of covered communications equipment and services. 47 CFR § 1.50004(c)(i) (not yet effective); *2020 Supply Chain Order*, 35 FCC Rcd at 14346, para. 148 (citing Secure Networks Act § 4(d)(2)(B)).

²²⁷ *See* Secure Networks Act § 4(d)(2)(B)(i); 47 USC § 1603(d)(2)(B)(i).

²²⁸ *See* 47 CFR § 1.50004(c)(1)(i), (v) (not yet effective). Individualized cost estimates are made in lieu of the Catalog estimates.

Catalog do not guarantee the ultimate disbursement of funds for any individual expense.²²⁹ Participants' requests for reimbursement will be evaluated based on supporting documentation regardless of whether the initial cost estimates were based on the Catalog or individualized cost estimates.

77. As noted above, cost estimates based on the Catalog will be the average of the low- and high-end range of cost estimates identified in the Catalog. If an applicant believes a cost estimate identified in the Catalog does not fully account for its specific circumstances or a cost category is not identified in the Catalog, the applicant may provide an individualized cost estimate. Applicants providing individualized cost estimates will be required to submit additional supporting documentation (e.g., vendor quotes) and certify that the cost estimate is made in good faith.²³⁰ All cost estimates are subject to review by Commission staff, with the assistance of the Reimbursement Program Fund Administrator, to ensure that an expense is eligible for reimbursement under the costs reasonably incurred standard.²³¹

78. We received 13 comments in response to the *Catalog Public Notice*, including comments addressing the preliminary catalog. Comments addressing the preliminary catalog were generally favorable;²³² however, commenters also proposed changes to the preliminary catalog. Commenters requested clarifications to the units of measurement for particular cost estimates, requested modifications or clarifications to certain cost categories, and requested modifications to certain ranges of cost estimates. Commenters proposed changes to the access layer, distribution layer, and core layer equipment, as well as software and services. Commenters also requested clarification on whether certain costs are reimbursable under the Reimbursement Program. We address these comments below. We also highlight modifications to the Catalog proposed by Widelity based on its own thorough review of the preliminary catalog and additional engagement with communications industry stakeholders.

79. *Clarifying Units of Measurement.* USTelecom—The Broadband Association (USTelecom) asked the Commission to clarify whether wavelength division multiplexing (WDM) and optical transport network (OTN) equipment “prices are ‘per node’ and ... not ‘per route.’”²³³ WDM and OTN equipment is typically priced in the communications industry on a per node basis as opposed to per route, and we clarify that the range of cost estimates for WDM and OTN equipment in the Catalog is priced on a per node basis.²³⁴ USTelecom also asked the Commission to clarify “whether the range of prices identified in the preliminary Catalog for the ‘existing co[]location’ expense type” are “per-month or a flat fee for each lease.”²³⁵ Because colocation is typically priced on a per-site, flat-fee basis, as opposed to a per-month basis, we revise the Catalog to clarify that the range of cost estimates for colocation is priced on a per-site basis to more accurately describe the per-unit cost of these expenses.²³⁶

²²⁹ 2020 *Supply Chain Order*, 35 FCC Rcd at 14339, para. 128.

²³⁰ *Id.* at 14346, para. 149.

²³¹ *Id.* at 14339, para. 128.

²³² See Airspan Catalog Public Notice Comments at 1 (“Airspan believes the Report and Cost Catalog generally take a fair and reasonable approach to identifying the various concerns carriers will face as part of the...Reimbursement Program.”); RWA Catalog Public Notice Comments at 1-2 (“Overall, the Cost Catalog presents a fair representation of the costs associated removing replacing and disposing of Huawei and ZTE equipment and services.”); USTelecom Catalog Public Notice Comments at 1 (“The catalog thoroughly identifies significant eligible engineering and project management expenses; we are in general agreement with the identified project components and the expenses deemed eligible.”).

²³³ USTelecom Catalog Public Notice Comments at 4.

²³⁴ Appx. C, § 2.7.0.

²³⁵ USTelecom Catalog Public Notice Comments at 3 (citing *Cost Catalog Public Notice*, Attach. 2 at 21).

²³⁶ 47 CFR § 1.50004(p) (the Commission’s delegation of authority to the Bureau to establish a Catalog); see 2020 *Supply Chain Order*, 35 FCC Rcd at 14339, para. 128 (the Commission delegated to the Bureau the responsibility to develop and finalize the Catalog); Appx. C, §§ 5.2.1.

80. *Requests to Include Additional Cost Categories.* CCA asked us to “include in the Cost Catalog an entry for preparation of the cell site closeout package, which may include photos, red line/as-built drawings, documents, and other relevant information to confirm that the site has been completed to specified standards and requirements.”²³⁷ We agree. We find that cell site closeout costs may be reasonably necessary to remove and replace covered communications equipment or services, and revised the Catalog to include under the “Services,” “Site Work” cost category, a subcategory for “Closeout Package – Microwave” and general “Closeout Package.”²³⁸ The range of cost estimates for these new cost categories was developed by Widelity based on confidential interviews with communications industry stakeholders.

81. RWA requested we add an “Attorney fees” cost category to the Catalog for “legal fees spent on the advocacy surrounding the development of the rules,” or “legal fees related to the ongoing rulemaking process.”²³⁹ We note that the preliminary catalog included a “Participation in FCC Rulemaking” cost category with a range of cost estimates.²⁴⁰ We deny RWA’s request because attorney’s fees related to the rulemaking proceeding are not reasonably necessary for the removal, replacement, and disposal of covered communications equipment or services. We modify the Catalog to remove the “Participation in FCC Rulemaking” cost category and range of cost estimates identified in the preliminary Catalog.²⁴¹ We clarify, however, that certain attorney’s fees and legal expenses incurred for purposes of participating in the Reimbursement Program, such as preparing application forms, reimbursement forms, extension requests, and waiver requests, may be reimbursable to the extent they are reasonably incurred for the removal, replacement, and disposal of covered communications equipment and services and the allocation request is substantiated with supporting documentation. We also note that, for example, attorney fees associated with negotiating and reviewing vendor contracts and legal fees associated with zoning and permitting are included in the Catalog range of cost estimates and potentially eligible for reimbursement.²⁴²

82. *Clarifying Reimbursable Expenses.* CCA asked us to provide “additional clarification on allowable reimbursements for internal employee time, including what type of documentation will be required.”²⁴³ As CCA noted, the preliminary catalog included a range of cost estimates related to internal labor costs, including carrier internal project management.²⁴⁴ We recognize that the Reimbursement Program will demand significant employee time and resources. Internal labor costs, like other program costs, are reimbursable to the extent they are reasonably incurred removing, replacing, and disposing of covered communications equipment and services. However, for internal labor costs to be reimbursable, they must be entirely related to transition efforts, that is, the costs would not have been incurred but for Reimbursement Program participation removing, replacing, and disposing of covered communications equipment and services. In other words, participants are only eligible to recover that portion of employee time attributable to transitioning equipment and services, not unrelated employee time or expenses related to overhead. Labor costs associated with normal system or network maintenance and administration, conducted in the ordinary course of business, are not reimbursable. We will review internal labor costs with heightened scrutiny to ensure that such expenses are reasonably necessary for removal, replacement, and disposal of covered communications equipment or services, and to avoid waste, fraud, and abuse in

²³⁷ CCA Catalog Public Notice Comments at 6.

²³⁸ Appx. C, §§ 5.21.25, 5.21.26.

²³⁹ RWA Catalog Public Notice Comments at 7.

²⁴⁰ *Catalog Public Notice*, Attach. 2 at 20.

²⁴¹ *See id.*

²⁴² Appx. C, §§ 5.35, 5.36, 5.37.

²⁴³ CCA Catalog Public Notice Comments at 5; CCA July 15, 2021 *Ex Parte* at 2-3.

²⁴⁴ *See id.*; *Catalog Public Notice*, Appx. B at 22.

the Program. Generally, we expect cost estimates for internal labor to be lower than cost estimates for outside services for the same work.

83. We find that the Catalog adequately identifies and accounts for employee time, i.e. internal labor costs, that could be quantified for a range of cost estimates based on pricing data submitted by industry stakeholders to Widelity. For example, the Catalog includes a range of cost estimates for internal labor including project management²⁴⁵ and engineer/staff network operations²⁴⁶ which are on a per person per month basis. We make no changes to the Catalog with respect to internal labor costs. Internal labor costs identified in the Catalog are reimbursable to the extent they are reasonably incurred removing, replacing, and disposing of covered communications equipment and services. Applicants may rely on the Catalog to estimate internal labor costs for their application submissions where applicable but will be required to submit additional documentation accounting for actual costs during the reimbursement stage to ensure that reimbursement funds are entirely related to transition efforts.

84. Applicants seeking reimbursement for internal labor costs that are not identified in the Catalog will be required to submit individualized cost estimates and documentation and certify that the estimates are made in good faith.²⁴⁷ In particular, to ensure that internal labor costs are entirely related to transition efforts, such costs must be estimated on a per-hour and per-project basis, providing both an estimate of labor hours to be incurred for each project and the internal labor rate to be used. Evidence of the salary/hourly rate of internal labor must be provided to establish the reimbursable portion of labor costs. Labor rates may be inclusive of salary and benefits. When submitting cost estimates for internal labor costs, the applicant should provide the employee hourly rates, a description of the work performed, and the number of hours to be worked (e.g. copies of employee timesheets or paystubs with hours worked, and Internal Revenue Service Form W-2, Wage and Tax Statement).

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

86. RWA argues that costs associated with "long term maintenance contracts or managed service contracts to maintain and operate Huawei and ZTE networks may need to be terminated prior to the service terms being completed and that the costs associated with the termination . . . should be reimbursed as part of the costs associated with replacing the networks."²⁴⁸ Observing that "other prepaid service contracts may need to be terminated prior to the service terms being completed," RWA argues that "[t]hese costs should be eligible for reimbursement and included in the Cost Catalog because they are outlays already made that are not otherwise recoverable."²⁴⁹ We reject RWA's request because these expenses are incurred to maintain Huawei and ZTE networks that the Reimbursement Program is

²⁴⁵ Appx. C, § 5.7.1

²⁴⁶ Appx. C, §§ 5.10.0.

²⁴⁷ See 47 CFR § 1.50004(c)(1) (not yet effective) ("Eligible providers that submit their own cost estimates must submit supporting documentation and certify that the estimate is made in good faith."); see also *2020 Supply Chain Order*, 35 FCC Rcd at 14346, para. 149 ("If an applicant believes the predetermined cost estimate does not fully account for its specific circumstance or a predetermined cost estimate is not provided in the Catalog of Eligible Expenses for the cost identified by the applicant, the applicant can provide its own individualized cost estimate.").

²⁴⁸ RWA Catalog Public Notice Comments at 8.

²⁴⁹ *Id.*

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

87. We do, however, clarify that early termination fees incurred by providers terminating long term service contracts, managed service contracts, or other prepaid contracts entered into prior to their application submission may be reimbursable to the extent they are reasonably necessary for removing, replacing, and disposing of covered communications equipment and services. We will not reimburse early termination fees for contracts entered into after June 30, 2020, as Congress has established that date as the eligibility cut-off for eligible expenses.²⁵⁰ Beyond our statutory obligation, after June 30, 2020, the date on which the Public Safety and Homeland Security Bureau released orders designating Huawei and ZTE as covered companies under our rule 54.9, no Universal Service Funds could be used to purchase, obtain, maintain, improve, modify, or support Huawei or ZTE equipment or services.²⁵¹ We decline to reward business decisions where a participant should be on notice to not enter into arrangements with such fees given the program's goals to incentivize providers to remove, replace, and dispose of Huawei and ZTE equipment and services. Participants seeking reimbursement for early termination fees must provide supporting documentation, including copies of vendor contracts with the early termination fee provisions.

88. CCA requested that certain integration costs be included in the Catalog. CCA requested that any Citizens Broadband Radio Service (CBRS) equipment being replaced should include "the costs of re-integration of the new CBRS equipment with Spectrum Access Systems."²⁵² Because Spectrum Access Systems (SAS) integration costs may be reasonably necessary to replace CBRS equipment, these costs may be reimbursable under the program. We revise the Catalog to include cost categories for access layer and distribution layer SAS Integration Costs and a range of cost estimates based on Widelity's confidential interviews with communications industry stakeholders.²⁵³

89. CCA also requested inclusion in the Catalog of a cost category for "third-party integration costs" such as "billing software, messaging platforms, roaming services, WEAS systems, and robocall blocking services."²⁵⁴ While these expenses are not in the Catalog, some of these expenses may be reimbursable. However, we reject CCA's request because network integration costs are highly variable, making it difficult to develop a quantifiable range of cost estimates based on the record and information provided by communications industry stakeholders to Widelity. As noted above, the final Catalog does, however, include specific integration costs, such as SAS integration, that are specific to the type of equipment which may be eligible for reimbursement.²⁵⁵ Participants seeking reimbursement for network integration costs not identified in the Catalog will need to provide individualized cost estimates with supporting documentation.

90. RWA asked us to modify the Catalog to include "VoLTE compatible replacement subscriber handsets" to replace "CDMA-capable voice services on some handheld devices."²⁵⁶ Relatedly, CCA asked us to modify the Catalog to clarify that replacements to "add, upgrade, or replace HSS, IMS, PCRF, etc. to support UMTS/LTE/VoLTE devices" fall within the catalog's "purview."²⁵⁷ In the 2021

²⁵⁰ See CAA § 906; 2021 Supply Chain Order at 21-24, paras. 46-52.

²⁵¹ See generally *Huawei Designation Order*; *ZTE Designation Order*.

²⁵² CCA Catalog Public Notice Comments at 6.

²⁵³ Appx. C, §§ 1.7.3, 2.30.0.

²⁵⁴ CCA Catalog Public Notice Comments at 6.

²⁵⁵ Appx. C, § 1.7.3.

²⁵⁶ See Letter from Carri Bennet, General Counsel, Rural Wireless Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-89, at 2 (filed June 1, 2021).

²⁵⁷ CCA Catalog Public Notice Comments at 5.

Supply Chain Order, however, the Commission rejected RWA’s request, finding “CDMA-capable handsets not produced or provided by Huawei or ZTE ineligible for reimbursement under the Reimbursement Program rules because replacing such handsets with VoLTE-compatible subscriber handsets is not reasonably necessary to the removal, replacement, and disposal of covered communications equipment or service.”²⁵⁸ Consistent with the *2021 Supply Chain Order*, we decline to modify the Catalog to include handsets and other end user customer premises equipment (CPE) outside of the limited CPE already accounted for in the Catalog.²⁵⁹

91. RWBC asked us to modify the Catalog to “include cost estimates for deploying fiber backhaul equipment,”²⁶⁰ arguing that “fiber backhaul facilities should be considered comparable to microwave backhaul facilities under the ‘*Emerging Technologies*’ compatibility standard.”²⁶¹ Similarly, USTelecom asked us to clarify whether leasing “additional capacity on a long-term basis (like a fiber IRU) that would support the parallel network” is eligible for reimbursement.²⁶² In the *2021 Supply Chain Order*, however, the Commission did not consider “replacing microwave backhaul with fiber backhaul . . . necessary for the removal, replacement, and disposal of” covered communications equipment or services.”²⁶³ Instead, the Commission viewed such “fiber link replacements as a technology upgrade, and not a reasonable, comparable replacement.”²⁶⁴ As the Commission explained in the *2021 Supply Chain Order*, if the participant decides to upgrade its equipment, it will bear the difference in cost between the comparable replacement and the upgrade, must provide price quotes for the comparable replacement with its application, as opposed to relying on the cost estimates in the Catalog, and must certify that the estimated cost is in good faith.²⁶⁵ Fiber backhaul facilities and additional capacity would be considered an upgrade, not a reasonable, comparable replacement. Accordingly, we decline to add this equipment as a separate cost category to the Catalog.

92. Ericsson argues that the preliminary catalog “only included Internet of Things (‘IoT’) software licenses associated with core network nodes,” which does “not reflect the need to replace existing Machine-to-Machine (‘M2M’) and IoT software licenses in the Radio Access Networks (‘RAN’) nodes.”²⁶⁶ Ericsson asked us to “expand the current Catalog to include specific RAN software licenses for existing functionality, such as M2M, Cat-M1, Narrowband IoT, and similar items” because it would “ensure the continuation of IoT capabilities in one frequency band in all sectors of an existing LTE site with typical 2, 4, and 8-port radios.”²⁶⁷ We decline to implement Ericsson’s request because the functionality cited, Internet of Things capabilities, is not reasonably necessary for core network operations and therefore is outside of the scope of the Catalog. The cost categories Ericsson requests to include in the Catalog are not part of the core network but rather are used by end users to connect to advanced communications services. In the *2021 Supply Chain Order*, the Commission found that “Internet of Things devices, used by end users to access and utilize advanced communications services are distinctly different from the cell sites, backhaul, core network, etc. used to operate a network and

²⁵⁸ *2021 Supply Chain Order* at 38-39, para. 93.

²⁵⁹ *See id.*

²⁶⁰ Rural Wireless Broadband Coalition Catalog Public Notice Comments at 3-4.

²⁶¹ *Id.* at 5-6.

²⁶² USTelecom Catalog Public Notice Comments at 3.

²⁶³ *2021 Supply Chain Order* at 37, para. 90.

²⁶⁴ *Id.*

²⁶⁵ *Id.* at 37-38, para. 91.

²⁶⁶ Ericsson Catalog Public Notice Comments at 2-3 (citing *Catalog Public Notice*, Attach. 2 at 20).

²⁶⁷ *Id.*

provide advanced communications services,” and were “not reasonably necessary to the removal, replacement, and disposal of covered communications equipment or service.”²⁶⁸

93. Vantage Point argues that “annual software or license fees” are “a true cost of network replacement and should be included in Catalog replacement estimates.”²⁶⁹ While these expenses may be reimbursable, we decline to implement Vantage Point’s proposed change because specific software licensing fees are already included in the Catalog based on Widelity’s engagement with industry stakeholders.²⁷⁰ Participants seeking reimbursement for software and licensing fees not identified in the Catalog will need to provide individualized cost estimates with supporting documentation.

94. *Requests to Clarify or Modify Cost Categories.* CCA asks us to “clarify that the full range of 911 implementation costs are reasonable,” including “third-party integration costs.”²⁷¹ The Catalog includes cost estimates for “911 and E911 Services and Test Services” which we find are sufficiently specific.²⁷² To the extent that there are additional costs associated with 911 and E911 (Enhanced 911) implementation as CCA suggests, there is no evidence in the record or provided to Widelity that would form a basis for altering the Catalog 911 and E911 services cost categories. Accordingly, we decline to implement the change proposed by CCA.

95. USTelecom asked us to clarify that the “Leasing” cost category is not limited to “wireless networks,” but that “wireline networks may also need to obtain or modify leases, such as, for example, for space in third-party datacenters.”²⁷³ In particular, USTelecom asserts that the “existing colocation” expense type” is “unclear.”²⁷⁴ We clarify that providers of wireline networks may be eligible for reimbursement of leasing expenses, including colocation expenses, reasonably incurred in removing, replacing, or disposing of covered communications equipment and services.²⁷⁵ We decline, however, to modify the Catalog to account for costs of leasing space in third-party data centers. We note that there is no documentation in the record to quantify costs for leasing space in third-party data centers, and Widelity did not receive cost data on leasing space in third-party data centers.

96. *Amendments to the Range of Cost Estimates.* Commenters requested that we modify the range of cost estimates for certain cost categories identified in the preliminary Catalog. Mavenir argues that the low range of cost estimates identified in the preliminary Catalog for “‘Open vRAN eNodeB’, ‘RAN (Open RAN/ vRAN) Components’ or [Distributed Unit]...need to be changed to reflect that costs provided by Mavenir.”²⁷⁶ We agree with Mavenir that we should modify the Catalog to reduce the low end of the range of estimated costs for “Open vRAN eNodeB,”²⁷⁷ and “RAN (Open RAN/ vRAN Components)” to reflect the lower pricing information Mavenir submitted to Widelity.²⁷⁸ Accordingly, we implement these clarifications in the Catalog. However, we reject Mavenir’s request to lower the low end of the range of cost estimates for the distribution layer Distributed Unit cost category because Widelity had already factored in the pricing information Mavenir submitted to Widelity when developing

²⁶⁸ 2021 Supply Chain Order at 39, para. 94.

²⁶⁹ Vantage Point Catalog Public Notice Comments at 6.

²⁷⁰ Appx. C, § 4.

²⁷¹ CCA Catalog Public Notice Comments at 5.

²⁷² Appx. C, § 5.48.

²⁷³ USTelecom Catalog Public Notice Comments at 3.

²⁷⁴ *Id.* at 3.

²⁷⁵ Appx. C, §§ 5.6, 5.6.7.

²⁷⁶ *See* Mavenir Catalog Public Notice Comments at 3.

²⁷⁷ Appx. C, § 2.31.0.

²⁷⁸ Appx. C, §§ 2.34, 2.35, 2.36.

the range of cost estimates for the preliminary catalog.²⁷⁹ Because we find the range of cost estimates for Distributed Unit identified in the preliminary catalog to be reasonable, we include it in the final Catalog.

97. USTelecom asked us to “reexamine and confirm the appropriate prices” for WDM and OTN equipment. USTelecom asserted that it was “unclear why” cost estimates for access layer “Access WDM & OTN” equipment “matches” core layer “Metro WDM & OTN” equipment, “yet the apparently similar” distribution layer “Metro WDM & OTN” cost estimates are “very different.”²⁸⁰ To remove a potential source of confusion for participants, we removed the core layer “Metro WDM & OTN” cost category since this equipment is identical to distribution layer WDM and OTN equipment and thus the cost estimates were duplicative. As a result, we adjusted the range of cost estimates for “WDM & OTN – Core Equipment” to reflect the removal of distribution layer WDM and OTN equipment and the associated range of cost estimates. Accordingly, we adopt this revision in the Catalog.²⁸¹ WDM and OTN associated equipment costs are included for the access layer,²⁸² distribution layer,²⁸³ and core layer²⁸⁴ equipment cost categories.

98. USTelecom states that a member has “Huawei equipment that would appear to be classified as Coaxial Media Converters in the proposed catalog” and reports that it “paid well in excess of the maximum allowed,” and “the cost to replace Huawei with equal functionality will range from \$13,000-\$16,000 per replacement.”²⁸⁵ USTelecom notes that the carrier “typically refers to” the “Coaxial Media Converters” equipment as a “cable modem termination system (CMTS) and, while CMTS systems are generally deployed in a cable operator’s headend, these particular Huawei CMTS devices are field-deployed.”²⁸⁶ Because we find that the costs for replacing CMTS are reasonably necessary to comply with the Reimbursement Program, we find that the Catalog should be revised to account for CMTS costs. We agree with USTelecom that the high-end cost estimate should be \$16,000 per node but, based on cost estimates recommended by Widelity based on industry engagement, we find that the low-end cost estimate should be \$8,500 per node. We modify the Catalog to include this range of cost estimates for CMTS (per node).²⁸⁷

99. CCA asks us to “add the costs of cell site routers to the Catalog, with an estimated cost of \$3,000 per site” because “[e]ach cell site typically has a router installed.”²⁸⁸ The preliminary catalog identified a Distribution Layer cost subcategory and range of cost estimates for “Cell Site Routers.”²⁸⁹ We revised the Catalog to include additional Distribution Layer cost subcategories and ranges of cost estimates for small, medium, and large cell site routers based on Widelity’s additional engagement with industry stakeholders.²⁹⁰ We find that Widelity’s thorough survey of communications industry manufacturers and service providers reasonably identified relevant ranges of estimated costs for cell site

²⁷⁹ *Catalog Public Notice*, Appx. B at 14; Appx. C, § 2.33.0.

²⁸⁰ USTelecom Catalog Public Notice Comments at 4.

²⁸¹ Appx. C, § 1.2.1.

²⁸² *Id.*, § 1.2.0.

²⁸³ *Id.*, § 2.7.0.

²⁸⁴ *Id.*, § 3.4.0.

²⁸⁵ USTelecom Catalog Public Notice Comments at 2-3.

²⁸⁶ *Id.* at 3.

²⁸⁷ Appx. C, § 1.9.1.

²⁸⁸ CCA Catalog Public Notice Comments at 5.

²⁸⁹ *Catalog Public Notice*, Attach. 2 at 8.

²⁹⁰ *See* Appx. C, § 2.1.0.

routers. To the extent that applicants disagree with the Catalog cost estimates, they may submit individualized cost estimates along with supporting documentation.

100. We also take this opportunity to clarify that costs associated with removing, replacing, and disposing of wired (Wi-Fi) and wireless routers that constitute CPE are not be reimbursable under the program and revise the Catalog accordingly. The preliminary catalog included a subcategory (without cost estimates) for “Smart Home” CPE but clarified that “IP cameras, wifi doorbells, wifi, light switches, etc. would not be reimbursable.”²⁹¹ In the preliminary Report, Widelity noted that for wireless networks, CPE can include an “internal modem and broadband router possibly with a wireless access point to distribute a signal throughout the premises or office,” and for wired networks, CPE can include a “broadband router, or a premise gateway with wireless (Wi-Fi) capabilities.”²⁹² In the *2021 Supply Chain Order*, the Commission found that certain CPE equipment including end-user handsets were “distinctly different from cell sites, backhaul, core network, etc. used to operate a network and provide advanced communications services.”²⁹³ In particular, the Commission found this equipment was not reasonably necessary to the removal, replacement and disposal of covered communications equipment.²⁹⁴ Wired (Wi-Fi) and wireless routers may constitute CPE used by end users to access non-core network elements and, consistent with the *2021 Supply Chain Order*, are not reasonably necessary for the removal, replacement, and disposal of covered communications equipment or services.²⁹⁵ Accordingly, we revise the Catalog “Smart Home” subcategory to clarify that “Wi-Fi Routers” would not be reimbursable under the program.²⁹⁶

101. Airspan argues that the “Cost Catalog’s pricing appears grossly inflated,” noting that “some of the lower bound cost estimates listed in the Cost Catalog are as much as three times (3x) the price Airspan currently offers for equivalent hardware and other network elements,” and that network equipment and services are becoming less expensive by the day due to the ongoing evolution of network architecture design and equipment manufacturing.”²⁹⁷ Airspan did not sufficiently quantify with specificity the changes to the range of cost estimates it envisioned. We thus decline to modify the Catalog in response to Airspan’s comment because we believe that Widelity’s thorough survey of communications industry manufacturers and service providers reasonably identified relevant ranges of estimated costs. We note that we modified the Catalog in parts to reduce the low-end of the range of cost estimates where appropriate.²⁹⁸

102. Vantage Point argues that the preliminary Catalog underestimates shipping costs in Alaska, failing to account for “shipping costs to any other major Alaskan port,” other than Seattle to Dutch Harbor, and failing to account for “inland transportation costs.”²⁹⁹ We decline to modify the Catalog to account for additional shipping costs in Alaska raised by Vantage Point. The Catalog accounts for shipping costs to Alaska based on the longest shipping route, Seattle to Dutch Harbor, as an example for the costs typically incurred. Cost estimates for other outlying regions, which vary depending on

²⁹¹ *Catalog Public Notice*, Attach. 2 at 7.

²⁹² *Id.*

²⁹³ *2021 Supply Chain Order* at 39, para. 94.

²⁹⁴ *Id.*

²⁹⁵ *Id.* at 38-39, paras. 93-94.

²⁹⁶ Appx. C, § 1.8.2.

²⁹⁷ Airspan Catalog Public Notice Comments at 4.

²⁹⁸ See Appx. C, § 1.2.1 (decreasing the low-end of the range of estimated costs for “Access WDM & OTN equipment, Small network” from \$83,000.00 to \$3,454.00); *id.*, §§ 2.31.0 to 2.31.7 (decreasing the low-end of the range of estimated costs for various “Open vRAN eNodeB” subcategories).

²⁹⁹ Vantage Point Catalog Public Notice Comments at 2-3.

multiple cost factors, including distance, time of year, freight weight, etc., would be too variable to include in the Catalog. To the extent that providers believe the Catalog does not adequately represent their shipping costs, they may submit individualized cost estimates with supporting documentation.

103. *Widely Proposed Revisions.* Widely also proposed various modifications, clarifications, and improvements to the preliminary catalog, based on additional engagement with communications industry stakeholders and its own thorough review. Widely proposed various clarifications to the descriptions of the cost categories. For example, Widely proposed clarifying that the “Virtual/Cloud Core Deployment Cloud – Virtual IMS” cost category range of estimated costs is for equipment providing service to “up to 100,000 subscribers.”³⁰⁰ Widely also proposed revising the description for “Antenna – LTE (Long Term Evolution)” to represent costs for a typical 10-port antenna, instead of an 8-port antenna, resulting in a decrease to the low-range of cost estimates from \$2,087 to \$1,479.³⁰¹ Widely also proposed adding additional cost subcategories to provide further specificity and guidance to applicants. For example, Widely proposed adding a Distribution Layer Equipment cost category for “Hybrid Cable & Radio Jumpers, Tower Ancillary Components” with a range of cost estimates.³⁰² Widely also proposed changes to the range of cost estimates proposed in the preliminary catalog to more accurately reflect reasonable costs typically incurred managing a network. For example, Widely proposed increasing the high-end of the range of cost estimates for “Tower/Installation Crews,” “Mobilization Less than or Equal to 250 Miles (2-4 Member Crew),” from \$3,000 to \$6,000.³⁰³

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

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

C. Final Replacement List

106. We adopt a final List of Categories of Suggested Replacement Equipment and Services (Replacement List) to guide providers removing, replacing, and disposing of covered communications equipment and services. Section 4(d)(1) of the Secure Networks Act directs the Commission to “develop a list of suggested replacements of both physical and virtual communications equipment, application and management software, and services or categories of replacements of both physical and virtual communications equipment, application and management software and services.”³⁰⁴ The list must be “technology neutral and may not advantage the use of reimbursement funds for capital expenditures over

³⁰⁰ Appx. C, § 5.28.5.

³⁰¹ *Id.*, § 2.14.2.

³⁰² *Id.*, § 2.17.

³⁰³ Compare Appx. C, § 5.24.1 with *Catalog Public Notice*, Attach. 2 at 27.

³⁰⁴ Secure Networks Act § 4(d)(1)(A); 47 U.S.C. § 1603(d)(1)(A).

operational expenditures.”³⁰⁵ Accordingly, in the *2020 Supply Chain Order*, the Commission mandated the development of a Replacement List “that will identify the categories of suggested replacements of real and virtual hardware and software equipment and services to guide providers removing covered communications equipment from their networks.”³⁰⁶ and directed the Bureau to issue a public notice announcing the Replacement List.³⁰⁷ The Bureau sought and received comment on a preliminary Replacement List prepared by Widelity in the *Catalog Public Notice*.³⁰⁸ After considering the comments addressing the preliminary Replacement List received in response to the *Catalog Public Notice*, the Bureau declines to make any changes to the preliminary Replacement List.

107. Santel Communications Cooperative, Inc. (Santel) asked the Bureau to “add a statement in the Replacement List acknowledging that replacing covered equipment with other advanced communications services equipment, specifically including [fiber-to-the-premises (FTTP)] equipment, qualifies for reimbursement under the Supply Chain Reimbursement Program.”³⁰⁹ In the *2021 Supply Chain Order*, however, the Commission explained that it generally views fiber link replacements, including FTTP, as a technology upgrade and not a reasonable, comparable replacement for covered communications equipment and services.³¹⁰ Participants may upgrade communications equipment and services under the Reimbursement Program but, as the Commission explained, will ultimately bear the difference in cost between the comparable replacement and the upgrade.³¹¹ Because cost determinations are very case-by-case specific, and FTTP is generally considered an upgrade, not a reasonable, comparable replacement, we decline to adopt Santel’s proposed modification to the Replacement List.³¹²

108. ADTRAN seeks to “incorporate a ‘Buy American’ preference into the suggested Replacement Equipment.”³¹³ However, when Congress created the Reimbursement Program it did not express a preference for providers to replace covered communications equipment and services with equipment and services provided by U.S. companies. Similarly, and by ADTRAN’s own admission, Congress did not include a “Buy American” preference for the Reimbursement Program in sections 901 or 906 of the Secure Networks Act.³¹⁴ Furthermore, in the *2020 Supply Chain Order* the Commission

³⁰⁵ Secure Networks Act § 4(d)(1)(B); 47 U.S.C. § 1603(d)(1)(B).

³⁰⁶ *2020 Supply Chain Order*, 35 FCC Rcd at 14363-64, para. 198; 47 CFR § 1.50006.

³⁰⁷ *Id.* at 14368, para. 208.

³⁰⁸ *Catalog Public Notice* at 3-4.

³⁰⁹ Santel *Catalog Public Notice* Comments at 2.

³¹⁰ *2021 Supply Chain Order* at 37, para. 90.

³¹¹ *Id.* at 37-38, para. 91.

³¹² NTCA—The Rural Broadband Association (NTCA) requested that the “Commission include a statement in the Replacement List...that specifically allows providers to replace covered equipment or services with any equipment or technology that is capable of providing advanced communications,” encouraging the Commission to clarify that “providers can choose the equipment and technology to install in their networks...[t]hus, for example, a provider of fixed wireless services could choose to replace covered fixed wireless equipment with a fiber network solution.” NTCA Cost Catalog Public Notice Comments at 2. In the *2021 Supply Chain Order*, the Commission addressed the issues raised by NTCA and provided additional guidance on the treatment of technology upgrades in excess of a comparable replacement under the Reimbursement Program. See *2021 Supply Chain Order* at 35-38, paras. 86-92; *id.* at 37-38, para. 87 & n.264 (citing NTCA Cost Catalog Public Notice Comments at 2). Further revisions to the Replacement List are therefore unnecessary to address NTCA’s comments. The Replacement List is technology neutral as required by the Secure Networks Act and is not intended to be exhaustive of all replacement options. See Secure Networks Act § 4(d)(1)(B); 47 U.S.C. § 1603(d)(1)(B).

³¹³ ADTRAN *Catalog Public Notice* Comments at 3; see ADTRAN Reimbursement Process Public Notice Comments at 2-6.

³¹⁴ See ADTRAN Reimbursement Process Public Notice Comments at 2.

explained that the Replacement List should “provide carriers with the flexibility to select the equipment or services that fit their needs from categories of equipment and services.”³¹⁵ Consistent with the *2020 Supply Chain Order*, we provide participants with the flexibility to select U.S. and non-U.S. equipment or services (excluding, of course, Huawei and ZTE equipment or services) that satisfy their obligations under the Reimbursement Program. Accordingly, we decline to adopt ADTRAN’s proposed modification to the Replacement List.

109. Accordingly, for the reasons stated herein, we adopt the preliminary replacement list proposed in the *Catalog Public Notice*, without changes, as the final Replacement List for use in the Reimbursement Program.³¹⁶ Consistent with the *2020 Supply Chain Order*, the Bureau will publish the final Replacement List on the Commission’s website and issue a public notice at least annually announcing any updates to the Replacement List, to the extent there are any updates, to ensure that the Replacement List remains current.³¹⁷ The final Replacement List is attached as Appendix D.

D. Widelity Report

110. The Bureau also sought comment in the *Catalog Public Notice* on the Supply Chain Reimbursement Program Study (Report) prepared by Widelity.³¹⁸ The Report represents the views of Widelity, not the views of the Commission or the Bureau, and is not an official Commission document. While the Bureau appreciates comments received addressing and proposing changes to the Report, the Bureau did not intend for further revisions to the Report by Widelity and instead sought comment only to help gauge the adequacy and sufficiency of the subjects covered in the Report as the Bureau works to implement the Reimbursement Program. Specifically, the Report was intended “as an industry and technology overview and explains Widelity’s methodologies used to develop the initial version of the proposed Catalog and Replacement List.”³¹⁹ Comments on the Report are relevant only to the extent they inform the finalization of the Catalog and Replacement List. The final Catalog will be used by participants to estimate initial costs, and the final Replacement List will serve as a suggested guide to participants replacing equipment and services. Accordingly, the Bureau finds it unnecessary to require further revisions to the Widelity Report.

IV. PROCEDURAL MATTERS

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

112. *Treasury Offset.* The U.S. Department of the Treasury (Treasury) has a number of collection tools, including the Treasury Offset Program (TOP), whereby it collects delinquent debts owed to federal agencies and states by individuals and entities, by offsetting those debts against federal monies owed to the debtors.³²⁰ As noted in the Reimbursement Process Public Notice, TOP will apply to disbursements from the Reimbursement Program. Reimbursement Program participants owing past-due debt to a federal agency or a state may have all or part of their disbursement payments offset by Treasury to satisfy such debt. Prior to referral of its debt to Treasury, an entity is notified of the debt owed,

³¹⁵ See *2020 Supply Chain Order*, 35 FCC Rcd at 14364, para. 198 (explaining that the replacement list “should provide carriers with the flexibility to select the equipment or services that fit their needs from categories of equipment and services.”).

³¹⁶ *Catalog Public Notice*, Attach. 3.

³¹⁷ 47 CFR § 1.50006(b); *2020 Supply Chain Order*, 35 FCC Rcd at 14368, paras. 207-208.

³¹⁸ *Catalog Public Notice*, Attach. 1.

³¹⁹ *Id.* at 2.

³²⁰ See 31 U.S.C. § 3716 *et seq.*; U.S. Department of the Treasury, Treasury Offset Program, <https://fiscal.treasury.gov/top/> (last visited July 22, 2021).

including repayment instructions.³²¹ If the referred debt of a Reimbursement Program participant remains outstanding at the time of a disbursement payment from the Reimbursement Program to that participant, the participant will be notified by Treasury that some or all of its payment has been offset to satisfy an outstanding federal or state debt. Program participants that owe past due federal or state debts that have been referred to Treasury are encouraged to resolve such debts prior to submitting their Application Request for Funding Allocation.³²² The Bureau lacks discretion to deviate from the requirements of the TOP.

113. RWA recognizes the Commission lacks the authority to deviate from the TOP requirements but “encourages the Reimbursement Program Fund Administrator and the FCC to work through any debt collection issues with the applicant prior to funds being released so that an applicant can cure any outstanding debts in order to receive funding.”³²³ We will endeavor to work with participants, to the extent practicable, on Treasury Offset debt collection issues in connection with the disbursement process. Participants are, however, encouraged to proactively identify and resolve any outstanding federal and state debt issues before participating in the Reimbursement Program that could lead to a Treasury Offset.

114. *Do Not Pay*. Absent comment on the issue, the Commission adopts the proposal for the Bureau in coordination with the Commission’s Office of Managing Director to “conduct a thorough review of the federal “Do Not Pay” system database to verify an applicant’s eligibility for payments and awards”³²⁴ before distributing the funding. Pursuant to the Payment Integrity Information Act of 2019 (PIIA), the Commission is required to ensure that a thorough review of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any federal funds.³²⁵ The Department of Treasury’s Do Not Pay system is designed to decrease improper payments in federal programs such as the payment of funds to ineligible recipients, overpayment, or underpayment.³²⁶

115. Under the PIIA, the Commission is required to verify the eligibility of the funding recipient in multiple databases before allocating and distributing the funding.³²⁷ The Reimbursement Program Fund Administrator will initially check whether an applicant is identified in the Do Not Pay system. If an applicant is ineligible for funding under the Do Not Pay system, the Reimbursement Program Fund Administrator will notify the applicant and provide an opportunity for the applicant to expeditiously resolve the matter with the Do Not Pay system. The Bureau will not allocate funding to the applicant if an applicant is ineligible for funding under the Do Not Pay system.³²⁸ If a check of the Do Not Pay system results in a finding that a Reimbursement Program applicant is ineligible for funding or payment, the Commission will withhold funding and/or payments as appropriate. The Program

³²¹ See 31 U.S.C. § 3716(a)(1)-(4).

³²² See U.S. Department of the Treasury, TOP Frequently Asked Questions, <https://fiscal.treasury.gov/top/faqs-for-the-public.html> (last visited Aug. 2, 2021).

³²³ RWA Reimbursement Process Public Notice Comments at 10.

³²⁴ See *Reimbursement Process Public Notice* at 10.

³²⁵ Payment Integrity Information Act of 2019, PL 116-17, § 3351(3), 134 Stat 113, 114 (2020) (PIIA).PIIA recodifies and amends the prior improper payment statutes (*i.e.*, The Improper Payments Information Act of 2002, Pub. L. 107-300; The Improper Payments Elimination and Recovery Act of 2010, Pub. L. No. 114–204; The Improper Payments Elimination and Recovery Improvement Act of 2012, Pub. L. No. 112-248; and The Fraud Reduction and Data Analytics Act of 2015, Pub. L. No. 114-186).

³²⁶ See generally Payment Integrity Information Act of 2019; U.S. Bureau of the Fiscal Service, *Do Not Pay*, <https://fiscal.treasury.gov/DNP/> (last visited Aug. w, 2021).

³²⁷ Payment Integrity Information Act of 2019, § 3354(a).

³²⁸ See *Reimbursement Process Public Notice* at 10.

Administrator may work with the applicant to give it an opportunity to resolve its listing in the Department of the Treasury's Do Not Pay system if the applicant can produce evidence that its listing in the Do Not Pay system should be removed. However, the applicant or program participant will be responsible for working with the relevant agency to correct its information before funding can be allocated or payment can be made by the Commission."³²⁹

116. *Red Light Rule.* In the *Reimbursement Procedures Public Notice*, we sought comment on waiving the Commission's "red light rule" for all funding allocations and disbursements from the Reimbursement Program.³³⁰ RWA supported this proposal.³³¹ Accordingly, we will waive the "red light rule" for the Reimbursement Program as discussed herein.

117. The Commission's "red light rule" prevents parties who are delinquent on debts owed to the Commission from receiving benefits from the Commission while the debts remain unpaid.³³² The Commission adopted the "red light rule" in implementation of the Federal Debt Collection Improvement Act of 1996 that sought to "maximize collections of delinquent debts owed to the Government . . ."³³³ The Commission has the authority to waive the "red light rule" for "good cause shown" under the Commission's rules.³³⁴ The Commission can waive compliance with its own regulations when "particular facts would make strict compliance [with the regulation] inconsistent with the public interest."³³⁵ The Commission finds that the waiver of the "red light rule" is justified in this instance given the national security risks posed to U.S. networks by Huawei and ZTE covered communications equipment and services.³³⁶

118. *Paperwork Reduction Act.* This document implements the information collections adopted in the *2020 Supply Chain Order* and does not contain any additional information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. The Commission is separately seeking to obtain the approval of the Office of Management and Budget (OMB) for the information collection requirements contained in the *2020 Supply Chain Order* per the Paperwork Reduction Act.³³⁷ Therefore, this document does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.³³⁸

³²⁹ See *Reimbursement Process Public Notice* at 10; see U.S. Bureau of the Fiscal Service, *Privacy Program*, <https://fiscal.treasury.gov/dnp/privacy-program.html#data-correction-process> (last visited Aug. 2, 2021).

³³⁰ See *Reimbursement Process Public Notice* at 9.

³³¹ RWA Reimbursement Process Public Notice Comment at 10.

³³² See Federal Communications Commission, *Debt Collection Improvement Act Implementation* (last visited Aug. 2, 2021), <https://www.fcc.gov/licensing-databases/fees/debt-collection-improvement-act-implementation> ("The red light rule requires the Commission to withhold action on applications and other requests for benefits when the entity applying for or seeking benefits is delinquent in non-tax debts owed to the Commission . . .").

³³³ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134 §31001(b)(1), 110 Stat 1321 (1996).

³³⁴ 47 CFR §1.3. The Commission recently waived the "red light rule" for health care providers seeking funding under the COVID-19 Telehealth program. See *Office of Managing Director and Wireline Competition Bureau Suspend the Red Light Rule for the COVID-19 Telehealth Program*, WC Docket No. 20-89, Public Notice, DA 20-436 (WCB Apr. 21, 2021).

³³⁵ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

³³⁶ *Reimbursement Process Public Notice*, at 9-10.

³³⁷ See *Information Collection Being Reviewed by the FCC*, 86 Fed. Reg. 22050 (Apr. 26, 2021).

³³⁸ See 44 U.S.C. § 3506(c)(4).

119. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA),³³⁹ requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”³⁴⁰ In addition, the term “small business” has the same meaning as the term “small business concerns” under the Small Business Act.³⁴¹ 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).³⁴²

120. The Commission prepared Initial Regulatory Flexibility Analyses (IRFAs) in connection with the *2020 Supply Chain Declaratory Ruling and Second Further Notice* and the *2021 Supply Chain Third Further Notice*.³⁴³ The Commission sought written public comment on the proposals in the *2020 Supply Chain Declaratory Ruling and Second Further Notice* and the *2021 Supply Chain Third Further Notice*, including comments on the IRFAs. No comments were filed addressing the IRFAs. The Commission included Final Regulatory Flexibility Analyses (FRFAs) in connection with the *2020 Supply Chain Order* and the *2021 Supply Chain Order*.³⁴⁴

121. This Public Notice establishes procedures for the Reimbursement Program to implement the rules adopted by the Commission for the Reimbursement Program in the *2020 Supply Chain Order* and in the *2021 Supply Chain Order*.³⁴⁵ In particular, this Public Notice establishes procedures for, among other things, determining program eligibility and participating in the program, including the filing and processing of applications. The procedures established in this Public Notice flow from the proposals set forth in the *2020 Supply Chain Declaratory Ruling and Second Further Notice* and the *2021 Supply Chain Third Further Notice* and discussed in the IRFAs accompanying those Notices, and are consistent with the requirements established in the *2020 Supply Chain Order* and the *2021 Supply Chain Order* and addressed in the FRFAs accompanying those Orders. Accordingly, no changes to our earlier analyses are required.

122. We have determined that the impact on the entities affected by the requirements contained in this Public Notice will not be significant. The effect of these measures is to establish for the benefit of those entities, including small entities, the procedures for filing an application consistent with existing rules, to participate in the Reimbursement Program to obtain funding support to remove from

³³⁹ 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public L. No. 104-121, Title II, 110 Stat. 857 (1996).

³⁴⁰ 5 U.S.C. § 605(b).

³⁴¹ *Id.* § 601(6).

³⁴² *Id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

³⁴³ *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, 35 FCC Rcd 7821 (2020) (*2020 Supply Chain Declaratory Ruling and Second Further Notice*); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Third Further Notice of Proposed Rulemaking, FCC 21-26 (Feb. 22, 2021) (*2021 Supply Chain Further Notice*).

³⁴⁴ *2020 Supply Chain Order*, 35 FCC Rcd at 14385 (Appx. B, Final Regulatory Flexibility Analysis); *2021 Supply Chain Order* (Appx. B, Final Regulatory Flexibility Analysis).

³⁴⁵ *2020 Supply Chain Order*, 35 FCC Rcd at 14374, Appx. A; *2021 Supply Chain Order*, FCC 21-86, Appx. A.

their networks, replace, and dispose of communications equipment and service considered a national security risk.

123. We therefore certify that the requirements of this Public Notice will not have a significant economic impact on a substantial number of small entities. The Bureau will send a copy of the Public Notice including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act.³⁴⁶ In addition, the Public Notice and this final certification will be sent to the Chief Counsel for Advocacy of the SBA, and will be published in the Federal Register.³⁴⁷

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

For additional information on this matter, please email supplychain@fcc.gov.

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³⁴⁶ 5 U.S.C. § 801(a)(1)(A).

³⁴⁷ 5 U.S.C. § 605(b).