



Re: Universal Service Fund (USF) Working Group Request for Comment


**1. How should Congress evaluate the effectiveness of each USF program in achieving their respective missions to uphold universal service?**

The Universal Service Fund (USF) provides critical support for connecting communities in rural and remote areas across the United States. It facilitates connectivity, accessibility, and affordability where otherwise there would be none and where the business case for investment would otherwise not be feasible. The USF ensures crucial access to commerce, emergency services, education, health care, and economic investment for millions of Americans.

Congress intended for the USF High-Cost program to be sufficient and predictable, so any American, regardless of where they reside, do business, or traverse, would have access to reasonably comparable communications services as those residing in more populated areas. The sufficiency of the High-Cost program, as highlighted by the recent Supreme Court decision in *Consumers Research* underscores the need for timely and targeted federal action to ensure long-term connectivity in underserved regions. Accordingly, Congress should evaluate the effectiveness of the High-Cost program primarily through the lens of connectivity data.

Members of Congress understand from their constituents' and their own experience where connectivity exists or is lacking in their districts and states – which homes and businesses lack reliable high-speed connectivity and where mobile service drops or where is non-existent. Congress has worked hard to create governance policies for federal broadband programs by requiring updated maps for determining eligible coverage areas, identifying areas lacking connectivity, and requiring standardized data to be used across federal agencies. For the USF to be effective, it must be financially sustainable moving forward, and the USF contribution methodology must be modernized. As part of this effort, CCA strongly believes that policymakers should not fund the USF through the appropriations process. Doing so would threaten the statutorily required predictability. Congress can and should, however, provide regular oversight and advance policies that ensure forward progress of the overall goal of universal service, particularly in rural America.

An effective USF should work in concert with, and compliment, investments made in other federal broadband programs to provide seamless, ubiquitous connectivity. Though recent federal programs have made significant advancements in the deployment of connectivity across America, (i) support for mobile deployment has seriously lagged and (ii) there continues to be a pressing need for USF support for the high cost of maintaining robust and resilient broadband networks. Congress should leverage its recent investments in broadband deployment by ensuring that a modern USF is financially sound, robust, and programs should reflect consumer



needs and connectivity demands. Mobile connectivity should be an area of focus in addition to broadband going forward.

Finally, the Lifeline program, as currently structured, is not sufficient to fully support low-income broadband access, particularly on tribal lands. Infrastructure programs like BEAD may help to improve affordability for consumers, but more work is needed to ensure full connectivity and sustainable networks able to offer affordable service to customers, particularly those in rural areas. Lifeline subsidies should be provided at amounts that demonstrate effective increases in consumer adoption of broadband, with long term sustainability for carriers to invest needed resources into plans that match Lifeline program requirements.

## **2. How well has each USF program fulfilled Section 254 of the Communications Act of 1996?**

Adequate and sufficient support is required for the preservation and advancement of connectivity in rural areas, and the High-Cost program is fundamental to achieving ubiquitous connectivity and offering the underlying connectivity, including to support the goals of other USF programs. High-Cost program support for mobility has lagged in terms of fulfilling Congress' statutory objectives.

The Federal Communications Commission (FCC) has historically supported the efforts of broadband providers to expand their networks to serve consumers in rural and remote areas through both capital and operational funding from the USF High-Cost Fund. However, disbursements to carriers maintaining mobile connectivity in rural areas have been either eliminated or frozen for over a decade. Current High-Cost program disbursements for mobile recipients also do not reflect actual, ongoing operational costs or new deployment commitments. There has not been new USF support for mobile deployments for over a decade, and, during that time, the program intended to provide operational support for mobile carriers that depend on USF has been paused and reimagined, but it has not provided the resources needed by rural carriers. The lack of support has strained networks, leading to reduced service to consumers and stranded federal investments. Combined with declining roaming revenues to offset costs, current support fails to provide sufficient resources to maintain mobile service in much of rural America. The current High-Cost program for mobility, the 5G Fund, plans to distribute insufficient capital deployment funds through a reverse auction model, which will not adequately cover recipients' capital costs, much less ongoing operational costs or network maintenance needs in rural America.

Similarly, disbursements to carriers maintaining fixed voice or broadband service have been frozen or eliminated in favor of other one-time FCC programs, such as the Enhanced Alternative Connect America Cost Model, at lower support amounts. The FCC's use of reverse auctions to award High-Cost support has suffered the unintended consequence of undermining statutory

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intent by ultimately lowering overall support amounts to unsustainable levels (e.g., the recent defaults from the Rural Digital Opportunity Fund).

There are additional issues with the current 5G Fund, mentioned above, that threaten to undermine Congress's statutory intent, including the FCC's planned use of outdoor stationary data to determine eligibility for a mobile program. The 5G Fund's eligibility threshold also does not reflect mobile speeds that would be reasonably comparable to those in urban areas. Furthermore, the lack of a user-friendly app or mapping challenge process, as required by statute, is leading to untested and unreliable mobile mapping data, which will remove areas in need of funding from eligibility.

An appropriately structured 5G Fund should support the deployment of 5G mobile networks alongside fixed networks, avoiding gaps in funding between legacy programs and the 5G Fund. Congress should take a meaningful role in supporting these fundamental principles for any successful mobile federal support mechanism. This could include shifting focus to speeds that reflect the realities of mobile service today. The FCC only measures 5/1 Mbps, 7/1 Mbps, and 35/3 Mbps speeds for mobile, when urban areas achieve significantly higher speeds. The FCC's current practice does not reflect the deployment of truly advanced mobile connectivity in the United States and will have the negative outcome of undermining deployment of advanced mobile services in rural America (as seen in the 7/1 Mbps eligibility standards established for the 5G Fund). Congressional guidance to the FCC on updating its mobile measurements would provide a better picture of where broadband exists with speeds that meet consumer needs and help to avoid unintended consequences that hamper the maintenance and deployment of mobile services in rural America.

Congress should also direct the FCC to refocus its analysis of mobile broadband data on in-vehicle testing. This better reflects how mobile services are actually experienced in a mobile environment. This will allow the FCC to make more informed decisions that lead to better outcomes for mobile broadband deployment across the country because by continuing to emphasize outdoor stationary data, the FCC risks presenting an overly optimistic picture of coverage that fails to reflect the real-world experience of subscribers, especially in rural areas. It also jeopardizes current mobile coverage in rural areas by potentially removing legacy providers from eligibility for 5G Fund support.

### **3. Has the FCC adequately assessed each USF program against consistent metrics for performance and advancement of universal service?**

The USF has not funded mobility with sufficient or predictable support as required by law, which has led to a "5G Gap" in coverage between urban and rural areas. As detailed in a recent report by The Brattle Group, *The Economic Case for Supporting Operational Expenses for Wireless Rural Infrastructure*, "[e]mpirical evidence clearly points to a persistent gap in 5G coverage between urban and rural geographies. As of late 2023, only 44.8 percent of the rural land area in the U.S.

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was covered by one or more 5G providers, as compared to 99.5 percent of the urban land area.” This compounds the disparities in education, health, and economic opportunity between urban and rural areas across the U.S.

The lack of effective USF support for operational expenses, is another significant constraint to sustainable competitive rural connectivity and the advancement of Universal Service. In the mobile context, The Brattle Group report explains how “rural carriers face structural economic barriers that make sustaining critical wireless infrastructure difficult without continued and enhanced government support.” There are unique financial challenges associated with the geographic characteristics common to rural wireless competitors, and without additional High-Cost support or the ability to include operational expenses, many carriers serving rural areas are now being forced to decide where to decommission uneconomical towers that were constructed with legacy support, which would eliminate service both to their own subscribers, as well as the tens of millions of Americans who roam onto their networks for connectivity, including for 9-1-1 and other emergency services.

The Working Group should consider CCA member Carolina West Wireless’s (CWW) recent petition to the FCC, which details its unique geographic challenges and population characteristics, demonstrates that customer rate increases would be ineffective to raise additional capital to support ongoing operation in several areas, shows the additional costs and loss of roaming revenues it has experienced, discusses the lack of adequate alternative providers in areas served by its towers, etc. CWW asked the FCC to ensure “that mobile voice and broadband facilities constructed with federal high-cost support can be maintained going forward” with support for operational expenses. Many CCA members, including CWW, have faced arbitrary reductions in USF High-Cost support due to the FCC’s changes to the High-Cost mobility fund, especially its failure to implement a successor support mechanism for mobile service. This issue is not unique to CWW or even mobile providers. Indeed, many CCA members that are fixed voice and broadband providers have similarly experienced challenges due to the threat of eliminating traditional high-cost voice/loop support.

The FCC cannot meet its statutory mandate or satisfy the public interest by funding less than is needed to viably provide connectivity through USF supported projects. Stranding infrastructure investments in areas of high need is wasteful and runs counter to USF’s statutory intent. On the other hand, providing sufficient funding to maintain rural connectivity by utilizing USF for operational expenses would have the added benefits of improving physical and cyber security of rural networks, many of which are located near strategic locations of national security importance such as military bases. Sufficient funding, including to cover operational expenses, would also help to improve network resiliency, which is another significant policy priority.

**4. What reforms within the four existing USF programs would most improve their:**

- **Transparency;**
- **Accountability;**
- **Cost-effectiveness;**

- **Administration; and**
- **Role supporting universal service?**

An efficient, transparent, and well-run USF program maximizes the impact and investment in rural America. CCA offers the following input on improving the various programs:

E-Rate: To increase transparency and best support universal service, there should be a mechanism to notify carriers automatically if opportunities open in within the areas that they serve, and any reforms should be technologically neutral for program applications. There should be a preference for carriers currently serving program areas, and program areas should be appropriately sized to ensure that rural carriers can serve them. Areas that are too large risk funding overbuilding.

Telehealth: Congress should ensure that any updates to Telehealth include support for mobile wireless networks and services.

Lifeline: Affordable options for communications services in rural, unserved, and underserved areas help support adoption and accessibility to modern life. At its peak, the Affordable Connectivity Program (ACP) connected over 20 million households across every state in urban, suburban, and rural communities during an unprecedented time in American history. Many CCA members participated in the program and were able to expand service to previously unserved households, especially on Tribal Lands. The ACP saw strong adoption of and demand for mobile services and devices, allowing consumers to connect to their preferred technology, which was helpful for households without electricity service or mobile homes, which can be common in rural America. Congress has the opportunity to build on lessons learned from the ACP to improve and modernize the Lifeline program. Increasing the subsidy amount, especially in tribal areas, to make connectivity truly affordable would be helpful. The eligibility criteria should be examined and strong enforcement of the program standards should be a priority to ensure accountability and cost-effectiveness. In addition, there is a need for long-term certainty for funding of any affordable programs, so carriers can fully commit to the program, train staff, invest resources in the program, and build consumer trust.

High-Cost Fund: As noted above, the High-Cost Fund is insufficient and in serious need of reform, particularly for mobility services. To advance universal service and ensure the ultimate cost-effectiveness of funded projects, all projects should include operating expenses support, increase speeds, and use improved mapping data.

Overall, Congressional oversight should ensure that adequate training, staffing, and expertise in USF programs to help avoid long programmatic lead times and arbitrary rejection of reimbursements, which delays projects and unduly impedes the business and cash flow of carriers working to maintain and improve connectivity.

## **5. What reforms would ensure that the USF contribution factor is sufficient to preserve universal service?**

The USF contribution mechanism should be modernized to reflect current and anticipated users and uses of connectivity. USF funding needs a stable base for the future. Congress should be extremely sensitive to how burdens of a reformed contribution model would impact consumers, as well as broadband providers. An updated contribution mechanism should not be in the form of an internet “tax” on consumers. This is an underlying principle that has traditionally been opposed on a bipartisan basis.

USF funding should not shift to an appropriations-based model. Doing so would undermine all of the programs due to the uncertainty inherent in the annual appropriations process. In the context of the High-Cost program, it would be unreasonably challenging for carriers to plan their network builds, conduct maintenance, and ensure an adequate ongoing level of service. For example, many carriers plan their builds and maintenance in 3-5 year cycles, so a rational carrier cannot completely shift its annual budgeting cycle to be dependent on appropriations, for it has not been consistent nor reliable. CCA participants in the Rip & Replace program experienced this first-hand when they waited years to receive full funding from Congress, which caused many issues, delays, and uncertainty about the sustainability of service in impacted areas, resulting in reduced or a complete loss of service for some consumers. A sufficient and sustainable contributions mechanism must be paramount for any contribution reform efforts.

Instead, Congress should explore opportunities to expand the USF contribution base to include VoIP, over-the-top services, edge providers, even data centers, which account for the vast majority of current and anticipated network traffic and strain. Those businesses that monetize the connectivity funded through USF programs should contribute to USF. Expanding USF contribution requirements in this manner would more equitably distribute costs.

## **6. What reforms would reduce waste, fraud, and abuse in each of the four USF programs?**

To reduce waste of public resources:

- Congress should continue to prevent the FCC from phasing out legacy High-Cost mobile support without a sufficient alternative support mechanism for ongoing operational support in place. Previously invested funding to support services in rural and high-cost areas should not be stranded or abandoned because of partial overlap with other providers.
- USF High-Cost programs should include support to adequately ensure ongoing operational expenses so these projects are sustainable.

- Congress should prohibit the FCC from awarding USF High-Cost funds through reverse auction mechanisms that provide the wrong incentives for sustainable projects and increases the likelihood of default other unintended consequences, including network security.
- Congress should ensure that any new USF programs, alongside broadband programs within other agencies, do not jeopardize existing networks that depend on USF for future existence.
- The FCC should be required to improve vetting of applicants for USF programs. The FCC should be more vigilant and utilize more subject matter experts where needed, and it should vet the operational expertise and plans of potential USF recipients to prevent significant defaults that have occurred in several High-Cost programs.
- Congress should consider potential future USF participation limits on entities with significant prior compliance.
- Congress should encourage coordination between agencies to prevent duplication and to facilitate USF projects (e.g., permitting processes involving non-FCC agencies), set appropriate goals and accountability measurements, and continue to exercise vigorous oversight to ensure efficiency and effectiveness of all USF programs.

**7. What actions would improve coordination and efficiency among USF programs and other FCC programs, as well as broadband programs housed at other federal agencies?**

Congress should promote interagency coordination between the dozens of federal broadband programs, as well as State programs, and encourage consolidation of duplicative programs under the guidance of the FCC, which has the technical and operational experience required to oversee such programs. There are many examples where competing programs have had adverse effects.

For example, one CCA member reports an unfortunate and frustrating experience with the RDOF auction and the U.S. Department of Agriculture's ReConnect program. This provider had a ReConnect grant application pending when the RDOF auction launched. Despite best efforts in the weeks leading up to the RDOF auction, ReConnect officials would not expedite their process or communicate any issues prior to the RDOF auction. As a result of the lack of coordination between the two programs, this provider's ReConnect grant application areas were still included in the RDOF auction, so they lost some of the areas that would have been covered by ReConnect in the RDOF auction. Later, the CCA member company was awarded its ReConnect grant, but it was required to remove the locations lost in the RDOF auction, and the company was also required to surrender its awarded RDOF locations to the FCC, which effectively made them default in the RDOF auction. Delays and wasted resources could have been avoided if the two agencies coordinated better and communicated with each other, and with the company. Instead, today, the CCA member company has a community without a contiguous service provider, which means that some people in that area are not served, but their neighbors across the street are.

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Congress should also support efforts to increase collaboration between federal agencies on regulatory requirements associated with funding programs. Consistent/standardized reporting requirements, information sharing protocols, cybersecurity mandates, and the like promote efficiency and cost-savings while reducing burdens, especially for smaller participants in funding programs.

**8. For any recommendations on reforms, does the Commission currently have the feasibility and authority to make such changes?**

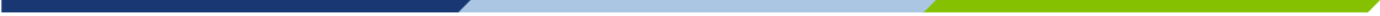
By upholding the USF in the recent *Consumers Research* decision, the Supreme Court ensured that all Americans can benefit from ubiquitous connectivity, empowering innovation, supporting critical services, and driving and supporting the growth of our digital economy. This decision also confirmed the structure for the USF and USAC, but Congress should provide necessary statutory changes to secure the future of the program and avoid further litigation and ambiguity, especially regarding contributions reform. Permanently exempting the USF from the requirements of the Antideficiency Act (ADA) would be a helpful clarification to ensure the efficient operation of the USF, and it is supported by precedent. In 2004, the FCC determined the ADA applied to the USF, which led to the USAC liquidating its non-federal investments to have sufficient cash on hand to comply with the ADA, and the Government Accountability Office (GAO) agreed. Congress responded by enacting the Universal Service Antideficiency Temporary Suspension Act, which permitted the FCC, for one year, to incur USF obligations before the receipt of cash to cover those obligations without violating the ADA. Since then, Congress has continuously enacted ADA exemptions through appropriations legislation, but a permanent extension would help to ensure the USF's long-term future.

**9. Is the USF administrator, the Universal Service Administrative Company (USAC), sufficiently accountable and transparent? Is USAC's role in need of reform?**

Additional involvement from the Federal-State Joint Board on Universal Service could help with program administration and to ensure the USF's and USAC's effectiveness. The Senate Commerce Committee and the House Energy & Commerce Committee should continue conducting oversight, and in light of the *Consumers Research* decision, consider holding hearings on the future of the USF, especially USAC's administration to ensure high levels of service and responsiveness to facilitate efficient and effective USF programs.

**10. Additional Comments:**

CCA is grateful for the Working Group's members and their staffs' efforts and commitment to promoting broadband deployment and access across the country, especially to underserved and rural areas, and appreciates the opportunity to build on the continued dialogue and efforts from



the previous Congress. The Working Group helps highlight the importance of the USF and discussing meaningful reforms that could provide stability for this critical connectivity tool. Congress must modernize and reform the USF, particularly by bolstering and expanding the High-Cost program and allowing for operational expenditure support if decades of investment in rural networks are to be preserved.

Americans need decisive action from Congress to expand and to maintain critical broadband services in rural areas, and Congress should seize this opportunity to provide clarity and secure the USF from future threats within the courts, ensure a sustainable funding mechanism, and modernize programs to address current gaps in coverage and meet consumer demands and needs. With these updates, the USF can better support carriers deliver the universal services that Congress recognizes every American deserves.