



Dear USF Working Group Senators:

The Schools, Health & Libraries Broadband (SHLB) Coalition appreciates this opportunity to provide insight to the Working Group's Request for Comment (RFC) pertaining to the current state and future of the Universal Service Fund (USF).

Our mission centers around providing education on and advocating for sound public policy that brings broadband connectivity to our nation's valued anchor institutions, which are largely supported by the USF programs. Our 325 members represent various voices throughout the broadband landscape, allowing us to provide you with a wide range of expertise - and more than one arrow in the quiver - when you consider future improvements to the USF.

As you will see from our comments below, we believe that the USF provides vital assistance that must be preserved through a predictable funding mechanism. We do, however, urge Congress to recognize that reforms are necessary to apply upgraded standards that keep pace with a dynamic and changing broadband marketplace. This is especially true for the USF contribution fee, which rose higher than 30% in 2022. SHLB strongly encourages Congress and the FCC to add broadband internet access services to the set of services that pay into the USF as a way to stabilize the rate paid by current providers and offer a fairer approach for consumers.

Other USF policies can also be improved, including reforms to establish greater transparency about programmatic updates to the USF programs. For example, establishing consistent in-person training between USAC and E-rate and Rural Health Care program participants would increase accountability within the programs as changes are made. Additionally, reforms to increase the transparency about spending benchmarks would be helpful. For instance, the FCC could publish more granular data about the effectiveness of the programs, especially for issues it has asked for comment on or has committed to reviewing.

SHLB also encourages Congress to consider additional policies for USF going forward, such as incorporating ACP into the fund on a permanent basis, expanding USF beneficiaries to include all types of anchor institutions, and providing ongoing funding for digital literacy training and digital equity.

We are excited to have this opportunity to make the SHLB voice heard as the Working Group considers these, and many more, recommendations submitted in response to the RFC. SHLB stands ready to provide additional information or clarification, and remains hopeful about preserving and enhancing the impact of the USF on all Americans.



Memorandum
August 25, 2023

**To: The Universal Service Fund Working Group
Senators Luján, Thune, Klobuchar, Capito, Peters, and Moran**

**Re: Responses of the Schools, Health & Libraries Broadband (SHLB) Coalition to the
Universal Service Fund (USF) Working Group Request for Comment**

Dear USF Working Group Senators:

The Schools, Health & Libraries Broadband (SHLB) Coalition is pleased to submit these comments in response to the Universal Service Fund Working Group’s (Working Group) Request for Comment (RFC) regarding the current state and future of the Universal Service Fund programs (USF).¹

The SHLB Coalition’s² core mission is promoting open, affordable, high-quality broadband to anchor institutions and their communities. SHLB believes that everyone in this country deserves to have affordable internet access at school, the library, the rural health clinic, at home, or wherever they may be.³ Through our advocacy, we work to close the digital divide one anchor institution at a time.

The USF has been, and continues to be, extremely important in supporting broadband connections for anchor institutions and the individuals they serve. The USF is the largest federal funding program that provides ongoing financial support to ensure that high-speed broadband is available and affordable to all. Without this necessary funding, communities would be left behind: students lacking adequate broadband at home could not complete homework or prepare for their future; unconnected individuals, adult learners, and the formerly incarcerated rejoining society might not be able to find jobs or start their own businesses; and those residing in remote areas might not have access to life-saving healthcare options – to name a few.

¹ Universal Service Fund (USF) Working Group Request for Comment, available at <https://www.lujan.senate.gov/usf/>.

² SHLB is a non-profit public interest organization consisting of over 300 members, including representatives of schools, libraries, health care providers and networks, state broadband offices, private sector companies, state and national research and education networks, and consumer advocates. Our members passionately support making internet access available to everyone, including to people and anchor institutions in urban, suburban, and rural communities.

³ Unfortunately, gaps in broadband coverage and connectivity remain, especially in areas of rural and urban poverty, smaller anchor institutions, and within multi-dwelling units.

To continue these vitally important services, we believe that the USF must be preserved and strengthened. While there are several ways that the program can be improved, continuing the commitment to the USF is essential if we are to solve the digital divide in the next few years.

As we discuss below, the biggest threat to the USF is the inadequate and obsolete funding mechanism that collects fees on (declining) telephone service to fund (expanding) broadband services. The lack of certainty over the future funding mechanism is hindering our ability to upgrade the four USF programs to solve the digital divide. For these reasons, we welcome the Working Group’s examination of these issues.

Below you will find our answers to certain questions from the RFC. We list the question first and then provide a response directly thereafter.

1. How should Congress and the Commission evaluate the effectiveness of the existing USF programs in achieving universal service goals for broadband?

SHLB Response: The statutory language in section 254 of the Communications Act calls for universal service to be “evolving”.⁴ Congress recognized that the broadband marketplace is dynamic, and policymakers should evaluate the success of the USF by continually upgrading the standards and gathering information about the nation’s achievement of those standards every year. Policymakers should recognize that the demand for broadband capacity increases on a regular basis to handle the growth and sophistication of broadband uses. In other words, when evaluating broadband policy, it is inadequate to simply declare that a location is “connected” and that the mission is accomplished. Policymakers must also recognize that the quality of the connection must improve over time to be able to handle the increasing volume and sophistication of broadband uses. This includes factors like broadband capacity, latency, and network security – all of which Congress must consider, continually monitor and track when evaluating the effectiveness of the USF over time.

2. To what extent have the existing USF programs been effective in carrying out section 254 of the Communications Act of 1994?

a. Has the Commission adequately evaluated the effectiveness of each program against concrete goals and metrics?

SHLB Response: The nation’s USF policies have been largely effective but can be improved. It is disappointing that, thirteen years after the Federal Communications Commission (FCC) published a National Broadband Plan, significant gaps in broadband coverage and connectivity remain, particularly for low-income and minority communities and smaller anchor institutions.

⁴ The “evolving” nature of the universal service definition was recently confirmed by the 5th Circuit Court of Appeals decision in *Consumers’ Research v. FCC*, decided on March 24, 2023 (“Ultimately, § 254 reflects Congress’s understanding that telecommunications services are constantly evolving.”). *See Consumers’ Research, et al. v. FCC*, No. 22-60008, p.11 (5th Cir. 2023).

The U.S. private sector has made enormous strides over the past decades to deploy high-speed broadband in many regions of the country. But we must recognize that there is a market failure when the private sector does not have sufficient incentives to connect all Americans to broadband. To reach our broadband goals, the government, communities, and nonprofit sectors must be given the resources to complete the job where the private sector cannot.

Regarding the E-Rate program, the summary of the FCC’s E-rate Modernization Order from 2014 contains multiple goals and metrics pertaining to bandwidth targets and affordability that the FCC said it would monitor. If it is evaluating these goals and metrics, it should make this evaluation available to the public. Further, it could be helpful for the FCC to coordinate an annual review of each USF program based on the goals and metrics that it recently issued. For example, it would be helpful to understand whether some of the reforms it proposed based on recent public comment (such as those pertaining to simplification of the E-rate application process) have an impact on affordability and greater participation in the program.

- 3. Is the FCC’s administration of the USF and its four programs sufficiently transparent and accountable? If not, what reforms are necessary and appropriate within the four existing USF programs to improve transparency, accountability, and cost-effectiveness, and does the Commission have the authority to make such reforms?**
 - a. High-Cost Support**
 - b. Low-Income Support**
 - c. Schools and Libraries Support**
 - d. Rural Health Care Support**

SHLB Response: We begin by noting that the Universal Service Administrative Company (USAC) publishes an Annual Report that reviews the “operations, activities and accomplishments” of each of the four USF programs.⁵

a. Regarding the High-Cost support program, there is a need for greater transparency. The FCC has funneled billions of dollars to small rural broadband providers over the past few decades, but the FCC does not collect and publish sufficient information to know whether this funding is being spent wisely. For instance, the 2022 Annual Report says that USAC only verified 10,000 of the 6.4 million locations served by High-Cost Fund support, which is about one tenth of 1% of all locations.⁶ Since the High-Cost support program receives the largest amount of USF subsidies (approximately \$4 billion per year), strict oversight of the program is particularly important.

⁵ Universal Service Administrative Co. Annual Report, <https://www.usac.org/about/reports-orders/annual-report/> (USAC Annual Report).

⁶ 2022 USAC Annual Report, p. 12.

b. Regarding the Low-Income support (also known as the Lifeline) program, the SHLB Coalition believes that it is valuable for those low-income families that need financial support for basic telephone service.

c. Regarding schools and libraries support, the E-rate program has been enormously successful over the past 26 years. Almost all eligible K-12 schools participate in the E-rate program, but (according to the American Library Association) only about 40% of public libraries do so. E-rate is the largest federal educational technology program in the country, and it has helped schools and libraries acquire the broadband services that give students and library patrons the tools they need to meet their educational goals and to provide access to information to everyone.

We are extremely grateful that the FCC recently reformed and streamlined the application process and administration of funds for tribal libraries and other smaller school and library participants.⁷ Such work could lead to the biggest set of improvements to the program since 2014, which is no small feat. Streamlining E-rate processes is especially important to tribal and small/more rural libraries and schools, who might forgo participation (either consistently or at all) as they often lack adequate staffing, information, or the technical know-how to apply for funding.⁸ Additionally, these institutions might be hesitant about using E-rate for fear of making mistakes during the application process.

SHLB believes that there are certain further reforms Congress and the FCC should implement to improve the accountability of the E-rate program going forward. First, Congress should urge the FCC to clarify its rules to allow extensions of broadband service from schools and libraries to the surrounding community to help address the needs of low-income students and library patrons that cannot obtain affordable broadband from existing providers. We applaud

⁷ See Report and Order and Further Notice of Proposed Rulemaking, *In the Matter of Schools and Libraries Universal Support Mechanism*, CC Docket No. 02-6, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 and *Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket No. 97-21 (Jul. 20, 2023) <https://docs.fcc.gov/public/attachments/FCC-23-56A1.pdf> (*Streamlining Order & FNPRM*). SHLB met with FCC staff and members of the Wireline Competition Bureau to express its gratitude for such reforms and suggested additional reforms for consideration during the next public comment period. See SHLB Ex Parte Filing, *Streamlining Order & FNPRM* (Jul. 12, 2023) <https://www.fcc.gov/ecfs/document/107132041623422/1>.

⁸ See e.g., Statement of Chairwoman Jessica Rosenworcel, *Streamlining Order & FNPRM*, <https://docs.fcc.gov/public/attachments/FCC-23-56A2.pdf> describing her visit to a Tribal library in Albuquerque’s Pueblo of Laguna and exclaiming that, “[w]hat stayed with me most from this visit, however, was a binder on a shelf by the desk of the head librarian. It was bulky. It was chock-filled with papers and forms. It was labeled ‘E-Rate.’ The binder made clear what conversation alone did not. Tribal libraries like this one are working—with so many constraints—to figure out how to get support for broadband connections they know their patrons need. But navigating the program is not easy for so many of the facilities that need it most.”

Chairwoman Rosenworcel’s recent announcement of the Learn Without Limits proposal to use E-rate to fund Wi-Fi on school buses and hotspots to the home, which could help to achieve this objective.⁹ Outside of hotspots, we also believe that E-rate should help schools and libraries explore other long-term solutions to connect surrounding communities, such as by building broadband “to-and-through” schools, libraries, and other anchor institutions — such as by using unlicensed spectrum to extend wireless broadband service from these public buildings to connect low-income households directly to the Internet.¹⁰

Second, Congress should urge the FCC to act on the proposed rulemaking introduced earlier this year and resolve remaining issues regarding modernization of cybersecurity firewalls eligible for funding under E-rate.¹¹ The Commission recognized the importance of providing cybersecurity support to schools and libraries when firewalls were first included as an eligible service in 1996, but since this adoption there have been dramatic changes to the technology landscape as cyber-related incidents grow more sophisticated. “Basic” firewalls may not adequately protect our most vulnerable institutions against the types of recurring cyberattacks we see today. Also, any uncertainty regarding the scope of the existing definition of “firewall services and firewall components” and “basic” firewalls in Category 1 and 2 ultimately causes confusion or unworkable solutions for applicants, especially since standard network offerings in the current marketplace only include advanced components and services such as next-generation firewalls. Clarifying these definitions would eliminate the confusion over how to cost allocate certain services and ease the burden for both the applicant and USAC, saving time and money.

⁹ Press Release, Chairwoman Rosenworcel Announces ‘Learn Without Limits’ Initiative (June 26, 2023) <https://docs.fcc.gov/public/attachments/DOC-394625A1.pdf>.

¹⁰ In August of 2022, SHLB and the Open Technology Institute at New America (OTI) released a study by Dr. Raul Katz demonstrating the economic feasibility of “to and through” networks whereby an anchor institution extends wireless broadband signals to residences in a surrounding community. Dr. Raul Katz, *The “To and Through” Opportunity: An Economic Analysis of Options to Extend Affordable Broadband to Students and Households via Anchor Institutions*, THE SCHOOLS, HEALTH & LIBRARIES BROADBAND COALITION & THE WIRELESS FUTURE PROJECT AT THE OPEN TECHNOLOGY INSTITUTE AT NEW AMERICA (Aug. 2022), <https://www.shlb.org/uploads/Policy/Policy%20Research/Off-Campus-Deployment-Economic-Assessment-final.pdf>. Generally, Dr. Katz found that deploying new wireless connections “to and through” an anchor institution using certain strategies “can often be the most low-cost and financially sustainable option to connect households in unserved and underserved areas.” *Id.* at 3. In tandem with Dr. Katz’s report, SHLB and OTI released a companion paper highlighting twelve case studies that describe variations of anchor-enabled broadband networks across multiple states. Matthew Marcus and Michael Calabrese, *The “To and Through” Opportunity: Case Studies of School and Community Networks Able to Close the Homework Gap for Good*, THE SCHOOLS, HEALTH & LIBRARIES BROADBAND COALITION & THE WIRELESS FUTURE PROJECT AT THE OPEN TECHNOLOGY INSTITUTE AT NEW AMERICA (Aug. 2022), <https://www.shlb.org/uploads/Policy/Policy%20Research/Anchor-Nets-Case-Studies-final.pdf>.

¹¹ Public Notice, Wireline Competition Bureau Seeks Comment on Requests to Allow the Use of E-rate Funds for Advanced or Next Generation Firewalls and Other Network Security Services, WC Docket No. 13-184 (DA 22-1315, released December 14, 2022) <https://docs.fcc.gov/public/attachments/DA-22-1315A1.pdf>.

We note that, since the FCC requested its initial public comment on firewalls, Chairwoman Rosenworcel announced a proposal for a \$200 million, three-year pilot program to fund cybersecurity for schools and libraries outside of the E-rate program but under the Universal Service Fund.¹² SHLB believes this is a step in the right direction, but the pilot program should be limited to one year because of the urgency of providing support for cybersecurity as soon as possible.¹³ SHLB also applauds recent White House attention to assist our vulnerable schools against cyber-attacks,¹⁴ but the question about how to define firewalls in the current Eligible Services List (ESL) still remains. Currently, E-rate participants often purchase a bundle of cybersecurity equipment and services but must cost-allocate modern firewall protections out of their funding requests, which creates confusion and discourages the use of modern firewall protections. We believe the FCC should clarify these questions now and use the pilot program to gather information about funding cybersecurity equipment and services more comprehensively in the future under the budget caps in the Category Two E-rate rules.

Third, Congress should urge the FCC to continue to improve the E-rate program's application processes (in response to the current *Streamlining Order & FNPRM*). For example, we believe that it should gather information on whether participants, especially tribal, smaller, and more rural schools and libraries, would better utilize their Category Two funding if the application deadline ran on a rolling basis.¹⁵ Additionally, it should reexamine current funding recovery processes and instill more frequent in-person E-rate training for all participants, which could alleviate mistakes made during the application process.¹⁶

¹² Press Release, FCC Chairwoman Rosenworcel Takes Steps to Protect Schools Against Cyber Attacks (Jul. 12, 2023) <https://docs.fcc.gov/public/attachments/DOC-395069A1.pdf>.

¹³ For instance, SHLB believes that the pilot program should be shortened to a single application filing window until the pilot funding runs out and used to seek information about how to ultimately inform the future inclusion of cybersecurity funding within the E-rate program (rather than to encourage funding outside of E-rate).

¹⁴ Biden-Harris Administration Launches New Efforts to Strengthen America's K-12 Schools' Cybersecurity (Aug. 07, 2023) <https://www.whitehouse.gov/briefing-room/statements-releases/2023/08/07/biden-harris-administration-launches-new-efforts-to-strengthen-americas-k-12-schools-cybersecurity/>.

¹⁵ The need for and timing of a school or library project may depend on multiple factors, such as building construction/repairs; City/District/County approvals at Council meetings; and IT personnel availability – all of which might not match up with the current E-rate cycle. A rolling Category Two application process could allow applicants to submit funding requests when the need arose or when they had available funding. It could also provide relief to USAC as all applications for both Category One and Category Two funding would not be filed at the same time.

¹⁶ SHLB intends to provide recommendations beyond those listed here in response to the *Streamlining Order & FNPRM*.

d. Regarding the Rural Health Care (RHC) program, SHLB believes that it provides essential financial support to connect rural (and some urban) hospitals and healthcare providers to high-quality broadband. We previously expressed concern (and provided specific insight to the FCC and USAC) that funding awards were often slow and arduous for many applicants. Since then, SHLB members have recently reported significant programmatic improvements in the current funding year (FY 2023). For example, decisions are arriving earlier, in larger quantities, and more consistently than in previous years. While the RHC program does not yet operate as smoothly as the E-rate program, USAC and the FCC have made considerable progress toward this objective, and we expect the program to continue to get better. SHLB members recently met with USAC to express their gratitude for internal changes that contributed to these improvements.

Similar to E-rate, SHLB believes that the FCC should implement certain reforms to the RHC program which would affect programmatic accountability and transparency. First, the FCC previously initiated a rulemaking regarding various questions concerning the RHC program.¹⁷ SHLB supported multiple changes that would streamline application processes and general operations of the RHC program, and provided insight as to how the FCC could calculate rates under the Telecom Program.¹⁸ We urge the FCC to resolve the pending issues in this rulemaking.

Second, we recommend that Congress amend the statutory language in section 254 to allow urban and suburban healthcare sites to be eligible for RHC funding, in addition to rural health care sites. For instance, many free healthcare clinics reside in urban areas but continue to serve the most vulnerable members of a community. Additionally, the COVID-19 pandemic has led to an enormous increase in telehealth, but patients and doctors need high-quality broadband connections for telehealth to improve the quality of care. People in underserved urban communities need access to telehealth care just as much as rural communities. The fact is that many rural healthcare sites need to interconnect with specialists in urban markets, so allowing the program to connect more urban healthcare sites will also benefit rural health. Congress amended the RHC statute a few years ago to include skilled nursing facilities, and we believe Congress should consider a similar amendment to include non-rural healthcare sites as well.

Third, we recommend that Congress recognize that cybersecurity considerations apply to healthcare facilities just as they do to other anchor institutions like schools. Although the current White House and FCC have launched efforts to strengthen our K-12 schools from cyber-attacks,

¹⁷ Order on Reconsideration, Second Report and Order, Order, and Second Further Notice of Proposed Rulemaking, *In the Matter of Promoting Telehealth in Rural America*, WC Docket No. 17-310, FCC 23-6 (rel. Jan. 26, 2023) (*RHC Program Second Further Notice*).

¹⁸ SHLB Comments and Reply Comments, *RHC Program Second Further Notice* (Apr. 24, 2023 and May 22, 2023) <https://www.fcc.gov/ecfs/document/10424079292852/1>, <https://www.fcc.gov/ecfs/document/1052242896048/1>.

little attention has been given to the rising amount of attacks on rural and urban healthcare clinics.

4. What reforms are necessary to address inefficiencies and waste, fraud, and abuse in each of the four programs and duplication with other government programs?

SHLB Response: The FCC previously asked for public comment regarding whether implementing a competitive bidding portal in the E-rate program would alleviate waste, fraud, and abuse.¹⁹ SHLB strongly opposes this idea. The U.S. Government Accountability Office (GAO) issued a report in 2020 that mentioned but did not recommend establishing a competitive bidding portal. SHLB and many others who provided comments into the record strongly oppose the implementation of a competitive bidding portal which would ultimately take authority away from local schools and libraries to make their own technology decisions. There are extremely few examples of fraud in the E-rate program over its 26-year history, which indicates that the existing program runs efficiently. Additionally, the FCC and USAC already have a variety of controls in place to detect and prevent waste, fraud, and abuse. For example, E-rate and RHC applicants are subject to frequent audits by the USAC Payment Quality Assurance (PQA) program.²⁰ State and local agencies (K-12) also have annual audits relative to purchasing practices. Additionally, the FCC has already been implementing the GAO's principal recommendation to use data analytics to identify fraud risks. Accordingly, there is no need for the FCC to adopt the proposed competitive bidding portal for E-rate applicants.

We note that Congressional level inquiries tend to look at the percentage of improper payments to determine the effectiveness of the administration of USF programs. It is our understanding that the FCC has been successful in substantially reducing the improper payments rate over the past five years. Additionally, we would caution Congress against using improper payment data as a measurement of waste, fraud, and abuse because many improper payments may be due to unintentional administrative errors rather than actual fraud or abuse of the funding mechanism.

5. What additional policies beyond existing programs are necessary for the preservation and advancement of universal service?

SHLB Response:

First, the funding for both the Affordable Connectivity Program (ACP) and the Emergency Connectivity Fund (ECF) will unfortunately be exhausted next year. Without further

¹⁹ Notice of Proposed Rulemaking, *In the Matter of Promoting Fair and Open Competitive Bidding in the E-Rate Program*, WC Docket No. 21-455 (Dec. 14, 2021) <https://docs.fcc.gov/public/attachments/FCC-21-124A1.pdf>.

²⁰ Universal Service Administrative Co., PQA Program (last visited August 25, 2023) <https://www.usac.org/about/appeals-audits/pqa-program/>.

funding, millions of consumers will lose their financial support and are likely to lose their internet connection as well. This lack of broadband funding could threaten the viability of new broadband networks funded through the Broadband Equity, Access, and Deployment (BEAD), Tribal, and Connecting Minority Communities programs as well as other broadband funding programs designed to reach unserved and underserved households and anchor institutions. To prevent this disastrous outcome, we recommend that Congress take the following steps:

- Congress should immediately provide additional appropriations to continue the ACP for at least the next two years as a bridge to more comprehensive USF contributions reform;²¹
- Congress should expressly allow the FCC to incorporate the ACP program into the USF to provide stable and ongoing support for low-income consumers to obtain broadband connections;
- Congress should provide adequate financial support to allow low-income consumers to acquire devices (laptops and tablets) in addition to an affordable broadband connection, with funding for devices being decoupled from that for broadband service providers so that consumers could choose where to purchase devices; and
- Congress should provide grants (akin to the FCC outreach grants) to enable local enrollment assistance in addition to awareness marketing.

We recognize that incorporating the ACP into the USF *without* contribution reform would raise the contribution factor significantly. This would further exacerbate the telecom market distortions already occurring and more importantly, increase the burden on telecom customers. As such, we reiterate the importance and urgency of USF contribution reform to clear a pathway for true program advancement within the USF.

Second, Congress should expand the base of USF beneficiaries to include all types of anchor institutions, in addition to schools, libraries, and rural health care providers. For example, beneficiaries should include community colleges, public housing, community centers, recreation centers, community-based media centers, transportation depots, museums, and other public-

²¹ To the extent that Congress seeks to emphasize the importance of connecting new subscribers to broadband, we respectfully suggest that the ACP provide an enhanced \$75/month subsidy for new subscribers (analogous to the Tribal support) and retain the \$30/month subsidy for existing low-income subscribers. A \$30/month subsidy may not be sufficient incentive to encourage new subscribers, as the average price of broadband service can be \$65 to \$75/month. See Timothy Moore, *How Much Does Internet Cost Per Month?*, FORBES (last updated Aug. 21, 2023) <https://www.forbes.com/home-improvement/internet/internet-cost-per-month/> (“Our own survey of 37 internet service providers (ISPs) across the country found an average cost of \$65 a month. That’s in line with recent findings by Consumer Reports, which last year reported a median monthly internet cost of \$74.99.”).

facing institutions.²² This new program within the USF could potentially be labeled the Anchor Institution Connectivity Program (AICP). We understand that Congress has provided some federal funding opportunities beyond the USF to assist in connecting anchor institutions with upgraded broadband. For example, we applaud the BEAD program’s “strong preference” for Eligible Entities²³ to include anchor institutions in BEAD funding opportunities. However, because BEAD funding for anchor institutions is lower in priority after unserved and underserved locations, we are concerned that Eligible Entities might not have enough funding to reach all their anchors. This could create a major setback for digital equity initiatives if anchors serving remote areas aren’t able to assist consumers with devices and/or training because the institution still lacks access to capable broadband.

Similar to the ACP recommendation above, we understand that implementing the AICP would likely raise the contribution factor. To ameliorate this cost, we suggest that Congress could create a reasonable funding cap for this new program, such as \$500M annually.

Third, Congress should amend the USF goals in section 254 to bring multi-gigabit connectivity to all anchor institutions. Recently, FCC Chairwoman Rosenworcel circulated a Notice of Inquiry with the other Commissioners to explore broadband characteristics like affordability, access, and availability across the country.²⁴ This “706 report” also proposes to increase the national fixed broadband standard to 100/20, with a future goal to reach 1 Gbps/500 Mbps.²⁵ While this is an important step, we are still working with a definition of anchor broadband that was set in 2010 in the National Broadband Plan while the connectivity needs of anchor institutions have grown substantially. Accordingly, Congress and the FCC should update the goal to acknowledge that anchor institutions deserve multi-gigabit connectivity going forward.

Fourth, Congress should authorize additional USF funding for rural areas for middle mile connections and carrier hotels/rural interexchange points. The rural interexchange points can make it less expensive to operate and build out networks in high-cost rural areas.

²² We do not suggest that all government buildings (such as administrative offices) would be included in the AICP. Instead, this program would focus on funding those institutions that bring connectivity to the public and advance the goal of closing the digital divide.

²³ The term “Eligible Entities” used throughout this document refers to the defined term in the NTIA’s Notice of Funding Opportunity for the BEAD program.

²⁴ Press Release, Chairwoman Rosenworcel Proposes National Goal of 100% Access to Affordable Broadband (Jul. 25, 2023) <https://docs.fcc.gov/public/attachments/DOC-395473A1.pdf>.

²⁵ *Id.*

Fifth, we also believe that USF policies should reward or incentivize open access networks. Our USF policies should recognize that open access networks provide enormous efficiencies by allowing multiple ISPs to operate over a single network and compete for the consumer's business.

Sixth, Congress should provide ongoing USF funding for digital literacy training and digital equity.²⁶ The Digital Equity Act funding of \$2.75 billion will last for five years through 2029. We need to consider options to make new broadband infrastructure sustainable, which includes putting a greater emphasis on promoting customer adoption and continued use.

6. Should Congress eliminate the requirement that a provider must be an “Eligible Telecommunications Carrier” to receive USF subsidies?

SHLB Response: If Congress wants to continue the Eligible Telecommunications Carrier requirement, it should only apply to recipients of funding from the High-Cost program. There is no reason to apply it to any of the other USF programs, such as Lifeline, E-rate, or RHC.

7. Currently, telecommunications companies must pay a contribution factor to the Universal Service Fund proportional to interstate end-user revenues. What reforms are necessary to ensure that the contribution factor is sufficient to preserve and advance universal service?

- a. **Some have advocated for assessing USF contributions on broadband service and edge providers. What would the impact of such reforms on ratepayers and the marketplace?**
- b. **Some have advocated the funding for the USF to an appropriations model. What impact would that have the USF?**

SHLB Response: The USF fee has grown substantially from 5.7% in 2000²⁷ to about 30% in 2023.²⁸ Most of these fees are passed onto individual consumers, which means that users of telecommunications services are subsidizing broadband customers. This inequitable and regressive funding mechanism is difficult to enforce (based on the uncertainty of whether a service is “telecommunications” or “broadband”) and is unstable (because the amount of the fee varies significantly from quarter to quarter).

²⁶ For example, Congress could amend Section 254 now and provide USF funding for digital equity purposes beginning in 2029.

²⁷ Public Notice, Proposed Second Quarter 2000 Universal Service Contribution Factor, CC Docket No. 96-45 (rel. March 7, 2000) <https://docs.fcc.gov/public/attachments/DA-00-517A1.pdf>.

²⁸ Universal Service Administrative Co., Contribution Factors (last visited August 25, 2023) <https://www.usac.org/service-providers/making-payments/contribution-factors/>.

The SHLB Coalition believes that a fairer and more stable approach is to add broadband services to the set of services that pay into the USF. SHLB, INCOMPAS and NTCA jointly commissioned a paper by USF expert Carol Matthey two years ago to examine the USF funding mechanism and to recommend a solution.²⁹ Her report, called USForward, found that adding broadband services would be relatively easy to enforce (because broadband providers report their broadband revenues to Wall Street), and that the USF fee would drop from 30% to less than 4%. While some observers maintain that imposing a fee on broadband services would add a burden on broadband consumers, other studies have found that the size of this fee would be negligible and would not affect broadband adoption, and that the fee would be significantly fairer for low-income consumers of telephone services than the current system.³⁰

The SHLB Coalition has not taken an express position on whether edge providers should be subject to USF fees. We do suggest the following considerations:

- Identifying who is an edge provider may be difficult, as there is no definite line between consumers and information providers. For instance, are educational institutions or libraries that post content on their websites considered an “edge provider” potentially subject to USF fees?
- Measuring the amount of edge provider revenue subject to USF assessment may also be difficult.
- The FCC does not currently have authority to assess edge providers, so this solution will require Congressional legislation, which may take several years. The USF funding regime is facing a crisis now that needs to be addressed before the entire USF regime collapses.
- Congress should assess whether it is reasonable for edge providers that benefit from using the Internet to sell their products and services should pay into the USF.
- Congress should also consider that some edge providers already pay into the fund based on their telecommunications services.

²⁹ Carol Matthey, *USForward, FCC Must Reform USF Contributions Now: An Analysis of the Options*, THE SCHOOLS, HEALTH & LIBRARIES BROADBAND COALITION, INCOMPAS, & NTCA THE RURAL BROADBAND ASSOCIATION (Sept. 2021), [https://www.shlb.org/uploads/Policy/Policy%20Research/SHLB%20Research/FINAL%20USForward%20Report%202021%20for%20Release%20\(1\).pdf](https://www.shlb.org/uploads/Policy/Policy%20Research/SHLB%20Research/FINAL%20USForward%20Report%202021%20for%20Release%20(1).pdf).

³⁰ Researchers at the Berkeley Research Group concluded that “modifying the USF contribution methodology to include both voice and broadband connections within the contribution base would not have a material impact on broadband adoption or retention.” See Michael A. Williams, PH.D. and Wei Zhao, PH.D., NTCA-USF Study, *Universal Service Contribution Methodology* (Dec. 13, 2022) https://www.ntca.org/sites/default/files/documents/2022-12/Williams-Zhao%20report_121322.pdf.

- Congress should also understand that edge providers invest billions of dollars every year in internet networks, and any consideration of assessing edge providers should consider the impact on edge provider investment in internet infrastructure going forward.
- Congress should consider whether the revenue generated from spectrum auctions should be used to fund universal service rather than paid into the general treasury fund.

Regarding whether USF funding should be considered using an appropriations model, given the strong opinions in Congress about federal funding, we doubt that Congress would provide “specific, predictable and sufficient” funding that is required to provide stability to the USF on an annual basis. We are also concerned about the risk of this funding becoming subject to government delay. The very fact that Congress has not provided additional funding for the soon-to-expire ACP program demonstrates that it is unpredictable in its approach to funding ongoing broadband programs.

8. What actions are necessary and appropriate to improve coordination between USF programs and other programs at the Federal Communications Commission, the National Telecommunications and Information Administration, USDA Rural Development, the Department of Treasury, and other federal agencies?

SHLB Response: In its recent testimony before Congress, the GAO acknowledged that there is a substantial amount of coordination among federal government agencies happening today. SHLB supports the increased level of collaboration between and among various federal agencies. For example, we believe it is important that the data concerning cyberattacks within vulnerable institutions like schools, libraries, and healthcare clinics should be analyzed and addressed by multiple facets of government, including the FCC (through E-rate funding), the Cybersecurity and Infrastructure Security Agency (CISA), and the White House. As more agencies collaborate about broadband planning and buildout, however, transparency must follow.

First, there should be a public record of agency meetings - without such a record, it is difficult to know their goals and whether or not they are fruitful. For any future broadband grant programs, funding recipients should be required to make their buildout plans publicly available; plans should be open to community engagement and feedback; and final plans submitted to and approved by the agency should be made publicly accessible. Access to information about future buildouts, proposed broadband plans, and spending helps ensure that the myriad of deployment efforts are harmonized and realized on a broad level. It also ensures that broadband planning is generated by all stakeholders, rather than by only a simple few.

Additionally, a government agency should not be able to veto the broadband awards of another government agency in the need for “coordination.” Some diversity of programs and rules is healthy and should be encouraged.

9. Is the USF administrator, USAC, sufficiently accountable and transparent? Is USAC's role in need of reform?

SHLB Response: Many SHLB members communicate with USAC, both in the E-rate Program and RHC Program. From our perspective, USAC has made some progress in keeping open a direct line of communication with those that need assistance, especially with application processing. For example, USAC regularly requests feedback from SHLB members regarding programmatic features of the RHC program. The two groups ordinarily coordinate quarterly meetings to review this feedback and discuss questions and suggestions to further improve applicant knowledge about the program's processes. USAC is also typically willing to participate in SHLB's annual conference, where the groups conduct a roundtable discussion revolving around issues and solutions. We have also learned that USAC is planning to provide in-person E-rate training this year, which was requested by the American Library Association (ALA) and the State E-rate Coordinators' Alliance (SECA). To further improve USAC's accountability, we suggest the following:

- USAC should prioritize more in-person training for both the E-rate and RHC programs.
- USAC should implement one training manual - or one location for all rules and processes - for each program. This information should be updated when processes change and USAC should provide direct communication to program participants to relay recent program updates.
- USAC could publish questions or program changes impacting functional application of FCC rules for public comment prior to implementation. This would allow applicants the opportunity to provide valuable insight and feedback on the front end rather than having to react to changes already in place.
- While USAC has done a very good job of providing available data about the E-rate program (in Open Data), it should also make data available for the invoicing phase of an application.

Regarding considerations of due process, USAC should be required to publicly report applications or invoices that have not been resolved within six months. The FCC should be required to review those "holds" and determine when USAC must complete its work.

10. Is Congressional guidance needed to ensure future high-cost program rollouts, such as RDOF phase II, are improved? Would a thorough and upfront vetting process be more efficient for federal dollars and recipient ISPs?

SHLB Response: To improve future high-cost program rollouts, SHLB believes that Congress and federal agencies should provide guidance and allow broadband providers to use a variety of methods to demonstrate that the provider is financially capable of supporting a broadband project.

Unfortunately, the BEAD program requires participating providers to receive a letter of credit (LOC) from a bank to receive subgrant funds.³¹ Specifically, potential applicants will have to place 25% of a project's award amount into one of a limited number of banks in order to receive this LOC. This is in addition to and separate from the 25% match that sub-recipients must contribute to the project's costs.

We are concerned that the LOC requirement will not facilitate implementation of the BEAD program (which is under the authority of NTIA) and will, in fact, undermine its goals. The requirement is burdensome and unnecessary and will hamper competition for BEAD funding. In particular, the requirement will harm smaller internet service providers (ISPs), minority-owned and women-owned businesses, and nonprofit providers such as municipalities and research and education networks that would otherwise be eligible to apply for and receive BEAD funding. Smaller and more community-based companies and nonprofits are often in the best position to provide the most cost-effective service and at lower prices than the larger, traditional companies. Yet the LOC requirement may effectively deny these smaller and community-based companies and nonprofits an opportunity to bid for these projects.

Instead, we suggest that there are other ways to ensure that sub-recipients have adequate resources to complete broadband deployment projects, such as requiring applicants to post a performance bond or administering delayed reimbursement. Other federal agencies administering broadband funding programs – such as the Rural Utility Service (RUS) and the Department of Treasury – require applicants to verify their financial viability but do not require an LOC.

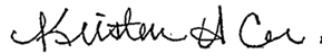
Thank you for your consideration of these important matters. The SHLB Coalition and its members are grateful for this opportunity to share its expertise and experiences regarding the USF and its programs. Please contact us if you have any further questions or if we can provide additional information.

³¹ U.S. Department of Commerce, National Telecommunications and Information Administration (NTIA), Broadband Equity, Access and Deployment Program, Notice of Funding Opportunity, 2022, pg. 72 - 73, Washington, DC: Government Printing Office.

Respectfully submitted,



John Windhausen, Jr.
Executive Director
Schools, Health & Libraries Broadband (SHLB) Coalition
1250 Connecticut Ave. NW Suite 700
Washington, DC 20036
202-256-9616
jwindhausen@shlb.org



Kristen Corra
Policy Counsel
Schools, Health & Libraries Broadband (SHLB) Coalition
1250 Connecticut Ave. NW Suite 700
Washington, DC 20036
571-306-3757
kcorra@shlb.org