

# FCC Sets Stage for \$4.5 Billion Auction by Resolving Mobility Fund Phase II Challenges

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The Federal Communications Commission (“FCC”) took a major step forward on closing the “digital divide” in mobile broadband at its February meeting by unanimously [adopting](#) an Order resolving the remaining challenges to the Mobility Fund Phase II (“MF-II”) auction. The order eases the letter of credit requirements and clarifies the collocation obligations for funding recipients, but generally preserves the MF-II auction budget, disbursement, and performance rules [announced](#) last year. After clearing away these challenges, the FCC will focus on identifying the areas eligible for funding and conducting the auction later this year.

The [Mobility Fund](#) provides financial support to wireless service providers to maintain and extend mobile broadband and voice services in unserved and underserved areas. The FCC plans to give out over [\\$4.5 billion](#) in support through the MF-II auction to expand 4G LTE coverage in places lacking such service. The Order addresses four key issues:

- 1) Relaxing Letter of Credit Requirement: The FCC requires a MF-II auction winner to obtain a letter of credit covering the support received, which allows the FCC to recover funding in the event the service provider fails to meet its performance milestones. Recognizing the significant costs of obtaining a letter of credit, the FCC will allow a service provider to significantly reduce the letter of credit’s value (and simultaneously reduce the letter of credit’s cost) once the service provider meets its 80 percent service milestone. The FCC also stated that a service provider can cancel the letter of credit once it meets its final performance milestone. With these changes, the letter of credit obligations for the MF-II auction match the letter of credit obligations imposed in the Connect America Fund Phase II (“CAF-II”) auction, which covers fixed broadband deployment.
- 2) Clarifying Collocation Obligation: The FCC initially indicated that funding recipients would be required to provide reasonable collocation by other service providers on “all” towers that the recipients owned or managed. A number of service providers asked the FCC to reconsider this requirement, pointing out that a similar collocation requirement applicable to earlier auction winners only covered “newly constructed” towers. The FCC resolved this discrepancy by clarifying that the collocation requirement only applies to newly constructed towers in the areas where the service provider receives MF-II support.
- 3) Maintaining Budget and Disbursement Schedule: The FCC refused to increase the budget for the

MF-II auction in response to wireless industry claims that it did not provide enough money to achieve full 4G LTE coverage in all eligible areas. The FCC affirmed its budget calculation methodology and stated that it would re-evaluate if more funding is necessary in the future. The FCC denied requests to base the budget on wireless carriers' projected costs, expressing concern that such a system would encourage inflated claims and waste. The FCC also affirmed its monthly disbursement schedule after carriers asked it to allow larger support payments early in the network construction process. While the FCC recognized that carriers would likely incur most costs early in the network construction process, it found that trying to match each carriers' costs during the deployment process would strain the MF-II budget. The FCC also noted that CAF-II will operate on a monthly disbursement schedule.

4) Preserving Performance Requirements: The FCC rejected calls to lower the minimum level of service required from MF-II auction winners from the current 10/1Mbps median data speed and 100 ms latency benchmarks. The FCC found such benchmarks necessary to ensure that rural offerings keep pace with their urban counterparts and do not become a "second-class" service.

The FCC also declined to extend bidding preferences to small businesses in the MF-II auction, which Commissioner Clyburn [supported](#), or adopt new limitations on winning carriers entering into equipment exclusivity arrangements. In addition, the FCC retained the role played by the Universal Service Administrative Company in verifying the data wireless providers submit to demonstrate compliance with their MF-II auction buildout requirements.

With the last MF-II auction reconsideration petitions resolved, the FCC can move on to finalizing the set of areas eligible for funding. The FCC [recently issued](#) an initial map of areas presumptively eligible for funding. The FCC's eligibility determinations will be subject to a [challenge process](#), which is scheduled to begin on March 29, 2018. However, it remains unclear when the challenge process will conclude and the FCC will announce the final list of areas eligible for support through the MF-II auction. Whenever it occurs, the MF-II auction will have transformative impacts on rural wireless broadband deployment, so stakeholders should assess whether funding opportunities exist in their service areas and consider participating in the auction process.