



The Federal Communications Commission (FCC) [recently adopted an order](#) (5G Fund Order) that will enable it to distribute up to \$9 billion to 5G mobile voice and data service providers through the 5G Fund for Rural America (5G Fund) to bring 5G mobile voice and data services to more than 14 million rural homes and businesses. The FCC first established the 5G Fund in October of 2020 and, since then, has been collecting mobile coverage data through the [Broadband Data Collection](#) program to identify and target rural areas that would not otherwise benefit from 5G network deployment if not otherwise subsidized.

Building on the [Further Notice of Proposed Rulemaking](#) released in September of 2023, which refreshed the record and gathered comments from industry stakeholders, the 5G Fund Order clarified the geographic areas eligible for funding and established the processes and rules for service providers' participation in the initial 5G Fund auctions, including bidding and post-auction requirements.

Key Features of the 5G Fund

- **Funding reallocation.** The FCC had initially planned to allocate \$8 billion to subsidize the costs of 5G mobile voice and data services (Phase I) and an additional \$1 billion for the development and support of precision agriculture (Phase II). But in the 5G Fund Order, the FCC decided to reallocate the \$1 billion previously reserved for Phase II into the Phase I budget due to inflationary pressures experienced since 2020, noting that it would reassess the amount that would be needed for Phase II at a future date.
- **Area eligibility.** The 5G Fund Order clarified the areas eligible for support must be nonurban areas (including areas within Puerto Rico and the U.S. Virgin Islands) that (1) contain at least a portion of a road and lack unsubsidized 5G mobile broadband service at speeds of at least 7/1 megabits per second (Mbps) and (2) do not already have an enforceable commitment to other similar programs, such as the Broadband Equity, Access, and Deployment (BEAD) program, to deploy 5G service in the area with a speed of at least 35/3 Mbps.
- **Bidding.** The FCC intends to use a multi-round reverse auction for Phase I of the 5G Fund to distribute funds to winning bidders. The auction will use a service-based weighting factor to prioritize areas that lack both 4G LTE and 5G services, ensuring that the most underserved regions are prioritized.
- **Compliance.** Winning bidders must meet certain performance requirements, including (1) deploying 5G networks that meet the latest 5G technology standards, (2) ensuring minimum speed thresholds of 7/1 Mbps, (3) ensuring latency standards of 100 milliseconds or below, and (4) providing data allowances equivalent to the average U.S. subscriber's data usage. The FCC will subject 5G Fund recipients to deployment milestones, which require that the recipients deploy 5G services in 40% of the eligible area by the end of year three after receiving funds, 60% by the end of year four, 80% by the end of year five, and 85% by the end of year six. Further, by the end of year six, the recipient will also be required to offer 5G services in at least 75% of all areas for which they placed a winning bid.
- **Support conditions.** To ensure network security and reliability, the FCC will require 5G Fund recipients to implement operational cybersecurity and supply chain risk management plans. Recipients will have the flexibility to implement any established best practices, such as frameworks developed by the National Institute of Standards and Technology, when implementing cybersecurity and supply chain risk management plans. Recipients will be required to submit their plans to the Universal Service Administrative Company (USAC) and certify annually that they have complied with those plans. Any substantive changes to either plan will require submission of an updated plan to USAC within 30 days. However, the 5G Fund Order did not address (and it remains to be seen) what role USAC will play following the [Fifth Circuit's recent shock decision](#) to overturn USAC as unconstitutional.
- **Encouraging innovation.** To foster innovation, flexibility, and security, the FCC encouraged 5G Fund recipients to incorporate Open Radio Access Network (Open RAN) technologies into their 5G deployments. Open RAN technologies strengthen and secure 5G networks, and recipients that incorporate them can seek both additional funding and one-year extensions on their deployment milestones.

Takeaways and Next Steps

The 5G Fund Order represents a critical step by the FCC in its commitment to promoting digital equity and inclusion across the United States and ensuring that rural communities are not left behind in the digital age.

In addition to the 5G Fund Order, the FCC is currently seeking comment on further proposed rules (the Second FNPRM) surrounding the 5G Fund, including a requirement for service providers to first obtain tribal consent before accessing tribal lands to deploy networks using 5G Fund funding. Public comments are due 30 days after the Second FNPRM is published in the *Federal Register*, which is likely to occur within the next 30 days, with reply comments due 45 days after publication.

Lastly, the FCC will announce the 5G Fund Phase I auction date via a public notice, which will most likely occur upon finalization of the proposed tribal consent requirement that is the subject of the Second FNPRM. Any petition for reconsideration is due within 30 days from the date the 5G Order appears in the *Federal Register*.

Authors



[Marc S. Martin](#)

Partner

MMartin@perkinscoie.com [202.654.6351](tel:202.654.6351)



[Joshua Perez](#)

Associate

JoshuaPerez@perkinscoie.com



[Brandon R. Thompson](#)

Associate

BThompson@perkinscoie.com [202.661.5861](tel:202.661.5861)

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