UNITED STATES GOVERNMENT
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF INSPECTOR GENERAL

MEMORANDUM

DATE: October 13, 2023

TO: Chairwoman Jessica Rosenworcel
Commissioner Brendan Carr
Commissioner Geoffrey Starks
Commissioner Nathan Simington
Commissioner Anna Gomez

FROM: Acting Inspector General Sharon R. Diskin   *Sharon R. Diskin*

SUBJECT: Management and Performance Challenges

In accordance with the Reports Consolidation Act of 2000, the Office of Inspector General (OIG) is submitting the annual statement summarizing its assessment of the most serious management and performance challenges facing the Federal Communications Commission (FCC or the Commission). During its audits and investigations, OIG has recommended actions that best address these challenges. Additional information on OIG audits and investigations can be found in our most recent Semiannual Reports to Congress.

Information Security

Starting in fiscal year (FY) 2022, the Federal Information Security Management Act (FISMA) Evaluation's reporting deadline changed from October 31st to July 31st. This necessitated that the Commission accelerate its responses to the FISMA evaluation for documentation and meetings. Also in FY 2022, Office of Management and Budget (OMB) made significant changes to the approach of FISMA oversight and metrics collection from prior years, and OMB expanded on those changes in FY 2023. These changes are intended to define a maturity baseline in certain high-impact capability areas. OMB established the concept of core metrics, which represent highly valuable controls that must be evaluated annually. The remaining controls OIGs are required to evaluate through FISMA metrics are evaluated on a two-year cycle, beginning in FY 2023.

For FY 2023, these challenges are still present and this year's OIG FISMA Evaluation of the FCC's information security program, once again, was assessed as ineffective and not in compliance with FISMA legislation, OMB memoranda, and other applicable guidance. The most significant area impacting FISMA compliance is the continued significant deficiency in the cybersecurity Identity and Access Management domain. The other two areas of significant deficiency requiring a focused effort are Risk Management and Information Security Continuous Monitoring. We encourage management to prioritize OIG recommendations in all these areas, to limit the risk of unauthorized access and to ensure consistent governance and compliance. The FCC's efforts to achieve and

sustain compliance in critical areas must be vigilant to address the evolving cyber threat landscape.

Further, the Commission's reliance on roughly 40 legacy systems at the FCC increases the risks of exposures to security threats as many legacy systems lack patch updates or supported technology and may not be in compliance with changing standards. Until the Commission has developed a focused approach to strengthening the controls in all of these areas, demonstrating compliance with FISMA legislation, OMB memoranda and other applicable guidance will continue to be a significant challenge moving forward into FY 2024.

Universal Service Fund Programs

The Telecommunications Act of 1996 created the framework for the Universal Service Fund (USF), consisting of support mechanisms for: 1) providing financial support to eligible telecommunications carriers that serve high-cost areas; 2) assisting schools and libraries to obtain telecommunications and internet services; 3) assisting low-income consumers to obtain affordable telephone service; and 4) assisting rural health care providers to gain access to telecommunications and internet services. Under the direction of the Commission, the Fund is administered by the Universal Service Administrative Company (USAC).

On August 15, 2022, the FCC issued its *Report on the Future of the Universal Service Fund* (Report) as required by Section 60104(c) of the Infrastructure Investment and Jobs Act (Infrastructure Act) [1], which outlines the FCC's options for improving its effectiveness in achieving the universal service goals for broadband.[2] While the report contains recommendations for modifications to the existing universal service programs in light of the Infrastructure Act, it affirmed that its universal service goals for broadband cannot be achieved without the support of existing USF programs.

Achieving the FCC's goals and objectives (*Strategic Goal 1: Pursue a "100 Percent" Broadband Policy* and *Strategic Objective 1.1: Pursue policies to help bring affordable, reliable, high-speed broadband to 100 percent of the population, including rural areas, and Tribal lands as well as for low-income Americans and students*) requires a significant investment of FCC resources, as well as effective USAC administration of USF programs. Establishing direction and policy, and ensuring that all USF program rules and regulations foster effective and efficient programs, are significant management challenges.

Universal Service Fund Contributions Reform

Eligible telecommunications carrier (ETCs) contributed approximately $7.4 billion to the USF fund in 2022. However, the current USF contributions system is built on regulatory constructs from decades ago.[3] In a recent report adopted by the FCC on the future of the USF, Commissioner Brendan Carr noted that "…the FCC's funding mechanism…is stuck in a death spiral. The USF

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[1] Infrastructure Investment and Jobs Act, 2021, Title V, Sec. 60502, P. L. No.117-58, 135 Stat. 1238 (2021)

[2] Report on the Future of the Universal Service Fund, FCC-22-67, issued August 15, 2022.

[3] Testimony of Carol Mattey, Principal of Mattey Consulting LLC, before the Subcommittee on Communications, Technology, Innovation and the Internet, of the Committee on Commerce, Science and Transportation, U.S. Senate, on "The Impact of Broadband Investments in Rural America," March 12, 2019.

program is funded through a mechanism that made sense back in the dial up and screeching modem days of the 1990s—back when you were far more likely to have a long-distance calling card in your wallet than an email address in your name."[4] The aforementioned Report describes the multi-faceted arguments from the industry to update the funding mechanism for the FCC's USF programs. The proposals include expanding the contributions base to include revenues from Broadband Internet Access Service (BIAS) as well as to include edge providers (streaming video providers, digital advertising firms, and cloud service companies). Another consideration is to fund the USF by Congressional appropriations. The report warns that the FCC's decision on this issue should ensure the sustainability of the fund and should not increase the financial burden of consumers.

Contribution reform is needed because, although the marketplace has shifted to new services and new technologies, businesses are not required to finance the USF based on revenues from these new sources. Only revenues from interstate and international telecommunications services and certain other telecommunications are subject to assessment. The telecommunications companies providing these services include wireline phone companies, wireless phone companies, paging service companies, and certain voice over Internet Protocol (VoIP) providers. Total assessable telecommunications revenues, which make up the USF contributions base, have steadily declined from $66 billion in 2012 to $38 billion in 2021.[5]

The FCC has sought public comment on alternative contributions methodologies multiple times. For example, in an April 2012 Notice the FCC sought comment on modernizing the contributions methodology, to include an assessment of revenues from broadband networks.[6] Years later, in June 2020, the FCC sought comments to refresh the record in the 2012 Contributions Reform Further Notice of Proposed Rulemaking. The 2020 Notice pertains to whether the Commission should exercise its permissive authority under Section 254(d) of the Telecommunications Act of 1996[7] to include in the contribution base revenues derived from the provision of "one-way" VoIP services.[8] Despite the Commission's efforts over the years to obtain and evaluate comments on this issue, an agreement has not yet been reached on the best way to increase contributions to the USF to ensure its sustainability. Per FCC officials, this issue will be addressed in accordance with the priorities on the Commission's agenda. Notably, in its August 2022 FCC report to Congress, the Commission provided suggested USF contribution reform. Bipartisan legislation, introduced in the U.S. Senate,

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[4] Report on the Future of the Universal Service Fund, FCC-22-67, issued August 15, 2022. See comments from Commissioner Brendan Carr on page 62.

[5] Universal Service Monitoring Report; CC Docket No. 96-45; February 2023, For DATA Received Through September 2022, Prepared by Federal and State Staff for the Federal-State Joint Board on Universal Service; Table 1.5.

[6] Further Notice of Proposed Rulemaking, Universal Contribution Methodology—A National Broadband Plan for Our Future, FCC-12-46, April 2012.

[7] Title 47 CFR 254d-(d) Telecommunications carrier contribution. Every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service. The Commission may exempt a carrier or class of carriers from this requirement if the carrier's telecommunications activities are limited to such an extent that the level of such carrier's contribution to the preservation and advancement of universal service would be de minimis. Any other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.

[8] FCC Public Notice; DA 20-614; Released June 11, 2020; Pleading Cycles Established; Comments Sought to Refresh the Record in the 2012 Contribution Methodology Reform Proceeding with Regard to One-Way VOIP Service Providers; WC Docket No. 06-122; GN Docket No. 09-51.

would have directed the FCC to conduct a study into the feasibility of collecting USF contributions from internet edge providers.[9] Following a Senate subcommittee hearing held in May 2023, a bipartisan USF Working Group sought comments from stakeholders on a number of issues related to potential reform of the programs funded through universal service. These comments were due by August 25, 2023. At this point, it is unclear which direction Congress will take. Ultimately, resolving these matters and reforming USF contributions remains a significant management challenge.

USF High Cost Program

The USF High Cost program (HC) historically has provided billions of dollars annually, with a goal of ensuring that robust, affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation. High Cost program has been transitioning its support to multi-purpose networks capable of fixed and mobile broadband and voice services in rural, insular, and other high cost areas, and phasing out support for voice-only networks. During this transition, the HC program was modernized into the Connect American Fund (CAF), where funding is more transparent; easier to administer; and does not present the inherent risks and impediments to preventing fraud, waste and abuse in the program, compared to the historical model used to distribute funding to rate-of-return carriers, which remains problematic.

The Commission must continue to ensure CAF orders are timely implemented and meet their purposes and goals. Under the comparatively simplified CAF distribution models, systematic monitoring and verification of the CAF programs have been necessary to ensure carriers have fulfilled their build-out obligations and service requirements to all required locations in their service areas, and provide service at speeds required under the Commission's rules. USAC developed an information system, the High Cost Universal Broadband (HUBB) portal, to assist USAC management in determining if carriers were meeting their obligation to provide high-speed internet to specific underserved locations, including meeting minimum performance standards and service speeds. The Commission must ensure USAC adequately monitors carrier commitments to ensure they fulfill their obligations under the CAF programs. Additionally, the CAF programs, as the Commission has recognized, will need to be modified to accommodate new broadband programs Congress authorized during the pandemic as well as any post-pandemic initiatives. And, as also recognized by the Commission, it must continue to ensure there is coordination between the Commission and other inter-governmental agencies, so the monies dedicated to broadband development are used effectively without any overlap in funding authorizations.[10]

Based on previous FCC OIG audits as well as Government Accountability Office (GAO) audits, the continued significant challenges in the High Cost Program are ensuring that the FCC and USAC are (1) implementing funding reforms specific to carriers, (2) managing fraud risks for the High Cost program in accordance with leading practices, (3) ensuring that program funds paid to ETCs do not replace or duplicate other funding sources, and (4) monitoring the ETCs' progress on a timely basis, to ensure that broadband build-out milestones are being met.

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[9] https://www.wicker.senate.gov/2023/3/wicker-luj-n-young-kelly-reintroduce-bill-to-explore-collecting-usf-contributions-from-big-tech

[10] Report on the Future of the Universal Service Fund, WC Docket No. 21-476, 2022 WL 3500217, para. 24 (2022)

<u>USF Lifeline Program</u>

The Lifeline Program is currently facing the following challenges:

- Program Integrity;
- Low participation rates;
- Intersecting benefits with the FCC's Affordable Connectivity Program (ACP); and
- Halted plans to phase out subsidies for voice-only services.

Program Integrity

The FCC and USAC must continue to devote significant resources to combat waste, fraud, and abuse in the Lifeline program. Significant reforms to the Lifeline program in 2012 and 2016, with implementation of more recent reforms recommended by this Office, have significantly reduced fraud in the program. Nevertheless, OIG concerns related to ETC monitoring and compliance with usage rules have proliferated over the last several years and continue. OIG maintains an active roster of investigations examining the conduct of multiple ETCs and their agents. The U.S. Department of Justice works with OIG to pursue culprits identified through its investigations pursuing criminal and civil sanctions against those already identified by OIG's investigations. The FCC must continue to ensure that adequate resources are dedicated to identifying new forms of fraud as the program evolves.

In response to the ongoing COVID-19 pandemic, starting in March 2020, the Wireline Competition Bureau (WCB) waived certain Lifeline program rules from April 2020 through April 30, 2023. The waived rules were related to recertification, reverification, general de-enrollment, subscriber usage, income documentation, documentation requirements for subscribers during several months of the pandemic, as well as guidance concerning USAC periodic reviews. The waivers arose from WCB's recognition that telemedicine, telework, and online learning were necessary social distancing measures and, therefore, increased access to affordable communications services for low-income consumers was an important objective.

Nonetheless, many of the waived rules were originally implemented to prevent waste and abuse in the program. All of the waivers have now been rescinded, but the Commission must ensure ETCs are again abiding by the rules in effect and that these waivers did not open the door for future abuse of USF Funds.

Moreover, as we noted last year, the FCC and USAC must continue to monitor National Verifier enrollment to identify ETCs and their agents who attempt to circumvent added program safeguards. Although USAC completed its implementation of the Representative Accountability Database (RAD), the FCC and USAC must ensure RAD fulfills its purpose by identifying and blocking agents who attempt fraudulent Lifeline and ACP subscriber enrollments. They must also be vigilant in identifying attempts by agents previously blocked-out of RAD and prevent them from enrolling subscribers by using other agents' identities. The first step in accomplishing this goal is to ensure that Lifeline and ACP providers register their enrollments representatives in RAD. In December 2021, OIG raised concerns that Lifeline and ACP providers were not doing so. Since then, we shared warning letters sent to several large ACP providers describing OIG's concern that those providers

failed to register their enrollment representatives in RAD even though those providers regularly used enrollment representatives to enroll subscribers. OIG analyses continue to show many Lifeline and ACP providers which employ enrollment representatives, fail to register all their enrollment representatives. This problem has not been addressed by the Commission or USAC. After ensuring that providers register all their enrollment representatives, the FCC and USAC must ensure providers furnish enrollment agent identification information for all National Lifeline Accountability Database (NLAD) and National Verifier transactions. OIG finds that in many instances fraudulent enrollments are made by agents who fail to identify themselves in RAD when enrolling subscribers, and this requirement is not enforced by their employers. In investigation after investigation, targets regularly produce information to OIG concerning the payment of commissions to enrollment representatives for program enrollments or transfers despite having failed to report enrollment representative involvement in the NLAD transactions. See further discussion in ACP section, *infra*.

Additionally, FCC and USAC must continue to monitor whether the National Verifier meets its intended goals to reduce the risk of enrollment of ineligible subscribers and improve the customer application and enrollment experience. In January 2021, GAO published the results of its audit of the National Verifier.[11] In its report, GAO recommends that the FCC develop and implement a plan to educate eligible consumers about the Lifeline Program and National Verifier, develop performance measures to track the Verifier's progress in reaching its goals and ensure that the system's online application is accurate, clear, easy to understand and includes an option to provide feedback. As of September 2023, the majority of the recommendations had not been closed.

Low Participation Rates

Low participation in the Lifeline Program has been reported in audits by GAO and assessments and evaluations by industry experts for many years. In 2022, $2.5 billion was budgeted for the Lifeline Program. However, only $610 million, or 24.8%, was disbursed. Currently, the participation rate is only approximately 19% of the eligible population.[12]

A 2015 GAO report[13] recommended the FCC conduct a program evaluation to determine the extent to which the Lifeline Program is efficiently and effectively reaching its goals of ensuring the availability of telecommunications services for low-income Americans while minimizing the contribution burden on consumers and business. The resulting 2021 Lifeline Program Evaluation Report, prepared by Grant Thornton,[14] echoed GAO's conclusions regarding the lack of specific performance measures for the program. Grant Thornton also reported that the FCC had not established performance measures or tasked USAC, the programs administrator, with increasing participation or collecting certain performance data. Therefore, USAC's strategies and plans may not address these activities.

Also, the forementioned GAO report on the National Verifier noted consumers may lack an

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[11] GAO #21-235: FCC Has Implemented the Lifeline National Verifier but Should Improve Consumer Awareness and Experience; released January 28, 2021.

[12] Data pulled from USAC's website on August 24, 2023, https://www.usac.org/lifeline/resources/program-data.

[13] GAO #15-335: FCC Should Evaluate the Efficiency and Effectiveness of the Lifeline Program; released April 23, 2015.

[14] Lifeline Program 2020 Program Evaluation, performed by Grant Thornton Public Sector LLC, final issued February 5, 2021.

awareness of the Lifeline Program because the FCC's consumer education planning efforts did not always align with key practices to develop consistent and clear messages and did not always include researching target audiences.

The FCC and USAC must develop and implement a plan to address the low participation rate for the Lifeline Program.

Program Benefits Intersect with the Affordable Connectivity Program

In its 2016 Lifeline Order, the Commission made changes to the Lifeline Program to enable low-income consumers to obtain and use broadband. In response to the Infrastructure Act, the FCC launched the Affordable Connectivity Program on December 31, 2021, with final rules issued on January 21, 2022, with similar goals. The ACP is a long-term program designed to promote the availability of broadband service for low-income consumers. While there are some distinct differences between the two programs, including device subsidy allowances and service discount amounts, many commenters on the program rules suggested the two programs should be merged or that the programs should cover distinctly different services. Significantly, under current rules, the same activities (e.g. making an outbound call, sending a text message, or data usage) qualify as "usage" for both programs.

Currently, consumers can apply benefits from both programs to the same telecommunications service plan. OIG analyses show that 72% of households (or 4.3 million) receiving Lifeline benefits in August 2023 concurrently received ACP benefits. Nearly 50% of Lifeline households (or 2.9 million) received Lifeline and ACP service from the same provider. In March 2022, OIG issued an advisory after it discovered a number of ACP providers deceived households into enrolling into Lifeline when they applied for ACP benefits. Participating providers regularly seek to maximize the reimbursements they receive by enrolling households in both programs. The FCC should look for evidence that households benefit (or conversely, funds are wasted) when a household receives concurrent ACP and Lifeline support, particularly when both services are furnished by the same provider.

The previously mentioned Future of the USF Report recommends that the device subsidy allowance be reconsidered. The report also recommends that the FCC conduct surveys to better understand household broadband needs, household awareness of the Lifeline Program, and their interaction with providers. The Commission must ensure that it continues to consider how best to structure, maximize and administer the benefits of the Lifeline Program and ACP.

Phase Down Voice-Only Service Subsidy

On July 1, 2022, the Bureau issued an Order extending for an additional year, the waiver pausing the phase-down of support for voice-only services in the Lifeline Program.[15] Although the WCB's *Report on the State of the Lifeline Marketplace*, indicates that only about 8% of Lifeline subscribers receive voice-only services,[16] some argue that this minority of consumers is still significant, as they

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[15] FCC Order, DA 23-589, Lifeline and Link Up Reform Modernization – Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund.

[16] Report on the State of the Lifeline Market place, June 2021, Prepared by WCB, pages 7-8, Figure 2, "Figure 2 shows that for the May 2021data month approximately 8% of Lifeline subscribers participate in a voice-only offering."

rely on traditional phone service for reliable access to emergency services like 911, for work, to receive healthcare and customer support, and to connect with friends and family. Additionally, data is lacking on the options for affordable service that will be available to low-income consumers if voice-only support is eliminated. The FCC must ensure it resolves this matter in a way that meets the needs of the low-income community.

USF – Schools and Libraries (E-rate) Program

Effective in 2015, the Commission's two E-rate Modernization Orders adopted three program goals: 1) ensure schools and libraries have access to affordable high-speed broadband internet services; 2) maximize the cost-effectiveness of spending for E-rate program supported purchases; and 3) ensure the application process is fast, simple, and efficient. The orders established a performance management system to help evaluate the effectiveness of the modernization orders and identify program improvements. In March 2023, the E-Rate program funding cap for funding year 2023 was set at $4.768 billion. The new cap represents a 7.0% inflation-adjusted increase in the $4.456 billion cap from funding year 2022.

In addition to challenges associated with delivering effective E-rate program services remotely, FCC and USAC management must ensure adequate program controls to detect and deter inherent program risks, as well as risks identified by prior OIG and USAC audits and OIG investigations, including those that transcend the pandemic:

- Missing or inadequate documentation to demonstrate compliance with FCC rules;
- Invoicing USAC for ineligible products/services;
- Untimely payment to service provider;
- Insufficient internet safety policy;
- Product and/or services received by ineligible entity; and
- Service Provider billing inaccuracies.

Following-up on suggestions by an internal USAC risk assessment and a GAO review, OIG recommended a process by which USAC would collect and release competitive bidding documents and standardize bid responses from service providers to assist applicants in reviewing and selecting the most effective bid. The Commission has sought comments on this recommendation. While the majority of comments have been negative, the Antitrust Division of the U.S. Department of Justice provided a comment in support of OIG's recommendation. The negative response to OIG's recommendation might be due to entrenched interests in preserving the status quo by consultants who extract a significant amount of money from applicants for providing competitive bid collection and review from applicants. Following the closure of the comment and reply periods in May 2022, *ex parte* meetings continued with Commissioners and the Chairwoman through at least May 2023. Despite the interest in this matter, the Commission has taken no action on this issue. Resolving this issue in a manner that best protects program integrity is a management challenge.

USF Rural Health Care Program

To address various concerns in the Rural Health Care program (RHC), the Commission adopted

the Report and Order, *Promoting Telehealth in Rural America*, WCB Docket No. 17-310. [17] The Report and Order aimed to improve the RHC program competitive bidding process by adding a "fair and open" standard. It also implemented rules prohibiting service providers who intend to bid on supported services from assisting an applicant in completing the request for proposal or request for services forms and prohibiting a service provider who has submitted a bid from evaluating bids or choosing a winning bidder.

USAC began implementing these rules in 2021 and OIG has requested updates on that process. OIG is aware, however, that certain obstacles to full implementation of the revised rules have arisen and implementation has been delayed. Nevertheless, effective implementation of these newer rules by the FCC and USAC, diligent agency enforcement of both the newer rules and the existing rules, as well as general oversight of the Program, remain a significant management challenge. The FCC's challenge is to continually use innovations to create ways to support rural hospitals and healthcare providers during the pandemic without creating gaps in controls that increase the risks for conflicts of interests, fraud, and abuse.

Pandemic and Post-Pandemic Relief Funds

Affordable Connectivity Program

The Emergency Broadband Benefit Program (EBBP) was established, pursuant to the Consolidated Appropriations Act of 2021. Congress allocated $3.2 billion to support discounted broadband service to low-income households, including those experiencing COVID-19 related economic disruptions. On November 15, 2021, the Infrastructure Act transformed the EBBP into a longer-term broadband affordability program, the ACP, and appropriated an additional $14.2 billion of support.

In the Infrastructure Act, Congress reduced the monthly discount available to non-tribal households from $50 to $30 in the newly-renamed ACP. ACP funds may also be used to buy related equipment, such as computers and tablets. The ACP uses the Lifeline program's infrastructure, including the National Verifier, NLAD, and the Lifeline Claims Systems, for subscriber eligibility, enrollment and service provider reimbursement. Most ACP rules became effective on April 15, 2022.

The FCC must continue to devote significant resources to monitor the ACP over the long-term to ensure that program service providers comply with program requirements. In its 2021 and 2022 Management and Performance Challenges memo to the Commission, OIG outlined its assessment of the most serious management and performance challenges posed by the EBBP and ACP. Over the last year, OIG has learned more about those previously-identified challenges and identified a number of additional risks and challenges that FCC management must address as it administers the ACP.

Ensuring Subscriber Eligibility and Combatting Enrollment Fraud: As with the Lifeline program, one of the primary challenges the Commission faces is ensuring the eligibility of subscribers enrolled in the ACP. While the National Verifier has mitigated many risks associated with enrollment fraud, many challenges persist.

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[17] The RHC program funding cap is $682.3 million for funding year 2023, which includes a 7.0% inflation-adjusted increase from the $637.7 million cap in funding year 2022.

As discussed in our 2022 memo, OIG issued three advisories concerning enrollment-related misconduct within the first sixteen months of program operations.[18] We also discussed the evidence we presented to the Commission and USAC that showed providers and their agents submitted fabricated eligibility proofs to make improper program enrollments. Reports from USAC indicate that it continues to identify numerous examples of fabricated documents submitted as part of applications that cannot be confirmed using the National Verifier database connections. In the past year, we also learned of more program enrollments completed by enrollment representatives using stolen personal identifiable information (PII) or PII gathered by enrollment representatives using deceptive marketing practices. This represents an ongoing threat to program integrity.

Unauthorized and Abusive Transfers: On March 29, 2023, OIG made a presentation to WCB and the Enforcement Bureau regarding unauthorized and abusive transfers of subscribers' ACP service benefits by providers. OIG undertook its analysis after USAC and the Commission received thousands of complaints from subscribers alleging they were enrolled or had their service transferred by providers without their consent. As we presented, our analysis showed many subscribers were transferred dozens of times between providers who abused the transfer exception process. Our analysis also demonstrated provider abuse of the transfer exception process was increasing. These unauthorized transfers result in monetary losses to the ACP as well as the loss of ACP benefits to subscribers.

In 2022, OIG urged the Commission to confirm that program administrators leverage all data collected by the National Verifier and NLAD to ensure subscriber eligibility. As we noted regarding our detection and investigation of duplicate Benefit Qualifying Person (BQP) fraud in the 2022 memo, OIG's assessment of transfer exception abuse did not require significant investigation. Only a review of the complaints and simple data queries was required to identify subscribers whose service was transferred an excessive number of times. While providers and their agents are clearly at fault for furnishing fraudulent information to the Verifier and NLAD, program administrators could have used readily available data to detect and address this abusive conduct.

Our inquiry also detected certain anomalies regarding the use of transfer exception codes. OIG observed that NLAD data reflects the use of transfer exceptions codes for non-transfer related transactions. Specifically, tens of thousands of enrollment, de-enrollment, and other non-transfer-related transactions were associated with a transfer exception code. Transfer exception codes should be used only in connection with transfer transactions. As discussed below, our office identified other data integrity/quality concerns in last year's memo.

Missing and Bogus Enrollment Data: Relatedly, the Commission continues to face a significant challenge addressing several other data integrity issues detected by OIG. As mentioned in last year's memo, OIG continues to find that providers have failed to furnish the NLAD with information required by program rules. For example, 47 CFR 54.1806(d)(4) requires providers to transmit to the NLAD certain information about each subscriber including full name, residential address, date of

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[18] On November 22, 2021, OIG issued an advisory regarding providers and their agents who took advantage of the less stringent enrollment requirements for households that participate in the CEP School Lunch Program to create tens of thousands of fraudulent enrollments. On March 11, 2022, OIG issued an advisory to alert consumers and the public that certain providers were impermissibly tying enrollment in the ACP and Lifeline program. Finally, on September 8,2022, OIG issued an advisory regarding providers and their agents who enrolled many households into the ACP based on the eligibility of a single BQP. Some BQPs were used to qualify hundreds of ACP households.

birth, and the telephone number associated with ACP service. OIG found the phone number information missing for about 24% of all past and present subscribers in the ACP program (5.4 million out of 22 million). Although it is our understanding that USAC requires providers to provide either a phone number or an email address, there are still almost 1 million past and present subscribers with neither a phone number nor an email address populated in NLAD. Also, as discussed above, we pointed out for the first time in our December 10, 2021, memo to WCB, many providers have not provided any information regarding sales agent involvement in subscriber verification and enrollment activity. This remains true in 2023. Among the top 40 ACP providers, more than half are failing to provide agent RepIDs most of the time. Specifically, 21 of the top 40 providers have reported agent RepIDs with fewer than half of their enrollments (including six providers that have never reported RepIDs for any enrollments). Provider failure to share such information violates program rules, negatively impacts program integrity and makes the missions of OIG and the Enforcement Bureau more challenging.

In addition to missing data, OIG has discovered a significant amount of bogus enrollment information in the National Verifier and NLAD databases. In addition to the information discussed in last year's memo, OIG has found that at least 6.2% of the 20+ million ACP subscribers have suspect email addresses, including 4.2% that are clearly fake or invalid, and 2% of email addresses that are shared among at least five subscribers. Fake email addresses often follow distinctive patterns. Other examples of bogus enrollment information include the single-family addresses used to enroll dozens of ACP households. Data authenticity and integrity are important and pressing challenges for the Commission to consider as it administers the ACP.

National Verifier Manual Review Process: A significant number of ACP subscriber applications require manual review to confirm subscriber eligibility. OIG recognizes the profound challenges posed by conducting a manual review of subscriber eligibility proofs and other enrollment-related documents at this scale. We first reported issues with manual review process during our EBBP audit in 2022. The audit found that improper manual verification review resulted in EBBP benefit being incorrectly extended to subscribers who did not meet the program household eligibility requirements.

To address the weaknesses, the report recommended that the FCC and USAC work together to increase the scrutiny of the manual verification process using a multilevel review process. In addition to the audit recommendations, OIG made a number of preliminary recommendations to improve the efficacy of the manual review process. We note that USAC continues to make significant improvements to the manual review process, by adding the recommended layers of quality control reviews. Our ongoing ACP audit has shown that additional improvements are needed. The manual review process continues to pose unique challenges. As subscriber eligibility proof and other enrollment-related documents increase, so does the importance of a strong manual review process. In addition to the audit recommendations, this year we made recommendations to improve USAC's manual review process including recommendations to make the application process less vulnerable to fraud, to leverage technology to assist in the detection and confirmation of fabricated applications documents, and to assist OIG and other enforcement entities investigate fraud once detected. The Commission and USAC should remain vigilant against provider and sales agents' attempts to defraud the program by exploiting manual review process vulnerabilities.

Alternative Verification Process: The Consolidated Appropriations Act allowed a participating provider to "rely upon an alternative verification process of the participating provider," to determine

household eligibility and enroll households in the EBB program, subject to certain conditions. Providers continue to utilize alternative verification processes (AVPs) to verify the eligibility of ACP subscribers. In our 2022 memo, OIG raised concerns about the Commission's lack of visibility into the day-to-day workings of providers' AVPs. We expressed concern about complaints received by the Commission that indicated ineligible households had received offers for "pre-qualified" ACP supported service from providers who utilize AVPs. The prequalified households complained they were not the intended beneficiaries of the program and should not receive subsidized service. We exhorted the Commission to learn more about how AVP might lead to waste and abuse.

On May 17, 2023, the Commission announced an investigation into inconsistencies and irregularities in enrollment verification, and directed three major providers that use an AVP to confirm the enrollment of their AVP-qualified subscribers using the National Verifier. In addition, the Commission requested that the three providers provide an updated application explaining 1) the providers' continued need for an alternative verification process; and 2) why their AVPs are "sufficient to avoid waste, fraud, and abuse."

Prior to the Commission's May 17th announcement, OIG sent a warning letter to one of the three major ACP providers later identified by the Commission. That major ACP provider uses an AVP to qualify approximately 80% of its millions of ACP subscribers. After the Commission's announcement, we shared our concerns with the agency. Specifically, we raised concerns that the provider used its AVP to make improper enrollments, including the enrollment of businesses, subscribers who received more than one ACP benefit, and bogus names. We also expressed concern that the provider contributed to program waste by using its AVP to prequalify households that would not otherwise be eligible for program support. Given the evidence presented to the agency by the OIG, the Commission must continue to learn more about how provider use of AVPs may lead to fraud, waste, and abuse in this program.

Provider Compliance with ACP Usage and De-enrollment Rules: The Commission implemented the ACP subscriber usage and related de-enrollment rules as a safeguard against fraud, waste and abuse and to adopt a process that ensures taxpayer money is spent only for eligible subscribers that are actually using the supported service.[19] Whenever a provider does not assess and collect a monthly fee to a subscriber, it is required to (i) track that subscriber's usage on a rolling thirty-day basis, (ii) send a notice if the subscriber has not used the service in a thirty-day period warning that their service will be terminated and (iii) terminate that subscriber's service if it remains unused at the forty-fifth day.[20] Each provider can claim any subscriber on the first of the month if that subscriber used their service in the prior thirty days, or cured their non-usage prior to the de-enrollment deadline.[21] The usage requirement is so important that the Commission requires that participating providers certify that their subscribers have used the service prior to making any ACP claim.[22]

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[19] Report and Order and Proposed Rulemaking adopting final rules for the Affordable Connectivity Program (January 21, 2022) ("2022 ACP Order"), para. 75; 2012 Lifeline Reform Order, para. 257.

[20] 2022 ACP Order, footnote 223 and 47 C.F.R. 54.1809(c). The de-enrollment process became mandatory for most providers as of June 15, 2022. It became mandatory for providers that served fewer than 100,000 broadband subscribers and that also served some of those subscribers on Tribal lands as of September 16, 2022. Prior to those dates, the usage rule in EBB and ACP only required that a subscriber use the service a single time in a month in order to be claimed, 47 C.F.R. 54.1608(c).

[21] See 47 C.F.R. 54.1808(c).

[22] See 47 C.F.R. 54.1808(c)(2).

In September 2023, OIG issued an advisory to describe its growing concern that data and other evidence strongly suggest dozens of participating mobile broadband providers are not complying with ACP usage and de-enrollment requirements. OIG's concern originated from a recent OIG investigation of an ACP provider that improperly claimed $44.5 million in program funds on behalf of subscribers who were not using their ACP service. Subsequent OIG work further deepened this concern.

De-enrollments for non-usage typically comprise about half of de-enrollments by large mobile broadband ACP providers. However, OIG analyses showed that dozens of participating mobile broadband providers de-enrolled few, if any, ACP subscribers for non-usage and claimed reimbursement for all or nearly all their ACP subscribers. In some instances, these suspect providers de-enrolled less than one percent of the subscribers that many similarly-sized ACP providers de-enrolled for non-usage. Extensive experience with the Lifeline program and ACP and comparisons with other ACP providers suggest these suspect providers are likely noncompliant with ACP usage and related de-enrollment rules as well as other program rules. The advisory identified provider noncompliance with program usage rules as a significant threat to ACP program integrity and OIG encouraged providers to examine their usage monitoring procedures to ensure rule compliance.

OIG also encouraged the Commission to adopt appropriate measures to ensure the agency can confirm that low-income households are actually using ACP service. Throughout the implementation of the EBBP and the ACP, OIG repeatedly recommended that the Commission require providers to regularly report information to demonstrate that subscribers are using the subsidized broadband service. The Commission declined to adopt such a requirement and cited subscriber privacy concerns. Given such widespread concern regarding provider compliance, the Commission should re-examine provider accountability in avoiding program waste.

Enhanced ACP High-Cost Area Benefit: On August 3, 2023, the FCC adopted an order to provide an up-to-$75 monthly broadband benefit for subscribers living in qualifying high-cost areas through the ACP, as directed by the Infrastructure Act. The Infrastructure Act specified that the $75 monthly benefit would support providers that can demonstrate that the standard $30 monthly benefit would cause them to experience "particularized economic hardship" such that they would be unable to maintain part or all of their broadband network in a high-cost area. Congress separately directed the National Telecommunications and Information Administration (NTIA), in consultation with the Commission, to identify the high-cost areas eligible for the enhanced ACP high-cost area benefit.

During the rulemaking process, OIG expressed a number of concerns regarding the proposed program. Our recommendations are informed particularly by our experience with the legacy High Cost program and the difficulties we have observed in conducting adequate oversight of cost-of-service companies, including the Department of Justice's reluctance to bring civil and criminal actions against cost-of service companies given the accounting intricacies and complexities of the FCC's rules governing the program.

OIG recommended that the FCC issue further guidance on the income statements required to show particularized economic hardship in order to qualify for the enhanced benefit. We also recommended that the Commission develop rules to prevent cost-shifting among providers seeking to qualify for the enhanced benefit. Finally, we recommended the Commission develop guidance regarding the provider application approval process and allow OIG an opportunity to review it prior

to its adoption. OIG is very concerned that the enhanced ACP high-cost benefit may incentivize providers to engage in abusive and "creative accounting" in order to qualify. While the Commission adopted many of OIG's recommendations, the Commission must remain vigilant against further vulnerabilities to fraud, waste, and abuse.

OIG remains concerned that the Commission failed to issue rules and standards to govern how much of the up-to-$75 monthly benefit a provider may claim. OIG is concerned that this deficiency may result in a potentially massive waste of government resources. The purpose of the enhanced subsidy is to enable providers in high-cost areas to maintain their broadband networks—not to provide an unwarranted windfall. For example, if facilities-based provider A operates at a loss in a high-cost area when it receives the "standard" $30 per month ACP subsidy for eligible households but would break even if it receives $50 per month for its ACP-eligible households, is it permissible for facilities-based provider A to seek the full $75 subsidy? Congress was explicit that the enhanced high-cost subsidy for the ACP is "up to" $75, not $75; [23] Congress clearly intended that some providers would receive less than the full subsidy amount.

The Commission has not addressed this situation or outlined any safeguards. OIG is skeptical that any qualifying facilities-based provider in a high-cost area will voluntarily seek less than $75 per month. Depending on the size of the provider's operating loss, this may result in a large windfall (and waste) of government monies. We strongly urge the Commission to address this fundamental vulnerability.

ACP Program implementation challenges identified during FY 2023 ACP audit: In FY 2023, OIG engaged a contractor to audit the ACP program in its first year of implementation as required by the Infrastructure Act. As of October 2023, the audit is in the reporting phase and we have communicated all of the ACP audit findings to management. The audit identified a number of ACP program implementation challenges concerning lack of defined performance targets and key milestones for assessing the FCC's effectiveness in meeting its performance goals, delayed outreach efforts and lack of focus on households in high poverty areas or areas with limited broadband usage, the inability to make accurate applicant eligibility determinations, issues related to unsubstantiated claims, and failure to publish consumer complaint reports during the audit period. Specifically, our contractor found that:

- Although the FCC developed its ACP performance goals for the ACP, it did not establish specific performance targets to evaluate its performance against its goals or how well the FCC is progressing towards achieving its performance goals over time.

- Although the FCC established and funded its grant program in January 2022, most grant awards were not accepted until May or June 2023 so grantee outreach efforts did not start until nearly half of ACP funds were expended. Additionally, the FCC's outreach efforts were limited and could have been more effective by conducting research at the time of program implementation that would have given the FCC a greater insight on how to structure its enrollment efforts for high poverty areas and for areas where broadband usage is not

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[23] Subsection (a)(7) of Section 904 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260), as amended by Subsection(a)(3) of Section 60502 of Division F of the Infrastructure Act.

widespread. As a result, households in high poverty areas with limited broadband usage were not specifically targeted.

- Additional improvements are needed in the quality assurance work for manual verification reviews for household eligibility determination performed by a business process outsourcing company hired by FCC/USAC. The weaknesses in the manual verification review process was a repeat issue from the OIG 2021 EBBP audit report, [24] in which our contractor found that FCC controls were not effective in preventing incorrect household eligibility determinations during manual review.

- 2.46% of claims reviewed could not be substantiated, including five sample claims from two participating providers who did not respond or submit any audit documentation after repeated requests for audit documentation.

- The FCC failed to publish consumer complaint reports required by Title 47 U.S.C. § 1752 (b) (9) (D). While the FCC had an efficient process for tagging ACP-related complaints, the FCC lacked a formal process for aggregating and including participating provider compliance with the ACP in a public report. Subsequent to the completion of our contractor's audit field work on August 1, 2023, the FCC published its consumer complaint report in mid-August 2023. However, this report has not been subject to an audit review. Until the compliance report is validated for compliance with the statute, we continue to consider this matter a significant challenge.

In January 2023, the GAO released its audit report, GAO-23-105399,[25] *FCC Could Improve Performance Goals and Measures, Consumer Outreach, and Fraud Risk Management.* In its report, GAO noted that the FCC established some performance goals and measures; however, the goals and measures were lacking key attributes of effective performance management. In addition, it noted although the FCC has taken steps to manage fraud risks in the program, (1) the FCC's efforts do not fully align with selected leading practices in GAO's Fraud Risk Framework, and (2) the FCC has not developed processes to monitor certain anti-fraud controls. GAO identified weaknesses in these controls, including potential duplicate subscribers, subscribers allegedly receiving fixed broadband at PO Boxes and commercial mailboxes, and subscribers with broadband providers' retail locations as their primary or mailing addresses.

The GAO report included nine recommendations with which the FCC agreed, and established a Correction Action Plan to address each recommendation. As of September 30, 2023, many of the audit recommendations related to ACP performance goals and measures and fraud risk management are still under remediation. The FCC's continued efforts in resolving GAO's ACP open recommendations remain a significant challenge in ensuring the FCC is effective in preventing and detecting fraud in the ACP program.

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[24] https://www.fcc.gov/inspector-general/reports/audit

[25] https://www.gao.gov/assets/gao-23-105399.pdf

Emergency Connectivity Fund

The American Rescue Plan Act of 2021 appropriated $7.6 billion to establish the Emergency Connectivity Fund (ECF), of which $1 million was to go to OIG to oversee the program. The ECF program was to generally follow the USF's Schools and Libraries program model but offer 100% reimbursement for items not eligible for funding under that program, such as computers and internet hotspots. The Commission has conducted three rounds of applications for funding from the program, and as of mid-August 2023, the Commission has committed over $6.9 billion from the program to fund 13 million connected devices and 8 million broadband connections at 11,100 schools, 1,500 libraries, and 120 consortia.

Over the past 10 months, OIG obtained underlying ECF data by collecting documentation from schools and libraries and conducting site visits to determine compliance with program rules, to better understand how the program operates for applicants and to identify potential issues with the program. To assist in this process, OIG contracted for staffing to assist with site visits. OIG expects to continue site visits utilizing these contracted staff through the fall of 2023.

OIG's site visits have identified problems with ECF recipient's program-mandated tracking of devices purchased with ECF funding. Additionally, OIG and its contracted staff have observed unused equipment, missing equipment, excessive profit margins, overbilling for reimbursement, and in some instances, schools have not provided any documentation in response to OIG's requests. OIG has referred some of these matters to WCB for administrative resolution and is in the process of referring additional issues to WCB for resolution.

Oversight of this immense program, with which the agency still has little experience, is a significant management challenge. Due to the end of the pandemic, the ECF program will sunset on June 20, 2024 and ECF program support will only be available for purchases of eligible equipment and services made by June 30, 2024.

Telecommunications Relay Service

The Telecommunications Relay Service (TRS) Fund represents a program established under Section 225 of the Act. This statute provides for a mechanism to support relay services necessary for telecommunications access by speech or hearing-impaired populations. Rolka Loube, LLC, is the administrator for the TRS Fund. The TRS Fund compensates TRS providers for the reasonable costs of providing interstate telephone transmission services that enable a person with a hearing or speech disability to communicate with a person without hearing or speech disabilities. The costs of providing interstate TRS are recovered from subscribers of interstate telecommunications services.

In FY 2022, the TRS Fund accounted for approximately $1,267 million in new available funds on the Commission's Combined Statement of Budgetary Resources. The Administrator projects a net fund cash requirement for fund year 2023-2024 of $1,230,641,592. The net fund cash requirement is the sum of service requirements, administrative overhead, and a budgetary reserve minus the projected fund balance as of June 30, 2023.

As reported last year, TRS program administrators finalized its audits of the TRS providers and their compliance with the Video Relay Service (VRS) User Registration Database (URD) filing instructions. The OIG learned the audits uncovered serious problems that revealed providers were

not in compliance with the registration requirements. Specifically, providers had inadequate controls to verify documents collected from users met the identity requirements or filing instructions for URD registration.

The audits recommend providers implement quality control processes to verify that the documents collected to support the user registration are compliant with URD filing instructions and regulatory requirements. The FCC should devote resources to ensure recommended controls are implemented and hold providers accountable for failing to comply with program rules.

The OIG also continues to monitor other TRS programs and the increased program support needed across the country's states and territories. The demand for program services and equipment threatens to exceed the amount of program funding available.

This past year, the OIG learned about vulnerabilities in the National Deaf-Blind Equipment Distribution Program (NDBEDP). The 2010 revision to the Americans with Disabilities Act created the NDBEDP, also known as iCanConnect, to provide equipment needed to make telecommunications, advanced communications, and the internet accessible to low-income individuals who have both significant vision loss and significant hearing loss. See NDBEDP 47 CFR § 64.6201-64.6219. Under the program, fifty-six distributors (one for each state and territory) purchase and distribute telecom equipment to qualifying individuals who are both legally deaf and blind in those jurisdictions. The program costs are capped at $10 million per year and funded by the TRS fund.

As directed by the *NDBEDP Permanent Program Order*, Consumer and Governmental Affairs Bureau (CGB) set aside $100,000 towards the development of a centralized database. The database is a repository which requires certified entities to use and submit information about their NDBEDP-related activities for reporting purposes. In addition, the database may be used for the generation of reimbursement claims.[26] According to the *NDBEDP Permanent Program Order*, the purpose of the database is to enable the CGB, OMD, the NDBEDP Administrator, and the TRS Fund Administrator to oversee the program more effectively and efficiently; analyze the performance of certified programs; detect patterns indicating potential fraud, waste, or abuse; and provide aggregate national program statistics to inform the Commission's future policy deliberations for the NDBEDP.[27] Fulfilling these obligations will present a management challenge.

Bridging the Digital Divide – Broadband Mapping

In March 2020, the Broadband Deployment Accuracy and Technological Availability Act (Broadband DATA Act) was enacted.[28] The Broadband DATA Act required the Commission to, among other things, collect location-specific information about broadband services available in the U.S., share that information via a public-facing map, and implement a public challenges process.

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[26] See NDBEDP Permanent Program Order, 31 FCC Rcd at 9242, 9250-51, paras. 149, 169 (authorizing CGB to allocate an amount necessary from the $10 million available annually from the TRS Fund for the NDBEDP for the development and maintenance of the centralized database).

[27] Id.

[28] Public Law No. 116-130, Broadband Deployment Accuracy and Technological Availability Act or the Broadband DATA Act, March 23, 2020, codified at 47 U.S.C. §§ 641 et seq.

Through a series of rulemakings implementing the Broadband DATA Act, the Commission has set up the Broadband Data Collection (BDC) system by which fixed and mobile broadband providers semiannually report geographically-specific information about broadband deployments for each serviceable residential or business location (i.e., each building) within the provider's service area.[29]

The Commission then gathers the information and processes it into the National Broadband Map (https://broadbandmap.fcc.gov/home). The Commission does this by first creating a common dataset known as the "Fabric," the database of all buildings in the country where broadband networks can be deployed, and then overlaying the gathered data showing where the providers' services are available. The BDC replaced the Commission's prior broadband mapping system that relied on less granular information from providers' FCC Form 477 filings about service availability reported at the Census Block level—a unit that can range in size from a single city block at the smallest to thousands of square miles at the largest. In January 2021, the Commission adopted additional rules fleshing out its implementation of the Broadband DATA Act, including a requirement that providers must submit a certification from a qualified engineer attesting to the accuracy of provider's data submission, and establishing a challenge process by which consumers and others can challenge the accuracy of coverage maps and other data.

In 2021, the Infrastructure Act allocated $42.45 billion for the Broadband Equity, Access, and Deployment (BEAD) program, funding broadband service deployment to underserved locations. The statute directs NTIA to determine which areas are underserved using the data the Commission collects and compiles into the National Broadband Map pursuant to the Broadband DATA Act.

In November 2022, the Commission published the first version of the Broadband Map using availability data based on the BDC filings submitted by providers between June and September 2022. The Fixed Broadband Map shows the fiber, cable, DSL, satellite, or fixed wireless internet services available at each home or small business on the map. The Mobile Broadband Map shows 3G, 4G, and 5G coverage of each mobile provider in the area displayed. At the same time it released the first map, the Commission also opened the process by which individuals and bulk filers (e.g., government agencies) could submit challenges to providers' availability data.

As of May 2023, the Commission's Broadband Task Force had received availability challenges for more than 4 million locations, of which approximately 2.19 million (54%) were resolved through provider concessions (i.e., agreeing to withdraw availability or speed assertions for a location) and 0.9 million (23%) were resolved by challengers withdrawing their challenges. Of those that remained disputed as of late June 2023, the Task Force had adjudicated approximately 352,000 and had another 642,000 in various pre-adjudication statuses. According to the Task Force, it was their standard procedure to require providers to update the Broadband Map upon resolution of each availability challenge.

In May 2023, the Commission published the second version of the Broadband Map, based on the BDC filings submitted by providers between December 2022 and March 2023.

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[29] *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460 (2020) (Second Order and Third Further Notice); *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Third Report and Order (2021) (Third Report and Order).

In June 2023, NTIA announced the BEAD funding allocations for each state and territory that will be used to deploy or upgrade broadband networks.[30]

It is clear there are a variety of management challenges pertaining to the broadband mapping process. The first deals with the Fabric level. The Commission's vendor developed the Fabric through a process relying on geolocation data extracted from satellite imagery in conjunction with aggregated property tax and land records. Some of that satellite imagery appears to be from about 2017 or 2018, meaning it's now five to six years old. It is unclear whether the tax and land records were more current. Thus, the map may exclude buildings newly constructed in the past five to six years that did not replace a pre-existing structure. It may also include locations that have been demolished and not replaced during that time period. Some errors may have been corrected by the Commission's Fabric challenge process, under which providers, state agencies, and members of the public can submit corrections to incorrectly excluded, included, or misclassified locations.

Second, there are management challenges pertaining to the provider-reported data level. Did providers accurately report all of their broadband serviceable locations? News articles published in 2022 and 2023 have reported that some providers may have submitted false broadband availability data in their BDC filings. To date, the reports concerning potentially false availability data have been anecdotal and it is unclear the extent to which they have been substantiated. Some errors may have been corrected by Commission's Fabric challenge process.

Finally, there are management challenges pertaining to the process whereby the Commission invited the public, state agencies, and other stakeholders to submit challenges identifying errors in the provider-submitted availability data. Did the Commission devote sufficient resources to enable it to process and keep track of the large number of challenges received, as well as timely and accurately resolve those challenges? Was the window for submitting the challenges sufficient to correct a meaningful number of errors in the provider-submitted data? Did the Commission's process for adjudicating the challenges fairly resolve them and improve the accuracy of the map data? Did the Commission extrapolate from individual challenges any broader trends that might call into question all submissions from a particular provider?

Inaccurate broadband deployment data is a management challenge with potentially large ramifications to the allocation of BEAD program funding to foster build-out in underserved areas to further bridge the digital divide.

Secure Networks Reimbursement Program\Supply Chain Reimbursement Program (a/k/a "Rip and Replace")

In March 2020, the President signed into law the Secure and Trusted Communications Networks Act of 2019 (the Secure Networks Act), which among other things required the Commission to establish a program to reimburse providers of advanced communications services for the removal, replacement, and disposal of covered communications equipment and services from their networks. That law built upon previous actions by the Commission designating Huawei Technologies Company and ZTE Corporation as "covered companies," and rules prohibiting the use of USF support to purchase or obtain any equipment or services produced or provided by a

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[30] https://ntia.gov/press-release/2023/biden-harris-administration-announces-state-allocations-4245-billion-high-speed

covered company.

In December 2020, the Commission adopted the Supply Chain Second Report and Order, enacting rules that established the Secure and Trusted Communications Networks Reimbursement Program, i.e. Supply Chain Reimbursement Program (SCRP), as required by the Secure Networks Act. A few weeks later, the President signed into law the Consolidated Appropriations Act of 2021 (CAA), amending the Secure Networks Act that, among other things, expanded the reimbursement program eligibility pool to include larger telecom companies. The CAA also appropriated $1.9 billion to fund the SCRP. In April 2021, the Commission selected Ernst & Young to administer the SCRP. In July 2021, the Commission adopted the Supply Chain Third Report and Order to conform the rules for the SCRP to be consistent with the changes made by the CAA, and to flesh out additional details for the program.

In November 2021, the FCC began accepting applications for SCRP funding. By February 2022, providers had submitted applications requesting approximately $5.6 billion in SCRP funding, much more than the $1.9 billion appropriated. In July 2022, after reviewing the applications, WCB determined that "Priority 1 applicants have submitted approximately $4.6 billion in cost estimates that are reasonable and supported," and that "[b]ecause available funding is substantially less than that amount, the Commission rules require that allocations to Priority 1 applicants be prorated on an equal basis." WCB approved applications from 86 Priority 1 providers and set a pro-rata factor of 39.5% to be applied to their funding allocations.

As of July 2023, WCB and OMD had approved $190 million in reimbursement claims across 86 of the 126 applications approved for a funding allocation and set deadlines among those receiving a distribution to complete the removal of Huawei and ZTE communications equipment and services ranging from September 29, 2023, to June 30, 2024, based on the initial distribution of funds to the recipient.

In WCB's July 2023 Second Report to Congress on SCRP implementation, WCB estimated that "13% of recipients have completed the permanent removal, replacement, and disposal of all of the covered communications equipment and services in their networks" and that "approximately 85% of recipients have made some progress in their overall removal, replacement, and disposal plan but have not completed the work as of the third status update," and "2% of recipients indicated that they have not yet begun the work to permanently remove, replace, and dispose of the covered communications equipment and services in their networks." WCB noted that SCRP recipients cited four categories of challenges in their efforts to permanently remove, replace, and dispose of covered equipment and services: lack of funding; supply chain delays; labor shortages; and weather challenges.

According to FCC's public data on the program as of the end of July 2023, Reimbursement recipients reported claims of approximately $205 million, or 11%, of the $1.9 billion appropriated. While most of the disbursements in the program have not yet occurred, the reimbursements are allowed up to one year and extensions may be provided for an additional two years. Recipients were required to file at least one reimbursement claim within one year of the approval of their Application Request for Funding Allocation. Failure to file a reimbursement claim within the one-year period results in the reclamation of all allocated funding from the Reimbursement Program recipient and reversion to the Reimbursement Program fund for potential allocation to other Reimbursement Program participants.

Apart from challenges arising from an extended disbursement process, conducting audits, reviews, and field investigations, as required by the Secure Networks Act, ensuring program requirements were appropriately executed and implemented will be a significant management challenge for the Commission. Program participants are required to cover the remainder of the cost to remove, replace and dispose of covered equipment and services despite the funding shortfall. The Commission is tasked with the challenge of (1) determining whether the cost is typically incurred when transitioning from covered communications equipment or services to a replacement, comparing the cost relative to alternative equipment and services, and (2) comparing the capabilities and functions performed by the replacement equipment and services to determine whether they are comparable to the equipment and services removed.

Ensuring available program funds are allocated equitably, determining whether an extended disbursement process is managed properly, and ensuring that the execution and implementation of the program are monitored appropriately, will pose significant management challenges.

Compliance with Payment Integrity Information Act of 2019

The Payment Integrity Information Act (PIIA) of 2019 directs federal agencies and departments to undertake activities designed to identify, report, reduce and recover improper payments in government's programs and activities. To assess compliance, OIG engaged an independent certified public accounting firm to perform an audit.

In the FY 2022 Payment Integrity Information Act audit report, issued on May 24, 2023, our contractor found that three of the FCC's 10 programs, USF-Lifeline (LL), USF-HC, and USF-Schools and Libraries (S&L), were non-compliant with at least one PIIA criteria. Specifically:

- The USF-LL program was not compliant with PIIA criteria because, as of FY 2022 PIIA reporting, FCC had not accurately reported the overpayment amount first identified in the 2019 IPERIA audit report.

- The USF-HC Legacy program was not compliant with PIIA criteria for failing to publish its Improper Payments (IP) and Unknown Payments (UP) estimates for this program in FY 2022.

- The USF-S&L program was not compliant with PIIA criteria because FCC did not demonstrate improvements in reducing its improper payment estimates to a level at or below its tolerable improper payment rate or annual reduction targets as reflected in its FY 2022 PIIA reporting.

FCC management and USAC must continue its work to achieve compliance with PIIA going forward. Ensuring the Commission is compliant with the requirements of PIIA is considered a significant management challenge.

Compliance with the Digital Accountability and Transparency Act of 2014

In 2006, Congress passed the Federal Funding Accountability and Transparency Act (FFATA) of

2006,[31] requiring OMB to ensure the existence and operation of a free, publicly accessible website containing data on federal awards (such as contracts, loans, and grants). To comply with FFATA reporting requirements, OMB launched the website USAspending.gov.

In May 2014, the Digital Accountability and Transparency Act (DATA Act) of 2014 was signed into law, amending and augmenting FFATA, to increase accountability, transparency, accessibility, quality, and standardization in federal spending data. The DATA Act requires federal agencies to report financial and payment information to the public through USAspending.gov in accordance with government-wide financial data standards developed and issued by OMB and the Department of the Treasury.

In the FY 2021 DATA Act audit, OIG's contract auditors found that the FCC's DATA act submission was incomplete. Specifically, they reported that the FCC did not submit transaction-level TRS fund component spending data for the three consecutive audit cycles. Additionally, the FCC submitted USF spending data that did not comply with the DATA Act requirements because of significant deficiencies in the quality of the reported data. The FCC has not fully developed and executed a DATA Act project plan to capture, link, reconcile, and report on award-level financial and spending information with the TRS administrator. The auditors also found that the FCC did not implement a final Data Quality Plan during the scope of their review.

Although the FCC has taken steps to implement and use the data standards required by federal guidance in the past two years since our FY 2021 DATA Act audit report was issued in November, 2021, the FCC needs to continue making improvements to remediate the remaining open prior audit recommendations. As of September 2023, two of the nine 2021 audit report recommendations had been closed, three had been submitted for OIG review, and the remaining four had not been fully implemented. According to the FCC's most recent Corrective Action Plan, dated September 28, 2023, the FCC expects to fully implement its action plan of modifying its existing systems and processes that will facilitate reporting of TRS award-level financial spending information in a manner that complies with DATA Act requirements by April 30, 2024.

While the performance of the DATA Act audit is no longer required, OIG continues to monitor FCC's progress in implementing prior year DATA Act audit recommendations. Until outstanding implementation issues surrounding FCC components are addressed, full compliance with DATA Act will remain a significant management challenge.

cc: Managing Director
        Chief of Staff
        Chief Financial Officer
        Chief Information Officer

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[31] Public Law No. 109-282, Federal Funding Accountability and Transparency Act of 2006, sections 1 to 4, September 26, 2006.