



**OFFICE OF INSPECTOR GENERAL**

**Washington, D.C. 20554**

May 30, 2023

Via Electronic Mail to:

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The Honorable Cathy McMorris Rodgers  
Chair  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington, DC 20515

The Honorable Ted Cruz  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate  
512 Hart Senate Office Building  
Washington, DC 20510

Dear Chairwoman Rodgers and Senator Cruz:

Thank you for the opportunity to provide information responsive to the important questions listed in your May 8, 2023, letter to the Federal Communications Commission (FCC) Office of Inspector General (OIG). The questions seeking information regarding the FCC's management of taxpayer subsidies of broadband access for low-income Americans during the 2020-21 pandemic lockdowns (May 8<sup>th</sup> letter) reflect your concerns about various aspects of the taxpayer funded Emergency Broadband Benefit Program (EBBP) and its successor, the Affordable Connectivity Program (ACP). As the principal investigators of fraud, waste and abuse in FCC benefit programs, we share many of the same concerns.

I also appreciate your recognition of the valuable work OIG performs by detecting, investigating, and highlighting fraud in the Commission's broadband access programs. OIG completed an audit of the EBBP in 2022, and we began our first ACP audit less than a year after the EBBP transitioned into the ACP (ongoing 2023 ACP audit). My office is also conducting a number of investigations related to fraud and abuse in those programs. Moreover, OIG issued periodic advisories to alert EBBP and ACP stakeholders, including the public, to fraud schemes, consumer deception, and other threats to program integrity and to prevent future program losses. The FCC worked quickly to adopt measures responsive to the fraudulent and abusive conduct OIG identified in the advisories.

Your letter expresses concerns that the FCC did not apply lessons learned from prior program experience when the agency designed the ACP. I share your concerns. In December 2021, when the Commission was drafting program rules for the ACP, OIG submitted a number of recommendations for measures designed to prevent or mitigate fraud, waste and abuse in the new program, based on our extensive experience auditing and investigating problems in the Lifeline program and the EBBP. Our goal was to prevent the recurrence of these problems by implementing preventative measures in the rules and policies governing the ACP. As more fully described in our October 1, 2021–March 31, 2022 Semi-Annual Report to Congress, while the Commission adopted a number of our recommendations, it failed to implement several important recommendations intended to enhance and safeguard the integrity of the ACP.<sup>1</sup> Additionally, as discussed in detail below, one of the objectives of OIG’s ongoing 2023 ACP audit is to determine the status of recommendations reported in prior OIG and GAO audits of the EBBP.

The May 8th letter posed a number of questions related to (1) the FCC’s disbursement of ACP subsidies; (2) the specific goals and metrics the FCC developed to track the ACP’s effectiveness and progress; and (3) the FCC’s preparations for potential lapses in ACP funding. To answer these questions, we first discuss information relevant to two OIG audit projects in Section I below.<sup>2</sup> OIG’s ongoing 2023 ACP audit is the most relevant to your concerns. In Section II, we respond to the specific questions posed in the May 8th letter based on information OIG gathered to fulfill our mandate, including to formulate recommendations to safeguard program integrity and to conduct investigations. The FCC likely has additional information relevant to your questions.

## **I. Relevant OIG Audit Work**

### EBBP Deployment Survey Results

In 2021, OIG’s Office of Audit conducted a survey to enhance OIG’s understanding of how the FCC planned and deployed the EBBP. On January 20, 2022, we presented our survey results to FCC management to allow the FCC to consider and assess the impact of these factors on the EBBP as well as plan for ACP deployment. We determined that when the program transitioned to the ACP, only 9 million of the potential 41 million (22%) households eligible for program support enrolled in the EBBP. Below please find the factors OIG identified as contributing to low program enrollment.

1. The FCC did not prioritize unconnected households. Per FCC Order 21-29, dated February 26, 2021, paragraph 121, the FCC stated “We decline to set aside any portion of the funding for unconnected households. The Consolidated Appropriations Act does not include any prioritization for how funding should be distributed to eligible households, and we find that it is appropriate to provide the benefit to eligible households without regard to their current level of broadband service. Moreover, we expect the outreach efforts discussed below will help unconnected households to enroll in the Program.”

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<sup>1</sup> Similarly, OIG made a number of recommendations intended to combat fraud, waste and abuse in the EBBP in February 2021, when the FCC was drafting rules for that program. Our October 1, 2021–March 31, 2021 Semi-Annual Report to Congress describes those recommendations and discusses which recommendations the FCC adopted.

<sup>2</sup> In addition to the 2021 EBBP deployment survey and the ongoing 2023 ACP audit, OIG conducted a performance audit of the EBBP and issued an audit report in June 2022. (Project No. 21-AUD-10-01). The overall objective of the performance audit was to determine whether the FCC and its service providers used EBBP funds to benefit eligible households and pay for eligible program expenses in the appropriate amounts during the emergency period. For further information, please see our audit report, [https://www.fcc.gov/sites/default/files/22-aud-01-01\\_fy21\\_piia\\_06282022.pdf](https://www.fcc.gov/sites/default/files/22-aud-01-01_fy21_piia_06282022.pdf).

2. The FCC did not elect to use any of the \$64 million in administrative funds made available to the FCC through the Consolidated Appropriations Act, div. N, tit. IX, § 904(i)(3) for market research or targeted outreach related to EBBP.

### OIG's Ongoing 2023 ACP Audit Objectives and Procedures

OIG's Office of Audit is currently conducting a performance audit of the FCC's implementation of the ACP. At least three of the audit's five objectives are relevant to the questions in your May 8th letter. First, OIG's contract auditors are examining whether (1) the FCC adequately targeted vulnerable populations of unserved and underserved citizens for its ACP outreach and overall ACP program effectiveness; and (2) the FCC's outreach efforts reached those who are most in need and who may not already have access to broadband.

Secondly, the auditors are assessing whether the FCC developed effective program goals and performance measures to accurately report the performance results of the ACP. Below are some of the relevant audit procedures that OIG's contract auditors will complete:

- Determine if the FCC developed effective program goals and performance measures to accurately report the performance results of the ACP;
- Based on the understanding obtained, identify risks that exist with the reporting of performance results;
- Determine if the FCC accurately reported ACP performance results;
- Assess the FCC's program goals to ensure they cover the ACP's requirements as outlined in the Infrastructure Act; and
- Assess the FCC's process for collecting data and developing metrics to ensure it is accurately measuring and reporting its performance results.

Lastly, the ongoing audit will evaluate the status of recommendations reported in prior OIG and GAO audits of the EBBP by seeking information from the agency and reviewing the agency's corrective action plans.

We look forward to sharing the final audit report with you. The anticipated completion date is November 2023.

## **II. OIG Responses to the May 8<sup>th</sup> Letter Questions**

In addition to the information above, OIG provides the following preliminary information in response to the questions in your May 8th letter. As noted above, we will learn additional information from the ongoing 2023 ACP audit. Moreover, the FCC may have additional responsive information.

1. *Are ACP subsidies being targeted to households currently without broadband?*
  - a. *Of the total number of ACP subscribers, how many did not subscribe to broadband prior to participating in ACP?*

OIG currently lacks a reliable source for the information requested. We are not aware of any process to collect information regarding prior broadband access as part of the ACP consumer eligibility verification and enrollment process.<sup>3</sup>

The ACP Order directs the Wireline Competition Bureau and the Office of Economics and Analytics to collect as necessary, appropriate data and develop metrics to determine progress towards narrowing the digital divide, such as broadband adoption by first-time subscribers, and increasing enrollments in areas with low broadband internet penetration rates.<sup>4</sup> GAO already expressed concern that the FCC's proposed goals and measurements are vague and lack specific numerical targets. As noted above, OIG is currently conducting an audit to determine if the FCC developed effective program goals and performance measures to accurately report the performance results of the ACP.

Other OIG reviews of program data show that at least one large group of ACP subscribers likely had broadband access prior to participating in the EBBP or ACP. USAC data show that more than 5 million households enrolled in the ACP were verified based on Lifeline program participation.<sup>5</sup> Beginning in 2016, the FCC adopted changes that expanded Lifeline to support access to broadband services and phased down support for voice-only service. To the extent that ACP subscribers were mobile Lifeline subscribers prior to May 2021, many had access to some mobile broadband service.<sup>6</sup> The FCC and USAC should be able to provide more specific information.

*b. What processes, if any, has the FCC developed to identify low-income households that do not already subscribe to broadband service?*

OIG is currently conducting an audit relevant to this question. Among the processes being examined include the FCC's Affordable Connectivity Outreach Grant Program (Outreach Grant Program), which is discussed in detail below. Please note that OIG's audit findings related to the Outreach Grant Program will be limited as the Outreach Grant Program was established only a few months before the initiation of OIG's audit.

On August 8, 2022, the FCC established the Outreach Grant Program to provide grant funds to eligible partners to conduct outreach in support of the ACP.<sup>7</sup> The Commission previously allocated up to \$100 million for outreach, including an outreach grant program and outreach activities by the FCC's Consumer and Governmental Affairs Bureau (CGB) as authorized in the Infrastructure Act, to be spent over five years. One of the Commission's stated goals for the Outreach Grant Program is to increase enrollment in the ACP by qualifying underrepresented, underserved, and low-income households.<sup>8</sup>

In the adopting Order, the Commission noted the Grant Outreach Program implements the Commission's strategic objectives of facilitating access to and adoption of broadband internet service, including by low-

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<sup>3</sup> Additionally, OIG is concerned that any self-reported subscriber data regarding prior broadband access may be unreliable. For example, widespread consumer confusion over what constitutes broadband internet service may hamper good faith attempts to answer questions regarding prior access.

<sup>4</sup> *Affordable Connectivity Program, Emergency Broadband Benefit Program*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 21-450, 20-445, at 98, para. 211 (2022) (*ACP Further Notice* or *ACP Order*).

<sup>5</sup> <https://www.usac.org/about/affordable-connectivity-program/acp-enrollment-and-claims-tracker/additional-acp-data/>.

<sup>6</sup> FCC's Third Report and Order (Report and Order) in WC Docket No. 11-42 (2016).

<sup>7</sup> FCC's Second Report and Order (Report and Order) in WC Docket No. 21-450, adopted on August 5, 2022.

<sup>8</sup> *Id.*

income and underserved populations, and the ACP's goal of reducing the digital divide.<sup>9</sup> Moreover, according to FCC's November 10, 2022, Notice of Funding Opportunity seeking Outreach Grant Program applicants, "the extent to which an applicant would target underserved low-income households or individuals that are not currently on a low-income broadband plan or that do not have broadband service," was one of three evaluation factors prioritized by the FCC for the application review process.<sup>10</sup>

Finally, the FCC developed ACP Outreach Grant Program performance measures to assess progress toward the program's goal and objectives through ongoing collection, analysis, and reporting of data. Among the information collected from grant recipients' performance measurement data includes the "Number of new, eligible households enrolled in the ACP who (1) lacked access to home and mobile broadband internet or (2) lacked access to home broadband internet."<sup>11</sup>

- c. Has the FCC collected and analyzed information about low-income households that currently lack broadband subscriptions to determine why those households do not purchase broadband?*

OIG does not have information responsive to this question.

- d. What policies and processes has the FCC developed to ensure that ACP subsidies are targeted to households without broadband?*

See response to 1b.

- e. Has the FCC taken steps to enroll and/or expand ACP participation among households that already have broadband service?*

See response to 1b.

- f. What steps has the FCC taken to ensure that providers are targeting subsidies to those who lack broadband, rather than primarily enrolling their existing broadband subscribers onto an ACP plan?*

In addition to the Infrastructure Act provisions and ACP rules which require participating service providers to notify their broadband subscribers about the ACP and promote enrollment among eligible householders within their service area, ACP rules also require participating service providers to advertise the program in a manner reasonably designed to reach those consumers likely to qualify and in a format that is accessible to individuals with disabilities.<sup>12</sup> For more information, see response to 1b.

- g. How many ACP subscribers were on a pre-existing private low-income program like Comcast's Internet Essentials prior to enrolling in ACP?*

See response to 1a.

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<sup>9</sup> Id.

<sup>10</sup> Affordable Connectivity Outreach Grant Program, FCC-ACOGP-23-001, November 10, 2022.

<sup>11</sup> Id.

<sup>12</sup> 47 CFR § 54.1804

2. *Has the FCC developed specific goals and metrics to track the ACP's effectiveness and progress over time?*

a. *What specific and defined targets has FCC developed for ACP and how is the FCC measuring progress relative to those metrics?*

In the ACP Order, the Commission established three goals for the ACP: (1) reduce the digital divide for low-income consumers, (2) promote awareness and participation in the ACP and the Lifeline program, and (3) ensure efficient and effective administration of the ACP.<sup>13</sup>

Nonetheless, as you know, GAO found that neither the FCC's goals nor corresponding measures were expressed in a quantifiable manner. OIG is currently conducting an audit relevant to this question.

b. *Are these targets focused on increasing adoption among households without broadband?*

Among the targets identified in the ACP Order, as noted above, the FCC directed the Wireline Competition Bureau and the Office of Economics and Analytics to collect as necessary, appropriate data and develop metrics to determine progress towards narrowing the digital divide, such as broadband adoption by first-time subscribers, and increasing enrollments in areas with low broadband internet penetration rates.<sup>14</sup>

OIG is currently conducting an audit relevant to this question.

c. *In 2016, the Universal Service Administrative Company contracted Grant Thornton Public Sector LLC (Grant Thornton) to conduct an independent program evaluation of Lifeline. Did the FCC implement the Grant Thornton report's recommendations on performance metrics and goals when designing ACP?*

In its February 5, 2021, Lifeline evaluation report, Grant Thornton made a number of recommendations related to Lifeline performance metrics and goals including:

- The FCC should develop measures to capture a better understanding of the program's impact on broadband adoption among low-income households.
- The FCC should work with evaluation experts to create credible estimates of impact using available data and/or by collecting new data.
- The FCC should establish performance measures to monitor the cost effectiveness of the modernized Lifeline program.<sup>15</sup>

OIG's ongoing 2023 ACP audit will assess whether the risks Grant Thornton identified related to the Lifeline program are relevant to the ACP.

d. *Has the FCC implemented GAO recommendations to improve performance goals and measures in ACP?*

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<sup>13</sup> FCC Order 21-29, para. 210.

<sup>14</sup> Id. at para. 211.

<sup>15</sup> <https://www.neca.org/docs/default-source/wwpdf/public/7121usac.pdf>.

OIG reviewed GAO's January 2023 ACP report with great interest. OIG previously shared information with GAO to inform its work, and GAO's findings continue to inform OIG's ongoing investigations and data analyses. OIG's ongoing 2023 ACP audit will provide information relevant to this question.

- e. In gauging the performance of ACP, is the FCC adequately distinguishing the respective effects of ACP and Lifeline with respect to broadband adoption?*

OIG is currently conducting an audit relevant to this question.

- f. Has the FCC's Office of Economics and Analytics conducted a cost-benefit analysis of ACP?*

OIG does not have information responsive to this question.

- 3. Has the FCC adequately communicated with participating providers to prepare for potential lapses in ACP funding?*

- a. How is FCC planning to ensure that as current funding expires, subscribers who would otherwise lose broadband service are prioritized?*

OIG does not have information responsive to this question.

We appreciate the opportunity to provide information relevant to fraud, waste and abuse in the FCC programs. As I noted, we expect to have additional information relevant to many of your questions upon completion of OIG's ongoing 2023 ACP audit.

Thank you for your continued interest in and support of my office and for the opportunity to respond to the concerns raised in your letter.

Sincerely,

*Sharon R. Diskin*

Sharon R. Diskin  
Acting Inspector General