



***Report on the Performance Audit of the Affordable
Connectivity Program***

for

Federal Communications Commission

23-AUD-01-04

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**KEARNEY &
COMPANY**

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Office of Inspector General
Federal Communications Commission
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Washington, D.C. 20554

Kearney & Company, P.C. (Kearney) has conducted an audit of the Federal Communications Commission's (FCC) Compliance with the Affordable Connectivity Program (ACP). This performance audit, 23-AUD-01-04, was designed to meet the objectives identified in report section titled "Executive Summary" and further defined in [Appendix A – Scope and Methodology of the Audit](#).

This performance audit was performed from November 2022 through August 2023 in accordance with the Generally Accepted Government Auditing Standards (GAGAS), 2018 Revision, issued by the Government Accountability Office (GAO). Those standards require Kearney to plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives. The purpose of this report is to communicate the results of Kearney's performance audit and our related findings and recommendations.

Kearney appreciates the cooperation provided by FCC's personnel during the audit.



Kearney & Company, P.C.
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EXECUTIVE SUMMARY

As requested by the Office of Inspector General (OIG), Kearney & Company, P.C. (defined as “Kearney,” “we,” and “our” in this report) audited the Federal Communications Commission’s (FCC or Commission) Affordable Connectivity Program (ACP).

The performance audit was conducted from November 2022 through August 2023. Our scope period included the ACP activities beginning on January 1, 2022, through December 31, 2022, in order to meet the carryover provision from the Consolidated Appropriations Act of 2021 (PL 116-260) that required an OIG audit within the first year of the program. The objective of our performance audit was to determine if FCC implemented the ACP in accordance with the requirements of the Infrastructure Investment and Jobs Act (Infrastructure Act), Public Law (PL) 117–58. Specifically, Kearney was engaged to determine whether:

- FCC has developed effective program goals and performance measures to accurately report the performance results of the ACP program
- FCC and the Universal Service Administrative Company (USAC) have implemented effective internal controls to ensure ACP disbursements were made to eligible service providers for eligible ACP program participants; reduce improper payments; and prevent and detect fraud, waste, and abuse
- FCC complied with agency oversight requirements for consumer complaint resolution and participating provider compliance as defined in the Infrastructure Act, Section 60502 (9) Commission Oversight
- FCC conducted effective outreach efforts, as described in the Infrastructure Act, Section 60502 (10) (C) Commission Outreach to encourage eligible households to enroll in the ACP
- FCC has made progress on recommendations reported in the prior OIG and Government Accountability Office’s (GAO) audits of the Emergency Broadband Benefit Program (EBBP).

To perform the audit, Kearney reviewed the Infrastructure Act and other relevant statutes, FCC’s ACP Reports and Orders, other federal regulations, and the GAO report [GAO-23-105399: Affordable Broadband: FCC Could Improve Performance Goals and Measures, Consumer Outreach, and Fraud Risk Management](#). We also leveraged our prior audit work with the FCC Financial Statement Audit and with our report on the EBBP [21- AUD-10-01, Fiscal Year \(FY\) 21 Emergency Broadband Benefit Program \(EBBP\) Performance Audit](#). Kearney conducted walkthroughs with FCC and USAC to understand the ACP-related processes and procedures that were in place through December 31, 2022. We obtained and reviewed documentation, such as invoices and usage information from the ACP’s participating providers to substantiate their monthly claims.

Kearney found the FCC made progress towards implementing the ACP requirements of the Infrastructure Act between January 1, 2022, and December 31, 2022; however, the FCC needs to improve certain key areas to strengthen the effectiveness of the ACP.

Overall, Kearney observed the following:

- FCC did not establish specific performance targets to evaluate its performance against its goals. In addition, FCC's Agency Performance Report did not clearly reflect how well the FCC is progressing towards achieving its ACP performance goals from the previous year. Kearney noted that FCC updated its goals to include measurable attributes in response to the GAO report [GAO-23-105399, FCC Could Improve Performance Goals and Measures, Consumer Outreach, and Fraud Risk](#), which was released in January 2023 ([Finding 1](#))
- FCC and USAC controls effectively ensured participating providers were approved before they were allowed to submit and certify a claim for reimbursement
- USAC did not always make the correct eligibility determinations when eligibility documents were manually reviewed. Of the 45 manual eligibility samples Kearney tested, five applicants were not eligible for ACP. Further, USAC could not provide manual eligibility documentation for two of the 45 samples because USAC did not properly execute a system migration, resulting in the deletion of 2.1 million eligibility documents ([Finding 2](#))
- FCC did not create a policy and procedure document to outline the procedures used for identifying and reporting ACP complaints. In addition, FCC did not draft or publish a report on participating provider compliance, as required by the Infrastructure Act ([Finding 3](#))
- FCC's reliance on participating providers to self-certify that the requirements of the ACP program had been met when making reimbursement claims needs improvement. Specifically, Kearney found that 10 out of 406 or 2.46% of sampled claims could not be substantiated based on supporting documentation reviewed ([Finding 4](#))
- While the FCC made progress in standing up its grant programs for outreach during the audit period, the auditor was unable to determine the effectiveness due to delays in launching the outreach grant program. With the estimated depletion of ACP funding in April 2024, FCC will have limited opportunities to implement changes to the grant program or to launch additional grant programs to increase consumer awareness ([Finding 5](#))
- [21- AUD-10-01, Fiscal Year \(FY\) 21 Emergency Broadband Benefit Program \(EBBP\) Performance Audit](#), recommended that FCC and USAC increase the scrutiny of the manual verification process. As noted in [Finding 2](#), USAC continued to experience challenges determining the ACP eligibility when reviewing documentation submitted by applicants. FCC and USAC declined to implement the recommendation to establish controls to review documentation prior to approving payments, citing a lack of cost-benefit
- [GAO-23-105399, FCC Could Improve Performance Goals and Measures, Consumer Outreach, and Fraud Risk](#) outlined nine recommendations. In January 2023, FCC management informed us that it was working toward implementing the recommendations. Six of the nine recommendations remained open as of October 31, 2023.

Please see [Appendix A](#) of this report for the scope and methodology of the audit.

FCC Background and Mission

The FCC is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. The FCC also regulates telecommunications and advanced communication services and video programming for people with disabilities. The Communications Act of 1934 (Act) created the FCC to centralize the authority granted by law to several agencies and grant additional authority with respect to interstate and foreign commerce in wire and radio communication. The FCC is charged with executing and enforcing the provisions of the Act. The

FCC’s jurisdiction covers the 50 states, the District of Columbia, and United States territories. The purpose of the Act is to “[regulate] interstate and foreign commerce in communication by wire and radio so as to make available... to all the people of the United States without discrimination... a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges.”¹ Additionally, the Act’s purpose is to support the effective execution of policies related to national defense and the safety of life and property using wire and radio communication. The responsibilities granted to the FCC by this Act include, but are not limited to, collecting regulatory fees, assessing fines, and conducting auctions.

Enactment of the EBBP

On December 27, 2020, the Consolidated Appropriations Act, 2021 became law and established the Emergency Broadband Connectivity Fund. This fund was appropriated \$3.2 billion to help Americans afford internet service during the Coronavirus Disease 2019 (COVID-19) pandemic.² The Consolidated Appropriations Act, 2021 directed the FCC to use the Fund to establish the EBBP, under which eligible low-income households received discounted broadband service and subsidized costs for connected devices to stay connected during the COVID-19 pandemic.³ At Congress’ direction, the FCC adopted the rules and policies creating and governing the EBBP on February 25, 2021.⁴ The FCC was responsible for overseeing and administering the processes and systems needed for the EBBP, including overseeing USAC’s administration of the EBBP. The EBBP concluded on December 31, 2021 and was replaced by the ACP. Pursuant to the Infrastructure Act, which established the ACP, eligible households continued to receive EBBP benefits until March 1, 2022.⁵

The EBBP provided a discount of up to \$50 per month toward broadband service for eligible households and up to \$75 per month for households on qualifying Tribal lands. Eligible households could also receive a one-time discount of up to \$100 to purchase a laptop, desktop computer, or tablet from participating providers if they contribute more than \$10 and less than \$50 toward the purchase price. The EBBP was limited to one monthly service discount and one device discount per household.⁶

Enactment of the ACP

Through the Infrastructure Act, which was enacted on November 15, 2021, Congress extended and modified the EBBP to establish the ACP, with an initial funding allocation of \$14.2 billion.⁷ FCC launched ACP on December 31, 2021. As with EBBP, ACP is a benefit program that subsidizes discounted broadband service for low-income households. The benefit provides a discount of up to \$30 per month toward internet service for eligible households and up to \$75 per month for households on qualifying Tribal lands. Eligible households can also receive a one-time discount of up to \$100 to purchase a laptop, desktop computer, or tablet from participating providers if they

¹ 47 United States Code (U.S.C.) 151

² PL 116-260, div. N, tit. IX, § 904(i)(2)

³ PL 116-260, div. N, tit. IX, § 904(i)(3)

⁴ FCC-21-29A1

⁵ FCC-22-2

⁶ 47 Code of Federal Regulations (CFR) § 54.1603

⁷ PL 117-58, div. F, title V, §60502(a), (b)(1)

contribute more than \$10 and less than \$50 toward the purchase price. The ACP benefit is limited to one monthly service discount and a one-time device discount per household.⁸

Audit Results

Kearney conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Kearney believes that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Development of Effective Program Goals and Performance Measures to Accurately Report the Performance Results of the ACP Program

On January 21, 2022, FCC released a Report and Order and Further Notice of Proposed Rulemaking for ACP.⁹ Within this report, the FCC established the following performance goals: 1) reduce the digital divide for low-income consumers; 2) promote awareness and participation in the ACP; and 3) ensure efficient and effective administration of the ACP.¹⁰ 31 U.S.C. § 1115 requires the Federal Government and agencies to develop performance plans with goals that are objective, quantifiable, and measurable.¹¹ Further, 31 U.S.C. § 1116 requires agencies to publish public updates on agency performance within 150 days following the end of each Fiscal Year (FY).¹²

In January 2023, the GAO published [GAO-23-105399, 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 for the program; however, the goals and measures lacked key attributes of effective performance management. The GAO report made one recommendation related to ACP performance goals and measures. The recommendation directed the chair of FCC to ensure that the ACP performance goals and measures aligned with key attributes of effective performance goals and measures. In its public response to the GAO report, the FCC stated that it would update its three goals to include quantitative and measurable aspects.

The FCC established a Corrective Action Plan (CAP) to implement the GAO recommendations. The CAP was organized by milestones with estimated completion dates for its three goals. The FCC completed Goal 2, Part A to establish a baseline for participation rate; however, all the other CAP goals/milestone dates followed the end of the audit's scope period, December 31, 2022.

In [Finding 1](#), Kearney found that FCC did not follow 31 U.S.C. §1115 or 31 U.S.C. §1116, which requires government agencies to establish measurable performance targets and publish a report that details the achievement of those targets. We determined, although the FCC did create performance measures, it did not outline its performance measures with specific performance indicators and quarterly milestones that addressed the requirements of the Government Performance and Results

⁸ <https://www.fcc.gov/fcc-launches-affordable-connectivity-program>

⁹ ACP, *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 21-450

¹⁰ ACP, *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 21-450, paragraph (para.) 211-213

¹¹ 31 U.S.C. § 1115(b)

¹² 31 U.S.C. § 1116(b), (c)

Act Modernization Act of 2010 (GPRAMA), 31 U.S.C. §1115, 31 U.S.C. §1116, or Office of Management and Budget (OMB) Circular A-11, Section 240.

FCC and USAC’s Implementation of Controls for Service Providers and ACP Program Participants

Participating Providers

Participating providers approved for the EBBP that were in good standing were automatically transitioned to the ACP.¹³ Service providers without an Eligible Telecommunications Carriers (ETC) designation that wished to participate in the ACP or ETCs that wished to participate in new jurisdictions were first required to receive approval from the Wireline Competition Bureau (WCB) prior to submitting an election notice to USAC. All new providers seeking to participate in the ACP are required to submit an election notice to USAC.¹⁴

Kearney found that ACP funds were disbursed only to participating providers that met the eligibility requirements for participating providers established by the FCC. We did not identify any errors with the USAC controls established to determine the participating providers’ eligibility.

Household Eligibility

Household eligibility is determined through current enrollment with Lifeline, by completing an ACP application that is verified through the National Verifier (NV), through an approved provider’s Alternative Verification Process (AVP), or for applicants qualified through the National School Lunch Program (NSLP) or the School Breakfast Program (SBP), the applicants’ school district.

Participation in the Lifeline program automatically qualifies an applicant for ACP. The Lifeline program is administered by USAC, with oversight from the FCC. USAC is responsible for data collection and maintenance, support calculation, and disbursement for the Universal Service Fund (USF) low-income program. The Lifeline program is available to eligible low-income consumers in every state, territory, commonwealth, and on Tribal lands.¹⁵ Eligibility for non-Tribal Lifeline subscribers for the calendar year (CY) 2022 was recertified beginning in July 2022¹⁶ after the expiration of a recertification waiver released in response to COVID-19.¹⁷

To apply for program support, households must verify their eligibility by submitting an application by mail, through a participating provider, or online via the ACP website. In addition to meeting at least one of the qualifications to constitute an eligible household, no member of the applicant’s economic household could already be receiving an ACP discount. After submitting the application, the NV automatically checked the consumer’s information against several state and federal databases to determine if the consumer is eligible based on participation in Supplemental Nutrition Assistance Program (SNAP), Medicaid, Supplemental Security Income (SSI), Federal Public

¹³ ACP, *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 21-450, para. 13

¹⁴ ACP, *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 21-450, para. 10

¹⁵ <https://www.fcc.gov/general/lifeline-program-low-income-consumers>

¹⁶ https://docs.fcc.gov/public/attachments/DA-22-323A1_Rcd.pdf

¹⁷ In DA-23-84A1, FCC granted a recertification waiver for Tribal subscribers through April 30, 2023

Housing Assistance (FPHA), Veteran's Pension, or Pell Grant. The NV is a centralized application system that aids in determining eligibility for ACP. The NV accesses state and federal databases to verify household eligibility for the ACP.

If the consumer's eligibility is not verified using the NV database connections, then the consumer is asked to provide additional information and documentation for verification. The type of additional information requested may be related to the consumer's eligibility, identity, or address. Some eligibility determinations are always subjected to manual verification. The additional information could be submitted online through the Consumer/Provider portal or by mail to USAC. Submitting supporting documentation to the NV initiates a manual review process by USAC's Business Process Outsourcing (BPO) agents.

Kearney tested 45 eligibility determinations that were made when USAC's BPO agents reviewed documentation that was submitted by the applicant because the applicant's qualification method could not be verified by the NV's database connections. In [Finding 2](#), we found that the USAC did not have effective controls in place to ensure that manual reviews of applicant eligibility documents by BPO agents resulted in correct eligibility decisions. Kearney noted that USAC's BPO agents erroneously approved the following applications:

- Four applications where documentation submitted by the applicant did not meet the 200% Federal Poverty Guideline qualifications required to be qualified based on income
- One application where the documentation submitted by the applicant did not demonstrate that the applicant received SNAP or was approved for SNAP benefits.

Additionally, we were unable to test two applicants' eligibility documentation. USAC could not provide the applicant documentation due to the system migration error that deleted 2.1 million eligibility documents.

AVP

Participating providers could request FCC approval to use an AVP to determine household eligibility, rather than use the NV. To receive Commission approval to use an AVP, a provider must demonstrate that its AVP process was at least as stringent as the methods used by the NV. Specifically, the Commission required participating providers who use an AVP to collect the applicant's information, such as name, phone number, date of birth, and address, as well as include the basis for qualification in the program. Participating providers were required to demonstrate how the applicant's information was verified and explain why the AVP would be sufficient to avoid waste, fraud, and abuse. In addition, AVP plans were required to detail how the participating provider trained its employees to prevent ineligible enrollments. AVP plans were submitted to the WCB for review and approval. Participating providers with an approved AVP under EBBP could continue to use that process for ACP provided that the process was consistent with the revised eligibility criteria for ACP.¹⁸ Providers newly seeking an AVP for the ACP needed to demonstrate that the AVP was sufficient to prevent fraud, waste, and abuse and notified. FCC was required to

¹⁸ ACP, *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 21-450, para. 43.

notify the participating provider within seven days of receipt of a complete application whether the AVP was approved.¹⁹

Once a household's eligibility was verified using its approved AVP or through the NV, the participating provider entered subscriber information into the National Lifeline Accountability Database (NLAD).

Our random sample included 48 AVP subscribers whose eligibility determinations were made by 27 participating providers who received AVP approval from the FCC. We did not find errors with the methodology and documentation that was submitted to us by the participating provider for the 48 AVP eligibility determinations.

School District Verification

Applicants who qualified through the NSLP or the SBP are verified by the school district where the qualifying beneficiary attended. Service providers must obtain parental consent for school-based eligibility verifications.²⁰

Kearney did not perform testing to determine whether applicants whose eligibility was verified by schools were accurate because of the 19,855,850 active ACP subscribers, only 5,431 were qualified through this method²¹.

Annual Household Recertification

Recertification for CY 2022, which ensured that non-Tribal subscribers who enrolled in EBBP prior to December 31, 2021, remained eligible for ACP, began in July 2022, when USAC initiated NV checks for Lifeline subscribers. For ACP-only subscribers, this process started in August 2022. ACP subscribers who were also enrolled in Lifeline were permitted to rely on their Lifeline recertification for purposes of the annual recertification requirement in ACP. ACP subscribers whose continued eligibility could not be verified through an automated database had a 60-day recertification window, and those who failed to timely recertify their benefit were de-enrolled from the program.

By end of the CY, AVP providers and providers that relied on school-based eligibility were required to recertify households, provide the results to USAC, and de-enroll the subscribers if they failed. Kearney obtained and reviewed recertification records from USAC to determine if all sampled subscribers who were required to undergo a recertification had either been recertified or de-enrolled. We found that subscriber recertification status had been confirmed, as required.

ACP Claims and Reimbursement Processes

¹⁹ ACP, *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 21-450, para. 44-45

²⁰ ACP, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 22-2, WC Docket No. 21-450, para. 72

²¹ Accurate as of September 17, 2023 and obtained from <https://www.usac.org/about/affordable-connectivity-program/acp-enrollment-and-claims-tracker/additional-acp-data/>

ACP participating providers receive reimbursement by filing a claim through the online Affordable Connectivity Claims System (ACCS). Each month, participating providers download the list of subscribers eligible for reimbursement in ACCS. The list is a report in ACCS based on the NLAD “Subscriber Snapshot” report. NLAD is a database of all subscribers who have met the eligibility criteria for ACP and have enrolled as a subscriber. Participating providers keep the database current by making updates to subscriber information and de-enrolling subscribers who are no longer eligible for the ACP.

Participating providers may claim fewer subscribers than listed on the snapshot but not more. If a participating provider fails to include all its ACP subscribers in NLAD before the snapshot date, then the participating providers cannot retroactively add the subscribers to NLAD for reimbursement purposes. Additionally, the participating providers are responsible for ensuring the dollar amount claimed was correct and making any necessary adjustments to it, as needed. After making any necessary adjustments, participating providers submit the list into ACCS and execute the required certifications, including certifying that the provider had complied with all program rules. Neither FCC nor USAC review documentation, such as invoices and usage information prior to paying claims; however, USAC has implemented processes to determine if some claims are not valid prior to disbursement. For example, USAC verifies subscriber information against the Social Security Administration’s Death Master File. Subscribers who are deceased are removed from claimed reimbursements.

Once USAC removes invalid claims, the ACP support is then paid each month based on the adjusted reimbursement claim. To be reimbursed for claims, the ACP rules require participating providers to certify their claims within six months of the data month. In addition, participating providers are allowed to revise claims within six months of the data month.

In [Finding 4](#), Kearney found deficiencies with FCC’s reliance on participating providers to self-certify that the requirements of the ACP had been met. We also found that FCC did not have effective controls; 1) to ensure that payments made to eligible participating providers were for eligible expenses; 2) to reduce improper payments; and 3) prevent fraud, waste, and abuse in the ACP program.

Specifically, Kearney found that, of 406 claimed household reimbursements tested, 10 samples failed control testing. Of the 10 specific errors, we noted the following:

Tribal Subscriber Reimbursements

For three of 90 samples related to Tribal subscribers, the participating provider did not provide invoices that supported the monthly internet rate charged to the subscriber prior to the ACP subsidies. Therefore, we could not determine if the amount requested for reimbursement by the participating provider was not greater than the monthly internet service rate that was or would have been charged to the subscriber.

Non-Tribal Subscriber Reimbursements

For two samples of 316 related to Non-Tribal subscribers with a device reimbursement, the participating provider did not provide evidence that the household contributed a copayment for their connected device, as required by 47 CFR § 54.1803(b)(1).

Participating Provider Non-Response

For three of 90 samples related to Tribal subscribers and two of 316 samples related to Non-Tribal subscribers, the participating provider did not respond to the audit request for evidence. Consequently, testing could not be conducted on these specific samples. To obtain sample support, nonresponsive providers were contacted on more than four occasions, employing the contact information provided to the USAC by the participating providers. In addition, the FCC OIG notified each participating provider about the audit and responsibilities for audit response prior to our request for sample support. The total amount of ACP support requested from these providers through December 31, 2022, was \$3.8 million.

Kearney performed analytic procedures to ensure subscribers did not receive more than one device reimbursement. We noted no errors as a result of these procedures.

FCC's Compliance with Agency Oversight Requirements for Consumer Complaint Resolution and Participating Provider Compliance

The Infrastructure Act requires the FCC to establish a dedicated complaint process for consumers that participate in the ACP.²² FCC established the affordableconnectivity.gov website, which provides ACP consumers with a pathway to access the FCC's existing complaint tools, including the FCC's contact center and the FCC- complaint hotline at FCC.gov. Once a complaint was received, consumers received an e-mail confirmation and were issued a complaint identification number. The Consumer and Governmental Affairs Bureau (CGB) at FCC scanned complaints for key words (e.g., "ACP", "EBBP", "Benefit") and assigned the complaint to a CGB agent. Once reviewed, the ACP complaints follow FCC's existing informal complaints processing procedures. The complaints were routed to the appropriate participating provider, who was notified via e-mail that a complaint had been filed against its entity. Providers had 30 days to address the issue and respond in writing to the FCC with a copy to the consumer. FCC then notified the consumer that the complaint had been resolved. If the consumer was not satisfied with the resolution, then the FCC could send a rebuttal to the participating provider. The provider had 14 days to respond in writing to the FCC with a copy to the consumer.

FCC management informed us that complaints are being referred to FCC's Enforcement Bureau, when warranted, as required by the Infrastructure Act,²³ While no fines, penalties or sanctions were issued by the Enforcement Bureau for the ACP during CY 2022, a notice of apparent liability proposing a \$220,000 fine was issued against Cleo Communications resulting from an apparent violation of the federal wire fraud statute and EBBP rules.²⁴

²² 47 U.S.C. § 1752(b)(9)(A)

²³ 47 U.S.C. § 1752(b)(9)(C)

²⁴ https://docs.fcc.gov/public/attachments/FCC-22-52A1_Rcd.pdf

The Infrastructure Act requires FCC to regularly issue reports about complaints concerning participating providers' compliance with the ACP rules.²⁵ In [Finding 3](#), Kearney found that, although FCC identified ACP- related complaints, the FCC had not drafted or published reports related to participating providers' ACP compliance originating from consumer complaints during the audit scope period. In addition, FCC had not documented the ACP complaints' process by creating a policy and procedure document.

The Infrastructure Act also required FCC to promulgate rules that require providers to supply information about the existence of the consumer complaint process to ACP subscribers.²⁶ For the 54 sampled participating providers, we found that each participating provider complied with the requirements by informing subscribers of the FCC-complaint information either through its website or on its invoice.

FCC's Efforts to Conduct Effective Outreach to Enroll Eligible Households in the ACP

The Infrastructure Act allows the FCC to perform outreach to encourage eligible households to enroll in ACP.²⁷ The Infrastructure Act provides that the FCC's outreach activities may include consumer research, focus groups, paid media campaigns, and grants to outreach partners. FCC set aside \$100 million in ACP funding to carry out outreach activities.²⁸ Of the \$100 million of funds set aside by FCC, \$80 million was set aside for the grant outreach program. While FCC implemented other outreach efforts prior to the grant program, these efforts were not designed for the purposes of establishing a baseline to monitor the ACP performance.

To increase consumer awareness, the FCC published an ACP Consumer Outreach Toolkit. The toolkit, which is available on the FCC website in multiple languages, provides social media images, fact sheets, and other outreach content and materials. In addition, FCC launched affordableconnectivity.gov to help consumers to have a central location to obtain ACP information. affordableconnectivity.gov includes helpful documents on its website in English, Spanish, Arabic, Chinese, French, Korean, Portuguese, Russian, Tagalog, and Vietnamese. We informed FCC that, although documents on the tools page were provided in multiple languages, the document titles were not in the native language, which may prevent the intended recipients from locating the documents. In August 2023, FCC updated the document titles to the native language. While Kearney noted that FCC drafted multilingual documents, we did not verify whether the translations were accurate.

Provider Outreach

On January 14, 2022, FCC adopted rules requiring participating providers to “carry out public awareness campaigns in their ACP areas of service that highlight the value and benefits of broadband internet access service and the existence of the ACP in collaboration with state agencies, public interest groups, and non-profit organizations.”²⁹ FCC did not issue specific requirements for

²⁵ 47 U.S.C. § 1752(b)(9)(D)

²⁶ 47 U.S.C. § 1752(b)(9)(B)

²⁷ 47 U.S.C. § 1752(b)(10)(C)

²⁸ ACP, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 22-2, WC Docket No. 21-450, para. 193 (Jan. 2022)

²⁹ <https://docs.fcc.gov/public/attachments/FCC-22-2A1.pdf> para 207

the methods used by participating providers; however, FCC required frequent outreach. We reviewed invoices, websites, and social media platforms for 54 participating providers to determine if the ACP was mentioned in detail. Kearney found that each participating provider was complying with the requirements.

Collaboration with Other Federal Agencies

FCC also performed outreach through cooperation and collaboration with other Federal Agencies, such as the Department of Housing and Urban Development (HUD), the Department of Health and Human Services (HHS), and the Department of Education (ED). We found that agencies issued notices and announcements related to the ACP. However, FCC was unable to assess the impact of collaborations with other agencies due to the absence of enrollment data indicating how applicants were informed about the ACP.

Events and Consumer Outreach Toolkit

Another form of outreach that FCC engaged in prior to the grant program was in person and virtual events performed by a small group of FCC employees. These events were not FCC-sponsored events aimed to target specific consumer groups or consumers without prior broadband service, but FCC attended them at the request of a community organization.

FCC's outreach efforts prior to the start of the grant program, including the ACP Consumer Outreach Toolkit, outreach partners, federal collaborations, and attendance at outreach events, either did not target those in need or were not designed for measuring performance. In [Finding 5](#), Kearney found that if FCC conducted consumer research at the time of program implementation, then outreach efforts could have been more effective to target consumers in need.

FCC Grant Outreach Program

In August 2022, FCC adopted rules governing outreach grants³⁰ and, in March 2023, FCC announced awards for four grant outreach programs totaling \$71.7 million. The programs are the Your Home, Your Internet Outreach Grants, the ACP Navigator Pilot Program, and the National Competitive Outreach Program (NCOP) and the Tribal Competitive Outreach Program (TCOP).

The Your Home, Your Internet Pilot Program is a one-year, \$5 million pilot program designed to increase awareness of the ACP, specifically among recipients of federal housing assistance, including: recipients of Housing Choice Voucher (HCV) Program (Section 8 Vouchers); Project-Based Rental Assistance (PBRA)/Section 202/Section 811; Public Housing; and Affordable Housing Programs for American Indians, Alaska Natives, or Native Hawaiians. The goal of this pilot program is to facilitate enrollment in the ACP by providing targeted assistance with completion of the program application.³¹

The ACP Navigator Pilot Program is a one-year, \$5 million pilot that provided a limited number of neutral, trusted third-party entities (e.g., schools and school districts or other local, Tribal, or state

³⁰ https://docs.fcc.gov/public/attachments/FCC-22-64A1_Rcd.pdf

³¹ <https://www.fcc.gov/affordable-connectivity-pilot-programs>

Government entities) with access to the NV for purposes of assisting consumers with completing and submitting an application for the ACP.³²

NCOP provided \$60 million in funding for outreach activities to increase awareness of and encourage participation in the ACP for eligible low-income households. TCOP provided \$10 million in funding for outreach activities to increase awareness of and encourage participation in the ACP for eligible low-income households on Tribal Lands.³³

Kearney found that FCC followed the required procedures for providing information on the grant program to potential grantees. However, in [Finding 5](#), we found that FCC's grant outreach programs could have been timelier. Specifically, FCC launched the grant outreach program in November 2022, 11 months after the ACP was launched, and the grants were not accepted until May and June 2023. Further, 48% of total ACP funding had been expended by the time the grants were accepted, making the grant program less impactful to communities in need. Because of the slow implementation, FCC was unable to start assessing the effectiveness of grant outreach until six months prior to the estimated depletion of ACP funding. We did not assess the effectiveness of FCC's grant outreach because related grants were awarded after the scope period of the audit.

FCC Progress on Prior OIG and GAO EBBP Audit Recommendations:

OIG Audit Report

The OIG contracted Kearney to perform an audit of the EBBP activity for the three-month period of June, July, and August 2021. We issued two recommendations in our report, dated June 21, 2022. One recommendation noted that FCC and USAC should make improvements surrounding reviews of eligibility documentation submitted by applicants. FCC indicated that a multi-level review process for manual documentation was implemented by USAC in August 2021. The review process included reviewing a sample of manual household eligibility verifications to confirm that the correct eligibility determinations were made. As noted in [Finding 2](#), USAC's multi-level review was not always successful in identifying applications that were erroneously approved for the ACP. Kearney also recommended that USAC review corroborating documentation (e.g., invoices for connected devices and monthly broadband service) prior to approving and disbursing reimbursement claims. In response, FCC management stated that, "The administrative cost to timely validate payments prior to issuing disbursements would greatly exceed the benefits of preventing ineligible payment due to the amount of information that would have to be reviewed and the harm caused by delaying timely payments to service providers." FCC management further stated that existing controls adequately reduce the risk of ineligible payment. These controls included the NV, reviews of payments and documentation after disbursement, and the ability to enforce negative actions against participating providers. Due to the noted administrative burden, the second recommendation was closed during the ACP performance audit; however, Kearney issued new recommendations in [Finding 4](#) to address the continued risk present when documentation is not reviewed prior to the disbursement of program funds.

³² <https://www.fcc.gov/affordable-connectivity-pilot-programs>

³³ https://www.fcc.gov/sites/default/files/acp_outreach_grant_program_nofact_sheet.pdf

GAO Report

The GAO reviewed FCC’s implementation of the EBBP and its successor, ACP, between May 2021 and September 2022. Specifically, GAO assessed FCC’s efforts to establish performance goals and measures, as well as conduct outreach and manage fraud risk. GAO recommended that FCC “...improve its program goals and measures, revise its language translation process, develop a consumer outreach plan, and develop and implement various processes for managing fraud risks.” Kearney inquired about the status of CAP development and reviewed CAPs that were available. As most of the CAP milestones were completed after our audit scope, we were unable to assess some of FCC’s remediation efforts during our audit. Kearney performed an assessment of FCC’s performance goal and performance measure implementation and issued [Finding 1](#). We also performed procedures to determine FCC’s progress with outreach activities, as noted in [Finding 5](#). Of the nine GAO recommendations, six remained open at the end of audit fieldwork, including recommendations for performance goals and measures and outreach efforts.

Conclusion

Kearney evaluated the evidence obtained against GAGAS requirements for sufficiency and appropriateness to provide a reasonable basis for the findings and conclusions in determining if the FCC implemented the ACP Program in accordance with the requirements of the Infrastructure Act, PL 117–58.

Although the FCC established program goals and performance measures, the performance results were not assessed with specific performance indicators and quarterly milestones for the period under audit. The FCC would benefit from a formally documented performance plan with objective(s) and measurable and quantifiable goals for the ACP program.

To implement the recommendations of the GAO-23-105399 Report, the FCC established a CAP, organized by milestones, with estimated completion dates for its three performance goals. Part A of Goal 2, to establish a baseline for the participation rate, was the only objective that was completed and fell under the scope of audit.

Within Kearney’s sample, we did not identify errors with the FCC or USAC controls established to determine participating providers’ eligibility. However, we found that USAC did not have effective controls in place to ensure that manual reviews of subscriber eligibility documents resulted in correct subscriber eligibility decisions. Kearney also found that FCC and USAC do not have an effective process for determining if providers are maintaining proper documentation that supports reimbursement claims.

The FCC established a process for consumers to file the ACP-related complaints for FCC to investigate complaints and for participating providers to inform subscribers of how to file a complaint; however, the FCC did not publish any consumer complaint reports. Additionally, the FCC did not create a policy or procedure related to the ACP complaints process.

In January 2022, the FCC established a cap of \$100 million on immediate outreach activities and a potential outreach grant program.³⁴ However, after the Outreach Grant Program Order was adopted in August 2022, the grant program was not launched until November 2022. The FCC did perform outreach with other Federal Agencies that issued notices and announcements related to the ACP. In addition, the FCC created an ACP Consumer Outreach Toolkit, which is available on the ACP website in multiple languages, and information fact sheets and other outreach content and materials. However, the methods of outreach, other than grants, were not designed to gather information used to determine effectiveness and were employed prior to FCC establishing monitoring baselines for ACP. Also, not all of the other outreach methods used targeted low income or under- and un-served consumers.

Kearney followed up on audit recommendations from prior OIG and GAO reports. We reissued one recommendation and closed one recommendation from the EBBP report. Kearney also reviewed the remediation progress of GAO-issued recommendations. We noted that six recommendations from GAO remained open.

A summary of the criteria used to evaluate each finding above is noted in [Exhibit 1](#):

Exhibit 1: Summary of Audit Findings Criteria

	Criteria	Results
1	31 U.S.C. 1115, <i>Federal Government and Agency Performance Plans</i>	Based on audit procedures performed, Kearney concludes that this criterion was not met. (Finding 1)
2	31 U.S.C. 1116, <i>Agency performance reporting</i>	Based on audit procedures performed, Kearney concludes that this criterion was not met. (Finding 1)
3	47 CFR § 54.1800(j), <i>Eligible household qualification for the Affordable Connectivity Program</i>	Based on audit procedures performed, Kearney concludes that this criterion was not met. (Finding 2)
4	47 U.S.C. § 1752 (b) (9) (D) – FCC shall regularly issue public reports about complaints regarding the compliance of participating providers with the ACP rules.	Based on audit procedures performed, Kearney concludes that this criterion was not met. (Finding 3)
5	47 CFR § 54.1808 (e), <i>Reimbursement for providing monthly affordable connectivity benefit</i>	Based on audit procedures performed, Kearney concludes that this criterion was not met. (Finding 4)
6	47 CFR § 54.1811, <i>Recordkeeping Requirements</i>	Based on audit procedures performed, Kearney concludes that this criterion was not met. (Finding 4)
7	47 U.S.C. § 1752 (b)(10) (C) – The Commission may conduct outreach efforts to encourage eligible households to enroll in the ACP	Based on audit procedures performed, Kearney concludes that parts of this criterion was not met. (Finding 5)

³⁴ ACP, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 22-2, WC Docket No. 21-450, para. 193

Nature of Any Confidential or Sensitive Information Omitted

Kearney omitted the names of participating providers from the report. The omission was necessary to allow FCC to investigate the participating providers we noted as potentially violating ACP rules.

FINDING #1 – LACK OF PROGRAM EVALUATION AND RESULTS REPORTING FOR ACP

Conditions: The FCC did not follow the requirements established by 31 U.S.C. §1115. Specifically, at the time the program was established in FY 2022, the agency did not establish performance targets and key milestones to be accomplished. Although the FCC updated its goals in response to the GAO report in December 2022, the agency did not formally document the updated program goals in its agency performance plan (APP), as required by 31 U.S.C §1115.

The FCC also did not follow requirements established by 31 U.S.C. §1116. The FCC issued an Agency Performance Report on March 13, 2023. The report included actions taken by the FCC to implement the ACP program, such as the adoption of orders and establishment of the ACP Outreach Grant Program. However, the FCC Agency Performance Report did not include the following:

- A comparison of actual program performance achieved with program performance goals
- A review of the success of meeting performance goals
- An evaluation of the performance plan for FY 2023 relative to the performance achieved since the prior update
- Explanations for why goals were not met
- Information on how the FCC ensures data reliability
- A summary of findings for ACP program evaluations.

Causes: The FCC noted that, at the direction of Congress, the ACP was launched, and program rules were adopted within 60 days after enactment. Because of the expedited implementation of the ACP, the FCC did not prioritize establishing objective, measurable, and quantifiable goals or performing a program evaluation. The FCC further stated that staff was actively working on a CAP to “produce the type of plan and internal memo reflecting the performance measure process.” Therefore, additional documentation, such as the APP, including goals with the required elements, and the Agency Performance Report, including an evaluation of the ACP, was not created.

Criteria: OMB Circular A-11, *Preparation, Submission, and Execution of the Budget*, Section 240.01, “What is the annual Agency Performance Plan (APP),” page 2, states:

“The annual Agency Performance Plan (APP) is a description of the level of performance to be achieved during the fiscal year in which the plan is submitted, and the next fiscal year. The plan should be specific in describing the strategies the agency will follow, explaining why those strategies have been chosen, and identifying performance targets and key milestones that will be accomplished in the current and next fiscal year. It should be comprehensive of the agency's mission by showing the plan for making progress towards each strategic objective.”

Per 31 U.S.C. 1115, *Federal Government and Agency Performance Plans*:

- “(b) Agency Performance Plans. —Not later than the first Monday in February of each year, the head of each agency shall make available on a public website of the agency and notify the President and the Congress of its availability, a performance plan covering each program activity set forth in the budget of such agency. Such plan shall—
- (1) establish performance goals to define the level of performance to be achieved during the year in which the plan is submitted and the next fiscal year;
 - (2) express such goals in an objective, quantifiable, and measurable form unless authorized to be in an alternative form under subsection (c).
 - (3) describe how the performance goals contribute to—
 - (A) the general goals and objectives established in the agency’s strategic plan required by section 306(a)(2) of title 5; and
 - (B) any of the Federal Government performance goals established in the Federal Government performance plan required by subsection (a)(1);
 - (4) identify among the performance goals those which are designated as agency priority goals as required by section 1120(b) of this title, if applicable;
 - (5) provide a description of how the performance goals are to be achieved, including—
 - (A) the human capital, training, data and evidence, information technology, and skill sets required to meet the performance goals;
 - (B) the technology modernization investments, system upgrades, staff technology skills and expertise, stakeholder input and feedback, and other resources and strategies needed and required to meet the performance goals;
 - (C) clearly defined milestones;
 - (D) an identification of the organizations, program activities, regulations, policies, operational processes, and other activities that contribute to each performance goal, both within and external to the agency;
 - (E) a description of how the agency is working with other agencies and the organizations identified in subparagraph (D) to measure and achieve its performance goals as well as relevant Federal Government performance goals; and
 - (F) an identification of the agency officials responsible for the achievement of each performance goal, who shall be known as goal leaders;
 - (6) establish a balanced set of performance indicators to be used in measuring or assessing progress toward each performance goal, including, as appropriate, customer service, efficiency, output, and outcome indicators;
 - (7) provide a basis for comparing actual program results with the established performance goals;
 - (8) a description of how the agency will ensure the accuracy and reliability of the data used to measure progress towards its performance goals, including an identification of—
 - (A) the means to be used to verify and validate measured values;
 - (B) the sources for the data;
 - (C) the level of accuracy required for the intended use of the data;
 - (D) any limitations to the data at the required level of accuracy; and
 - (E) how the agency will compensate for such limitations if needed to reach the required level of accuracy;

- (9) describe major management challenges the agency faces and identify—
 - (A) planned actions to address such challenges;
 - (B) performance goals, performance indicators, and milestones to measure progress toward resolving such challenges; and
 - (C) the agency official responsible for resolving such challenges; and
- (10) identify low-priority program activities based on an analysis of their contribution to the mission and goals of the agency and include an evidence-based justification for designating a program activity as low priority.”

31 U.S.C. 1116, *Agency performance reporting*, states:

- “(a) The head of each agency shall make available on a public website of the agency and to the Office of Management and Budget an update on agency performance.
- (b)
 - (1) Each update shall compare actual performance achieved with the performance goals established in the agency performance plan under section 1115(b) and shall occur no less than 150 days after the end of each fiscal year, with more frequent updates of actual performance on indicators that provide data of significant value to the Government, Congress, or program partners at a reasonable level of administrative burden.
 - (2) If performance goals are specified in an alternative form under section 1115(c), the results shall be described in relation to such specifications, including whether the performance failed to meet the criteria of a minimally effective or successful program.
- (c) Each update shall—
 - (1) review the success of achieving the performance goals and include actual results for the 5 preceding fiscal years;
 - (2) evaluate the performance plan for the current fiscal year relative to the performance achieved toward the performance goals during the period covered by the update;
 - (3) explain and describe where a performance goal has not been met (including when a program activity’s performance is determined not to have met the criteria of a successful program activity under section 1115(c)(1)(A)(ii) or a corresponding level of achievement if another alternative form is used)—
 - (A) why the goal was not met;
 - (B) those plans and schedules for achieving the established performance goal; and
 - (C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended;
 - (4) describe the use and assess the effectiveness in achieving performance goals of any waiver under section 9703 of this title;
 - (5) include a review of the performance goals and evaluation of the performance plan relative to the agency’s strategic human capital management;
 - (6) describe how the agency ensures the accuracy and reliability of the data used to measure progress towards its performance goals, including an identification of—
 - (A) the means used to verify and validate measured values;
 - (B) the sources for the data;
 - (C) the level of accuracy required for the intended use of the data;
 - (D) any limitations to the data at the required level of accuracy; and

- (E) how the agency has compensated for such limitations if needed to reach the required level of accuracy; and
- (7) include the summary findings of those program evaluations completed during the period covered by the update.”

Effect: Due to the lack of specific metrics established for evaluating the performance goals, FCC’s performance cannot be assessed against the ACP performance goals established for the period under audit. As a result, key stakeholders remain uninformed on the effectiveness of the program in relation to the FCC’s strategic plan.

Recommendation #1: Formally document and implement objective, measurable, and quantifiable goals for the ACP program within the APP for the FCC, as promulgated by 31 U.S.C. 1115 (b).

Recommendation #2: As promulgated by 31 U.S.C. 1116 (c), perform an evaluation of the ACP program by comparing actual performance results against performance goals from program implementation through September 30, 2023, and include the results of the evaluation and additional updates in the FY 2023 Agency Performance Report.

Management’s Response: See [Appendix B](#).

FINDING #2 – INADEQUATE CONTROLS FOR THE MANUAL ELIGIBILITY VERIFICATION PROCESS

Conditions: For 15.5% of sampled manual verifications, the BPO reviewer, supervised by USAC, made inaccurate eligibility determinations or the eligibility determination could not be assessed to confirm accuracy. Of the 45 sampled subscribers whose eligibility was determined through manual verification, the following exceptions were noted:

- Four applicants were not qualified because the documentation submitted did not meet the 200% Federal Poverty Guideline qualifications
- One applicant was not qualified because the documentation submitted did not demonstrate evidence of SNAP approval
- Two applicants were unable to be assessed for eligibility because their documentation was unavailable due to a system migration error.

Causes: The BPO reviewer, supervised by USAC, did not adequately review documentation submitted by applicants for the purposes of determining eligibility in the ACP. Specifically, because the BPO reviewers were not properly trained, they did not request additional documentation from applicants in instances where the documentation submitted by the applicant was insufficient to provide a determination on eligibility. The combined BPO manual review and BPO and USAC Quality Assurance (QA) processes were not robust enough to identify these errors. Further, USAC’s archive process archives documents 30 days after the last date an applicant is permitted to provide eligibility documentation. USAC provided a majority of the requested samples from the archived documents. However, USAC was unable to provide two of the samples requested during audit fieldwork. After audit fieldwork was completed, FCC noted that the documentation could not be retrieved due to a technical error during an internal system migration. The technical error, which occurred in January 2023 and was discovered in June 2023, resulted in the deletion of 2.1 million eligibility documents associated with 622,000 applications³⁵. USAC was unable to restore the deleted documents because back-up files created prior to the system migration were not retained beyond 14 days.

Criteria: 47 CFR § 54.1800(j), *Eligible household qualification for the Affordable Connectivity Program*, of the FCC’s rules, Subchapter B, Subpart R, states:

“Eligible household. The term “eligible household” means, regardless of whether the household or any member of the household receives support under subpart E of this Part, and regardless of whether any member of the household has any past or present arrearages with a broadband provider, a household in which—

- (1) At least one member of the household meets the qualifications in § 54.409(a)(2) or (b) of this part (or any successor regulation);
- (2) The household's income as defined in § 54.1800(k) is at or below 200% of the Federal Poverty Guidelines for a household of that size;
- (3) At least one member of the household has applied for and been approved to receive benefits under the free and reduced price lunch program under the Richard B. Russell

³⁵ 143,698 of the eligibility applications were related to the Lifeline program. These applications were included in the total because Lifeline eligibility is used to qualify for the ACP.

National School Lunch Act (42 U.S.C. 1751 *et seq.*) or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C.1773), or at least one member of the household is enrolled in a school or school district that participates in the Community Eligibility Provision (42 U.S.C.1759a);

(4) At least one member of the household has received a Federal Pell Grant under section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) in the current award year, if such award is verifiable through the NV or NLAD or the participating provider verifies eligibility under § 54.1806(a)(2);

(5) At least one member of the household meets the eligibility criteria for a participating provider's existing low-income program, subject to the requirements of § 54.1806(a)(2); or

(6) At least one member of the household receives assistance through the special supplemental nutritional program for women, infants and children established by section 17 of the Child Nutrition Act of 1996 (42 U.S.C. 1786).”

Per 47 CFR § 54.409(a)(2), *Consumer qualification for Lifeline*, of the FCC’s rules, Subchapter B, Subpart E:

“(2) The consumer, one or more of the consumer's dependents, or the consumer's household must receive benefits from one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance; or Veterans and Survivors Pension Benefit.”

Effect: Improper determination of subscriber eligibility will result in reimbursements to participating providers on behalf of ineligible subscribers and result in reduced funding for the intended beneficiaries of the ACP. In addition, confidence in participating providers and the FCC will be diminished as subscribers are de-enrolled due to internal eligibility determination errors. USAC estimated that 7.7% of all qualified applications were affected by the technical error. Because USAC cannot access applicant eligibility documentation for 622,000 applications³⁶, USAC’s QA reviewer cannot perform testing of the BPO manual review for these applications. Moreover, USAC will be unable to provide documentation to external auditors and reviewers.

Recommendation #3: Increase the number of manual verification reviews performed by USAC’s QA Team and BPO QA Supervisors for all eligibility determinations that are not performed solely through the NV or by the participating provider.

Recommendation #4: Develop and implement periodic BPO review agent training to ensure BPO review agents are knowledgeable regarding the eligibility documents required for each eligibility determination type and how to apply program rules to eligibility determinations.

Recommendation #5: Update USAC’s policies and procedures to ensure a back-up of information moved during future system migrations is generated and retained until the information has been validated and confirmed to have migrated correctly.

³⁶ 143,698 of the eligibility applications were related to the Lifeline program. These applications were included in the total because Lifeline eligibility is used to qualify for the ACP.

Recommendation #6: Update USAC’s policies and procedures to ensure that for future system migrations testing is performed to validate that all records have been transferred to the new system. The policy and procedure documents should also outline processes for USAC to retain testing logs and results of testing.

Management’s Response: See [Appendix B](#).

FINDING #3 – FCC DID NOT DRAFT OR PUBLISH PARTICIPATING PROVIDER COMPLIANCE REPORTS

Condition: FCC did not follow 47 U.S.C. § 1752 (b) (9) (D), which requires periodic issuance of public reports containing consumer complaints involving participating provider compliance with ACP rules. Specifically, FCC did not publish any such consumer complaint reports during the audit scope period, as required by the statute, since the inception of the program. While FCC has an efficient process for tagging ACP-related complaints, FCC lacked policies and procedures for identifying, aggregating, and reporting participating provider compliance with ACP rules in a public report.

Cause: FCC did not prioritize developing procedures aimed at capturing and reporting participating provider compliance. When asked in January 2023, FCC noted that it was still discussing the manner, content, and timing of issuing public reports stemming from consumer complaints.

Criteria: 47 U.S.C. Chapter 16, Subchapter IV – Broadband Affordability, § 1752 (b) (9) (D) states:

“The Commission-
(D) shall regularly issue public reports about complaints regarding the compliance of participating providers with the Affordable Connectivity Program.”

Effect: Because FCC did not issue a public report for participating provider compliance, key stakeholders are unaware of potential problems regarding participating provider compliance with ACP rules.

Recommendation #7: Make ACP consumer-complaint reporting a priority by developing and implementing written policies and procedures for identifying, aggregating, and reporting consumer complaints’ information on participating provider compliance with the ACP program, including the frequency of publishing these reports publicly

Recommendation #8: Compile the consumer complaint reports required by 47 U.S.C. § 1752 (b) (9) (D) and publish a report that is accessible to the public going forward.

Management’s Response: See [Appendix B](#).

FINDING #4 – UNSUPPORTED PARTICIPATING PROVIDER ACP CLAIMS

Conditions: Of the 406 samples (90 Tribal and 316 Non-Tribal) of reimbursement claims sampled, service providers could not substantiate claims on 10 samples or 2.46% error of sampled claims.

Tribal Subscriber Reimbursements:

- For three of 90 samples related to Tribal subscribers, the participating provider did not provide invoices that evidenced the monthly internet rate charged to the subscriber prior to ACP subsidies. Therefore, it could not be determined if the amount requested for reimbursement by the participating provider was not greater than the monthly internet service rate that would have been charged to the subscriber.

Non-Tribal Subscriber Reimbursements:

- For two samples of 316 related to Non-Tribal subscribers with a device reimbursement, the participating provider did not provide evidence that the household contributed a copayment for their connected device as required by 47 CFR § 54.1803(b)(1).

In addition, of the 406 Tribal and Non-Tribal samples above, two participating providers did not respond to repeated requests for audit documentation. These providers did not submit any audit documentation as of August 1, 2023. The total amount requested, as of January 2023 for reimbursement between January 1, 2022 and December 31, 2022, to the two nonresponsive providers, was \$3.8 million. The findings for the two nonresponsive providers are as follows:

Participating Provider Non-Response:

- For three of 90 samples related to Tribal subscribers and two of 316 samples related to Non-Tribal subscribers, the participating provider did not respond to the audit request and did not provide support; therefore, testing was not performed on these samples.

Cause: The issues stemmed from the participating providers' not fully implementing recordkeeping policies to support certified reimbursement claims, as required by per 47 CFR § 54.1808 (e) and 47 CFR § 54.1811.

Criteria: 47 CFR § 54.1808 (e), *Reimbursement for providing monthly affordable connectivity benefit*, Subchapter B, Subpart R, states in part:

“(e) In order to receive Affordable Connectivity Program reimbursement, an officer of the participating provider shall certify, under penalty of perjury, as part of each request for reimbursement, that:

(5) The amount for which the participating provider is seeking reimbursement from the Affordable Connectivity Fund is not more than the amount charged to the eligible household and the discount has already been passed through to the household;

(6) Each eligible household for which the participating provider is seeking reimbursement

for providing an internet service offering discounted by the affordable connectivity benefit—

(a) Has not been and will not be charged for the amount the provider is seeking for reimbursement;

(7) Each eligible household for which the participating provider is seeking reimbursement for supplying such household with a connected device was charged by the provider and has paid more than \$10.00 but less than \$50.00 for such connected device;

(8) If offering a connected device, the connected device claimed meets the Commission's requirements, the representations regarding the devices made on the provider's website and promotional materials are true and accurate, that the reimbursement claim amount does not exceed the market value of the connected device less the amount charged to and paid by the eligible household, and that the connected device has been delivered to the household;

(10) If seeking reimbursement for a connected device, the provider has retained the relevant supporting documents that demonstrate the connected devices requested are eligible for reimbursement and submitted the required information;

(12) All documentation associated with the reimbursement form, including all records for services and/or connected devices provided, will be retained for a period of at least six years after the last date of delivery of the supported services and/or connected devices provided through the Affordable Connectivity Program, and are subject to audit, inspection, or investigation and will be made available at the request of any representative (including any auditor) appointed by the Commission and its Office of Inspector General, or any local, State, or federal agency with jurisdiction over the provider;”

47 CFR § 54.1811, *Recordkeeping Requirements*, of the FCC’s rules, Subchapter B, Subpart R, states:

“Participating providers shall maintain records to document compliance with all Commission requirements governing the Affordable Connectivity Program for the six full preceding calendar years and provide that documentation to the Commission or Administrator, or their designee, upon request. Participating providers shall maintain the documentation related to the eligibility determination and reimbursement claims for an Affordable Connectivity Program subscriber for as long as the subscriber receives the Affordable Connectivity Program discount from that participating provider, but for no less than the six full preceding calendar years.”

47 CFR § 54.1801, *Annual certification by participating providers*, of the FCC’s rules, Subchapter B, Subpart R, states in part:

“(f) Annual certification by participating providers. An officer of the participating provider who oversees Affordable Connectivity Program business activities shall annually certify, under the penalty of perjury, that the participating provider has policies and procedures in place to comply with all Affordable Connectivity Program rules and procedures. This

annual certification shall be made in a manner prescribed by the Wireline Competition Bureau and the Administrator. At a minimum, the annual certification requires the aforementioned officer of the participating provider attest to:

(3) The participating provider acknowledging that:

(i) It is subject to the Commission's enforcement, fine, or forfeiture authority under the Communications Act;"

Effect: Ineligible participants will receive services at the Federal Government's expense, thus reducing the amount of funding for eligible participants.

Recommendation #9: Determine the reasons the participating providers did not respond, select a sample of reimbursements from non-responsive participating providers, and perform testing procedures to ensure the participating providers cited on this report are in compliance with all requirements of the ACP program.

Recommendation #10: Provide findings noted in this report to the responsive participating providers and request that the participating providers take action to address the finding. Actions may include directing the participating provider to draft a corrective action that details how the provider will remediate the finding.

Recommendation #11: Assess whether enforcement, fine, or forfeiture actions are warranted on participating providers involved in the issues cited on this audit report.

Management's Response: See [Appendix B](#).

FINDING #5 – FCC OUTREACH EFFORTS TO INCREASE PROGRAM ENROLLMENT NEED IMPROVEMENT

Conditions: The FCC performed outreach efforts, which included attending conferences that were typically performed by request from outreach partners for various organizations, such as those tailored for assisting with housing, senior assistance, assistance for the blind, and various state and county organizations. However, the coverage of these outreach efforts could have been more effective by conducting consumer research or focus groups at the time of program implementation that would have given the FCC a greater insight on how to structure the enrollment efforts for high poverty areas and for areas where broadband usage is not widespread. While the FCC established a cap of \$100 million for CGB to conduct outreach, including outreach grants, in January 2022, the ACP Outreach Grant Order was not adopted until August 2022.³⁷ Notices of Funding Opportunity for its grant programs were not released until November 2022. The FCC did not announce grant awards amounting to \$71.8 million, and associated recipients, until March 2023. Further, most grantees did not accept awards until May or June 2023, less than one year before the anticipated exhaustion of the ACP funding in March/April of 2024. As of June 30, 2023, \$35.3 million had been obligated (49% of total grant awards) and \$20,000 had been paid for the outreach grant program, signifying that the majority of grantees had not accepted awards. In addition, \$6.7 billion of \$14.1 billion, or 48% of funds appropriated for the ACP program, were obligated as of June 30, 2023. As a result, outreach originating from grantees was not started until nearly half of the ACP funds were expended. Because grantees were required to report quarterly progress (e.g., April 1 to June 30) to the FCC beginning in July 2023, activities undertaken by most grantees will not be reported until the second quarterly reporting period in October 2023. Therefore, the FCC will not be able to determine the effectiveness of the grant outreach program until FY 2024.

Cause: The FCC’s strategic planning for the ACP did not include processes to identify which households were eligible for ACP before ACP outreach was implemented. Further, enrollment goals were not established until November 2022, 11 months after the program launched in January 2022. The FCC has not established a mechanism to target high poverty areas for households with the greatest need for broadband connectivity, such as utilizing United States Census Bureau data sets on poverty rates by County. Further, the FCC did not have a mechanism in place to determine which households were not connected to broadband and did not send surveys to households for the purposes of establishing a baseline of first-time broadband user households until July 2023. Additionally, because FCC staff did not have experience with the requirements of Title 2 of the CFR, *Grants and Agreements*, FCC sought assistance from other federal agencies, causing delays with launching the grant programs.

Criteria: 47 U.S.C. Chapter 16, Subchapter IV – Broadband Affordability, § 1752 (b) (10) (C) states:

“The Commission may conduct outreach efforts to encourage eligible households to enroll in the Affordable Connectivity Program.

(ii) Activities

³⁷ ACP, *Second Report and Order*, FCC 22-64, WC Docket No. 21-450.

In carrying out clause (i), the Commission may—

- (I) facilitate consumer research;
- (II) conduct focus groups;
- (III) engage in paid media campaigns;
- (IV) provide grants to outreach partners; and
- (V) provide an orderly transition for participating providers and consumers from the Emergency Broadband Benefit Program established under paragraph (1) (as that paragraph was in effect on the day before November 15, 2021) to the Affordable Connectivity Program.”

GAO’s *Standards for Internal Control in the Federal Government* (Green Book), dated September 2014, states:

“OV2.19 Operations objectives relate to program operations that achieve an entity’s mission. An entity’s mission may be defined in a strategic plan. Such plans set the goals and objectives for an entity along with the effective and efficient operations necessary to fulfill those objectives. Effective operations produce the intended results from operational processes, while efficient operations do so in a manner that minimizes the waste of resources.

OV2.20 Management can set, from the objectives, related subobjectives for units within the organizational structure. By linking objectives throughout the entity to the mission, management improves the effectiveness and efficiency of program operations in achieving the mission.”

FCC’s *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket Number 21-450, released January 21, 2022, states:

“212. Our second goal is to increase awareness of and participation in the Affordability Connectivity Program. We agree with Education SuperHighway and Oakland Undivided that the Commission should invest in direct, data-driven outreach to unconnected households to increase awareness of the Affordable Connectivity Program. To meet this goal, we will work with community partners to increase consumer engagement with low-income individuals in underserved areas. We direct USAC to continue to publish enrollment data by geographic regions. To measure progress towards this goal, we will monitor the participation over time and by area. Additionally, we direct the Bureau and OEA, with support from USAC, to collect the appropriate data as necessary, including possibly a survey that measures the general public’s awareness of the Affordability Connectivity Program.”

FCC’s *Second Report and Order*, WC Docket Number 21-450, released August 8, 2022, states:

“13. To support the accomplishment of the goal of facilitating the promotion of the Affordable Connectivity Program to increase awareness of and participation in the Affordable Connectivity Program among eligible households, we adopt three objectives for the Outreach Grant Program: (1) expand and support diverse and impactful outreach efforts nationwide to reach eligible Affordable Connectivity Program households, including, but

not limited to, people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality; (2) strengthen outreach partners nationwide by empowering them to mobilize people and organizations to help raise awareness about the Affordable Connectivity Program; and (3) increase enrollment in the Affordable Connectivity Program, particularly in areas served by the outreach grants, by underrepresented, underserved, and low-income households. These objectives are consistent with the authorizing language in the Infrastructure Act and are also consistent with the record and in alignment with the Commission’s strategic goals and objectives identified above.”

Effect: Without properly established outreach efforts, the ACP enrollment in areas that have the greatest need for access to broadband may continue to fall short of the intentions of the program.

Recommendation #12: Utilizing information from the United States Census Bureau, FCC-conducted surveys, or other reliable sources, the FCC should continue to develop and implement a plan for identifying targeted population in its outreach efforts to increase enrollment for unserved or underserved high poverty areas and for areas where broadband usage is not widespread.

Management’s Response: See [Appendix B](#).

APPENDIX A – SCOPE AND METHODOLOGY OF THE AUDIT

Scope and Limitations

The scope period of the Affordable Connectivity Program (ACP) performance audit addressed activities occurring from January 1, 2022, through December 31, 2022. Kearney & Company, P.C. (referred to as “Kearney,” “we,” and “our” in this report) executed planning, testing, and reporting over the entity’s ACP reimbursement requests and related internal controls and the Federal Communication Commission’s (FCC or Commission) compliance with the requirements of 47 United States Code (U.S.C.) §1752 to perform outreach and issue reports on the ACP participating provider compliance. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). These standards require that Kearney plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objective. Kearney believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objective. To obtain background information, we reviewed the federal laws, regulations, FCC rules, and policy and guidance related to the use of the ACP.

Kearney was asked to perform testing on documents pertaining to recurring service and connected devices that FCC and the Universal Service Administrative Company (USAC) did not have access to. Specifically, we requested monthly subscriber invoices and usage information from the participating providers. In January 2023, Kearney met with the Wireline Competition Bureau (WCB) and Office of the Managing Director (OMD) to discuss our engagement letter. WCB and FCC’s OMD asked Kearney to modify the engagement letter to specify that we would perform outreach to participating providers by acting as the audit liaison. Kearney agreed to modify the engagement letter through collaboration with the FCC Office of Inspector General (OIG) and established communication and requested audit evidence directly with participating providers. We obtained participating provider contact information from USAC. In instances where Kearney did not receive positive confirmations from the participating provider, we inquired with USAC to determine if other contact information was available. While we did receive positive confirmations from most participating providers, there were two participating providers who did not respond. Kearney included samples for the non-responding participating providers as errors in [Finding 4](#).

Kearney planned to obtain claims data from USAC for the purpose of sampling. We requested and received data from January 2022 and performed validation procedures to verify that we were able to ingest the data into our analytic software. In March 2023, Kearney requested the remaining 11 months of data from USAC. Due to concerns about releasing consumer information, FCC provided hashed data. The hashed data obscured personal identifying information. Kearney was able to complete our planned procedures using the hashed data without issue.

Kearney performed testing on the documentation pertaining to subscribers who went through the manual verification process. As part of testing, we selected a sample of subscribers who were approved with manual verification during the period under audit. Upon requesting

documentation to support manual verification for selected samples, USAC responded that it was unable to provide some documentation. This was due to a technical error during an internal system migration, which occurred in January 2023 and was discovered in June 2023, resulting in the deletion of 2.1 million eligibility documents for 622,000 applications¹. Samples that Kearney did not receive documentation for were counted as errors in [Finding 2](#).

Other than the limitations noted, Kearney was able to execute procedures to support the conclusions related to the ACP objectives and support our conclusions regarding internal controls and compliance.

Methodology and Work Performed

Kearney's technical approach entailed gaining an understanding of the process set forth by the FCC during implementation of the ACP. We performed walkthroughs, control evaluations, testing, and analysis to conclude on the audit objectives and report the results in a comprehensive final report. Kearney regularly reviewed and, if appropriate, revised the audit strategy with the approval of the FCC OIG to ensure work was performed efficiently and effectively. The methodology of the audit included completing the following procedures:

- Obtained an understanding of any appropriations law requirements, FCC issued Report and Order, and regulations
- Obtained an understanding of the components of internal control and performed a risk assessment to determine the level of control risk relevant to the audit objectives
- Assessed the FCC's internal controls over data management, collection, reporting, and processes used to report program data. Gathered an understanding of information technology process and controls considered significant to the subject audit
- Considered any ACP goals and objectives presented in the *Management's Discussion and Analysis* (MD&A) section of the Agency Financial Report (AFR), as well as any ACP-related information presented in the FCC strategic plan
- Selected samples and performed testing over entity controls.

Kearney performed testing to determine whether the FCC had adequate controls in place to reimburse participating providers for the ACP outlays incurred based on participation of subscribers that met the FCC's program eligibility requirements. The controls tested included verifying that participating providers received approval from FCC before being accepted into the ACP. Kearney also verified that participating providers submitted an election notice to USAC. We verified that election notices were approved prior to participating providers submitting a claim for reimbursement.

¹ 143,698 of the eligibility applications were related to the Lifeline program. These applications were included in the total because Lifeline eligibility is used to qualify for the ACP.

Kearney also conducted control testing to determine whether:

- The FCC implemented effective internal controls that provide assurance that subscribers participation in the program met the household eligibility program requirements
- Payments made to eligible participating providers were for eligible expenses to reduce improper payment and prevent fraud, waste, and abuse in the ACP program
- USAC appropriately verified that participating providers complied with the requirements of the Infrastructure Act.

Specifically, Kearney confirmed that FCC ensured that participating providers verified the household's eligibility through either the National Verifier (NV) or Alternative Verification Process (AVP). In addition, we verified that existing Lifeline and ACP subscribers had undergone the most recent recertification to maintain eligibility. We reviewed the invoices for the connected devices to verify that an eligible household subscriber paid at least \$10, but not more than \$50. Kearney reviewed monthly invoices for sampled broadband services to verify that the amount requested for reimbursement did not exceed the standard rates charged to subscribers. We also reviewed the service invoices to verify that eligible households were not charged if the standard rate is less than the ACP reimbursement or if the standard rate was higher, then the household was not charged more than the difference between the standard rate and the ACP program reimbursement. In cases where the subscriber's monthly recurring charges were zero, we also viewed records of voice and data usage. For prepaid subscribers who did not receive invoices, Kearney verified the rate plan and standard rate charged by obtaining billing system screenshots from participating providers.

Data Reliability

Kearney obtained certified claims from the Affordable Connectivity Claims System (ACCS). For claims to be paid the same month, providers were required to certify by the 15th day of the month. However, participating providers were allowed six months to submit claims or revise claims. USAC, at the direction of the FCC, withheld some certified claims until directed by the FCC to release those payments. Additionally, USAC withheld some certified claims because the subscribers were flagged as deceased or due to issues with the participating provider accounts.

Kearney performed a reconciliation of the certified claims from ACCS to the obligation files that were sent to the FCC through a flat file submission. We noted a small variance of \$20.3 million. This variance represented less than 1% of the total testing population. Variances were attributed to timing differences in data that resulted from revisions made by participating providers.

Sampling Methodology

Kearney's sampling objective was to select a sample of the ACP reimbursements claimed between January 1, 2022 and December 31, 2022. We selected a non-statistical random sample and performed attribute testing over controls to determine whether the participating providers correctly and accurately certified claims in line with the program rules.

Kearney split the population into four distinct subpopulations: non-Tribal subscriber claims for connected devices and monthly internet services, non-Tribal subscriber claims for monthly internet services only, Tribal subscriber claims for connected devices and monthly internet services, and Tribal subscriber claims for monthly internet services only. To test the controls that participating providers appropriately certified claims, we utilized Government Accountability Office (GAO) Financial Audit Manual (FAM) 450 Table 1 to determine the sample size and acceptable errors. Sample sizes for non-Tribal claims were larger due to expected errors noted by previous testing on the Emergency Broadband Benefit Program (EBBP).

Sample Subpopulation	Sample Size	Number of Acceptable Errors
Non-Tribal subscriber claims for connected devices and monthly internet services	158	4
Non-Tribal subscriber claims for monthly internet services only	158	4
Tribal subscriber claims for connected devices and monthly internet services	45	0
Tribal subscriber claims for monthly internet services only	45	0

Work Related to Internal Controls

The FCC is responsible for the design and implementation of internal controls related to the ACP. During the audit, Kearney considered several factors, including the subject matter of the project, to determine whether internal controls were significant for this audit. We then considered the components of internal control and the significance to the audit objectives. Based on this consideration, we determined that the internal controls underlying principles included in the Green Book to identify internal controls that were significant to the audit objectives. Considering internal controls in the context of a comprehensive internal control framework can help auditors determine whether underlying internal control deficiencies exist.

Kearney conducted meetings throughout the audit to identify and confirm the controls in place for the purposes of addressing audit risks. We also leveraged information gained from the financial statement audit and the EBBP performance audit Kearney performed for both an understanding of the ACP and supporting financial controls.

Kearney obtained an understanding of internal controls, including information systems controls, relevant to the audit objective through completing walkthroughs and observations of internal controls. In [Finding 4](#), we determined that the FCC lacks proper controls to verify that participating providers have complied with certain statutes of the ACP. Kearney additionally tested some controls performed by participating providers, which are required for the internal controls of the FCC, as outlined in the Infrastructure Act. Specifically, we conducted testing to verify that proper documentation was maintained, confirming the following:

- Subscriber eligibility for eligibility determined through the AVP
- Usage information for subscribers whose service was wholly subsidized by the ACP
- Service/devices were appropriate and priced at approved levels.

Kearney performed procedures to assess the design, implementation, and operating effectiveness of key internal controls. Specifically, we performed the following procedures:

- Determined if sampled participating providers had proper approval from the FCC or were already participating providers prior to approval
- Determined if sampled subscribers that were approved via AVP or manually had proper documentation
- Determined if sampled participating providers requesting reimbursement provided evidence of offering discounted devices to subscribers at an approved rate and charged a copay between \$10 and \$50
- Determined if sampled participating providers maintained evidence of subscriber usage for those that did not pay for service rendered and received the ACP discount or other equivalent documentation
- Determined if sampled participating providers charged subscribers an early termination fee
- Determined if sampled subscribers were subject to a mandatory waiting period per provider rules.

APPENDIX B – MANAGEMENT’S VIEWS ON CONCLUSIONS AND FINDINGS**United States Government****Federal Communications Commission***Office of the Managing Director***MEMORANDUM**

DATE: December 21, 2023

TO: Sharon R. Diskin, Acting Inspector General, FCC

FROM: Mark Stephens, Managing Director, FCC

SUBJECT: Management’s Response to Inspector General’s Performance Audit of the Federal Communications Commission’s Affordable Connectivity Program (Project No. 23- AUD-01-04)

For the reasons stated below and as previously shared during review of the Office of Inspector General’s audit report for the Affordable Connectivity Program (Audit Report), the Wireline Competition Bureau (WCB) and the Office of Managing Director (OMD) partially concur with the findings and recommendations, while disagreeing with some audit statements and noting concerns with some of the audit processes. As described below, we set forth actions that the Commission has already taken or plans to take to address the audit’s recommendations.

Executive Summary

The Affordable Connectivity Program (ACP) has successfully helped bring and keep broadband in households nationwide, as evidenced by the over 22 million participants, in urban, rural, and Tribal areas, in virtually every state and territory in the nation. We have also provided households with over 10.5 million devices and have over 1,600 providers offering the ACP benefit to low-income households. The Commission has achieved this success by setting and targeting program goals, optimizing Federal and State agency partnerships as well as working with community leaders, including over 240 outreach grantees, who help the Commission spread awareness of the program. The ACP’s program integrity efforts are strong and continue to improve. Finally, the ACP enhancements have made the program administration more efficient and effective.

Despite this success, several of the audit’s findings either did not account for or incorrectly stated certain underlying facts and processes about the ACP. As set forth below, we partially concur with the findings and recommendations, while disagreeing with some audit statements and noting concerns with some of the audit processes.

We disagree with the audit finding concerning certain provider claims being “unsupported” and in “error” based on two providers that the auditors found did not respond to requests. When the Commission reached out to investigate further as the audit recommended, the two providers stated that they were not contacted by the auditors, and thus not given a chance to provide responses to the auditors in accordance with the auditing standards. The Commission relayed these facts to the auditor and sought a response. We remain concerned the auditors finalized the Audit Report without allowing time to ensure with confidence the two providers were aware of their response obligations to address the auditor’s concerns. Accordingly, we disagree with the auditor’s finding related to the Commission and USAC’s controls over provider reimbursement. Therefore, we must note our concern about an apparent departure from auditing standards.

Moreover, the audit findings concerning the Commission’s outreach grants program ignores the underlying challenges, including strict statutory mandates and other requirements, that the Commission overcame in setting up a grant program, and the resulting success of enrolling over 22 million subscribers in the program by the end of 2023. With respect to other findings and recommendations set forth in the 2022 audit period, the Commission has addressed these recommendations by taking steps in 2022 and 2023, and will take additional steps to address any open recommendations going forward. To that end, the Commission established and continues to implement objective, measurable, and quantifiable ACP performance and goals metrics and reporting in accord with requirements. Further, the Commission has continued to strengthen the manual eligibility verification process to ensure that the benefit is available to eligible low-income households. In response to unsupported claims from two providers that were contacted yet provided insufficient follow-up or documentation, the Commission has taken steps to ensure compliance. The Commission has also implemented a dedicated ACP consumer complaint process and released ACP consumer complaint data to the public in accordance with requirements.

In addition to the actions above, OMD, as part of its oversight responsibilities, has already directed the Universal Service Administrative Company (USAC) to provide OMD and WCB with: (1) updated policies and procedures in response to OIG Recommendations 5 and 6; and (2) a comprehensive corrective action plan in response to OIG Recommendations 4, 5, 9, and 10. This direction to USAC, in concert with the other Commission actions outlined herein, address findings and recommendations from the 2022 audit period. Additionally, we continue to evaluate and implement opportunities to further strengthen the program.

Management’s Response to OIG’s Findings and Recommendations

The Commission has established objective, measurable, and quantifiable goals and metrics. The Commission made progress towards the audit’s recommendations concerning specificity of goals reporting starting in late 2022, during the audit period, and we continued that progress throughout 2023. The steps that the Commission has already taken, and plan to take, to establish processes and to document and implement objective, measurable, and quantifiable goals for the ACP already address the recommendation. This includes measuring

first-time broadband users in addition to existing broadband users, the two categories of broadband users that Congress required the ACP to serve in narrowing the digital divide.

In the ACP Order, the Commission established three performance goals for the ACP: 1) reduce the digital divide for low-income consumers; 2) promote awareness of and participation in the ACP; and 3) ensure efficient and effective administration of the ACP.¹ The Commission subsequently provided detail on how to measure progress toward those performance metrics in its response to the Government Accountability Office (GAO) Report dated December 23, 2022.² In that response, which was published in 2022, OIG's audit year, the Commission provided more detail, including specific and clearly defined targets.³

For the first goal of reducing the digital divide for low-income consumers, the Commission, in November 2022, deployed a pilot survey to collect objective, quantitative, and measurable data related to the ACP and to establish a baseline for measuring and assessing our performance in relation to the program goals. That pilot survey helped inform the development of a quarterly subscriber survey, which USAC, at the Commission's direction, sent to ACP subscribers in July and October 2023. The next survey will be sent in January 2024. This is consistent with the timing the Commission committed to in the GAO Management Response.

The Infrastructure Investment and Jobs Act (Infrastructure Act) encouraged enrollment in the ACP by households that already subscribed to a broadband service as well as first-time broadband users.⁴ With respect to the latter, the Commission set forth a specific goal of seeing the number of survey respondents that are using the ACP benefit for a first-time broadband connection increase by 5% each quarter from the prior survey's results.⁵ The November 2022 pilot survey reported 16% of ACP subscribers were first-time internet users, meaning that the Commission would reach its goal if the following survey showed that 16.8% of ACP subscribers were first-time Internet users. The July 2023 survey reported that 19.5% of ACP subscribers were first-time internet users, surpassing the FCC's first-time internet user goal.

¹ *Affordable Connectivity Program*, WC Docket No. 21-450, Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 484, 580, para. 210 (2022) (ACP Order).

² Government Accounting Office, *FCC Could Improve Performance Goals and Measures, Consumer Outreach, and Fraud Risk Management*, GAO-23-105399 at 12 (2023), <https://www.gao.gov/products/gao-23-105399> (GAO Report).

³ Letter from Mark Stephens, Managing Director, FCC, to Andrew Von Ah, Director, U.S. Government Accountability Office at 2-5 (Dec. 23, 2022) (included in GAO 23-105399) (GAO Management Response).

⁴ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (codified at 47 U.S.C. § 1752). (Infrastructure Act). When establishing the ACP, Congress expressly required the FCC to adopt rules to treat as eligible for ACP households that are enrolled in Lifeline (a benefit program that offers discounted broadband service in addition to voice, and which was used by millions of households for broadband). Congress also directed the Commission to permit an alternative verification process that leverages providers' existing low-income program, encouraging these households already receiving broadband service to enroll in ACP and requiring the FCC to permit such enrollment. Further, Congress added a consumer protection and outreach requirement to the ACP that requires providers to notify existing subscribers at the time they renew a broadband subscription of the availability of the ACP.

⁵ GAO Management Response at 3.

Within the audit year, to demonstrate progress towards its second goal of promoting awareness of and participation in the ACP, the Commission also established a measurable target to increase awareness and participation in the program. The Commission proposed a goal of increasing program enrollment by 1.5% to 3.5% each month.⁶ In 2023, the ACP reached this goal, with an average month-over-month increase in the participation rate of 3.9% for the life of the ACP to-date and 3.4% for each month in 2023. In the GAO Management Response, the Commission aimed to reach an annual participation rate of between 36.1% and 43.1% by November 1, 2023.⁷ The Commission exceeded this target with a 45% participation rate by November 1, 2023.

In addition, to increase awareness of the ACP, the Commission partnered with federal, state, Tribal, and local agencies, community organizations, and other entities to conduct outreach activities, as described in more detail below. The FCC also provided grant funding to over 240 entities across four different programs to perform national and local outreach activities. The FCC's outreach partners conducted activities and events, educated the targeted population about the program, and helped eligible consumers to apply and enroll in the program. Further, paid media consultants targeted certain locations with large low-income populations, certain demographics, and specific cities and counties (including both rural and urban areas) throughout the United States to increase awareness of the ACP through print and radio campaigns. The Commission's Office of Economics and Analytics used data from the U.S. Census Bureau to identify geographic areas with a high number of eligible households to assist the paid media consultants in targeting the communities most in need of broadband discounts.

For the third goal of ensuring the efficient and effective administration of the ACP, the Commission evaluated two different measures, including evaluating the ease of subscribers' application and enrollment process, and the overall burden of the program's processes on its subscribers. The FCC measured and tracked these goals using the subscriber quarterly surveys and enrollment data provided by USAC. The FCC and USAC have continued to simplify and quicken the application and enrollment process. With these continued improvements to the process and increased database connections, The FCC expects more applicants to more easily navigate the application and enrollment process.

The following results from the July 2023 survey show that the application and enrollment process has been very easy for the vast majority of respondents. The July 2023 survey reported an increase in respondents that found the application process "very easy" or "somewhat easy" as 96.5% (compared to 95% in the November 2022 survey). The enrollment process was "very easy" or "somewhat easy" for 91.0% of those surveyed (compared to 92.8% in November 2022 survey). In response to the July 2023 survey, fewer applicants reported the application process to be "not easy" (3.6% as compared to the 4.6% in the November 2022 survey). The survey also revealed that 9.0% of subscribers reported that the enrollment process was "not easy at all."

⁶ GAO Management Response at 3.

⁷ GAO Management Response at 3.

The Commission has been documenting and implementing objective, measurable, and quantifiable goals for the ACP, as recommended by the Audit Report. In preparation for reporting its goals in the FCC FY 2025 Performance Plan and the FCC FY 2023 Performance Report, the Commission published objective, measurable, and quantifiable results in FCC’s FY 2023 Financial Report.⁸ The Commission will also publish an evaluation of the Commission’s progress toward its established goals for ACP in the FCC’s Performance Plan and Report, to be released in March 2024, as recommended by the Audit Report.

The Commission continues to strengthen the manual eligibility verification process to ensure that the benefit is available to eligible low-income households. The Commission has already taken, or plans to take, many steps that address the audit’s recommendations for the 2022 audit period concerning manual eligibility reviews. For instance, throughout 2022, the FCC continued to implement the multi-level Quality Assurance (QA) review process recommended in an earlier Emergency Broadband Program Audit Report.⁹ Both USAC and its Business Processing Office (BPO), which conduct manual reviews of eligibility documentation submitted by ACP applicants, have QA teams that conduct daily, second-level manual verification reviews, encompassing a statistically valid sample of manually verified applications each month.¹⁰

Moreover, since 2022, USAC has increased the number of manual verification QA reviews for the ACP by 70%. USAC’s current QA process enables USAC to detect baseline error rates and uncover areas that require increased training. The current QA process includes the following:

- Random QA reviews, including sampling of documents from each ACP qualifying benefits program (e.g. Medicaid, SNAP, etc.).
- Targeted QA reviews based on results from the previous month, including targeting certain eligibility programs that review eligibility documentation.
- Red Flag reviews (per prior OIG recommendations) based on proactively identified risks, including applications with multiple reviews and applications considered high risk.

In addition to these QA policies, starting in January 2024, USAC will increase internal QA reviews. Such reviews will include a statistically valid, random sample of each ACP qualifying benefits program and income documentation. In doing so, USAC will establish separate baseline error rates for manual reviews for each qualifying benefits program and for applications based on income, allowing for a more data-driven approach to error rate reduction, as compared to the QA process established in 2022, mentioned above. USAC will use the baseline error rates, monthly trends, and new findings related to specific review criteria,

⁸ FCC, *Agency Financial Report: Fiscal Year 2023*, Office of Managing Director, at 16 (2023), <https://www.fcc.gov/sites/default/files/FCC-Agency-Financial-Report-FY-2023-508.pdf>.

⁹ *Fiscal Year 2021 Emergency Broadband Benefit Program Performance Audit*, Office of Investigator General, Report No. 21-AUD-10-01 at 9 (June 8, 2022) (EBBP Audit Report).

¹⁰ We note here that Kearney and Company P.C. (Kearney) did not review any manual eligibility samples that were subject to the QA review process.

eligibility programs or income documentation types to inform USAC how and where to strengthen current and future BPO agent training, which is also recommended by the Audit Report.

Currently, all new BPO review agents currently complete a robust training and assessment before entering the live database where the review agent works on real applications. Additionally, review agents receive refresher training as needed based on new processes, QA findings, and performance trends. USAC provides ongoing support and training through its continuously updated Knowledge Base, which is USAC's repository for standard operating procedures and program information. Review agents refer to the Knowledge Base as part of the manual review process. To address the Audit Report's recommendation to increase training, USAC and BPO supervisors will conduct a mandatory semi-annual eligibility training program for all review agents, in addition to the current training requirements. USAC will continue all ongoing training processes, but the new semi-annual training will incorporate new processes, QA findings, and performance trends over the past six months.

With respect to documentation safeguarding during system migration, USAC backup and restore policies and procedures currently require back-ups of information to be retained for an appropriately designated period before permanent deletion. However, additional updates will be made to further ensure deletion of data can and will only occur once information has been validated and confirmed to have migrated correctly.

In parallel, the USAC Product Team has worked with the System Development Team to apply additional data migration validations into future system development lifecycle (SDLC) requirements, including a criteria for User Acceptance of systems by Product Teams and Functional Owners:

- Performance of comprehensive unit, integration, system, and regression testing/evaluation at the application and system level; and
- Production of evidence of the execution of the control assessment plan and the results of the control testing/evaluation.

USAC can confirm any information deleted from the USAC systems is accessible neither within nor outside USAC systems.

USAC will also update its policies and procedures to ensure that after future system migrations, testing is performed to validate that all records have been successfully transferred, as recommended by the Audit Report. The USAC Product Team has worked with the System Development Team to update SDLC documentation procedures to specifically include requirements that validate all records have been transferred to the new system, and retain testing logs and results of testing. USAC has updated its system test suite to incorporate additional test scenarios around archiving and scheduled delete jobs. In addition, new recurring daily checks are now in place to monitor activity of large, scheduled batch jobs to aid in proactive issue identification.

With respect to documents lost due to USAC’s system migration error, the FCC and USAC informed the auditors in October 2023, just after the auditors completed their field work, that it affected approximately 1.72 million documents supporting 909,278 Lifeline and ACP previously reviewed applications submitted between September 2022 and January 2023. These numbers included 1.35 million ACP eligibility documents supporting 478,387 qualified ACP applications. As of the date of this response, approximately 300,000 of the affected households are still enrolled in ACP; this represents approximately 1.4% of the 22 million households currently enrolled. All of these applications, including their eligibility documentation, were reviewed and the households were deemed eligible prior to the migration error, and so there is no reason to believe the data migration error led to any improper payments or enrollments.

The Commission implemented a dedicated ACP consumer complaint process and released ACP consumer complaint data to the public in accordance with statutory requirements. The FCC has already taken steps addressing the audit’s recommendations for the 2022 audit period concerning consumer complaint data to comply with statutory requirements. The Infrastructure Act directed the Commission to launch the ACP by December 31, 2021 (within 46 days of enactment) and establish rules for the program within 60 days of enactment. The statute also directed the Commission to establish a dedicated consumer complaint process for the ACP and to have providers supply information to consumers about the existence of the consumer complaint process.¹¹

Standing up the dedicated consumer complaint process and processing of ACP-related informal consumer complaints has been a priority for the Commission since the start of the program. To facilitate the efficient processing and reporting of ACP-related complaints, the Commission developed and implemented written policies and procedures in the Consumer Complaint Center to identify, aggregate, and categorize ACP-related consumer complaints. During the pendency of the audit, the Commission has implemented the recommendation regarding written policies and procedures for consumer complaints by revising its written policies and procedures that outline how the Commission identifies, aggregates, categorizes, and reports ACP-related complaint data, including the frequency of such reporting, to better align with and include the essential elements of a policy and procedure document.

After the audit period, the Commission compiled a report detailing the categorization, by issue, of the ACP-related informal consumer complaints submitted to the Commission. The Commission released this ACP-related complaint data on August 18, 2023, in the FCC’s Consumer Complaint Data Center at <https://www.fcc.gov/consumers/consumer-complaint-center/acpebb-data-page>, and the Commission will continue to do so on a quarterly basis. This publication is responsive to OIG’s audit recommendation 8 that the FCC publish a report about the complaints as required by the statute.

The Commission disagrees with the finding concerning certain provider claims being “unsupported” and in “error,” and with respect to other unsupported claims has taken steps

¹¹ 11 Infrastructure Act, div. F, Title V, Sec. 60502 (b)(9)(A), (B).

to ensure compliance. We disagree with the audit finding concerning certain provider claims being “unsupported” and in “error.”

The auditors stated that two providers never responded to audit requests and thus deemed five claims from these providers to be “unsupported” and in “error.” These five claims accounted for half of the claims in the auditor’s sample that it deemed unsupported. However, when the Commission investigated the lack of response, these two providers stated that the auditors never made contact, or made contact only initially but never followed up on audit requests with instructions to respond. The Commission immediately brought its findings and concerns to the auditor’s attention. Accordingly, we disagree with the audit finding as to these claims and the audit’s findings that such claims are unsupported and in error,

The auditors also stated that two other providers responded initially to the auditors but then failed to respond to follow-up questions to test compliance with the Commission’s ACP rules. For these providers, the Commission has already taken steps to ensure compliance. The Audit Report’s findings regarding unsupported claims provides that the recommendations flow from providers not responding or following up with the auditor’s requests to those providers for documentation. The Commission’s rules require providers participating in the ACP to retain documentation demonstrating compliance with the ACP rules regarding reimbursement claims for as long as the household receives the benefit, and for no less than six years.¹² Moreover, providers, when submitting claims for reimbursement, certify that all documentation is “subject to audit, inspection, or investigation and will be made available at the request of any representative (including any auditor)” appointed by the Commission or its OIG.¹³

The auditors did not seek the Commission’s direct assistance in following up with the providers that failed to fully respond to the auditors. And as noted above, two providers stated that the auditors never made contact or never followed up on initial outreach, while two other providers failed to respond to follow-up questions from the auditors to test compliance with the Commission’s ACP rules. While the cause of the non-response of the first two providers still must be determined with the auditors to ensure GAGAS audit procedures were followed, the Commission nonetheless has contacted all of the providers to investigate responsiveness and reminded them of their obligation to retain documentation and respond to requests from the Commission and program auditors. The Commission further directed the providers to ensure that USAC has up-to-date contact information for inquiries, including compliance requests, related to the ACP.

The Commission has also directed USAC to conduct ad hoc and targeted reviews of all four providers in the auditor’s sample. Regarding the monthly service rate and application of the ACP subsidy referenced by Kearney, USAC, at the Commission’s direction, has an established quarterly review for pass-through documentation, which samples service providers’ invoices to ensure that ACP reimbursements are accurately passed through to consumers and reflected on their bills. USAC will use this established review process to conduct a targeted, ad

¹² 47 CFR § 54.1811.

¹³ 47 CFR § 54.1808(e)(12).

hoc pass-through program integrity review on the non-responsive providers to ensure compliance with the ACP pass-through requirement. Additionally, USAC will use a data-driven approach to review these providers in additional areas for potential non-compliance (such as transfer activity and duplicate addresses) to target the sampled providers with additional ad hoc reviews. Should these providers fail to respond to USAC's requests, or a provider's response demonstrate non-compliance, the Commission will use its full range of authority to recover funds where appropriate and ensure compliance with the Commission's rules. Moreover, in response to the auditor's recommendation, the Commission's Enforcement Bureau will make an assessment based on the facts underlying the auditors' finding to determine whether enforcement action is appropriate.

The Commission's outreach from the beginning of the ACP has been successful, as evidenced by the over 22 million subscribers enrolled in the program at the end of 2023, and statutory mandates and requirements prevented earlier launch. The Audit Report's finding that the Commission took too long to set up its outreach grant program for the program ignores statutory requirements related to federal grant-making and mandated comment periods that prevented earlier launch.¹⁴ The audit also fails to account for the Commission's enormously successful promotion of the program, and its need to establish grant rules and hire grant specialists.

The Commission began its outreach grant activities in November 2021, when the Commission sought comment on the Commission's authority to provide grants to outreach partners and to use certain outreach tools.¹⁵ In light of the specific statutory and regulatory requirements related to federal grant-making, the Commission sought further comment on the Outreach Grant Program in January 2022. Relying on the record developed through these two comment periods and additional expertise gained through new hiring of grant specialists and additional research, the Commission developed rules for the ACP Outreach Grant Program, which were circulated in July 2022¹⁶ and adopted in August 2022.¹⁷ Just as the rules for the ACP Outreach Grant Program became effective, the Commission kicked off the outreach program with the first Notice of Funding and Opportunity.¹⁸

The Commission took immense efforts to promote the program and needed to establish grant requirements, hire specialists to oversee the grant program, and develop the Notices of Funding Opportunity that sets forth the specific requirements for the outreach grant program. The Audit Report does not account for these necessary and prudent efforts. As a result of that

¹⁴ See, e.g., 28 U.S.C. § 3201(e).

¹⁵ *Wireline Competition Bureau Seeks Comment on the Implementation of the Affordable Connectivity Program*, WC Docket No. 21-450, Public Notice, 36 FCC Rcd 16290, 16332, para. 110 (Nov. 2021).

¹⁶ Press Release, FCC, FCC Announces Tentative Agenda for August Open Meeting (July 15, 2022), <https://docs.fcc.gov/public/attachments/DOC-385346A1.pdf>.

¹⁷ *Affordable Connectivity Program*, WC Docket No. 21-450, Second Report and Order, 37 FCC Rcd 9928, 9929, para. 1 (2022) (*ACP Outreach Grant Order*).

¹⁸ FCC, Notice of Funding Opportunity, Affordable Connectivity Outreach Program, Funding Opportunity No. FCC-ACOGP-23-001 (Nov. 10, 2022).

https://www.fcc.gov/sites/default/files/acp_outreach_grant_program_nof.pdf.

work establishing the ACP Outreach Grant Program, there are 246 entities across four different outreach grant programs performing national and local outreach grant activities.¹⁹ Moreover, as detailed by the GAO Report, the Commission also undertook efforts during the compressed timeline for standing up the program, including the creation of outreach materials, partnering with other federal agencies to promote the program, and leveraging existing outreach partners.²⁰

By statute, ACP providers were required to participate in outreach activities,²¹ and the Commission adopted rules setting forth these requirements.²² We note that the OIG Report found that the sample of participating providers complied with this requirement by reviewing invoices, participating provider websites, and social media platforms.²³ Moreover, the report found that the “FCC followed the required procedures for providing information on the grant program to potential grantees.”²⁴

The Commission has, through its outreach grant program and paid media campaign, targeted underserved and high-poverty areas to increase enrollment for those in high-poverty areas where broadband usage is not widespread, thus satisfying the OIG Report’s recommendation. The FCC deployed diverse engagement and consumer education strategies to increase enrollment for unserved or underserved high poverty areas where broadband usage is not widespread. Strategies include the establishment of the ACP National Competitive Outreach Grant Program, the Tribal Competitive Outreach Program, the Your Home Your Internet Pilot Program, the ACP Navigator Pilot Program, and a nationwide paid and earned media public awareness campaign, as well as agency lead targeted community-level program education and enrollment efforts in high-poverty, low-enrollment urban and rural population centers – as defined by data from the U.S. Census Bureau and the ACP enrollment data published by USAC.²⁵ The FCC selected and funded outreach partners in every state and territory where the ACP Outreach Grant Program applications were submitted to maximize the ACP’s outreach and enrollment support for unserved or underserved high poverty areas and for areas where broadband usage is not widespread, and deployed a second round of funding to help increase promotion of the ACP in states and territories where funding minimums were not met in the first round of the ACP outreach grant program.²⁶ The Commission will continue to

¹⁹ *Consumer and Governmental Affairs Bureau Announces ACP Outreach Grant Program Target Funding*, WC Docket No. 21-450, Public Notice, at 3-6 (Mar. 10, 2023); see also *Consumer and Governmental Affairs Bureau Announces Second Round of ACP Outreach Grant Program Awards*, WC Docket No. 21-450, Public Notice at 3 (Aug. 17, 2023); *WCB Announces Final List of Entities Selected for ACP Pilot Programs*, DA-23-288, WC Docket No. 21-450, Public Notice at 3 (Apr. 6, 2023); and *see generally* FCC, ACP Outreach Grant Opportunities, <https://www.fcc.gov/acp-grants-opportunities> (last visited Dec. 20, 2023).

²⁰ GAO Report at 18-22.

²¹ Infrastructure Act, div. F, Title V, Sec. 60502 (b)(8) and (b)(10).

²² 47 CFR § 54.1804.

²³ OIG Audit Report at 13.

²⁴ OIG Audit Report at 14.

²⁵ USAC, ACP Enrollment and Claims Tracker, <https://www.usac.org/about/affordable-connectivity-program/acp-enrollment-and-claims-tracker/> (last visited Dec. 20, 2022).

²⁶ *Consumer and Governmental Affairs Bureau Announces Second Round of ACP Outreach Grant Program Awards*, WC Docket No. 21-450, Public Notice at 3 (Aug. 17, 2023).

refine and implement its outreach plan to ensure that it continues to focus its outreach efforts on increasing enrollment for unserved or underserved high-poverty areas.

In conclusion, the Commission and USAC believe that the actions described in this Management Response address each of the FCC OIG auditor's recommendations related to the audit period encompassing calendar year 2022. Thank you for the opportunity to review the recommendations.

Sincerely,

**MARK
STEPHENS** Digitally signed by
MARK STEPHENS
Date: 2023.12.21
16:26:44 -0500

Mark Stephens
Managing Director

APPENDIX C – KEARNEY’S EVALUATION OF MANAGEMENT’S COMMENTS

We provided a draft of this report to the Federal Communications Commission (FCC or Commission) on November 17, 2023. FCC provided a response to the findings, as seen in [Appendix B – Management’s Views on Conclusions and Findings](#). In this appendix, we present our evaluation of FCC’s response in instances where comments were inconsistent with the report’s findings. The following is Kearney & Company, P.C.’s (Kearney) response to the comments that FCC provided in regard to our *Report on the Performance Audit of the Affordable Connectivity Program for Federal Communications Commission*.

Kearney’s Response:

Findings #1-3 - FCC agreed with Kearney’s findings; however, it should be noted that some of the additional statements made by FCC relate to events that occurred outside of the scope of the audit. The activities noted by FCC were not audited and cannot be corroborated by the audit evidence obtained and reviewed by the audit team. The specific unaudited statements include:

- The Commission exceeded the participation rate target of 36.1% to 43.1% by November 2023
- The Commission exceeded the first-time internet user target of 16.8% per the July 2023 survey
- The activities of grant outreach partners and paid media consultants resulted in increased program awareness.
- Quarterly survey results to track the ease of subscribers’ application and enrollment process show the application as “very easy” or “somewhat easy” for 96.5% of respondents
- USAC increased the number of manual verification quality assurance reviews by 70%
- Additional data validation and retention policies implemented by USAC will mitigate the chance of future data losses
- Number of households affected by the data loss that are still enrolled in ACP is 300,000, representing 1.4% of currently enrolled households
- FCC ACP-related complaint data that was released on August 18, 2023 satisfies the requirements of 47 U.S. Code § 1752(b)(9)(D).

Finding #4 – Unsupported Participating Provider Affordable Connectivity Program (ACP) Claims

In its response, the FCC disagreed that five claims were unsupported as noted by the finding. Specifically, the FCC stated that the auditors did not follow Generally Accepted Government Auditing Standards (GAGAS) requirements as they relate to the handling of the non-responsive providers. While the FCC did not specify which chapter or paragraph of GAGAS in which it believes the auditor was deficient, we respectfully disagree with this statement. As specified by our engagement letter dated January 19, 2023, our audit was conducted in accordance with the performance audit standards established by GAGAS. GAGAS paragraph 8.77 states that auditors

conducting performance audits, “should determine the amount and type of evidence needed to obtain sufficient, appropriate evidence to address the audit objectives and adequately plan audit work...”

The Universal Service Administrative Company (USAC) did not obtain evidence related to provider claims prior to approving and disbursing claims as they are not required to do so per program rules. Therefore, it was necessary to obtain the evidence directly from the providers to determine if the claims were valid. At the onset of the audit, the FCC requested that the audit team coordinate the audit request process directly with the providers. This was a change from the prior year’s Emergency Broadband Benefit Program (EBBP) audit where USAC performed this function. We expressed our concerns that the requested approach could lead to delays and/or unresponsive providers. For example, the audit team does not have working relationships and points of contact at the provider entities like USAC does. FCC continued to insist that the audit team perform this role and we ultimately accommodated.

While GAGAS does not directly prescribe the methods for obtaining evidence nor the number of times the method should be deployed, paragraph 8.104 categorizes the types of evidence that can be accepted as physical, documentary or testimonial. For our tests, documentary evidence in the form of invoices, shipping records and usage records were required to assess the validity of claims. The results in our audit report reflect conclusions based on the evidence that was received.

Kearney obtained the service provider contact information from USAC, the designated ACP program administrator. We used the contact information provided by USAC to request the documentation from providers on June 16, 2023. The audit team made additional attempts to contact the providers on June 21, June 26, and July 6, 2023. We extended the deadline for providers to submit audit evidence by two weeks. We also allowed providers to submit evidence until August 1, 2023, which was our contract scheduled end of fieldwork date. Typically audit response time for audit evidence is 10 days. For this ACP audit providers were given up to 10 weeks (June 16 through August 1) and USAC/FCC had this same amount of time to provide updated/corrected contact information. Despite the due date extensions, there were two providers out of 54 that had not responded to our repeated audit requests. The samples for the two providers equated to five of the over 400 samples, representing 1.23% of samples that were selected and tested. Without evidence to support the claims, we appropriately marked the five related samples as errors. In our opinion, if there were systemic flaws with the methods that the audit team employed to communicate with the providers, there would have been far greater samples that went unfulfilled than the five out of over 400 noted in our report.

The FCC also stated that the auditor “finalized the Audit Report without allowing time to ensure with confidence that the two providers were aware of their response obligations to address the auditor’s concerns” and that “the auditors did not seek the Commission’s direct assistance in following up...” The FCC Office of Inspector General (OIG) sent an audit announcement letter to the providers on June 14, 2023. The OIG notice informed providers of the audit and stated in part that “FCC rules state that service providers shall be subject to audits... Documentation must be received within 10 business days...” In addition, we held regular meetings to keep FCC

informed of the status of the audit. Beginning with the July 6, 2023 meeting through our last weekly meeting on July 27, 2023, we provided a list of the status of each service provider's audit evidence request response. The list detailed which providers had responded to our requests and which providers had not responded to our requests and the status of follow-up questions. During these meetings, FCC management offered no remedy to the non-responding providers. As previously noted, we also reached out to USAC to obtain assistance with determining the best contact information for providers who did not respond. On September 6, 2023, the audit team provided [Finding #4](#) to FCC, and on September 7, 2023, we provided a list of all testing exceptions to management, including exceptions associated with non-responses. On September 22, 2023, FCC concurred with the finding and provided the audit team with a signed Notification of Findings and Recommendations (NFR). The FCC did not take further action nor express disagreement with the finding until the draft report was presented in November 2023. We were informed that the two non-responsive providers responded to FCC four months after the date for the end of fieldwork established in our contract. The audit team did not perform additional procedures as a result of this communication.

Given the facts presented in the preceding paragraphs, in our opinion the context of the finding as presented in the report was factual and accurate and does not warrant any report modification.

Finding #5 – FCC Outreach Efforts to Increase Program Enrollment Need Improvement

In its response, the FCC stated that the audit report failed to acknowledge the statutory requirements that are necessary prior to launching a grant program. The FCC also stated that the audit report failed to account for the “enormously successful promotion of the program, and its need to establish grant rules and hire grant specialists.” We acknowledge that FCC undertook a large and highly complex task when implementing its first ever grant program. We also acknowledge that this implementation involves extensive regulatory requirements. Our finding noted that FCC's overall efforts for outreach could have been more productive had consumer research or focus groups been conducted earlier in the process. We also noted that FCC's timeline in regard to launching the grant program limited its ability to determine the effectiveness of grant outreach and make improvements to its outreach efforts if needed. However, it should be highlighted that, 47 U.S. Code § 1752(b)(10)(C)(ii), did not require that a specific method of outreach be used. In fact, the statute lists several activities that FCC “may” carry out. Providing grants to outreach partners was one of five activities suggested. As noted in its response, FCC first had to hire grant experts and develop grant rules, prior to drafting the Notice of Funding Opportunity, each process with its own required statutory regulation. Therefore, it was important to note in our audit report that FCC's chosen outreach method, which was to issue grants, faced significant hurdles that resulted in grant awards being announced a year prior to the expected depletion of ACP funding. The hurdles prevented the FCC from effectively carrying out its requirement to encourage eligible households to enroll in the ACP as aligned with program goals. Further, FCC allocated funding for outreach grants that could have been used for other outreach methods that had a more immediate impact on enrollment goals.

In addition, because FCC did not establish baselines needed to determine program effectiveness until the summer of 2023, its statement that the outreach promotions were enormously successful could not be substantiated during the scope period of our audit.

Given the facts presented in the preceding paragraphs, in our opinion the context of the finding as presented in the report was factual and accurate and does not warrant any report modification.

APPENDIX D – STATUS OF PRIOR-YEAR RECOMMENDATIONS

Kearney & Company, P.C. (referred to as “Kearney,” “we,” and “our” in this report) followed up on the status of the recommendations reported in 21-AUD-10-01: *Fiscal Year 2021 Emergency Broadband Benefit Program (EBBP) Performance Audit*. Through the testing procedures completed, we determined the current status of the prior recommendations. Recommendation numbers (Rec. #) shown are from the respective EBBP and Affordable Connectivity Program (ACP) reports.

EBBP Notification of Findings and Recommendations (NFR) #	Report Rec. #	Recommendation	Status	ACP NFR #	Report Rec #
EBBP-21-01	1	Increase the scrutiny of the manual verification process, including implementing a multilevel review process that includes reviews of the supporting documentation in comparison to the application.	Repeat	ACP-22-02	3
EBBP-21-01	2	Using results from the Payment Integrity Program, establish controls to ensure that the self-certifications provided by the providers are validated by reviewing corroborating documentation that evidences an eligible claim before approving the payments. Examples are household eligibility proof, invoices for recurring service/connected devices, provider’s terms and conditions of service to determine there are no contradictions to program rules, and the election notice details or any other documentation that supports the claim for reimbursement.	Closed	N/A	N/A

APPENDIX E – ABBREVIATIONS AND ACRONYMS

Acronym	Definition
ACCS	Affordable Connectivity Claim System
ACP	Affordable Connectivity Program
Act	Communications Act of 1934
AFR	Agency Financial Report
APP	Agency Performance Plan
AVP	Alternative Verification Process
BPO	Business Process Outsourcing
BQP	Benefit Qualifying Person
CAP	Corrective Action Plan
CFR	Code of Federal Regulations
CGB	Consumer and Governmental Affairs Bureau
Commission	Federal Communications Commission
COVID-19	Coronavirus Disease 2019
CY	Calendar Year
EBBP	Emergency Broadband Benefit Program
ED	Department of Education
ETC	Eligible Telecommunications Carriers
FAM	Financial Audit Manual
FCC	Federal Communications Commission
FPHA	Federal Public Housing Assistance
FY	Fiscal Year
GAGAS	Generally Accepted Government Auditing Standards
GAO	Government Accountability Office
GPRAMA	Government Performance and Results Act Modernization Act of 2010
Green Book	<i>Standards for Internal Control in the Federal Government</i>
HCV	Housing Choice Voucher
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
Infrastructure Act	Infrastructure Investment and Jobs Act
Kearney	Kearney & Company, P.C.
MD&A	Management’s Discussion and Analysis
NCOP	National Competitive Outreach Program
NFR	Notification of Findings and Recommendations
NLAD	National Lifeline Accountability Database
NSLP	National School Lunch Program
NV	National Verifier
OEA	Office of Economics and Analytics
OIG	Office of Inspector General
OMB	Office of Management and Budget

Acronym	Definition
OMD	Office of Managing Director
PBRA	Project-Based Rental Assistance
PL	Public Law
QA	Quality Assurance
Rec. #	Recommendation Number
SBP	School Breakfast Program
SNAP	Supplemental Nutrition Assistance Program
SSI	Supplemental Security Income
TCOP	Tribal Competitive Outreach Program
U.S.	United States
USAC	Universal Service Administrative Company
U.S.C.	United States Code
USF	Universal Service Fund
WCB	Wireline Competition Bureau

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