

March 14, 2022

The Honorable Michael E. Horowitz  
Chair  
Pandemic Response Accountability Committee  
Council of the Inspectors General on Integrity and Efficiency  
441 G Street, NW, Suite 1517  
Washington, DC 20548

Dear Inspector General Horowitz:

Over the past two years, the COVID-19 pandemic has highlighted every American's need for broadband, which has become critical for work, education, and health care. Unfortunately, millions of Americans still lack broadband access and are unable to participate in the remote activities that so many have come to rely on. Recognizing this need, Congress created a myriad of programs across multiple agencies to support broadband affordability and deployment—most notably under the Federal Communications Commission (FCC), the Department of the Treasury (Treasury), and the National Telecommunications and Information Administration (NTIA). However, to avoid waste of taxpayer funds, it is imperative that these programs are properly administered. Therefore, I am requesting that the Pandemic Response Accountability Committee (PRAC) guide the independent Inspector General reviews necessary to ensure the federal funds allocated for broadband deployment are spent as Congress intended.

Closing the digital divide is one of my top priorities as Ranking Member of the Senate Committee on Commerce, Science, and Transportation. Congress has taken a number of steps to achieve this goal, particularly during the pandemic. The Consolidated Appropriations Act, 2021, created the Emergency Broadband Benefit (EBB) program. This program provided subsidies to low-income Americans, including those economically challenged by the pandemic, to help pay for broadband.<sup>1</sup> The Act also created a broadband infrastructure grant program at NTIA, which provided \$1 billion to support deployment on tribal lands, and \$300 million for deployments elsewhere.<sup>2</sup> Later, the American Rescue Plan Act (ARPA) provided Treasury \$350 billion in funding to distribute to state and local governments “necessary investments in ... broadband infrastructure.”<sup>3</sup> ARPA also established a \$10 billion Coronavirus Capital Projects Fund at Treasury to aid states, territories, and tribal governments to “carry out critical capital projects directly enabling work, education, and health monitoring, including remote options.”<sup>4</sup> These programs were created to augment already-

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<sup>1</sup> Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. N, tit. IX, § 904 (2020).

<sup>2</sup> Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. M, tit. IX, § 905 (2020).

<sup>3</sup> American Rescue Plan Act of 2021, H.R. 1319, tit. IX, sub. M, § 9901 (2021).

<sup>4</sup> *Id.*

existing programs, such as the FCC's Rural Digital Opportunity Fund and Lifeline programs and the U.S. Department of Agriculture's (USDA) ReConnect program.

As you have noted before the committee, “[t]he speed at which funds were disbursed [in response to the COVID-19 pandemic in 2020], and the sheer amount of money involved, put the funds at high risk of fraud and misuse, making the work of oversight entities like the PRAC and IGs essential to a successful national recovery.”<sup>5</sup> Indeed, the substantial funding provided for these programs, the process required to administer them, and the critical need to expand broadband access have created an opportunity for waste of taxpayer resources. Specifically, I am concerned that these funds could be used to overbuild existing broadband networks, duplicate existing federal investment, or provide subsidies to people who do not qualify. The federal government has struggled with similar programs in the past, in which funds were used to overbuild networks while doing little to close the digital divide.<sup>6</sup> We are already finding fraud within these new programs: the FCC's Office of Inspector General recently discovered that broadband providers have been fraudulently enrolling households in the EBB program.<sup>7</sup> This sort of fraud will continue in the absence of proper oversight. Therefore, I ask that your committee prioritize these programs to protect them against waste, fraud, and abuse. Specifically, I ask that PRAC coordinate review(s) that, at minimum, provide responses to the following questions:

1. Ensuring that funds serve unserved communities:
  - a. Are state, local, and tribal governments using money from NTIA and Treasury for broadband infrastructure funding projects in areas with existing broadband networks or enforceable commitments to build new networks? If so, where is this occurring? What is the reported rationale for duplicating funding investments in these areas?
  - b. To what extent are NTIA and Treasury monitoring state, local, and tribal governments' efforts to connect unserved households and locations?

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<sup>5</sup> *Assessing the Federal Government's COVID-19 Relief and Response Efforts and its Impact*: Hearing Before the H. Comm. on Transp. and Infrastructure, 117 Cong. (2021), <https://www.pandemicoversight.gov/media/file/statement-michael-e-horowitz-chair-pandemic-response-accountability-committee-inspector>.

<sup>6</sup> See Andy Vuong, Inside the controversial Colorado EAGLE-Net broadband project, DENVER POST (Mar. 1, 2013), <https://www.denverpost.com/2013/03/01/inside-the-controversial-colorado-eagle-net-broadband-project/> (reporting that a \$100.6 million grant awarded to Eagle-Net in Colorado resulted in overbuilding of multiple existing broadband networks, rather than expanding service in unserved areas); Eric Eyre, Inside the controversial Colorado EAGLE-Net broadband project, CHARLESTON GAZETTE-MAIL (Jan. 7, 2013), [https://www.wvgazette.com/news/special\\_reports/126m-broadband-project-a-train-wreck-delegate-says/article\\_7792fcb0-c07b-5803-9d2a-2678bc957f64.html](https://www.wvgazette.com/news/special_reports/126m-broadband-project-a-train-wreck-delegate-says/article_7792fcb0-c07b-5803-9d2a-2678bc957f64.html) (reporting that a \$126 million grant awarded to West Virginia was supposed to make fiber available to 1,064 public facilities and build a 900-mile fiber network provided fiber to only 600 sites, many of which already had fiber). See also U.S. Gov't. Accountability Office, *Report to Congressional Committees: RECOVERY ACT Further Opportunities Exist to Strengthen Oversight of Broadband Stimulus Programs*, <https://www.gao.gov/assets/gao-10-823.pdf>.

<sup>7</sup> Memorandum, Office of the Inspector Gen., Fed. Communications Commission, (Nov. 22, 2021), [https://www.fcc.gov/sites/default/files/oig\\_advisory\\_cfp\\_11222021.pdf](https://www.fcc.gov/sites/default/files/oig_advisory_cfp_11222021.pdf) (finding that NTIA “lack[ed] detailed data on the availability of broadband service throughout the country, making it difficult to determine whether a proposed service area is unserved or underserved”).

- c. What information is NTIA and Treasury receiving from state, local, and tribal governments about their broadband deployment projects?
  - d. What data sources about broadband coverage and availability were used to inform how and in what manner NTIA and Treasury distributed broadband funds to state, local, and tribal governments?
  - e. What level of coordination is occurring between FCC, Treasury, USDA, and NTIA to protect against overbuilding and duplication of funding awards?
  - f. What, if any, federal, state, or local regulatory barriers are impeding or increasing costs to broadband deployment funded by these programs?
  - g. What oversight measures are NTIA and Treasury implementing to ensure providers meet their buildout obligations?
  - h. What additional protections, if any, should Congress consider to ensure funds go to unserved communities instead of those that already have broadband?
2. Preventing waste, fraud, and abuse in the EBB program and its successor, the Affordable Connectivity Program (ACP):
- a. Are there new cases of fraud within EBB/ACP?
  - b. Has the FCC adequately addressed the fraud uncovered by the FCC OIG in November 2021?
  - c. What steps has FCC taken to confirm the eligibility of ACP recipients, and are these sufficient?
3. To what extent is PRAC planning to engage with FCC, Treasury, and NTIA on enforcement efforts for noncompliance?

Thank you for your attention to this important matter. I appreciate your prompt and urgent attention to this request.

Sincerely,

Roger F. Wicker  
Ranking Member  
Senate Committee on Commerce,  
Science, and Transportation