

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Affordable Connectivity Program
WC Docket No. 21-450

SECOND REPORT AND ORDER

Adopted: August 5, 2022

Released: August 8, 2022

By the Commission: Chairwoman Rosenworcel and Commissioners Carr and Starks issuing separate statements.

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## I. INTRODUCTION

1. In this Order, the Federal Communications Commission (Commission) establishes the Affordable Connectivity Outreach Grant Program (Outreach Grant Program), which will provide eligible partners grant funds to conduct outreach in support of the Affordable Connectivity Program (ACP).<sup>1</sup> The Infrastructure Investment and Jobs Act (Infrastructure Act) appropriated \$14.2 billion for the Affordable Connectivity Program, which provides qualifying low-income households discounts on broadband service and connected devices, and expressly authorizes the Commission to conduct outreach for the Affordable Connectivity Program, including providing grants to outreach partners.<sup>2</sup> The Commission previously allocated up to \$100 million of this budget for outreach, including an outreach grant program and outreach activities by the Commission’s Consumer and Governmental Affairs Bureau (CGB) as authorized in the Infrastructure Act, to be spent over five years.<sup>3</sup>

2. The Affordable Connectivity Program plays an integral role in helping to bridge the digital divide, which is an ongoing top priority for Congress and the Commission.<sup>4</sup> To date, over 12 million low-income households participate in the Affordable Connectivity Program. However, a significant number of qualifying households have not yet enrolled in the Affordable Connectivity Program.<sup>5</sup> The Commission previously recognized in the *ACP Order* that to achieve the program’s full

<sup>1</sup> While this Report and Order establishes and provides a framework for the Affordable Connectivity Outreach Grant Program, consistent with federal grant regulations, a Notice of Funding Opportunity is required to initiate the application process for the Outreach Grant Program. One or more such Notices will provide additional information on eligible entities, expenses and activities, and program requirements and application process. See 2 CFR § 200.204.

<sup>2</sup> 47 U.S.C § 1752(b)(10)(C) (detailing outreach authority including grant authority); Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (2021). The \$14.2 billion appropriation is not codified in the U.S. Code and can be found in in Division J, Appropriations, Title IV – Financial Services and General Government of the Infrastructure Act.

<sup>3</sup> *Affordable Connectivity Program, Emergency Broadband Benefit Program*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 21-450, 20-445, at 90, para. 193 (2022) (*ACP Further Notice* or *ACP Order*).

<sup>4</sup> See Digital Equity Act of 2021, 47 U.S.C. §§ 1722(1)(A)-(B), and 1722(5) (stating it is the sense of Congress that “a broadband connection and digital literacy are increasingly critical to how individuals (A) participate in society, economy and civic institutions of the United States;” and “(B) access health care and essential services, obtain education, and build careers” and “achieving digital equity is a matter of social and economic justice and is worth pursuing.”); *ACP Order* at 98, para. 211 (“Narrowing the digital divide has been an ongoing priority for the Commission....”).

<sup>5</sup> Theodora Soter, Broadband Breakfast, *Reaching Households ‘Biggest Challenge’ of Affordable Connectivity Program*, Rosenworcel Says (Feb. 22, 2022), <https://broadbandbreakfast.com/2022/02/reaching-households-biggest-challenge-of-affordable-connectivity-program/> (“[A]ctivists agreed that more outreach needs to be done to raise

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potential and reach as many eligible households as possible, households must be clearly informed of the program’s existence, benefits, and eligibility qualifications, and how to apply.<sup>6</sup> Through this Outreach Grant Program, we seek to enlist partners around the country to help inform ACP-eligible households about the program in their local communities, and to provide those partners with the funding and resources needed to increase participation among those Americans most in need of affordable connectivity.

## II. BACKGROUND

3. Millions of low-income households experience difficulty paying for broadband service needed to participate in 21<sup>st</sup> Century society, including for work, education, healthcare, and civic engagement.<sup>7</sup> Therefore, addressing affordability is a critical component of closing the digital divide. On November 15, 2021, the Infrastructure Act was enacted, providing \$14.2 billion for the Affordable Connectivity Program, which is the successor program to the Emergency Broadband Benefit Program (EBB Program).<sup>8</sup> The Affordable Connectivity Program plays an integral role in addressing affordability barriers to broadband access and adoption by providing qualifying low-income households with a monthly discount of up to \$30 a month (or up to \$75 for households residing on qualifying Tribal lands)

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 a awareness about the program.”); Broadband Breakfast, Justin Perkins, *Families Need Outreach, More Time to Enroll in Affordable Connectivity Program* (Jan. 27, 2022) (“But to get closer to closing the digital divide using such subsidies, better outreach is needed.”); Gabriella Novello, *ACP Grant Details to Come this Summer: Rosenworcel*, Comm. Daily (June 14, 2022) (“White House Domestic Policy Council Director Susan Rice: ‘Millions of Americans are eligible for this benefit, but most don’t know anything about it.’”); USC Annenberg School for Communications and Journalism, *A Roadmap for Affordable Broadband: Lessons from the Emergency Broadband Benefit* at 9-10 (Jan 2022), available at <https://arnicusc.org/wp-content/uploads/2022/02/Policy-Brief-final.pdf> (stating that uptake in the EBB Program “fell significantly below expectations” and that “findings of this study suggest there is significant room to improve program targeting and outreach efforts, as well as to facilitate enrollment procedures for key groups of potential beneficiaries.”). See also, e.g., EducationSuperHighway Comments at 5, 8 (stating “[m]ost unconnected households are unaware of the broadband adoption subsidy and how it can help them get connected” and “[w]e estimate that 5% or less of the individuals we engaged with had prior knowledge of the Affordable Connectivity Program”); TruConnect Comments at 2 (stating that ACP participation “is not as good as it could or should be”); Common Sense Comments at 2-3 (discussing the lack of awareness of the Affordable Connectivity Program among eligible households); City of Los Angeles Reply Comments at 1 (discussing the ACP participation rate).

<sup>6</sup> *ACP Order* at 88, para. 190.

<sup>7</sup> See, e.g., EducationSuperHighway, *No Home Left Offline, Bridging the Broadband Affordability Gap* at 5-6 <https://www.educationsuperhighway.org/no-home-left-offline/> (2021) (estimating that 18 million households (47 million people) are offline because they are unable to afford broadband); Gabriella Novello, *ACP Grant Details to Come this Summer: Rosenworcel*, Comm. Daily (June 14, 2022) (“The ‘vast majority’ of people that don’t have internet service can’t afford it, said National Urban League Senior Vice President-Policy and Advocacy Joi Chaney.”); Emily A. Vogels, *Digital Divide Persists Even as Lower Income Americans Make Gains in Tech Adoption*, Pew Research Trust (June 22, 2021), <https://www.pewresearch.org/fact-tank/2021/06/22/digital-divide-persists-even-as-americans-with-lower-incomes-make-gains-in-tech-adoption/> (stating that 13% of low-income households with incomes below \$30,000 do not have access to home broadband services, a smartphone, a desktop or laptop computer and a tablet).

<sup>8</sup> The Emergency Broadband Benefit Program (EBB Program) was a \$3.2 billion program established pursuant to the Consolidated Appropriations Act of 2021, on December 27, 2020, to provide discounted broadband service to low-income households, including those experiencing economic disruption related to the COVID-19 pandemic. See generally *ACP Order* at 3, para. 3. The EBB Program launched on May 12, 2021. *ACP Order* at 3, para. 3. Consistent with the Infrastructure Act, the EBB Program ended and the Affordable Connectivity Program commenced on December 31, 2021. *ACP Order* at 4, para. 6.

for broadband services, and a one-time \$100 discount on a connected device (tablet, laptop, or computer) with a co-pay of at least \$10 but no more than \$50.<sup>9</sup>

4. As of August 4, 2022, 1550 broadband providers<sup>10</sup> participated in the Affordable Connectivity Program, and over 12 million households are enrolled in the Affordable Connectivity Program. However, a large number of qualifying households have not yet enrolled in the program. Therefore, extensive outreach by a wide range of outreach partners is needed to help maximize the potential impact of the Affordable Connectivity Program. Recognizing the importance of outreach to eligible households, Congress expressly authorized the Commission to conduct outreach to encourage households to enroll in the Affordable Connectivity Program, including facilitating consumer research, conducting focus groups, engaging in paid media campaigns, and providing grants to governmental and non-governmental outreach partners.<sup>11</sup> In addition, Congress directed the Commission to coordinate with other federal agencies to ensure that households participating in eligible programs are aware of the Affordable Connectivity Program.<sup>12</sup> The Infrastructure Act and ACP rules also require participating service providers to notify their broadband subscribers about the Affordable Connectivity Program and to engage in public awareness campaigns about the program in collaboration with state agencies, public interest groups, and non-profit organizations.<sup>13</sup> The ACP rules also require participating providers to advertise the program in a manner reasonably designed to reach those consumers likely to qualify and in a manner that is accessible to individuals with disabilities.<sup>14</sup>

5. Since the inception of the Affordable Connectivity Program, Commission staff has engaged in extensive ACP outreach, including numerous speaking engagements and enrollment events, and has also coordinated with and continues to seek out opportunities to coordinate with other federal agencies, including the Department of Education, the Department of Housing and Urban Development (HUD), and the Social Security Administration, on ACP outreach to eligible households participating in qualifying government assistance programs.<sup>15</sup> Commission staff and the Universal Service Administrative Company (USAC or ACP Administrator), under Commission oversight, have also developed ACP outreach toolkits for outreach partners to use.<sup>16</sup>

6. There is widespread support and no opposition in the record for the Commission to establish an outreach grant program to provide funding to eligible outreach partners.<sup>17</sup> Many commenters

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<sup>9</sup> 47 CFR § 54.1803(a)-(b). The Commission also has sought comment on extending the enhanced discount to qualifying consumers in high-cost areas. See *ACP Further Notice* at 129, paras. 287-293.

<sup>10</sup> See FCC Website, Affordable Connectivity Program Providers <https://www.fcc.gov/affordable-connectivity-program-providers> (data last updated July 28, 2022).

<sup>11</sup> 47 U.S.C. § 1752(b)(10)(C)(ii)(I)-(IV).

<sup>12</sup> 47 U.S.C. § 1752(b)(10)(B).

<sup>13</sup> 47 U.S.C. § 1752(b)(10)(A); 47 CFR § 54.1804(b)-(c).

<sup>14</sup> 47 CFR § 54.1804(a)-(d); *ACP Order* at 95, para. 205.

<sup>15</sup> See, e.g., FCC Press Release, FCC Hosts Virtual Event Enrollment Tour to Promote Affordable Connectivity Program (Mar. 3, 2022), <https://www.fcc.gov/document/fcc-virtual-event-tour-affordable-connectivity-program-enrollment>. As explained in the *ACP Order*, the Commission also conducted substantial outreach for the EBB Program. See *ACP Order* at 91, para. 194.

<sup>16</sup> See FCC Website, ACP Consumer Outreach Toolkit, <https://www.fcc.gov/acp-consumer-outreach-toolkit>; USAC Website, Community Resources, <https://www.affordableconnectivity.gov/community-resources/>; USAC Website, Dear Tribal Leaders Letter for ACP, [https://www.usac.org/wp-content/uploads/about/documents/tribal-nations/Dear-Tribal-Leader-Letters/Celebrating\\_National\\_Native\\_American\\_Heritage\\_Month\\_11-25-2020.pdf](https://www.usac.org/wp-content/uploads/about/documents/tribal-nations/Dear-Tribal-Leader-Letters/Celebrating_National_Native_American_Heritage_Month_11-25-2020.pdf).

<sup>17</sup> See, e.g., Local Initiatives Support Corporation (LISC) Reply Comments at 2; U.S. Chamber of Commerce Reply Comments at 1; USTelecom Reply Comments at 2; National Association of Telecommunications Officers and Advisors (NATOA) Reply Comments at 1; National Lifeline Association (NaLA) Comments at 4; Common Sense

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stress the need for effective outreach conducted by these trusted entities, which are familiar with the communities they serve.<sup>18</sup> However, for many of these entities, budget constraints limit the extent of ACP outreach they can perform without additional financial support.<sup>19</sup> State and local governments, Tribal governments, community anchor institutions (e.g., healthcare providers, healthcare organizations, and libraries), community-based organizations, including faith-based organizations, and other partners, many of whom have close ties to eligible populations, also play a pivotal role in conducting outreach to eligible households concerning the Affordable Connectivity Program, and its predecessor, the EBB Program.<sup>20</sup> Given the need to increase awareness of and encourage eligible households to enroll in the

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Media Comments at 1; Mississippi Center for Justice (MCJ) Reply Comments at 1; City of Los Angeles Reply Comments at 1; Cities of Boston, Massachusetts, and Chicago, Illinois et al. (Local Governments) Reply Comments at 1; National Urban League (NUL) Comments at 1; National Digital Inclusion Alliance (NDIA) Comments at 1. *See also ACP Further Notice* at 124, para. 273 & n.744 (discussing record support for the establishment of an outreach grant program).

<sup>18</sup> *See, e.g.*, NDIA Comments at 4 (“ACP outreach is most effective when conducted by trusted, community-based organizations who are very familiar with the communities they serve.”); Tru Connect Comments at 2-3 (stating that outreach grants to long-standing participants in programs serving low-income Americans “are a key solution to the low ACP participation rate”); USTelecom Reply Comments at 2 (same); NATOA Reply Comments at 2 (discussing the role of local governments in efforts to close the digital divide and stating that the record shows that trusted community members are “most likely to successfully reach ACP-eligible communities”); American Association of Service Coordinators Reply Comments at 2 (stating that “service coordinators are trusted leaders in their communities” and “play a key role in the transition to and ongoing success of ACP”). *See also* FCC, Affordable Connectivity Program Fact Sheet at 2, *available at* [https://www.fcc.gov/sites/default/files/acp\\_fact\\_sheet\\_3\\_final.pdf](https://www.fcc.gov/sites/default/files/acp_fact_sheet_3_final.pdf) (“The agency understands that local, trusted community voices are often the best positioned to encourage enrollment in government benefit programs, like the ACP.”); USC Annenberg School for Communications and Journalism, *A Roadmap for Affordable Broadband: Lessons from the Emergency Broadband Benefit* at 9-10 (Jan 2022), *available at* <https://arnicusc.org/wp-content/uploads/2022/02/Policy-Brief-final.pdf> (“Previous research also indicates that targeted outreach efforts are likely to be more effective if channeled through organizations with strong local community ties (such as schools and senior centers), and that these organizations can also play a key role by offering technical support for onboarding those with limited digital literacy.”).

<sup>19</sup> *See, e.g.*, NATOA Reply Comments at 2 (describing local government conducted outreach for the EBB Program and stating that “[w]hile some will continue to promote the ACP without needing or requesting financial assistance, many local governments do not have the resources to provide or continue to provide effective outreach”); City of Los Angeles Reply Comments at 2 (asserting that “smaller organizations are already budget and capacity constrained with existing programs”). *See also*, Mari Curi, Bloomberg Law, *Broadband Subsidy Program Sign-Ups Lag Amid Lack of Outreach Funds* (Sept. 23, 2021), <https://news.bloomberglaw.com/tech-and-telecom-law/broadband-subsidy-program-sign-ups-lag-amid-lack-of-outreach-funds> (discussing the importance and effectiveness of non-profits and local organizations in conducting outreach to low-income households and noting “many FCC partners are already operating with small budgets”). National Hispanic Media Coalition explains that for the EBB Program, it conducted outreach that “was innovative and successful in its performance and utilization of the resources available to NHMC at the time,” but it could have reached far more people had resources like those of the Outreach Grant Program been available. National Hispanic Media Coalition (NHMC) Comments at 2.

<sup>20</sup> *See, e.g.*, Smriti Jacob, *Outreach Effort Boosts Broadband Affordability Program*, Rochester Beacon (Mar. 29, 2022) (explaining that through a state outreach initiative “more than 100,000 additional New York households have signed up for a benefit that makes broadband affordable in the form of a monthly subsidy”), *available at* <https://rochesterbeacon.com/2022/03/29/outreach-effort-boosts-broadband-affordability-program/>; New York Public Service Commission Comments at 2 (describing the New York Public Service Commission’s leadership of a multi-agency ACP outreach campaign); American Association of Service Coordinators Reply Comments at 2 (explaining that “service coordinators have played an integral role in educating low-income Americans about the former Emergency Broadband Benefit Program and enrolling them for the new ACP program”); FCC, Affordable Connectivity Program Fact Sheet at 2, *available at* [https://www.fcc.gov/sites/default/files/acp\\_fact\\_sheet\\_3\\_final.pdf](https://www.fcc.gov/sites/default/files/acp_fact_sheet_3_final.pdf) (stating that the FCC developed more than 35,000 outreach partners in support of the Emergency Broadband Benefit Program).

Affordable Connectivity Program, today we establish the Outreach Grant Program, and direct CGB to take the additional steps needed to develop, administer, and manage the Outreach Grant Program.

### III. DISCUSSION

7. In this Report and Order, we discuss the goal and objectives of the Outreach Grant Program; provide examples of the types of outreach activities and expenses that may be considered for funding and types of eligible entities; allocate funding set-asides for specific types of grantees; establish important safeguards to promote program integrity and guard against potential waste, fraud and abuse; adopt and implement regulations pertaining to grants in Title 2, Subtitle B and Title 47 of the Code of Federal Regulations; direct CGB, in coordination with OGC and OMD as appropriate, to develop, manage, and administer the Outreach Grant Program; provide guidance and regulatory requirements for the framework for the Outreach Grant Program; and address other requirements and administrative aspects of the Outreach Grant Program. While this Order provides the necessary structure and guidelines for the Outreach Grant Program, consistent with our authority under applicable federal statutes and regulations, additional details on specific grant program requirements and the application process will be provided in one or more Notices of Funding Opportunity (NOFOs) to be subsequently issued to solicit grant applications, in the awards to individual eligible grantees, and in orders and/or public notices issued by CGB in coordination with OMD, WCB, and OGC, as appropriate.<sup>21</sup>

8. The *ACP Further Notice* explained that a number of federal statutes and regulations govern federal grant programs, including Title 2 CFR Parts 25,<sup>22</sup> 170,<sup>23</sup> 175,<sup>24</sup> 180,<sup>25</sup> 182,<sup>26</sup> and 200,<sup>27</sup>

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<sup>21</sup> As described in more detail in para. 58, *infra*, we recognize the advantages of a model in which grant subrecipients (or subgrantees) are utilized and authorize CGB to consider such a model where appropriate. Further, unless otherwise specified, our discussion of “grantees” in this Order includes subrecipients.

<sup>22</sup> Part 25, *Universal Identifier and System for Award Management*, provides for establishment of a unique entity identifier as a universal identifier for Federal financial assistance applicants, as well as recipients and their direct subrecipients, as required by the Federal Funding Accountability and Transparency Act (FFATA) and establishes the System for Award Management (SAM) as the repository for standard information about applicants and recipients. Part 25 places obligations on federal agencies and allows the agency to implement its notification obligations through – (1) each notice of funding opportunity, (2) regulation, or (3) other issuance containing instructions for applicants. 2 CFR Part 25. The requirements of 2 CFR Part 25 will be implemented in any NOFOs issued for this grant program. 2 CFR § 25.200(a), and are discussed in greater detail in para. 65. *Infra*. paras. 64-65. We note that the Commission has applied Part 25 requirements including SAM registration on our new programs. *See, e.g., ACP Order* at para 25.

<sup>23</sup> Part 170, *Reporting Subaward and Executive Compensation Information*, provides guidance to Federal awarding agencies on reporting Federal awards to establish requirements for recipients’ reporting of executive compensation information and information on subawards as required by the FFATA. Part 170 places obligations on federal agencies including notification requirements and allows the agencies to implement the notification requirements through – (1) each notice of funding opportunity, (2) regulation, or (3) other issuance containing instructions for applicants. 2 CFR Part 170. The requirements of 2 CFR Part 170 will be implemented in any NOFOs issued for this grant program. 2 CFR § 170.210. We also mention their applicability in conjunction with our discussion of SAM registration in para. 65 below.

<sup>24</sup> Part 175 establishes a Governmentwide award term for grants and cooperative agreements to implement the requirement in paragraph (g) of section 106 of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)). 2 CFR Part 175. The requirements of 2 CFR Part 175 will be implemented in any applicable awards issued by CGB to “private entities.” 2 CFR §§ 175.5, 175.10.

<sup>25</sup> Part 180 establishes a governmentwide debarment and suspension system for agency non-procurement programs and activities, which may be adopted by federal government agencies for programs they designate, along with modifications, as appropriate. 2 CFR Part 180. As noted above in the *Report and Order*, in a separate rulemaking proceeding (Docket No. GN 19-309), the Commission is considering whether to adopt this system for its programs, including the USF and TRS programs, as well as the National Deaf-Blind Equipment Distribution Program. *ACP Order* at 111, para. 237. As proposed in the *ACP Further Notice*, we will extend any suspension and debarment

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and that appropriations riders<sup>28</sup> may also impose additional conditions on federal grant programs.<sup>29</sup> Commenters did not specifically comment on the implementation of these provisions. Accordingly, the Outreach Grant Program will be structured in accordance with these regulations and any applicable statutes and federal grant program conditions in appropriations riders.<sup>30</sup> To fully implement the requirements of 2 CFR Parts 25, 170, 175, 182 and 200 and any other non-self-executing requirements in 2 CFR (and other government-wide statutes and regulations applicable to grants and other awards of federal financial assistance), we grant CGB, in coordination with WCB, OGC, and OMD as appropriate, authority to adopt policies and procedures regarding such requirements through inclusion in the NOFO, inclusion in the terms and conditions of each grant, adoption, modification, and/or clarification of regulations, issuance of orders or public notices on delegated authority, and/or through publicly available instructions provided to applicants and/or grantees.

9. The Outreach Grant Program will provide funding to support eligible partners in their outreach efforts to increase awareness of the Affordable Connectivity Program among eligible

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rules that may be adopted in that proceeding (when finalized) to the Outreach Grant Program to prevent waste, fraud, and abuse. *ACP Further Notice* at 127, para. 280 & n.759; *Wireline Competition Bureau Seeks Comment on the Implementation of the Affordable Connectivity Program*, WC Docket No. 21-450, Public Notice, DA 21-1453, at 50, para. 131 (WCB Nov. 18, 2021); *infra* para. 42.

<sup>26</sup> Part 182, *Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)*, provides guidance to agencies on the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 701-707, as amended) that applies to grants. 2 CFR Part 182. We will implement the requirements of 2 CFR Part 182 (Subparts A through F) through adoption of regulations in Subtitle B, 2 CFR. 2 CFR § 182.20. We delegate authority to CGB to adopt and effectuate publication of such regulations in Subtitle B, 2 CFR, and to make any subsequent modifications or clarifications to those regulations if and/or when necessary. In addition, we grant CGB, in coordination with WCB, OGC, and OMD as appropriate, authority to adopt policies and procedures regarding the requirements of 2 CFR Part 182 and/or the relevant portions of the Drug-Free Workplace Act through inclusion in the NOFO, inclusion in the terms and conditions of each grant, adoption of a regulation, issuance of orders or public notices on delegated authority, and/or through publicly available instructions provided to applicants and/or grantees.

<sup>27</sup> See 2 CFR §§ 200.100(a)(1), 200.1 (Part 2 establishes uniform requirements for Federal awards of financial assistance to non-Federal entities, which includes grants); see generally *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (also known as the Uniform Guidance) at 2 CFR Part 200. Part 200 consolidated numerous Office of Management and Budget Circulars pertaining to grants management. In its present form, Part 200 is organized into five subparts with each designated as having distinct authority and 12 appendices. 2 CFR § 200.103 (listing the statutory authority for each Subpart). Federal agencies making Federal awards to non-Federal entities must implement the language in subparts C through F of this part in codified regulations unless different provisions are required by Federal statute or are approved by OMB. 2 CFR § 200.106 (Agency implementation). Subpart A, Acronyms and Definitions (§§ 200.0 - 200.99) provides definitions used in the remaining Subparts. Subpart B, General Provisions (§§ 200.100 - 200.113) explains how Part 200 functions. Grants.gov provides helpful information regarding federal government grant programs and related overarching statutory and regulatory policies. We implement the requirements of 2 CFR Part 200 through adoption of a regulation in Subtitle B of 2 CFR. 2 CFR § 200.106; see also *infra* Rules Appendix.

<sup>28</sup> See, e.g., Division E—Financial Services and General Government Appropriations Act, 2021, Consolidated Appropriations Act, 2021, Public Law No: 116-260 (12/27/2020), Sections 724 (relating to implementation of part 200 of title 2, CFR); 738 (limitations on defraying conference expenses), 742 (limitations on the use of confidentiality agreements that prohibit the reporting of waste, fraud or abuse), 743 (limitation on awarding grants to entities with unpaid Federal tax liability) and 744 (limiting award of grants to entities that have been convicted of a felony criminal violation under any Federal law within the preceding 24 months).

<sup>29</sup> See *ACP Further Notice* at 126, para. 280.

<sup>30</sup> See *infra* para. 51 (adopting and implementing OMB Guidance in 2 CFR Part 200). See also *supra* note 26 (directing CFB to 2 CFR Part 182 and relevant provisions of the Drug-Free Workplace Act) and notes. 22-24 (applying 2 CFR Part 25, Part 170, and Part 175 to the Outreach Grant Program).

households, and to encourage eligible households to participate in the Affordable Connectivity Program. The record, in particular, supports ACP outreach to diverse populations.<sup>31</sup> For purposes of the Outreach Grant Program, diverse populations include people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality.<sup>32</sup>

10. Federal grant regulations require federal awarding agencies to incorporate into their grant programs “clear goals and objectives that facilitate the delivery of meaningful results consistent with the Federal authorizing legislation of the program.”<sup>33</sup> Federal grant regulations also require that the program design “align with the strategic goals and objectives within the Federal awarding agency’s performance plan and should support the Federal awarding agency’s performance measurement, management, and reporting as required by Part 6 of OMB Circular A-11” and “align with the Program Management Improvement Accountability Act (Pub. L. 114-264).”<sup>34</sup>

11. The *ACP Further Notice* sought comment on the goal of the Outreach Grant Program.<sup>35</sup> Pursuant to our Congressional authorization to conduct ACP outreach,<sup>36</sup> we establish an Outreach Grant Program goal and related objectives to be consistent with the goals of the Affordable Connectivity Program, to reduce the digital divide and to promote awareness of and participation in the Affordable Connectivity Program,<sup>37</sup> and the Commission’s overall strategic goals and objectives that support bringing affordable broadband to low-income households.<sup>38</sup>

12. We adopt 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. This goal is sound, supported by the record,<sup>39</sup> and can be measured with appropriate data collected from grantees and ACP program data.<sup>40</sup> Additionally, progress towards this goal advances the goals of the Affordable Connectivity Program to “promote awareness and participation in the Affordable Connectivity Program,” and to “reduce the digital divide for low-income consumers.”<sup>41</sup> It also advances the Commission’s overall strategic goals and objectives of facilitating access to and adoption of broadband internet by underserved, underrepresented, and low-income households.<sup>42</sup> To meet this

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<sup>31</sup> See, e.g., Benefits Data Trust (BDT) Comments at 13 (recommending the FCC include “promoting equity especially concerning historically marginalized and underserved communities, as a goal for the ACP outreach grant program”); EducationSuperHighway Comments at 7 (suggesting that awarding grants to diverse range of organizations serving diverse populations would increase awareness and enrollment in ACP).

<sup>32</sup> *ACP Further Notice* at 123, para. 271 (defining Outreach Grant Program target populations).

<sup>33</sup> 2 CFR § 200.202.

<sup>34</sup> 2 CFR § 200.202. OMB Circular A-11 was most recently updated in August of 2021.

<sup>35</sup> *ACP Further Notice* at 126, para. 279.

<sup>36</sup> 47 U.S.C. § 1752(b)(10)(C)(ii)(IV).

<sup>37</sup> See *ACP Order* at 98, paras. 210-213. The *ACP Order* also established a third goal of ensuring efficient and effective administration of the Affordable Connectivity Program. *Id.* at 98, para. 213.

<sup>38</sup> See *FCC Strategic Goals Plan* at 72-75.

<sup>39</sup> See, e.g., EducationSuperHighway Comments at 7 (acknowledging that the underlying goal of the Outreach Grant Program is to increase Affordable Connectivity Program enrollments); NHMC Comments at 3-4 (suggesting that equity and increasing enrollment should be priorities of the Outreach Grant Program).

<sup>40</sup> See California Emerging Technology Fund (CETF) Comments at 2-3 (supporting FCC efforts to increase awareness of ACP among eligible populations); EveryoneOn Comments at 1-2 (noting importance of outreach in increasing awareness of ACP among eligible populations).

<sup>41</sup> *ACP Order* at 98, para 210.

<sup>42</sup> See *FCC Strategic Goals Plan* at 75.



Outreach Grant Program goal, we will provide funding to outreach partners to engage in targeted outreach to low-income and diverse households nationwide both to gauge existing levels of ACP awareness and to promote increased awareness of and participation in the program by eligible households.

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<sup>43</sup> and are also consistent with the record and in alignment with the Commission's strategic goals and objectives identified above.

14. The first objective – expanding and supporting diverse and impactful outreach efforts nationwide – implements the Commission's strategic goals of facilitating access to and adoption of affordable broadband internet service and promoting affordable access to reliable broadband networks by diverse populations in underserved areas including rural, high-cost, and insular areas.<sup>44</sup> This objective is also supported by the record—many commenters highlight the need for ACP outreach, and, in particular, for outreach to diverse and underserved groups across diverse geographic regions.<sup>45</sup> To accomplish this objective, the Outreach Grant Program will use eligibility criteria that encourage program participation by entities that are capable of meeting the goal of the program and will provide funding to support ACP outreach by a broad range of eligible outreach partners.

15. The second objective – strengthen outreach partners – also implements the Commission's strategic goal of increasing broadband adoption and access and the strategic objective of communicating information about FCC programs and policies to help increase adoption of affordable broadband.<sup>46</sup> It further implements the goals of the Affordable Connectivity Program to promote awareness of and participation in the Affordable Connectivity Program for eligible households.<sup>47</sup> To accomplish this objective, the Outreach Grant Program will provide funding for outreach and will also provide prospective applicants technical assistance on the Outreach Grant Program application requirements and Outreach Grant Program rules and requirements and provide grantees with programmatic training and standardized outreach materials.

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<sup>43</sup> 47 U.S.C § 1752(b)(10)(C)(ii)(IV).

<sup>44</sup> See *FCC Strategic Goals Plan* at 75.

<sup>45</sup> See BDT Comments at 12 (“The Commission should consider awarding funds to applicants from a range of organization types and sizes and ensuring diversity in geographic areas”); CETF Comments at 10 (suggesting that the Outreach Grant Program “cast a wide net” to reach diverse populations); Healthcare Leadership Council Comments at 2 (suggesting that the FCC ensure that outreach efforts are targeted to areas traditionally lacking broadband connectivity); Michigan Public Service Commission (MPSC) Comments at 4-5 (stating that “reaching communities that are most impacted by the digital divide... could help maximize the success of the program”); NDIA Comments at 8 (asserting that “ensuring diversity in geographic areas and intended outreach populations will best serve the underlying goal of increasing enrollment in the ACP”); Letter from Ryan Johnston, Policy Counsel, Next Century Cities, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-450, at 2 (filed Mar. 3, 2022) (Next Century Cities *ex parte*) (emphasizing importance of geographic diversity in grantee selection).

<sup>46</sup> See *FCC Strategic Goals Plan* at 75.

<sup>47</sup> See *ACP Order* at 98, paras. 210-213.

16. Our third objective under the Outreach Grant Program – increasing enrollment in the Affordable Connectivity Program by qualifying underrepresented, underserved, and low-income households – implements the Commission’s strategic objectives of facilitating access to and adoption of broadband internet service, including by low-income and underserved populations,<sup>48</sup> and the Affordable Connectivity Program’s goal of reducing the digital divide.<sup>49</sup> The Outreach Grant Program can facilitate universal access to affordable broadband internet service by raising awareness of and encouraging participation in the Affordable Connectivity Program among eligible households. To accomplish this objective, the Outreach Grant Program will provide funding to facilitate outreach by eligible partners and will encourage participation of partners who are capable of reaching underrepresented, underserved, and low-income households and helping them to enroll in the Affordable Connectivity Program.

17. Consistent with federal grant regulations, and the delegations of authority in this Order, we direct CGB, in consultation with the Wireline Competition Bureau (WCB) and the Office of Economics and Analytics (OEA), to develop meaningful performance measures to evaluate progress towards this goal and to collect the necessary information from grant recipients, subrecipients, and USAC to measure progress towards this goal. Further we instruct CGB, WCB, and USAC to explore whether and how outreach activities could be linked to specific enrollments, which could help measure the success of specific outreach efforts.<sup>50</sup> We will use data collected as part of the Outreach Grant Program as an indicator to measure Affordable Connectivity Program awareness among eligible households, which will be necessary to monitor progress toward the goal established in this Order.<sup>51</sup> Accordingly, we direct CGB, in coordination with OEA and WCB, to use the data collected from grant recipients, which may include consumer surveys, research efforts, and feedback sought from “our state, community and non-profit partners helping to educate consumers on the [ACP] application process” to measure progress toward the goal we have established for the Outreach Grant Program.<sup>52</sup>

#### A. Fundable Outreach Activities and Expenses

18. In authorizing the Commission to conduct outreach, Congress recognized that multiple forms of outreach are appropriate to ensure that eligible households are aware of and encouraged to participate in the Affordable Connectivity Program.<sup>53</sup> However, the Infrastructure Act does not specify the types of outreach activities that are fundable through the Outreach Grant Program.<sup>54</sup> Accordingly, in the *ACP Further Notice*, the Commission sought comment on the types of outreach activities that should be eligible for outreach grant funds,<sup>55</sup> and we now provide examples of the types of outreach activities that may be funded through authorized grants. Any NOFO issued for the Outreach Grant Program will provide further guidance on allowable activities and costs consistent with the goal and objectives of the Outreach Grant Program and the applicable authority under federal statutes and regulations governing federal grant programs.

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<sup>48</sup> See *FCC Strategic Goals* at 75.

<sup>49</sup> See *ACP Order* at 98, paras. 210-213.

<sup>50</sup> In the Outreach Grant Program, like with the Affordable Connectivity Program, USAC will assist the Commission in collecting and helping track program performance metrics. See *id.* (directing USAC to assist Commission in tracking program performance measures including ACP enrollment and subscriber awareness).

<sup>51</sup> See *ACP Order* at 98, paras. 210-213

<sup>52</sup> See *id.* 98, para. 213.

<sup>53</sup> See 47 U.S.C. § 1752(b)(10)(C)(ii)(I)-(V).

<sup>54</sup> See 47 U.S.C. § 1752(b)(10)(C)(ii)(IV).

<sup>55</sup> *ACP Further Notice* at 124, para. 275.

## 1. Types of Allowable Outreach Activities

19. Based on our careful review of the record, and CGB's own outreach experience, we find that a wide range of activities including, but not limited to, in-person events, literature campaigns, digital campaigns, and paid media campaigns could provide meaningful, effective Affordable Connectivity Program outreach tailored to targeted communities.<sup>56</sup> Accordingly, in this Order we do not prescribe a comprehensive list of fundable outreach activities for the Outreach Grant Program. Instead, we more broadly direct that all grant-funded outreach activities must be designed to support the stated goal and one or more of the stated objectives of the Outreach Grant Program. Further information will be provided as part of any NOFO issued by CGB. Consistent with the delegations of authority in this Order, we direct CGB to determine whether certain types of outreach activities should be prioritized based on a reasoned evaluation of which outreach activities will best meet the Outreach Grant Program goal and objectives, except as otherwise directed herein.

20. The record supports funding a wide range of outreach activities to ensure that grant program participants have the flexibility to tailor outreach to the specific community they are targeting.<sup>57</sup> For example, Common Sense urges the Commission to give grantees flexibility to use a variety of approaches because "no single outreach method will be appropriate for all communities" given that the digital divide impacts a diverse range of communities that are geographically distinct, use a variety of languages and communication media, trust different organizations, and have varying levels of technological fluency.<sup>58</sup> Alaska Federation of Natives (AFN) recommends that the Commission give grantees "maximum flexibility to conduct outreach activities including television and radio, social media, local newspapers (still common in rural communities), or community events" to accommodate the needs of and most effective methods of reaching out to different communities.<sup>59</sup> Similarly, the San Diego Association of Governments (SANDAG) states that "[c]ommunity-focused outreach and engagement strategies are highly dependent on a community's political, social, and economic conditions" and recommends that the Commission "should provide the flexibility for grantees to design community outreach and engagement based on localized community needs."<sup>60</sup> We agree that funding a wide range of outreach activities through the Outreach Grant Program would best provide grantees flexibility to conduct outreach tailored to the specific community they are targeting and allow us to direct funding in a manner that optimizes our ability to meet the program goal and objectives.

21. Examples of the types of activities that commenters ask the Commission to fund through the grant program include, but are not limited to, in-person and virtual outreach events and campaigns, text messaging, phone banking, social media campaigns, literature campaigns, and paid media campaigns. Specifically, the National Hispanic Media Coalition (NHMC) recommends that the Commission "prioritize investment in trusted messengers, culturally-relevant programming, and in-language materials."<sup>61</sup> Based on its experience implementing other federally funded outreach campaigns, the

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<sup>56</sup> We note that the use of grant funds is subject to certain restrictions on publicity, propaganda, and lobbying. *See, e.g.,* Division E—Financial Services and General Government Appropriations Act, 2021, Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 (03/15/2022), Sections 715 (prohibiting the use of appropriated funds for publicity, propaganda, or lobbying Congress in support or opposition of pending legislation), 718 (prohibiting the direct or indirect use of appropriated funds for publicity or propaganda purposes within the United States not authorized by Congress).

<sup>57</sup> *See, e.g.,* Common Sense Comments at 3; NDIA Comments at 2; BDT Comments at 2, 5-6 (recommending that "no limits" be placed on the types of outreach activities permitted under the Outreach Grant Program).

<sup>58</sup> *See* Common Sense Comments at 3.

<sup>59</sup> *See* Alaska Fed. of Natives (AFN) Comments at 4.

<sup>60</sup> *See* SANDAG Comments at 2.

<sup>61</sup> NHMC Comments at 3.

National Urban League recommends that “community events, mailers, radio and television broadcasts, paid advertisements, ethnic media, newsletters, social media, and other outreach targeted to the populations covered in the [Infrastructure Act]” be funded through the Outreach Grant Program.<sup>62</sup> Several commenters support funding paid media campaigns such as public service announcements, radio and television ads, and billboards, particularly in communities most impacted by the digital divide.<sup>63</sup> Other commenters emphasize the importance of traditional outreach campaigns, both virtual or in-person, including, but not limited to, community events, workshops, mailers, newsletters, phone banks, street teams/canvassers, and door knocking.<sup>64</sup> Commenters also support funding social media and digital outreach, such as social media advertisements and text messaging campaigns.<sup>65</sup> These types of activities are tested and proven in their ability to reach diverse and targeted audiences and may therefore be considered an allowable use of grant funds in any NOFO consideration.

22. We recognize the importance of ensuring that grant-funded ACP outreach is accessible to all diverse, eligible low-income households. Several commenters emphasize the value of multilingual outreach, such as making program information available in multiple languages and ensuring outreach staff are prepared to communicate in languages other than English.<sup>66</sup> The ACP rules also require that service provider ACP outreach and other communications be accessible to individuals with disabilities.<sup>67</sup> We agree with commenters that outreach in languages other than English is important and also continue to find that there is a need for ACP outreach to be accessible to individuals with disabilities. Accordingly, we allow funding for multilingual and accessible outreach, and we strongly encourage grantees to conduct grant-funded outreach in the languages spoken in the areas and communities that they are targeting and to also ensure that the grant-funded outreach is accessible to individuals with disabilities.<sup>68</sup>

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<sup>62</sup> See NUL Comments at 3.

<sup>63</sup> See AFN Comments at 4; Common Sense Comments at 3; NDIA Comments at 2; NUL Comments at 3; *see also* MPSC Comments 4 (encouraging the Commission to look to the Digital Television Transition outreach, which featured a “broad messaging approach” including radio and TV commercials, billboards, and mobile advertisements, for examples of effective activities to apply to the outreach grant program); SANDAG Comments at 2.

<sup>64</sup> See NDIA Comments at 2 (“urg[ing] the Commission to target funds to support high-touch, holistic digital inclusion programs that address additional barriers to broadband adoption and personalized enrollment support such as street teams, door knocking, and tabling at events or areas with heavy foot traffic like schools [and] libraries”); AFN Comments at 4; The Leadership Conference Reply Comments at 2-3; SANDAG Comments at 2.

<sup>65</sup> See NHMC Comments at 1-2 (describing NHMC’s Latinx Outreach Program to promote the EBB Program’s launch and implementation, which consisted of “memes, gifs, and educational graphics that used humor, trends, and pop culture to meet [their] target audience and community where they were already frequenting”); AFN Comments at 4; SANDAG Comments at 2. We note that any text messaging campaign may be subject to certain restrictions under the Telephone Consumer Protection Act of 1991 (TCPA). *See, e.g.*, 47 U.S.C. § 227(b)(1); 47 CFR 64.1200(a); *see also Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 18 FCC Rcd 14014, 14115, para. 165 (2003) (explaining that text messages are “calls” under the TCPA); *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946 at 954 (9th Cir. 2009) (holding that “a text message is a ‘call’ within the TCPA”); *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Declaratory Ruling and Order, 30 FCC Rcd 7961, 7978, 8017, para. 107 (2015) (affirming same).

<sup>66</sup> *See, e.g.*, BDT Comments at 5; City of Los Angeles Reply Comments at 2; Education SuperHighway Comments at 8-9; Local Governments Reply Comments at 17; NHMC Comments at 3. *See also* USC Annenberg School for Communications and Journalism, *A Roadmap for Affordable Broadband: Lessons from the Emergency Broadband Benefit* at 10 (Jan 2022), available at <https://arnicusc.org/wp-content/uploads/2022/02/Policy-Brief-final.pdf> (“The findings in this study suggest that renewed outreach efforts are urgently needed in rural and less populated areas, among older adults, and in communities with a large share of foreign-born residents.”).

<sup>67</sup> *See* 47 CFR § 54.1804(b)-(c); *ACP Order* at 73, 92, 95, 116, paras. 147, 202, 205, 248.

<sup>68</sup> *See, e.g.*, Education SuperHighway Comments at 8-9 (asserting that “[g]rantees should know the predominant languages used in their respective communities and be encouraged to translate their materials into as many different

(continued....)

23. In addition, commenters emphasize the importance of providing ACP application assistance to eligible consumers in connection with fundable outreach activities.<sup>69</sup> We agree that in-person application assistance would help many potential applicants who may experience difficulty completing and submitting an application on their own, and specifically find that grant funds may be used for this purpose.<sup>70</sup> We note that some commenters advocate for funding that would support the ability to provide potential applicants remote assistance with completing and submitting their applications.<sup>71</sup> However, as explained in the *ACP Order*, to protect the program's integrity, we require ACP applicants to be physically present with the individual providing application assistance to complete, sign, and certify their application.<sup>72</sup> This requirement provides an important safeguard against waste, fraud, and abuse by ensuring that the applicant is actually the person who signs and submits the application and has reviewed and acknowledged the required applicant certifications.<sup>73</sup> We therefore decline to provide grant funds for remote assistance with completing and submitting ACP applications.

24. Although access to the National Verifier can facilitate ACP enrollment by allowing direct assistance to low-income households with completing and submitting an application in the National Verifier, we decline to provide grantees access to the National Verifier as part of this grant program.<sup>74</sup> For program integrity and administrative reasons, access to the National Verifier is limited to service providers and certain neutral, trusted, third-party entities (e.g., governmental entities and their partners). Further, grantees are able to conduct meaningful, effective ACP outreach and provide application assistance without having direct access to the National Verifier. However, the Commission separately has two limited scope and duration pilot initiatives through which some outreach grantees that are also neutral, trusted third party entities (such as state, regional, and local governments, schools or school districts, state and local housing authorities, Tribally Designated Housing Entities, associations representing multiple Tribally Designated Housing Entities, or other state, regional, and local government entities or public housing authorities and their partners, as permitted pursuant to pilot rules), may be able to obtain direct access to the National Verifier for purposes of helping eligible consumers apply for the Affordable Connectivity Program directly in the National Verifier.<sup>75</sup>

## 2. Allowable Outreach Expenses

25. Consistent with federal grant regulations, all outreach expenses funded through this grant program must be necessary and reasonable for the performance of the award.<sup>76</sup> Many parties commented on the types of outreach expenses for which grant funds could be used. For example, commenters advocate for the ability to use outreach grant funds for a broad variety of costs. Specifically, commenters

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languages as is feasible”); BDT Comments at 5; City of Los Angeles Reply Comments at 2; Local Governments Reply Comments at 17; NHMC Comments at 3; CETF Comments at 2, 5, 10-11; Na LA Comments at 2.

<sup>69</sup> See, e.g., EducationSuperHighway Comments at 11; MCJ Reply Comments at 1 (recommending that the Commission include ACP application assistance as one of the permitted outreach activities in the Outreach Grant Program).

<sup>70</sup> See, e.g., MCJ Reply Comments at 1-2; EducationSuperHighway Comments at 11; NDIA Comments at 12.

<sup>71</sup> See EducationSuperHighway Comments at 18; BDT Comments at 3-4; Justice in Aging Comments at 2-3.

<sup>72</sup> See *ACP Order* at 36, para. 69.

<sup>73</sup> See *id.*.

<sup>74</sup> But see BDT Comments at 3-4 (discussing processes used in other federal benefits programs to allow third-parties to remotely submit applications on behalf of low-income consumers); Justice in Aging Comments at 2-3 (same).

<sup>75</sup> See *ACP Order* at 36-37, para. 70 (Navigator Pilot Program); *ACP Further Notice* at 127-29, paras. 281-86; *Affordable Connectivity Program et. al.*, WC Docket No. 21-450, Third Report and Order, FCC 22-65, at 12, para. 31-33 (Aug. 8, 2022) (*Your Home, Your Internet Pilot Order*).

<sup>76</sup> See, e.g., 2 CFR § 200.403(a).

advocate for funding the following types of costs: grant application, compliance, and planning costs;<sup>77</sup> advertising costs (e.g., traditional advertising, social media, and text messaging campaigns);<sup>78</sup> indirect costs;<sup>79</sup> travel costs for outreach (e.g., mileage, gas, and related travel incidentals);<sup>80</sup> grant administration costs (e.g., reporting, evaluation, auditing);<sup>81</sup> percentage of program costs for facilities to cover overhead;<sup>82</sup> outreach personnel costs;<sup>83</sup> costs for hosting outreach events (e.g., supplies, facility costs, incentives, and food and refreshments for households attending outreach events);<sup>84</sup> costs to create and distribute materials such as toolkits, fliers, or train-the-trainer guides that enable other organizations to promote the Affordable Connectivity Program;<sup>85</sup> costs for technology (e.g., tablets, laptop computers, and printers for use at outreach events) to support enrollment;<sup>86</sup> costs to create, produce, and disseminate consumer outreach materials such as mailers and posters;<sup>87</sup> and costs to translate and interpret ACP consumer outreach materials.<sup>88</sup>

26. Given the broad range of expenses that could be necessary and reasonable to provide meaningful, effective outreach to eligible households, we decline to prescribe in this Order a comprehensive list of allowable outreach expenses, but reiterate that all outreach expenses funded through this grant program must be necessary and reasonable for the performance of the award. To promote fiscal responsibility and ensure that the vast majority of the grant funding is targeted towards outreach activities, moreover, grants will be subject to a five percent cap on management and administrative expenses per individual award. In addition, we make clear that the grant funding is intended for eligible costs of ACP outreach for which applicants do not already have or expect to receive other funding. Grant funds may not be used to replace (supplant) funds that applicants have already obtained or expect to receive for the same purpose. We direct CGB, in consultation with WCB, OMD, and the Office of General Counsel (OGC), to identify allowable and unallowable outreach costs for the grant program, subject to the necessary and reasonable for the performance of the award standard applicable to federal grants, and to

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<sup>77</sup> See NHMC Comments at 4 (recommending that the Commission “build out grant amounts to adequately cover an organization’s capacity to apply and comply with the grant, as well as plan and implement an outreach program.”); NDIA Comments at 2 (urging the Commission to include costs associated with “fulfilling reporting, evaluation, auditing, and other administrative requirements” under the Outreach Grant Program).

<sup>78</sup> See, e.g., Common Sense Comments at 3-6; EveryoneOn Comments at 2; NDIA Comments at 2 (urging the Commission to include costs associated with ACP consumer outreach through social media and other advertising measures such as text messaging campaigns and TV ads).

<sup>79</sup> See, e.g., AFN Comments at 5 (recommending that “at least five percent of the funds should be permitted to cover indirect costs, consistent with many other Bipartisan Infrastructure and Investment Act and COVID relief programs”).

<sup>80</sup> See Hawaii Broadband & Digital Equity Office Comments (Hawaii Comments) at 4; NDIA Comments at 2.

<sup>81</sup> See Hawaii Comments at 3-4 (recommending funding costs for administration of the grant at a 20 percent maximum cap that would also apply to grantees who do not intend to conduct actual “hands-on” program related outreach activities to “ensure a minimum of 80 [percent] is awarded to the sub-awardees who will be conducting the actual ‘hands-on’ community engagement via digital navigators or community health workers who are trusted in their communities and work directly with intended populations and in meeting the core purposes of the Affordable Connectivity Program and goals of the award”); NDIA Comments at 2.

<sup>82</sup> See Hawaii Comments at 4.

<sup>83</sup> See EveryoneOn Comments at 2; NDIA Comments at 2.

<sup>84</sup> See Hawaii Comments at 4; NDIA Comments at 2.

<sup>85</sup> See Common Sense Comments at 5.

<sup>86</sup> See EducationSuperHighway Comments at 11; NDIA Comments at 2.

<sup>87</sup> See NDIA Comments at 2.

<sup>88</sup> See *id.*

provide this information in any NOFO issued for the grant program. In making these determinations, CGB shall consider the goal and objectives and available funding for the Outreach Grant Program, the need for fiscal responsibility, and the restrictions on fundable costs in the applicable statutes and regulations governing federal grants. CGB shall have the authority to make revisions to the types of allowable costs during the grant program and may also cap certain types of expenses. We further note that federal grant regulations, which we have adopted herein for this grant program, prohibit the use of federal funds for certain costs.<sup>89</sup>

## **B. Prohibited Activities and Costs**

27. The Commission takes seriously its obligation to guard against waste, fraud, and abuse in the use of federal funds. To promote the integrity of the Outreach Grant Program and the Affordable Connectivity Program and to protect consumer choice among service providers, we adopt several important program safeguards. In addition, costs funded through the outreach grants are subject to principles, restrictions, and limitations under the statutes and regulations applicable to federal grant programs.<sup>90</sup> For example, award recipients are prohibited from using grant funds for entertainment or to purchase alcohol,<sup>91</sup> contracting with the enemy,<sup>92</sup> and purchasing telecommunications and video surveillance services or equipment provided by prohibited companies.<sup>93</sup>

### **1. Requirement for Neutrality of Grant-Funded Outreach Activities**

28. We require that all grantees not favor any particular service provider in performing outreach activities funded by this Outreach Grant Program.<sup>94</sup> Service providers stand to benefit financially from the enrollment of additional eligible households in the Affordable Connectivity Program. Accordingly, it would be inappropriate to use Outreach Grant Program dollars in a manner intended to specifically increase a particular provider's program enrollment. Additionally, requiring grantees to maintain neutrality among service providers will protect eligible households' right to choose their ACP provider and the type of broadband service that best fits their needs. Neutrality with respect to participating providers is similarly a requirement for the ACP Navigator and Your Home, Your Internet Pilots that were established in the *ACP Order* and the *Your Home, Your Internet Pilot Order*, respectively, and these same concerns equally apply in the context of the Outreach Grant Program.<sup>95</sup>

29. Consistent with this outreach neutrality requirement, grantees may not direct, steer, incentivize or otherwise encourage eligible households to enroll with a particular ACP provider or one of a specific group of ACP providers (including, but not limited to, broadband industry groups such as trade

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<sup>89</sup> See generally 2 CFR Part 200, Subpart E. See also *supra* para. 8 and notes 21-26 (adopting 2 CFR Part 200 for the Outreach Grant Program).

<sup>90</sup> See, e.g., 2 CFR Part 200, Subpart E.

<sup>91</sup> See 2 CFR §§ 200.423, 200.438.

<sup>92</sup> See 2 CFR § 200.215 (“[f]ederal awarding agencies and recipients are subject to the regulations implementing Never Contract with the Enemy” in 2 CFR Part 183, which “affect covered contracts, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.”).

<sup>93</sup> See 2 CFR § 200.216.

<sup>94</sup> Cf. *ACP Order* at 37, para. 70 & n.210; Letter from Brian Hurley, Vice President of Regulatory Affairs, ACA Connects, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 21-450, et al, at 6 (filed Jan. 12, 2022) (recommending that “entities that participate [in the ACP Navigator Pilot Program] should be expressly prohibited from encouraging households to enroll with a particular provider and should, in fact, be required to make clear to households they assist that the household may enroll with the ACP provider of their choice”).

<sup>95</sup> *ACP Order* at 37, para. 70; *Your Home, Your Internet Pilot Order* at 13, para. 34.

associations) when conducting grant-funded outreach activities, and grantees must make clear that eligible households may enroll with the ACP provider of their choice. In addition, grantees may not use service provider-branded items such as outreach materials, gifts, or incentives when conducting grant-funded outreach activities.<sup>96</sup> Grantees also may not offer or provide consumers gifts or incentives provided by service providers when conducting grant-funded outreach activities. Such gifts and incentives could compromise the grantee's neutrality with respect to ACP service providers and could also improperly influence eligible households' choice of provider. Furthermore, grantees may not otherwise accept funding in any form, including in-kind contributions, from a participating provider or a specific group of participating providers (including, but not limited to, broadband industry groups such as trade associations) for the purpose of conducting grant-funded outreach activities. We recognize that it may be beneficial in some instances to have service provider representatives in attendance at grant-funded outreach events to provide eligible households information on the available service offerings to which they may apply their ACP benefit. We do not prohibit this, provided that all ACP participating providers that provide service in the area where the outreach is conducted have the same opportunity to attend and provide information on their services to which the ACP benefit can be applied. We also do not prohibit including information in connection with grant-funded outreach on how to find an ACP service provider. Accordingly, outreach funded through the Outreach Grant Program can direct eligible households to the Companies Near Me Tool<sup>97</sup> and can include a list of all providers serving the areas where the outreach is performed. We make clear that this service provider neutrality requirement does not preclude grantees from otherwise collaborating with state agencies, public interest groups, and non-profit organizations to carry out public awareness campaigns that highlight the value and benefits of broadband internet access service and the existence of the Affordable Connectivity Program, as required under the Infrastructure Act.<sup>98</sup>

## 2. Prohibition of Commission or Compensation Based on ACP Applications Submitted or Households Enrolled

30. We also prohibit entities conducting outreach funded through the Outreach Grant Program from providing any form of compensation to individuals engaged in grant-funded outreach activities based on the number of ACP applications or enrollments resulting from their grant-funded outreach activities. The Commission's rules for the Lifeline program similarly prohibit participating providers from offering or providing commission or other compensation to enrollment representatives or their direct supervisors that is based on the number of consumers who applied for or are enrolled in Lifeline with that particular provider.<sup>99</sup> The ACP rules also prohibit participating providers from offering or providing to enrollment representatives, their direct supervisors, or entities operating on behalf of a participating provider, any form of compensation that is based on the number of ACP applications or enrollments with that provider, revenues the provider receives or expects to receive through the Affordable Connectivity Program, or any other compensation based on ACP applications, enrollments, or

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<sup>96</sup> This restriction is similar to the prohibition on soliciting or accepting gifts from service providers to ensure a fair and open competitive bidding process, including preventing an applicant from having an improper relationship with a service provider that would unfairly influence conflicts of interest in connection with the competitive bidding process, for the Commission's E-Rate and Rural Health Care (RHC) programs. See 47 CFR §§ 54.622(h) (RHC program gift rule), 54.503(d) (E-Rate program gift rule). In the context of the Outreach Grant Program, as in the E-Rate and RHC programs, service provider gifts, incentives, or funding create an improper relationship or conflict of interest because the service provider offering such gifts, incentives, or funding stands to benefit from consumer enrollments in the Affordable Connectivity Program.

<sup>97</sup> See USAC Website, Companies Near Me Tool, <https://data.usac.org/publicreports/CompaniesNearMe/Download/Report>.

<sup>98</sup> See 47 U.S.C. § 1752(b)(8); *ACP Order* at 95, paras. 206-207.

<sup>99</sup> See 47 CFR §§ 54.406(b), 54.400(p) (defining enrollment representative).



other revenues.<sup>100</sup> Based on the Commission’s experience administering the Lifeline program and the Affordable Connectivity Program, we find that allowing grantees to provide such compensation in connection with grant-funded outreach activities could compromise the integrity of the program and its goals.<sup>101</sup> Therefore, we prohibit grantees from providing compensation to their personnel, representatives, or others acting on their behalf based on the number of ACP enrollments or applications submitted in connection with outreach activities funded under the Outreach Grant Program.

### 3. Prohibition Against Profiting from Grant-Funded Outreach

31. Consistent with federal regulations that we have made applicable to this grant program, we note that grantees may not “earn or keep any profit resulting from” an Outreach Grant Program award.<sup>102</sup> For example, a grantee may not accept or receive payment or other compensation (other than funded, allowable outreach expenses) in exchange for hosting an outreach event or providing application assistance to an ACP applicant at a specific site as part of the Outreach Grant Program. We also note that grantees may not charge low-income households a fee for educating them about or providing them with assistance in submitting an ACP application. This ensures that outreach grant partners do not make a profit from or otherwise financially benefit from conducting ACP outreach through the Outreach Grant Program.<sup>103</sup>

### 4. Prohibition Against Using Grant Funds for Gifts and Incentives

32. To further promote program integrity, we prohibit the use of grant funds to support or obtain gifts or incentives to offer or provide to encourage consumers to learn about, apply for, or enroll in the Affordable Connectivity Program. At least one commenter advocates for the ability to use grant funds to provide incentives to encourage consumers to learn about and apply for the Affordable Connectivity Program.<sup>104</sup> We find that gifts and incentives supported by or offered when conducting grant-funded outreach activities may induce households to submit an ACP application that they may not have otherwise submitted primarily to obtain the gift or incentive or may encourage an ACP participating household to attempt multiple enrollments to obtain the gift or incentive even though the ACP benefit is limited to one per household.<sup>105</sup> These outcomes may result in waste, fraud, and abuse, and thus we prohibit the use of grant funds for these practices.

### C. Eligible Entities

33. Outreach by a range of entities is critical to maximizing the impact of the Affordable Connectivity Program. While the Infrastructure Act authorizes the Commission to provide grants to outreach partners, it does not specify the types of entities that qualify as outreach partners. Below, we provide examples of the types of entities that may be eligible to participate in the Outreach Grant Program as grantees and subrecipients. We encourage entities of all types and diverse organizations, including organizations serving, led, and/or owned by persons 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, to submit applications for the Outreach Grant

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<sup>100</sup> See 47 CFR §§ 54.1807(b), 54.1800(k).

<sup>101</sup> See *ACP Order* at 14, paras. 24-27 (discussing need for service provider compensation restrictions as a safeguard against waste, fraud and abuse); *Bridging the Digital Divide for Low-Income Consumers; Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support*, Fifth Report and Order, 34 FCC Rcd 10886, 10917, para. 75 (2019) (*Lifeline Fifth Report and Order*) (discussing same).

<sup>102</sup> 2 CFR § 200.400(g).

<sup>103</sup> See 2 CFR § 200.400(g) (“The non-Federal entity may not earn or keep any profit resulting from Federal financial assistance, unless explicitly authorized by the terms and conditions of the Federal award.”).

<sup>104</sup> Hawaii Comments at 5.

<sup>105</sup> See 47 CFR § 54.1805(b) (limiting the ACP benefit to one per household).

Program once a NOFO is released. Like commenters, we are also mindful of the importance of equitable outreach efforts<sup>106</sup> as we work to reach underserved communities most impacted by the digital divide, and we remind prospective applicants of the federal grant requirement to “take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.”<sup>107</sup> We also encourage entities participating in the Commission’s ACP Navigator and Your Home, Your Internet Pilot Programs, through which limited trusted entities may be granted access to the National Verifier to assist eligible households to complete and submit the ACP application, to apply for outreach grants to enhance their participation in those pilot programs.<sup>108</sup>

### 1. Basic Eligibility Criteria

34. The Infrastructure Act authorizes the Commission to provide grants to outreach partners to encourage eligible households to enroll in the Affordable Connectivity Program.<sup>109</sup> At a minimum, then, outreach partners must be capable of conducting ACP outreach, that is, communicating or engaging with eligible low-income populations to inform or educate them about the Affordable Connectivity Program, to increase their awareness of the program, and to encourage or assist them to apply for the program.<sup>110</sup> Moreover, eligible entities must be able to satisfy all legal requirements applicable to federal grantees. For instance, to be eligible, an entity must be able to comply with federal grant regulations adopted by the Commission, to obtain and report an FCC Registration Number (FRN),<sup>111</sup> and to register with, and maintain an active registration with, the System for Award Management (SAM).<sup>112</sup> Additionally, entities seeking to participate must satisfy statutory requirements, such as those restricting grant eligibility of entities indebted to the United States.<sup>113</sup> Accordingly, the Outreach Grant Program will be open to entities capable of (a) directly or indirectly (through subrecipients) conducting outreach to increase awareness of and to encourage or assist with applying for the Affordable Connectivity Program;<sup>114</sup> and (b) complying with all applicable policies and rules adopted herein, including the adopted requirements of 2 CFR Part 200, any policies and rules that may be subsequently adopted on delegated authority by CGB to implement the Outreach Grant Program, and any other applicable grant-related

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<sup>106</sup> See, e.g., NHMC Comments at 2-3.

<sup>107</sup> 2 CFR § 200.321.

<sup>108</sup> See *ACP Order* at 36, para. 70 (describing the ACP Navigator Pilot); *ACP Further Notice* at 127-129, paras. 281-285 (seeking comment on the Your Home, Your Internet Pilot).

<sup>109</sup> 47 U.S.C. § 1752(b)(10)(C)(ii)(IV).

<sup>110</sup> We note that some commenters assert that the Commission should only award grant funds to entities with a set number of years of experience. For example, CETF advocates requiring an entity to have at least two years’ experience performing Digital Adoption and Digital Literacy training to be eligible for the Outreach Grant program. CETF Comments at 6. Similarly, the Hawaii Broadband & Digital Equity Office recommends that subgrantees have at least one year of experience conducting community outreach. Hawaii Comments at 4. While we agree that it may be appropriate to consider the extent of an entity’s outreach experience in evaluating an applicant’s grant application, we also recognize that limiting program eligibility to those entities with a set number of years of outreach experience could unduly exclude from participating newer entities or organizations that may be effective at reaching priority communities. See Local Governments Reply Comments at 23 (“[W]e must allow for opportunities for newer or smaller organizations to participate.”).

<sup>111</sup> See *infra* para. 64 (discussing FRN).

<sup>112</sup> See *infra* para. 65 (discussing SAM).

<sup>113</sup> See, e.g., 28 U.S.C. § 3201(e); *infra* para. 42 (discussing statutes restricting eligibility); *infra* para. 62 (discussing Commission’s red light rule).

<sup>114</sup> For a discussion of subrecipients, see *infra* paras. 57-58.

statutes and regulations.<sup>115</sup> We strongly encourage eligible entities interested in applying for the Outreach Grant Program to familiarize themselves with regulatory and statutory requirements by closely studying applicable grant regulations and the relevant NOFO.

## 2. Types of Eligible Entities

35. The *ACP Further Notice* sought comment on the types of entities that should be deemed eligible to apply for outreach grant funds and proposed, at a minimum, that non-profit organizations and trusted community organizations be eligible.<sup>116</sup> Commenters support making the Outreach Grant Program open to a wide range of public and non-profit entities.<sup>117</sup> We agree that the Outreach Grant Program should generally be open to a variety of entities to encourage participation from a diverse range of outreach partners, in terms of type and size, and to maximize the reach and impact of the grant program. Consistent with the record and the goal and objectives of the grant program, and subject to the basic eligibility criteria above, governmental and non-governmental entities are eligible for the grant program. Based on our review of the record, the types of entities eligible to participate in the Outreach Grant Program include, but are not limited to:<sup>118</sup>

- Tribal governments and subdivisions thereof, as well as tribal organizations;<sup>119</sup>
- State governments and subdivisions thereof (including the District of Columbia and U.S. Territories);<sup>120</sup>

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<sup>115</sup> *ACP Further Notice* at 125, para. 276. Grantees must have internal controls over the federal award to ensure compliance with the applicable regulations and terms and conditions of the grant award. *See* 2 CFR § 200.303.

<sup>116</sup> *ACP Further Notice* at 125, para. 276.

<sup>117</sup> *See* NaLA Comments at 3 (advocating participation by a wide variety of organizations); Common Sense Media Comments at 1, 7; Education Super Highway Comments at 8; Local Governments Reply Comments at 20-21 (advocating that the Commission “cast a wide net” when determining the eligibility of community-based entities to ensure outreach to populations of focus); NATOA Reply Comments at 1-2.

<sup>118</sup> This list is not exhaustive, and some entities on this list may fall within the scope of multiple categories (e.g., public housing authorities could fall within the category of “local governments and their subdivisions”). This illustrative list provides examples of the types of entities that may be eligible for funding through the Outreach Grant Program and does not constitute a guarantee that these entities will be eligible for any specific NOFO issued for this grant program.

<sup>119</sup> There is broad support for making tribal governments and tribal organizations eligible for the Outreach Grant Program. *See, e.g.*, AFN Comments at 4; BDT Comments at 3, 8; Common Sense Media Comments at 6; Local Governments Reply Comments at 19; NDIA Comments at 6. Unless otherwise indicated in a NOFO for the Outreach Grant Program, we intend this category to be broad and not limited to federally recognized Indian tribes or “Indian tribe” as defined in 2 CFR § 200.1. That definition does not purport to relate to grant eligibility, and there may be tribal organizations outside of those in 2 CFR § 200.1 capable of engaging in ACP outreach. According to Grants.gov, there are currently over 700 federal grants open to “Native American tribal organizations (other than Federally recognized tribal governments)”. *See* Grants.gov, Search Grants, <https://www.grants.gov/web/grants/search-grants.html> (search of posted grants open to Native American tribal organizations (other than Federally recognized tribal governments)) (last visited Aug. 5, 2022).

<sup>120</sup> For purposes of this category, we use the definition of “state” in 2 CFR § 200.1, which means “any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments.” 2 CFR § 200.1. Most commenters who address eligibility support grant eligibility for State governments and agencies. *See, e.g.*, BDT Comments at 3, 8; Common Sense Media Comments at 7; Leadership Conf. on Civil & Human Rights (Leadership Conference) Reply Comments at 2; Local Governments Reply Comments at 19; NDIA Comments at 6. The Alaska Federation of Natives recommends giving priority to entities that administer the underlying programs upon which eligibility is based, such as Medicaid, SNAP, WIC, Head Start and Indian Housing programs. AFN Comments at 4. Consistent with this Order, state or local entities that

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- Local governments and subdivisions thereof (including county, borough, municipality, city, town, township, parish, local public authority, special district, intrastate district, council of governments, and agencies or instrumentalities of multi-regional or intra-state or local government);<sup>121</sup>
- Public housing authorities;<sup>122</sup>
- Social service providers (e.g., food banks, community transportation, childcare);<sup>123</sup>
- Education organizations, such as schools and other institutions of higher education;<sup>124</sup>
- Workforce development training organizations;<sup>125</sup>
- Non-profit organizations;<sup>126</sup>
- Community-based organizations<sup>127</sup> (including faith-based organizations<sup>128</sup> and social service organizations);

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administer ACP qualifying programs are eligible for the Outreach Grant Program, and CGB has the authority to decide the application evaluation factors that best further the Outreach Grant Program goal and objectives.

<sup>121</sup> 2 CFR § 200.1 (defining “local government”). Many commenters support local government eligibility for the Outreach Grant Program. *See, e.g.*, City of Los Angeles Reply Comments at 2; BDT Comments at 3, 8; CETF Comments at 6; Common Sense Media Comments at 7; Leadership Conf. Reply Comments at 2; Local Governments Reply Comments at 19; NDIA Comments at 6; NATOA Reply Comments at 2; SANDAG Comments at 4. Regional planning agencies are also eligible – if they meet the basic eligibility criteria outlined in this Order. *See* SANDAG Comments at 4 (advocating eligibility for regional planning organizations).

<sup>122</sup> *See* BDT Comments at 8; Common Sense Media Comments at 7; Local Governments Reply Comments at 20; NDIA Comments at 6; SANDAG Comments at 4 (all supporting the eligibility of public housing authorities). For purposes of the Outreach Grant Program, we use the terms “public housing authority” and “public housing agency” interchangeably and rely on the definition of public housing agency in 42 U.S.C. § 1437a(b)(6)(A).

<sup>123</sup> *See* BDT Comments at 8; Common Sense Media Comments at 7; Local Governments Reply Comments at 20; NDIA Comments at 6; SANDAG Comments at 4 (all supporting the eligibility of social service providers). *See also* U.S. Dep’t of Health & Human Services, Health Resources & Servs. Admin., *Community-Based Workforce to Build COVID-19 Vaccine Confidence*, Funding Opportunity No. HRSA-22-120, Notice of Funding Opportunity at 3 (Nov. 10, 2021), available at <https://www.grants.gov/web/grants/view-opportunity.html?oppId=336494> (providing examples of social service providers).

<sup>124</sup> *See* BDT Comments at 8; Common Sense Media Comments at 7; Leadership Conf. Reply Comments at 2; Local Governments Reply Comments at 20; NDIA Comments at 6; SANDAG Comments at 4 (all supporting the eligibility of education organizations). For this category, we look to the definition of “institutions of higher education” in 20 U.S.C. § 1001. *See* 2 CFR § 200.1 (cross referencing 20 U.S.C § 1001).

<sup>125</sup> *See* City of Los Angeles Reply Comments at 3; Education Super Highway Comments at 7; Local Government Reply Comments at 20; NDIA Comments at 6 (all supporting the eligibility of workforce development training organizations).

<sup>126</sup> We use the definition of non-profit organization in 2 CFR § 200.1 for purposes of this eligibility category. Section 200.1 defines “nonprofit organization” as “any corporation, trust, association, cooperative, or other organization, not including IHEs [institutions of higher education], that: (1) Is operated primarily for scientific, education, service, charitable, or similar purposes in the public interest; (2) Is not organized primarily for profit; and (3) Uses net proceeds to maintain, improve, or expand the operations of the organization.” 2 CFR § 200.1. There is general consensus among commenters that non-profit organizations should be eligible for the Outreach Grant Program. *See, e.g.*, CETF Comments at 2; City of Los Angeles Reply Comments at 2; Common Sense Media Comments at 7; MCJ Reply Comments at 2; NDIA Comments at 6; NaLA Comments at 3; NUL Comments at 3.

<sup>127</sup> *See* BDT Comments at 8 (“[I]t is important that the outreach grant program is open to local community-based organizations that are versed in the nuances of the communities they serve.”); *see also* NaLA Comments at 3;

(continued....)

- Community anchor institutions (e.g., healthcare providers and healthcare organizations<sup>129</sup> and libraries and library consortia<sup>130</sup>);
- Public service organizations;<sup>131</sup> and
- Consortia of the entities listed above.<sup>132</sup>

Depending on the outreach target or audience for a particular NOFO and where appropriate to meet a specific program goal or objective, CGB is authorized to modify, expand, or limit the types of entities that may be eligible to receive grant funds under a particular funding opportunity in this grant program.

### 3. Non-Profit Eligibility Not Limited to 501(c)(3) Status

36. The *ACP Further Notice* asked whether the eligibility of non-profit organizations should be limited to organizations with 501(c)(3) status.<sup>133</sup> This refers to section 501(c)(3) of the Internal Revenue Code, under which an organization will be tax-exempt if it is “organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual.”<sup>134</sup> The exempt purposes are charitable (including “relief of the poor, the distressed, or the underprivileged” and “eliminating prejudice and discrimination”), religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports

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EducationSuperHighway Comments at 6; Common Sense Media Comments at 7; Leadership Conf. Reply Comments at 2; Local Governments Reply Comments at 19-20; MCJ Reply Comments at 2 (all supporting the eligibility of community-based organizations).

<sup>128</sup> City of Los Angeles Reply Comments at 3; Leadership Conf. Reply Comments at 2 (all supporting the eligibility of faith-based organizations).

<sup>129</sup> See EducationSuperHighway Comments at 7 (supporting the eligibility of community clinics and senior centers); NDIA Comments at 6; SANDAG at 4 (supporting the eligibility of healthcare providers).

<sup>130</sup> See BDT Comments at 8; City of Los Angeles Reply Comments at 2; Common Sense Media Comments at 7; Leadership Conf. Reply Comments at 2; Local Governments Reply Comments at 20; NDIA Comments at 6 (all supporting the eligibility of libraries); Letter from Jenna Leventoff, Senior Policy Counsel, Public Knowledge, to Marlene Dortch, Secretary, FCC, WC Docket No. 21-450 (filed Feb. 14, 2022) at 4 (noting that libraries are trusted outreach partners). For purposes of this Order, we use the definitions of “library” and “library consortium” from the Commission’s E-Rate rules. See 47 CFR § 54.500.

<sup>131</sup> Common Sense Media Comments at 6; NaLA Comments at 3 (all supporting the eligibility of public service organizations). For purposes of the Outreach Grant Program, we use the definition of public service organization in 34 CFR § 685.219(b).

<sup>132</sup> Although we did not seek comment on applicant coordination, commenters implied that there may be situations where consortia of eligible entities should be eligible to participate in the Outreach Grant Program. The Alaska Federation of Natives, for instance, points out that that it submitted to the National Telecommunications and Information Administration a “consortium grant application,” which included nearly every Native community in Alaska. See AFN Comments at 2. And Centri Tech advocates “collaborative applications.” Centri Tech Comments at 2. We note that other grant programs allow for coordinated grants as well. See, e.g., 42 U.S.C. § 17113(a)(2) (defining “eligible entity” for industrial emissions reduction grant as including “partnership or consortium” of two or more other eligible entities); 42 U.S.C. § 280g (defining “eligible entity” for children’s asthma treatment grant as “a public or nonprofit entity (including a State or political subdivision of a State), or a consortium of any such entities”).

<sup>133</sup> *ACP Further Notice* at 125, para. 276.

<sup>134</sup> Internal Revenue Service, Exemption Requirements – 501(c)(3) Organizations, <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-501c3-organizations> (last visited Aug. 5, 2022).

competition, and preventing cruelty to children or animals.<sup>135</sup> To qualify for 501(c)(3) status, an organization must pass “organizational” and “operational” tests, and must not be an “action organization,” meaning that it “may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates.”<sup>136</sup>

37. Several commenters suggest limiting eligibility for non-profit organizations to those with 501(c)(3) status.<sup>137</sup> The National Digital Inclusion Alliance (NDIA), for instance, “urges the Commission to consider only nonprofits with 501(c)(3) status as eligible grantees under the program.”<sup>138</sup> Likewise, the Hawaii Broadband and Digital Equity Office recommends giving award preference to 501(c)(3) non-profit organizations but allowing non-profit organizations who lack that status to be subgrantees.<sup>139</sup> In contrast, the National Lifeline Association (NaLA) contends that the Commission should “avoid categorical limitations on the types of entities that can participate” and asserts that there is “no reason to require grant recipients to be charitable organizations with 501(c)(3) status.”<sup>140</sup>

38. We decline to limit the eligibility of non-profits to organizations with 501(c)(3) status. As NDIA acknowledges, this tax status has limited relevance to whether an applicant can perform effective ACP outreach.<sup>141</sup> The commenters who suggest the 501(c)(3) limitation do not explain why it is necessary or explain how this limitation would support the purposes of the Outreach Grant Program.<sup>142</sup> Making 501(c)(3) status an eligibility criterion could exclude organizations that are capable of engaging in effective outreach efforts but are outside the scope of the 501(c)(3) category, such as social welfare organizations and civic leagues.<sup>143</sup> We also note that 501(c)(3) status is not necessary to evaluate an applicant’s general eligibility to receive federal grants or ability to comply with the applicable federal grant regulations—federal grant regulations require a robust risk assessment of all federal grant applicants.<sup>144</sup> Further, numerous other federal grants are open to non-profit organizations that do not have 501(c)(3) status with the IRS.<sup>145</sup> For these reasons, we do not limit the eligibility of non-profits to

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<sup>135</sup> Internal Revenue Service, Exempt Purposes – Internal Revenue Code Section 501(c)(3), <https://www.irs.gov/charities-non-profits/charitable-organizations/exempt-purposes-internal-revenue-code-section-501c3> (last visited Aug. 5, 2022).

<sup>136</sup> Internal Revenue Service, Exemption Requirements – 501(c)(3) Organizations, <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-501c3-organizations> (last visited Aug. 5, 2022).

<sup>137</sup> NDIA Comments at 7; Hawaii Comments at 4; Leadership Conf. Reply Comments at 2 (supporting Urban League approach); LISC Comments at 4 (supporting NDIA comments); Local Governments Reply Comments at 14; NUL Comments at 4.

<sup>138</sup> NDIA Comments at 7.

<sup>139</sup> Hawaii Comments at 4.

<sup>140</sup> NaLA Comments at 5; NaLA Reply Comments at 5-6.

<sup>141</sup> NDIA Comments at 7 (stressing that “501(c)(3) designation alone is not automatically indicative of a high-quality applicant”).

<sup>142</sup> NaLA Reply Comments at 5.

<sup>143</sup> Social welfare organizations and civic leagues are examples of non-profit entities that fall outside of 501(c)(3). See Internal Revenue Service, Exempt Organization Types, Other Nonprofits, <https://www.irs.gov/charities-non-profits/exempt-organization-types> (last visited Aug. 5, 2022).

<sup>144</sup> See 2 CFR § 200.206 (outlining the requirements for federal agency review of the risk posed by applicants).

<sup>145</sup> Using Grants.gov, as of July 22, 2022, a search of posted grants that were open to “Nonprofits that do not have a 501(c)(3) status with the IRS, other than institutions of higher education” returned over 700 results. See Grants.gov search tool, available at <https://www.grants.gov/web/grants/search-grants.html>.

organizations with 501(c)(3) status, but we do authorize CGB to require an applicant to provide proof of non-profit status as appropriate.<sup>146</sup>

39. We also decline to categorically exclude for-profit organizations from participation in the grant program. The California Emerging Technology Fund (CETF) argues that private, for-profit companies should be ineligible entities for outreach grants.<sup>147</sup> In contrast, Centri Tech and the U.S. Chamber of Commerce advocate eligibility for both non-profit and for-profit entities, like minority businesses.<sup>148</sup> We agree that there may be some for-profit entities that could provide meaningful outreach, such as healthcare providers or minority businesses,<sup>149</sup> and CETF does not identify any reason to exclude such entities at the eligibility stage. We reiterate, however, that grantees may not make a profit from or otherwise financially benefit from conducting ACP Outreach through the Outreach Grant Program.

#### 4. Ineligible Entities

40. Although the illustrative list of eligible entity types incorporates a wide range of organizations, to promote the integrity of the grant program, we conclude that broadband providers<sup>150</sup> and their subsidiaries, affiliates, representatives, contractors, and agents will not be eligible to participate in the Outreach Grant Program or receive awards, either as grantees, pass-through entities,<sup>151</sup> or

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<sup>146</sup> As an example, if requested, proof could include Internal Revenue Service exemption certificates, certifications from State officials, certificates of incorporation or related documents, or statements by a parent organization that an applicant subsidiary organization is a local non-profit affiliate. *See, e.g.*, U.S. Department of Health and Human Services, *HHS Grants Policy Statement* at I-11 (Jan. 1, 2007), available at <https://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf>.

<sup>147</sup> CETF Comments at 9 (“Re paragraph 276 [of *Further Notice*], CETF does not favor private, for-profit companies being eligible entities for outreach grants.”).

<sup>148</sup> *See* Centri Tech Comments at 2 (“Eligible entities should include both for-profit and non-profit organizations, and with the FCC’s purposeful focus on historically underserved, marginalized, and/or adversely affected by persistent poverty and/or inequality populations, prioritize minority business enterprises that have strong ties to, and prior experience with, multicultural communities.”); U.S. Chamber of Commerce Reply Comments at 1 (“Also, the Chamber recommends that eligible entities for outreach grants should include all types of entities that have demonstrated a ability to utilize such grants in the past, including state and local chambers of commerce and private sector stakeholders.”); NaLA Reply Comments at 4 (citing Centri Tech comments).

<sup>149</sup> Allowing for-profit organizations to participate in federal grants is consistent with the approach taken by the other federal agencies. For example, the U.S. Department of Health and Human Services (HHS) generally allows grants to be awarded to “domestic public or private, non-profit or for-profit organizations.” *HHS Grants Policy Statement* at I-11. *See also* National Institutes of Health, *NIH Grants Policy Statement* at HB-128, sec. 18.2 (Dec. 2021), available at <https://grants.nih.gov/grants/policy/nihgps/nihgps.pdf> (noting that “commercial organizations are eligible to apply under all NIH programs and support mechanisms unless specifically excluded by statute”).

<sup>150</sup> For purposes of the Outreach Grant Program, a “broadband provider” is “a provider of broadband Internet access service.” 47 CFR § 54.1800(d). Although some municipalities may be “broadband providers” under § 54.1800(d), we decline to categorically exclude such municipalities from the Outreach Grant Program. Rather, only the arm of a municipality that maintains or operates a municipal broadband network would be ineligible. In contrast, we decline to distinguish between arms or subdivisions of private, for-profit broadband providers, all of which are ineligible for the Outreach Grant Program. We distinguish between municipalities and private, for-profit broadband providers in this regard because we presume municipalities to be concerned primarily with the public interest and thus awarding a non-broadband provider arm of a municipality a grant presents fewer conflict of interest concerns than awarding a grant to a non-broadband provider arm of a private, for-profit broadband provider. We also note that because many for-profit broadband providers may sell packages that bundle broadband and non-broadband services (for example a triple play package that includes video, cable, and broadband), it would be impossible to mitigate conflict of interest concerns for the non-broadband provider arm.

<sup>151</sup> *See infra* note 192 (defining pass-through entities).

subrecipients. Given that broadband providers individually benefit from customer enrollments in the Affordable Connectivity Program, awarding grant funds to help broadband providers increase awareness of and enrollments in the Affordable Connectivity Program presents a significant conflict of interest<sup>152</sup> and would not be a fiscally responsible use of federal funds. Excluding broadband providers from receiving grant awards would not hinder the goal or objectives of the grant program. Broadband providers that participate in the Affordable Connectivity Program are already obligated by statute and regulation to engage in ACP outreach efforts and should not receive federal funds to accomplish these obligations.<sup>153</sup> Additionally, because broadband providers benefit financially from ACP enrollment, they already have sufficient incentive to engage in outreach.

41. Further, we are not persuaded by NaLA that we should permit broadband industry trade associations to receive grant awards.<sup>154</sup> Although we agree with NaLA that our approach to program eligibility should be “inclusive,” broadband provider trade associations present conflict of interest concerns that charitable non-profit organizations, for instance, do not. Just as we find that permitting broadband providers to participate in the Outreach Grant Program presents a conflict of interest, we find that the same conflict of interest is inherent where an industry association or trade association made up of or representing the same broadband providers may be seeking government funds to increase its members’ consumer enrollments in the Affordable Connectivity Program. Therefore, we also prohibit broadband industry groups and trade associations that represent broadband providers from receiving awards through the Outreach Grant Program, either as grantees, pass-through entities, or subrecipients.

42. Additionally, consistent with the federal grant regulations, entities that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities will be ineligible for participation in the Outreach Grant Program. We currently have pending a Notice of Proposed Rulemaking to adopt and implement the OMB Guidelines for suspension and debarment (non-procurement) in 2 CFR Part 180,<sup>155</sup> and we asked for comment about the implementation of that Part in the *ACP Further Notice*.<sup>156</sup> Commenters did not address suspension and debarment procedures in response to the *ACP Further Notice*. To mitigate the potential for waste, fraud, and abuse in the grant program, we determine here that those rules, should they be adopted, will apply to the Affordable Connectivity Outreach Grant Program.<sup>157</sup> Additionally, certain entities may be ineligible by statute. For example, 501(c)(4) non-profit organizations that engage in lobbying activities are ineligible

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<sup>152</sup> The prohibition on broadband provider participation in the Outreach Grant program is distinct from the “conflict of interest policies for Federal awards” required in 2 CFR § 200.112. That section provides that a “Federal awarding agency must establish conflict of interest policies for Federal Awards” and that a “non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.” *Id.* We direct CGB to develop conflict of interest policies for Federal awards under the Outreach Grant Program and incorporate them as necessary in any NOFO.

<sup>153</sup> See 47 U.S.C. § 1752(b)(8), (10)(A); 47 CFR § 54.1804; *ACP Order* at 92-96, paras. 200-07.

<sup>154</sup> See NaLA Comments at 5-6 (“The Commission also should not prefer certain types of organizations, such as charitable organizations, over other non-profits, such as trade associations representing industry interests. Both types of entities should receive due consideration for grants based on how they will structure outreach efforts to educate and support enrollment of eligible households.”).

<sup>155</sup> See *Modernizing Suspension and Debarment Rules*, GN Docket No. 19-309, Notice of Proposed Rulemaking, 34 FCC Rcd 11348 (2019).

<sup>156</sup> *ACP Further Notice* at 126, para. 280.

<sup>157</sup> See *supra* note 25.



for federal grants,<sup>158</sup> as are organizations that are indebted to the United States and have judgment liens filed against them.<sup>159</sup>

#### **D. Delegation of Authority to CGB to Develop, Administer, and Manage the Outreach Grant Program**

43. CGB has extensive experience and expertise in conducting outreach and working with a range of outreach partners, including most recently for the Affordable Connectivity Program and the EBB Program.<sup>160</sup> We direct CGB to develop, administer, and manage the Outreach Grant Program in compliance with the federal laws and regulations applicable to federal grant programs, and consistent with the program goal and objectives and requirements we establish in this Order.<sup>161</sup> We modify sections 0.11, 0.141, and 0.231 of the Commission's rules to reflect CGB's and OMD's additional responsibilities for the grant program and related delegations of authority.<sup>162</sup> In carrying out these delegated functions, CGB shall consult with WCB, OMD,<sup>163</sup> and OGC as appropriate to ensure that the grant program is in compliance with the applicable statutes and regulations for federal grant programs and the Affordable Connectivity Program, and to ensure that the grant program is otherwise meeting the program objectives, goals and requirements outlined in this Report and Order. We further direct CGB, in coordination with OMD, OEA, and OGC as needed, to engage with the National Telecommunications and Information Administration (NTIA), and other federal agencies that administer broadband funding programs to promote information sharing and collaboration across broadband-related investments across the federal government and to avoid unnecessary duplication.

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<sup>158</sup> 2 U.S.C. § 1611 (“An organization described in section 501(c)(4) of title 26 which engages in lobbying activities shall not be eligible for the receipt of Federal funds constituting an award, grant, or loan.”).

<sup>159</sup> 28 U.S.C. § 3201(e) (“A debtor who has a judgment lien against the debtor's property for a debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.”). An agency may waive this requirement by regulation. *Id.*

<sup>160</sup> See, e.g., FCC, Affordable Connectivity Program Fact Sheet, [https://www.fcc.gov/sites/default/files/acp\\_fact\\_sheet\\_3\\_final.pdf](https://www.fcc.gov/sites/default/files/acp_fact_sheet_3_final.pdf) (discussing the Bureau's outreach efforts and partnerships and collaborations with outreach partners and federal partners for the Affordable Connectivity Program and the EBB Program); *ACP Order* at 91, para. 194 (discussing the Bureau's outreach for the EBB Program). See also FCC Website, <https://www.fcc.gov/general/consumer-and-governmental-affairs-bureau> (stating that the Bureau “serve[s] as the public face of the commission through outreach and education”).

<sup>161</sup> See *ACP Further Notice* at 126, para. 280.

<sup>162</sup> 47 CFR §§ 0.11 (describing the functions of OMD), 0.141 (describing the functions of CGB), 0.231 (describing the FCC's delegations of authority to OMD). These rules are administrative in nature, therefore, prior notice and comment is not required to amend these rules. See 5 U.S.C. § 553(b)(3)(A) (exempting “rules of agency organization, procedure, or practice” from notice and comment requirements). This delegation of authority to CGB does not alter the Office of the Managing Director's functions and delegated authority with respect to financial oversight of the Commission. See generally 47 CFR §§ 0.11 (describing the functions of OMD) and 0.231 (describing the Commission's delegations of authority to OMD).

<sup>163</sup> We note in particular that section 0.5(e) of our rules ensures that Bureaus utilize OMD's expertise with respect to federal financial management. 47 CFR § 0.5(e) (“Any Bureau or Office recommending Commission action that may affect a agency compliance with Federal financial management requirements must confer with the Office of Managing Director. Such items will indicate the position of the Managing Director when forwarded to the Commission. Any Bureau or Office taking action under delegated authority that may affect a agency compliance with Federal financial management requirements must confer with the Office of the Managing Director before taking action.”). The order adopting this provision includes a non-exclusive list of federal financial statutes for which OMD has implementation responsibility. *Amendment of Section 0.5 of the Commission's Rules Relating to Compliance with Federal Financial Management Requirements*, FCC 02-243 (2002).

## E. Budget and Duration of the Outreach Grant Program

### 1. Budget

44. Although the Infrastructure Act authorizes the Commission to issue grants to outreach partners, the Infrastructure Act does not specify a budget for these grants, leaving the Commission with authority to determine how much of the overall ACP appropriation should be expended on this grant program. In the *ACP Order*, the Commission established a budget of up to \$100 million for all outreach for the Affordable Connectivity Program, which includes the Outreach Grant Program as well as the Commission's own non-grant outreach efforts permitted by the Infrastructure Act.<sup>164</sup> This budget recognizes the need for extensive outreach for the Affordable Connectivity Program, while also leaving ample funds from the total \$14.2 billion ACP budget to provide the ACP benefit to as many eligible households as possible for as long as possible. As explained in the *ACP Order*, the \$100 million outreach budget reflects the Commission's consideration of the estimates for the costs of Commission outreach for the Affordable Connectivity Program and the Commission's costs for Digital Television Transition outreach (which included broad paid media campaigns).<sup>165</sup>

45. The allocation of the \$100 million budget for ACP outreach takes into consideration the costs of the Commission's outreach for the Digital Television Transition and EBB Program and comments in the record concerning the costs of outreach activities.<sup>166</sup> This funding allocation will enable CGB to provide grant awards to respond to the need for extensive, meaningful outreach by numerous, diverse eligible outreach partners, while also enabling CGB to conduct its own outreach as authorized in the Infrastructure Act.<sup>167</sup> We make clear that CGB is not required to spend this full amount. CGB is authorized, in coordination with OMD, to decide if and when to reallocate any remaining unused funds from individual outreach grants for any outreach allowed under the statute or none at all.

46. We direct CGB to designate up to \$60 million of the ACP outreach budget for competitive allocation to eligible entities. Of the \$60 million set-aside for competitive allocation to eligible entities, \$27 million will be reserved for States and U.S. Territories, with a minimum allocation to grantees in each State and U.S. Territory for ACP outreach activities, consistent with this Order and the program's goal and objectives. In establishing the minimum funding allocation to each State and U.S. Territory, CGB shall allocate an equal amount of funding for each state, the District of Columbia, and Puerto Rico, but may allocate a lesser minimum amount to the remaining U.S. Territories. To facilitate coordination, States and U.S. Territories may choose, but will not be required, to establish a single point of contact to, among other things, coordinate among entities within the State or U.S. Territory that have

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<sup>164</sup> *ACP Further Notice* at 90-91, para. 191.

<sup>165</sup> *Id.* at 90, para. 193.

<sup>166</sup> *See, e.g.*, BDT Comments at 3-7 (stating that a mail campaign typically costs \$200,000-\$400,000, and a text messaging campaign typically costs \$100,000-\$300,000 for an 80,000 to 150,000 person outreach); EveryoneOn Comments at 2 (advocating for grants in the range of \$25,000 to \$100,000); SANDAG Comments at 3 (describing City of San Diego digital navigator pilots estimated to cost \$100,000 annually and San Diego Futures Foundation Get Connect Pop Up on-site technology assistance program with a \$48,000 annual budget); Coalition of Local Governments Reply Comments at 16, 18 (stating that Chicago's Connected Initiative provides funding to community based organizations based on an estimated cost of \$60 per eligible households, with awards ranging from \$10,000 to a maximum of \$450,000 with the average of \$142,000" and estimating based on data from Montgomery County, Maryland "if you need to sign up 10,000 people, the cost would be \$400,000"); NUL Comments at 3 (recommending at least \$5 million funding for national non-profit intermediaries for education and awareness campaigns).

<sup>167</sup> As explained in the *ACP Order*, the Commission is committed to "using a variety of outreach tools in the immediate term and for the duration of the program" to encourage eligible households to enroll in the ACP, and these tools may include, but are not limited to, paid outreach efforts, and consumer research and focus groups. *ACP Order* at 91, para. 195.

relevant outreach responsibilities related to implementing the Outreach Grant Program. We further direct CGB to designate a minimum of \$10 million of the ACP outreach budget for competitive allocation to eligible Tribal governments and Tribal organizations, including Tribally Designated Housing Entities, to be used specifically for ACP outreach to persons who live on qualifying Tribal lands as defined in section 54.1800(s) of the Affordable Connectivity Program rules.<sup>168</sup>

47. To maximize the impact of the dollars allocated for ACP outreach, we seek to build upon existing initiatives that we have already determined will support the goal and objectives established in this Order to increase awareness of and participation in the Affordable Connectivity Program; specifically, the ACP Navigator Pilot and Your Home, Your Internet Pilot Programs. Appropriately targeted outreach funding could further the scope of outreach and enrollment activities conducted by participants in these pilots, which in turn would promote the success of these pilots and provide the Commission with valuable information on what is needed to increase awareness and aid in the enrollment of targeted populations, including households that participate in Federal Public Housing Assistance Programs. In establishing the parameters of both pilots, we will inform potential participants that are eligible for grants of our intent to make available outreach grant funds to support their pilot program activities, and will encourage and enable eligible entities participating in one or both of these pilots to apply for Outreach Grant Program funding. Therefore, we direct CGB to set aside up to \$5 million each, for a total of up to \$10 million of the ACP outreach budget, for outreach grants specifically for eligible entities participating in either or both the ACP Navigator or Your Home, Your Internet Pilot Programs. We make clear, however, that CGB is not required to award this full amount to pilot participants. We also make clear that while we direct CGB to set aside a specific funding allocation solely for grants to eligible entities participating in Your Home, Your Internet or the ACP Navigator Pilot, eligible entities participating in both or either of these pilots are not limited to applying for that targeted funding, and may apply for a grant in any funding opportunity for which they qualify.

48. We expect that the allocated budget established today for the Outreach Grant Program will support extensive, meaningful outreach by numerous eligible outreach partners. We acknowledge that certain commenters advocate for a total budget larger than \$100 million for outreach grants and other outreach.<sup>169</sup> However, we decline to increase this budget. The \$100 million budget the Commission set for all ACP outreach reflects the critical need for extensive ACP outreach and the fact that the Affordable Connectivity Program has a limited budget, while also ensuring that ample funding remains for providing broadband and device discounts to eligible ACP households for as long as possible.<sup>170</sup> Increasing the total budget for ACP outreach, including the grant program, as these commenters suggest would reduce the

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<sup>168</sup> The record supports outreach to households on Tribal lands. *See supra* note 119.

<sup>169</sup> *See, e.g.*, CETF Comments at 9 (suggesting an outreach budget of \$450 million with the FCC to decide how much it will provide and engaging participating providers to contribute to a \$20 million media campaign); Coalition of Local Governments Reply Comments at 13 (asserting that a budget of \$450 million would not be sufficient for ACP outreach).

<sup>170</sup> We note that to the extent that the total cost of outreach conducted by federal agencies and other stakeholders for the Digital Television Transition was greater than \$100 million, those outreach efforts were aimed at consumers nationwide and were not limited to low-income households participating in specific qualifying programs or meeting a specific low-income threshold. *See generally* FCC, Program-Specific Recovery Act Plan for the FCC's Efforts on the Digital TV Transition (Education and Outreach) (May 15, 2009), *available at* <https://transition.fcc.gov/recovery/FCC-DTV-Recovery-Act-Program-Plan-051509.pdf> (explaining that the Commission's consumer outreach concerning the transition from analog to digital broadcasts included providing local support and information to communities across the country, particularly in markets where there is a significant percentage of the population receiving television signals over-the-air and also noting that the National Telecommunications and Information Administration was authorized to use up to \$90 million for consumer outreach and education, \$65,705,000 of which was transferred to the FCC for outreach). Accordingly, the total cost for Digital Television Transition outreach will necessarily be significantly higher than the Commission's allocated \$100 million budget for outreach grants and the Bureau's outreach for the Affordable Connectivity Program.

amount of funding available to provide the ACP benefit to as many eligible households for as long as possible.

49. We otherwise decline in this Order to prescribe a specific number of funding opportunities for the Outreach Grant Program. CGB should determine how quickly and in what amounts to disperse funding across the duration of the Outreach Grant Program. We also direct CGB, in coordination with WCB and OMD, to decide whether to make the grant funds available through one or multiple NOFOs. CGB shall also determine the size of each grant awarded to each eligible outreach partner within the budget limit we establish herein based on an application process that complies with the applicable federal grant regulations.<sup>171</sup> We note that some commenters advocate for front-loading the grant funds to maximize the impact of the outreach grants in the early years of the Outreach Grant Program where the need for outreach is likely to be the greatest.<sup>172</sup> We agree that this would be an appropriate approach for CGB to consider in deciding funding allocations, including the allocation of the funding set aside for pilot participants, and allocation for competitive grants to eligible entities, to include set-asides to States and U.S. Territories, as well as Tribal organizations, for this Outreach Grant Program. To determine the funding allocation across the grant program, including whether to issue one or multiple NOFOs, we direct CGB to consult with OMD, WCB, OEA, and OGC as appropriate to ensure compliance with the applicable statutes and regulations governing federal grant programs<sup>173</sup> and the requirements we establish in this Order, to also ensure consistency with the Outreach Grant Program's goal and objectives, and to further our interest in maximizing the impact of the grant funds as early as practicable in the course of the Affordable Connectivity Program.

## 2. Duration

50. The *ACP Further Notice* sought comment on whether the grant program should be a one-time funding opportunity or a multiple-year program.<sup>174</sup> Certain commenters advocate for allowing eligible outreach partners to apply for grant funds throughout the Affordable Connectivity Program.<sup>175</sup> We permit CGB to continue to make grant awards until the Affordable Connectivity Program's end is announced consistent with any wind-down processes established by WCB,<sup>176</sup> or until all grant funds allocated for outreach in this Order is disbursed. When the *ACP Further Notice* was released, the Commission capped outreach funding to \$100 million over the next five years.<sup>177</sup> However, increased subscriber numbers could accelerate the depletion of the Affordable Connectivity Fund prior to the allotted 5-year-period for outreach spending. CGB shall coordinate with WCB on the wind-down process

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<sup>171</sup> See generally 2 CFR Subpart C (Pre-Federal Award Requirements and Contents of Federal Awards).

<sup>172</sup> See, e.g., Local Governments Reply Comments at 11-12 (supporting providing outreach grant funding a cross multiple-years to match the duration of the ACP, and supporting allocating more funds in the first year); MPSC Comments at 3 (supporting a multiple-year grant program, and encouraging "allocating more funding to the outreach program in year one" because "it is likely that the number of eligible households unaware of the program will be significantly higher in the first year than at any other point in time.").

<sup>173</sup> See *supra* para. 8 (discussing the regulations and statutes governing federal grant programs).

<sup>174</sup> *ACP Further Notice* at 124, para. 274.

<sup>175</sup> NDIA Comments at 3 (advocating for accepting applications on a rolling basis, with the application window ending when the funding is depleted or the ACP budget is exhausted); NATOA Comments at 6 (supporting same), MPSC Comments at 3 (supporting a multi-year grant program); Local Governments Reply Comments at 12 (same).

<sup>176</sup> See *ACP Order* at 108-09, paras. 230-233 (delegating to Commission staff to establish processes for winding down the Affordable Connectivity Program in a manner that minimizes bill shock for ACP subscribers and to identify a process for notifying the public of the timing of the end of the Affordable Connectivity Program as the funds are nearing depletion).

<sup>177</sup> *ACP Further Notice* at 90, para. 193 (stating that the up to \$100 million outreach budget would be expended over a five-year period.)

to be established pursuant to the direction we provided in the *ACP Order*.<sup>178</sup> At the point when the forecasted end of the Affordable Connectivity Program is announced pursuant to those wind-down procedures, we expect that new grantees would not have sufficient time to implement and execute new outreach efforts, and any new grant awards would be highly unlikely to have meaningful impact on increasing awareness of and enrollment in the Affordable Connectivity Program. Accordingly, we find that it would not be fiscally responsible to issue new grant awards after the forecasted end of the Affordable Connectivity Program is announced pursuant to the wind-down procedures established by WCB, unless additional spending is otherwise authorized by Congress. To effectuate our direction here, CGB is authorized to cancel, withdraw, or set aside any open NOFO and to cease processing any grant applications once the forecasted end of the ACP is announced.<sup>179</sup> The deadline we establish for making new grant awards provides CGB flexibility to continue to make new grant awards for as long as practicable, while also ensuring that grant funds are being used in a fiscally responsible manner. Entities that receive grant awards may continue to use their grant funds for outreach until ACP enrollments cease, pursuant to any ACP wind-down procedures established by WCB. To the extent that uncommitted funding remains in the Outreach Grant Program budget or awardees have unused grant funds after the end of the Outreach Grant Program, but before the end of the Affordable Connectivity Program, the remaining funds may be allocated back to the larger ACP budget to pay for broadband service and connected devices.

#### **F. Additional Guidance and Regulatory Requirements for the Development, Administration, and Management of the Outreach Grant Program**

51. As explained in the *ACP Further Notice*, Title 2 Part 200 of the Code of Federal Regulations outlines numerous requirements for the administration and management of federal grant programs.<sup>180</sup> As required under federal grant regulations, we formally adopt and implement the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.<sup>181</sup> Below, we also provide additional guidelines and requirements for the development, administration, and management of the grant program. CGB must develop, administer, and manage the Outreach Grant Program in compliance with the applicable federal laws and regulations for grant programs and in compliance with the goal and objectives and any other requirements that we have established for the Outreach Grant Program. This authority includes developing and administering, and the issuance of NOFO(s), establishing terms and conditions of each grant, adopting, modifying, and/or clarifying implementing regulations, and issuing orders, public notices, and/or publicly available instructions provided to applicants and/or grantees. Further, CGB shall consult with OMD, WCB, and OGC as appropriate to ensure compliance with these requirements and the requirements outlined in this Order.

##### **1. Notice of Funding Opportunity**

52. Federal agencies administering federal grant programs are required to release a NOFO for grant opportunities.<sup>182</sup> The NOFO provides detailed information about the specific grant opportunity, including information about the amount of funding available, eligible entities, fundable expenses and

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<sup>178</sup> See *ACP Order* at 108-09, paras. 231-32.

<sup>179</sup> The guidance in 2 CFR Part 200 will be adopted in 2 CFR 6000.1 and 47 CFR Part 54.

<sup>180</sup> See *ACP Further Notice* at 123, para. 272.

<sup>181</sup> See 2 CFR § 200.106. For purposes of the Outreach Grant Program, the Commission's adoption of these sections of the Code of Federal Regulations and any mechanisms used to implement non-self-executing provisions in these sections constitute a regulation promulgated under the Commission's authority in 47 U.S.C. § 1752(c)(2)(C)(ii). Additionally, as noted above in paragraph 42 and note 25, in a separate proceeding, the Commission is considering adopting a suspension and debarment system. Appendix A, Final Rules, specifies where the incorporation by reference is codified.

<sup>182</sup> 2 CFR § 200.204.

activities, application and evaluation process, reporting requirements, and other rules and requirements for the grant opportunity.<sup>183</sup> We direct CGB to develop and issue a NOFO for any funding opportunity for the Outreach Grant Program, in compliance with the applicable federal regulations concerning NOFOs and the requirements we establish in this Order, and consistent with the goal and objectives for the Outreach Grant Program. CGB shall consult with WCB, OGC, and the Office of the Inspector General (OIG) as appropriate to ensure that any NOFO issued for the grant program complies with the applicable federal statutory requirements and regulations and any rules, requirements and policies set forth in this Order.<sup>184</sup>

## 2. No Matching Requirement

53. The authorizing statute and federal grant regulations do not require the Commission to adopt a matching requirement for the grant program.<sup>185</sup> Accordingly, we have the discretion to determine whether to require grant recipients to provide matching funds or contributions. Benefits Data Trust (BDT) opposes a match requirement, while other commenters discuss the significant budget limitations faced by many of the types of organizations that are eligible for the grant program.<sup>186</sup>

54. Based on our careful review of the record and in consideration of the urgent need for outreach by a diverse range of eligible outreach partners, we find that a matching requirement for the Outreach Grant Program would likely thwart the potential effectiveness and impact of the grant program.<sup>187</sup> The record demonstrates that many prospective eligible outreach partners are already facing significant budget constraints.<sup>188</sup> Therefore, a matching requirement for the Outreach Grant Program would likely discourage or delay applications from potential outreach partners, particularly smaller organizations. A matching requirement may also lead potential outreach partners to design and propose more limited-scope outreach efforts to ensure they have sufficient funding or resources to satisfy a matching requirement. These outcomes would potentially minimize the number of eligible households touched by grant-funded outreach and, thus, would not serve the goal or objectives of the Outreach Grant Program. Accordingly, we decline to adopt a matching requirement for this grant program. Consistent with this decision, grantees that are pass-through entities also may not require a match from subrecipients. While we decline to adopt a matching requirement as a condition of receiving an outreach grant, we recognize that matching funds can maximize the effectiveness and impact of the limited outreach grant program funds. Accordingly, as explained below, for purposes of prioritizing grant awards, we direct CGB to consider whether the applicant proposes a cost match or cost share, among other factors.

## 3. Type of Grant and Allocation of Funding

55. The Infrastructure Act does not specify the type of grant that the Commission may issue for the grant program. Therefore, the Commission has the authority to make this determination. For federal grants, the potential types of grants include, but are not limited to, discretionary grants (which generally require a competitive process) and formula grants (which generally provide set amounts of

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<sup>183</sup> 2 CFR § 200.204(a)-(c).

<sup>184</sup> 2 CFR § 200.204(a)-(c).

<sup>185</sup> 2 CFR § 200.306 (outlining the requirements for matching, but not requiring matching).

<sup>186</sup> *See, e.g.*, BDT Comments at 8-9 (explaining that a matching requirement “can lead to community-based organizations operating at limited capacity, splitting focus to raise necessary funds to complete the work.”). *See also supra* note 19.

<sup>187</sup> While we decline to adopt a matching requirement for the Outreach Grant Program, we recognize that requiring matching funds may be required by statute or otherwise be appropriate for other federal grant programs.

<sup>188</sup> *See supra* note 19.

funding based on specific criteria).<sup>189</sup> We conclude that competitive funding opportunities would best further the goal and objectives of the Outreach Grant Program, encourage participation by a diverse range of outreach partners, and maximize the impact of the grant program as early as practicable. We also conclude that it would be appropriate to issue more than one NOFO. To the extent that more than one funding opportunity is released for this grant program, it will be necessary to allocate funding for each funding opportunity consistent with the allocations specified in this Order or as it may be necessary to set award ceilings or floors.<sup>190</sup>

56. We direct CGB to decide whether funding will be released through one or more funding opportunity, determine the allocation of funding for any funding opportunity under the Outreach Grant Program consistent with the allocations specified in this Order, and establish minimum funding amounts for States and U.S. Territories or award floors or ceilings to the extent necessary. CGB may roll over unused funding from one set-aside to another, or from one funding opportunity to another. CGB's determinations on the number of funding opportunities and related funding allocations must be consistent with the goal and objectives of the grant program and must also promote our interests in maximizing the impact of the Outreach Grant Program as early as practicable and encouraging participation by a diverse range of outreach partners across diverse geographic regions. To make these determinations, we direct CGB to consult with WCB, OMD, OEA, and OGC as appropriate to ensure compliance with federal grant laws and regulations and requirements in this Order, and to ensure consistency with the goal and objectives of this grant program. Any NOFO issued for this grant program shall provide specific detail on the grant opportunity including, but not limited to, the type of grant, the total amount of funding for the grant opportunity, and any ceilings and floors for the grant opportunity.<sup>191</sup>

#### 4. Subrecipients Permissible

57. The *Further Notice* asked whether use of outreach grant funds should be limited to named grantees or pass-through entities, or whether subgrantees, that is, subrecipients, could use funds for outreach.<sup>192</sup> We also sought comment on the prevalence of subrecipient models in federal grant programs, and the advantages and disadvantages of a subrecipient model.<sup>193</sup> Many commenters advocate for allowing pass-through entities to use subrecipients to conduct outreach under the Outreach Grant Program,<sup>194</sup> and explain that the subrecipient model has proven highly effective in other contexts.<sup>195</sup>

<sup>189</sup> See Grants.gov website, Grant Terminology (defining formula grants, discretionary grants) <https://www.grants.gov/web/grants/learn-grants/grant-terminology.html#D>.

<sup>190</sup> See *supra* para. 46.

<sup>191</sup> 2 CFR § 200.204.

<sup>192</sup> *ACP Further Notice* at 125, para. 276. Although the *Further Notice* referred to “named grant recipients” and “subgrantees,” *id.*, as did many commenters, federal grant guidance and regulations use the terms “pass-through entity” and “subrecipient,” respectively. *E.g.*, 2 CFR § 200.1. For consistency with grant regulations, this Order uses “pass-through entity” and “subrecipient.” A “pass-through entity” is a “a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.” A “subrecipient” is defined as “an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award.” 2 CFR § 200.1.

<sup>193</sup> *ACP Further Notice* at 125, para. 276.

<sup>194</sup> See AFN Comments at 4; BDT Comments at 3; CETF Comments at 10; Centri Tech Comments at 1; Education Super Highway Comments at 14; LISC Comments at 3; Local Governments Reply Comments at 21; NDIA Comments at 7; NHMC Comments at 5; NATOA Reply Comments at 3; SANDAG Comments at 5; NUL Comments at 3, 5 (advocating hub-and-spoke approach). The Hawaii Broadband and Digital Equity Office also supports awards to subgrantees but recommends that subgrantees provide letters of support to grantees. Hawaii Comments at 3.

<sup>195</sup> LISC Reply Comments at 3 (citing U.S. Dep't of Housing and Urban Development Section 4 Capacity Building Program and U.S. Small Business Administration Community Navigator Pilot Program as “impactful subgrantee

(continued....)

According to commenters, a subrecipient model facilitates the participation of smaller entities that may not have the capacity or resources to apply for grants and comply with reporting requirements and allows for leveraging pass-through entity resources and expertise.<sup>196</sup>

58. Based on our careful consideration of the record, we agree that allowing pass-through entities to use subrecipients would best promote the goal and objectives of the Outreach Grant Program and maximize the potential scope and impact of grant-funded outreach. Allowing the subrecipient model would also facilitate the administration of the Outreach Grant Program by reducing the number of grants awarded and requiring management. Consequently, we direct CGB to permit the use of subrecipients, where appropriate (e.g., grant awards to a national organization or to a state or local government), for funding opportunities for the Outreach Grant Program. Any subrecipients must satisfy the eligibility requirements we establish in this Order. To ensure full transparency regarding any subrecipients, grantees who are pass-through entities must inform CGB of which subrecipients they use, as well as the amount of each subaward. Pursuant to federal grant regulations, pass-through entities are responsible for conducting risk assessments of potential subrecipients, monitoring their subrecipients and ensuring their subrecipients' compliance with the requirements of applicable federal laws and regulations and this grant program.<sup>197</sup> Consistent with the delegations of authority in this Order, CGB, in consultation with OMD, may require pass-through entities to have additional policies and procedures in place to ensure subrecipient compliance with the grant requirements, terms and conditions.

## 5. Application Requirements

59. The *Further Notice* also sought comment on the application process and requirements for the grant program, noting that in previous comments, the National Digital Inclusion Alliance proposed that the application process be as minimally burdensome as possible, especially for small organizations that have limited capacity to participate in large federal grant programs.<sup>198</sup> This view is shared by many other commenters, who urge the Commission to avoid creating a program so complex that it discourages applicants.<sup>199</sup> Commenters also advocate for an “accessible and non-burdensome application process.”<sup>200</sup>

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models”); BDT Comments at 5 (advocating the Supplemental Nutrition Assistance Program State Outreach Plans as a model, which include allowing community organizations to receive reimbursement for a allowable outreach activities as subrecipients).

<sup>196</sup> See NHMC Comments at 5 (“For smaller or less-resourced organizations, navigating and maintaining compliance for a federal grant program is too large of a task, regardless of assistance resources available.”); LISC Comments at 3-4 (describing benefits of subgrantee model); Latino Community Foundation Reply Comments at 2 (emphasizing need for flexibility with “subcontracts” given insufficient resources to apply for government funding); BDT Comments at 5 (“Using subgrantees allows the state to rely on smaller trusted community-based organizations to conduct effective outreach in their communities of influence”); *id.* at 8; Education Super Highway Comments at 14; Leadership Conf. Reply Comments at 2; Local Governments Reply Comments at 21.

<sup>197</sup> See generally 2 CFR §§ 200.331 to 333 (setting forth requirements for subrecipient monitoring and management). We note that NDIA and other commenters suggest that pass-through entities be ultimately responsible for reporting requirements. See NDIA Comments at 7 (“We recommend a grant program structure in which named recipients fulfill the reporting, auditing, and other administrative requirements typical of a federal grant program whereas the subgrantees focus on conducting outreach work while fulfilling simple reporting requirements.”); CETF Comments at 10.

<sup>198</sup> *ACP Further Notice* at 125, para. 277.

<sup>199</sup> See AFN Comments at 3; BDT Comments at 3; Common Sense Media Comments at 1, 7; Leadership Conf. Comments at 2; NaLA Comments at 6 (recommending “reasonable and predictable application”); NHMC Comments at 4 (advocating that application requirements be as “simple and concise as possible”); Local Governments Reply Comments at 22, 23; SANDAG Comments at 2.

<sup>200</sup> NDIA Comments at 7; see also AFN Comments at 3 (suggesting an application of no more than a few pages).



We acknowledge commenters' desire for minimal administrative burden for applicants and agree that an overly complex application process could deter applicants who could provide meaningful outreach.

60. We direct CGB to develop an application process, which may include relevant application templates and any supplements as appropriate, for the Outreach Grant Program in compliance with the applicable federal guidance and regulations and consistent with the goal and objectives of the grant program. Among these regulations, Title 2 of the CFR, section 200.207, as implemented by the Commission, requires use of standard OMB-approved grant applications and provides for agency use of any supplemental application requirements.<sup>201</sup> CGB may determine the types of eligible entities outlined in this Order that may be eligible for a particular funding opportunity for the grant program. To develop such an application, we direct the CGB to consult with WCB, OMD, and OGC as appropriate to ensure compliance with the applicable federal laws and regulations and to also ensure consistency with the program goal and objectives. In developing the application process for the grant program, we further direct CGB to carefully balance minimizing the burden to potential applicants (as discussed in the comments) and the need for sufficient information to allow reviewers effectively to analyze applications and comply with federal grant regulations, and select applications best positioned to conduct effective, meaningful outreach.

61. Any application for the grant program must collect information sufficient for meaningful review. At a minimum, applicants must submit the following information as part of an application package: (a) project summary; (b) detailed budget; (c) budget narrative supporting the budget and demonstrating that it is consistent with the requirements in the NOFO; and (d) any mandatory forms for federal grants. As part of the project summary, applicants will provide: a description of the geographic areas that will be targeted and served through the proposed outreach; constituencies intended to be targeted and served, to include members of an unserved or marginalized community; an estimated number of households or individuals to be targeted; whether the outreach will target communities that have low ACP participation rates; description of the applicant's role in the community which it is serving; description of the applicant's outreach goals and milestones and for their proposed outreach; and a description of whether the applicant is proposing a cost-match or cost share for their proposed outreach.<sup>202</sup> These and additional project summary information requirements will be captured in detail as part of the NOFO release. To guard against duplicative funding and ensure that outreach grant program funding will be awarded for new outreach efforts and not outreach efforts for which an applicant already has funding or expects to receive funding, applicants will also be required to disclose support or funding for outreach received from broadband providers and other sources, or certify that they received no such support or funding, and to explain the need for additional funding from the Outreach Grant Program if they have already received, are receiving, or expect to receive other support or funding for ACP outreach. We direct CGB to work with OEA to collect information on how grantees will gather data and track metrics related to meeting the Outreach Grant Program's goal and objectives. CGB may require any additional information necessary to evaluate grant applications and ensure compliance with the applicable federal laws and regulations applicable to grants. CGB may also issue more than one application process or template to accommodate different types of grants, or different grant opportunities under the grant program, as necessary.

## **6. Standard Program Financial, Reporting, and Other Administrative Requirements**

62. *Red Light Rule.* The Outreach Grant Program will be subject to the red light rule that the Commission implemented to satisfy the requirements of Debt Collection Improvement Act of 1996. Under the red light rule, the Commission will not take action on applications or other requests by an

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<sup>201</sup> 2 CFR § 200.207; *see supra* para. 8.

<sup>202</sup> *See, e.g., HHS Grants Policy Statement* at I-17. In reviewing applications, CGB shall consider whether the applicant's outreach goals are aligned with the goal of the Outreach Grant Program.

entity that is found to owe debts to the Commission until full payment or resolution of that debt.<sup>203</sup> If the delinquent debt remains unpaid or other arrangements have not been made within 30 days of being notified of the debt, the Commission will dismiss any pending applications.<sup>204</sup> Consistent with practices in the Lifeline program and other programs such as the Telecommunications Relay Service, the red light rule is not waived for the Affordable Connectivity Program and its Outreach Grant Program.<sup>205</sup> If a prospective grant applicant is on red light, it will need to satisfy or make arrangements to satisfy any debts owed to the Commission before its application and/or election notice will be processed. We direct CGB and OMD to ensure that a process is in place to check an entity's red light status prior to processing a grant application, disbursement, or other request from the entity consistent with the red light rule.

63. *Treasury Offset.* Grant outreach grantees will be subject to Treasury Offset. The Treasury has several collection tools, including its offset program, known as the Treasury Offset Program (TOP), through which it collects delinquent debts owed to federal agencies and states by individuals and entities, by offsetting those debts against federal monies owed to the debtors. Grant recipients that owe past-due debt to a federal agency or a state may have all or part of their payments offset by Treasury to satisfy such debt. Prior to referral of its debt to Treasury, entities are notified of the debt owed, including repayment instructions.<sup>206</sup> If the referred debt of a grantee remains outstanding at the time of a payment by the U.S. Treasury from the ACP Fund to that grantee, the grantee will be notified by Treasury that some or all of its payment has been offset to satisfy an outstanding federal or state debt. Potential grant applicants who owe past due federal or state debts are encouraged to resolve such debts and in doing so, consult the TOP Frequently Asked Questions for the Public, available at <https://fiscal.treasury.gov/top/faqs-for-the-public.html>, for delinquent debt that has been referred to Treasury, and for delinquent debt that the Commission has not yet referred to Treasury, consult <https://www.fcc.gov/general/red-light-frequently-asked-questions>.

64. *Additional Requirements.* To be eligible to receive disbursements from the Affordable Connectivity Fund, grant applicants must obtain and report an FCC Registration Number (FRN). Persons or entities doing business with the Commission are required to obtain an FRN, a unique identifier that is obtained through the Commission Registration System (CORES).<sup>207</sup> Participating grant applicants must obtain an FRN if they do not already have one and report it as directed by the Commission.

65. *SAM Registration.* All entities that intend to apply for a grant must also register with the System for Award Management (SAM). SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's partners in support of federal awards, grants, and electronic payment processes. With data in SAM the Commission has an authoritative source for information necessary to provide funding to applicants and to ensure accurate reporting pursuant to the Federal Funding Accountability and Transparency Act of 2006, as amended by the Digital Accountability and Transparency Act of 2014 (collectively the Transparency Act or FFATA/DATA Act).<sup>208</sup> Only grantees registered in SAM with an active registration will be able to

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<sup>203</sup> *Amendment of Parts 0 and 1 of the Commission's Rules/Implementation of the Debt Collection Improvement Act of 1996 and Adoption of Rules Governing Applications or Requests for Benefits by Delinquent Debtors*, Report and Order, 19 FCC Rcd 6540 (2004); 47 CFR § 1.1910.

<sup>204</sup> 47 CFR § 1.1910(b)(3).

<sup>205</sup> *ACP Order* at 117, para. 252.

<sup>206</sup> See 31 CFR § 285.5(d)(6)(ii).

<sup>207</sup> 47 CFR § 1.8001. To register for or look-up an FRN, potential grant applicants are directed to visit <https://www.fcc.gov/licensing-databases/commission-registration-system-fcc>.

<sup>208</sup> Pub. L. No. 109-282, 120 Stat. 1186 (2006) and Pub. L. No. 113-101, 128 Stat. 114 (2014), codified as 31 U.S.C. § 6101 note. In August 2020, the Office of Management and Budget updated the rules governing compliance with the Transparency Act as part of wider ranging revisions to title 2 of the Code of Federal Regulations. 85 FR 49506 (published Aug. 13, 2020) (including revisions to 2 CFR Parts 25, 170, 183, and 200). OMB explained that the

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receive reimbursement from the Affordable Connectivity Fund.<sup>209</sup> Furthermore, participating grantees may be subject to reporting requirements. To the extent that participating grantees subaward the grant, as defined by FFATA/DATA Act regulations, such grantees may be required to submit data on those subawards.<sup>210</sup>

66. *Do Not Pay.* Pursuant to the requirements of the Payment Integrity Information Act of 2019 (PIIA), the Commission must ensure that a thorough review of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any federal funds.<sup>211</sup> To meet this requirement, the Commission will make full use of the Do Not Pay system administered by the Treasury’s Bureau of the Fiscal Service as has been done for other payments from the Affordable Connectivity Fund.<sup>212</sup> If a check of the Do Not Pay system results in a finding that an ACP grant recipient should not be paid, the Commission will withhold issuing commitments and payments. The Commission may work with the grant recipient to give it an opportunity to resolve its listing in the Do Not Pay system if the grantee can produce evidence that its listing in the Do Not Pay system should be removed. However, the grant recipient will be responsible for working with the relevant agency to correct its information before payment can be made by the Commission.<sup>213</sup>

## 7. Application Review Process

67. We direct CGB, in coordination with WCB, OGC, OEA, and OMD, to develop a robust application review process to ensure that the grant awards maximize the impact of grant funds on ACP awareness and participation among qualifying low-income households and also ensure the fiscally responsible use of government funds.<sup>214</sup> To ensure compliance with the applicable federal statutes and regulations, the review process must include, at a minimum, compliance, merit, and risk assessment components.<sup>215</sup> Compliance review involves assessing whether application materials are complete and comply with NOFO requirements. Merit review involves objectively evaluating, using review and scoring criteria outlined in the NOFO, an applicant’s outreach proposal for likely efficacy in meeting the Outreach Grant Program’s objectives.<sup>216</sup> Risk assessment review involves examining an applicant’s fiscal stability and operational capabilities, including the risk associated with allowing the applicant to

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SAM registration requirements were expanded “beyond grants and cooperative agreements to include other types of financial assistance” to ensure compliance with FFATA. 85 Fed. Reg. 49506 at 49517.

<sup>209</sup> It is strongly recommended that unregistered potential grant applications start the registration process immediately because it may take up to 10 business days for the registration to become active and an additional 24 hours before the registration information is available in other government systems. To register with the system, go to <https://www.sam.gov/SAM/> and provide the requested information.

<sup>210</sup> 2 CFR Part 170, App. A.

<sup>211</sup> Payment Integrity Information Act (PIIA), Pub. L. No. 116-117, 134 Stat. 113 (2019). PIAA recodifies and amends the prior improper payment statutes (e.g., The Improper Payments Information Act of 2002, Pub. L. 107-300; The Improper Payments Elimination and Recovery Act of 2010, Pub. L. No. 112-248; and The Fraud Reduction and Data Analytics Act of 2015, Pub. L. No. 114-186).

<sup>212</sup> *ACP Order* at 119, para. 256; *EBB Program Order*, 36 FCC Rcd at 4664, para. 109; For additional information, see <https://fiscal.treasury.gov/DNP>.

<sup>213</sup> For additional information, see <https://fiscal.treasury.gov/dnp/privacy-program.html#data-correction-process>.

<sup>214</sup> *ACP Further Notice* at 125, para. 278.

<sup>215</sup> *Cf.*, e.g., 2 CFR § 200.205 (describing merit review); *id.* § 200.206(a) (describing requirement for federal agencies to review OMB-designated repositories of government-wide data before making a federal award); *id.* § 200.206(b) (describing risk evaluation framework).

<sup>216</sup> 2 CFR § 200.205.

expend federal funds.<sup>217</sup> In developing the application review process, CGB shall consult with WCB, OMD, OEA, and OGC as appropriate to ensure compliance with the applicable federal laws and regulations for grant programs, and to otherwise ensure consistency with the goal and objectives of the grant program.

68. The *ACP Further Notice* sought comment on whether certain grant applications should be prioritized and evaluated.<sup>218</sup> Based on our review of the record and experience administering the Affordable Connectivity Program, and its predecessor the EBB Program, we conclude that prioritizing certain applications will best promote the goal and objectives of the Outreach Grant Program, ensure that grant funding is targeted to where it will have the greatest impact on addressing the digital divide, and maximize the impact and effectiveness of the Outreach Grant Program funding. In evaluating applications, we direct CGB, at a minimum, to prioritize applications based on the following criteria:<sup>219</sup> (1) the extent to which an applicant would target unserved low-income households or individuals (i.e. households or individuals that are not currently on a low-income broadband plan or that do not have broadband service);<sup>220</sup> (2) the extent to which an applicant would target outreach in communities that have low ACP participation rates (including 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);<sup>221</sup> and (3) whether an applicant proposes a cost-share or cost match. In evaluating grant applications from state governmental entities or territorial governmental entities, CGB may also consider prioritizing grants based on whether the state or territory has entered into or has committed to enter into a Computer Matching Agreement with USAC for purposes of verifying the eligibility of low-income consumers for the Affordable Connectivity Program.<sup>222</sup> The prioritization factors outlined in this Order and any other prioritization and evaluation factors shall be identified in the NOFO(s).<sup>223</sup>

69. Commenters suggest additional ways to prioritize or select applications to maximize the impact of the grant funds. CGB may decide to use additional prioritization factors to promote the goal of the Outreach Grant Program and maximize the reach, effectiveness, and impact of the grant funds. Consistent with the record, when developing prioritization criteria and evaluation criteria, CGB may also consider, for instance, an applicant's experience, ties to local communities, multilingual capabilities, ACP and digital equity experience, all of which may be relevant to the likelihood of success of an applicant's

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<sup>217</sup> See 2 CFR § 200.206(b).

<sup>218</sup> *ACP Further Notice* at 126, para. 278.

<sup>219</sup> We agree with the Local Governments that the Commission should “prioritize” applicants by building the basis for prioritization into the reviewing criteria. See Local Governments Reply Comments at 22.

<sup>220</sup> Many commenters recommend that the Commission prioritize grant proposals that target outreach to underserved households and communities most affected by the digital divide. See BDT Comments at 3-4, 10; CETF Comments at 10 (Commission should prioritize organizations providing outreach to low-income communities, people of color, immigrants, seniors, Tribal Nations, people with disabilities, unhoused people, foster youth, and those residing in shelters for victims of domestic violence); Common Sense Media Comments at 5; Leadership Conference Comments at 2; Leadership Conf. Reply Comments at 2; Local Governments Reply Comments at 4 (“[O]utreach partners must make outreach to the targeted communities a priority, especially immigrant communities that are historically reticent to benefit from programs created to assist them because of distrust of government”); MPSC Comments at 2; NHMC Comments at 2-3; NUL Comments at 5.

<sup>221</sup> See *supra* note 220.

<sup>222</sup> We encourage the use of Computer Matching Agreements because such agreements facilitate automated eligibility verification for ACP applicants, see *Affordable Connectivity Program Order* at 34, 119, paras. 64, 257 (directing USAC to continue to engage with governmental entities to establish computer matching agreements to facilitate increased opportunity for automated eligibility verifications for the ACP).

<sup>223</sup> See 2 CFR § 200.204(c).

outreach plan. The following are examples of prioritization or evaluation factors that may be appropriate for CGB to use for purposes of maximizing the impact and effectiveness of the outreach grant funds:

- Experience with, and past success in, conducting outreach regarding government programs and resources, particularly providing resources and directing services (such as ACP application assistance) and education 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;<sup>224</sup>
- Existing relationships with the communities grant applicants expect to target (e.g., as “trusted messengers”), or the ability to readily establish those relationships, particularly relationships with 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;<sup>225</sup>
- Participation in the Commission’s ACP Navigator or Your Home, Your Internet Pilot Programs;
- Familiarity with the Affordable Connectivity Program and experience with or knowledge of digital equity and connectivity issues;<sup>226</sup>
- Experience with or capability of providing multilingual outreach;<sup>227</sup>

<sup>224</sup> EducationSuperHighway Comments at 14; CETF Comments at 9; BDT Comments at 4, 10; Centri Tech Comments at 2-3; Common Sense Media Comments at 7; EveryoneON Comments at 2; Laura Flannigan Comments; LISC Reply Comments at 3; MPSC Comments at 2; NHMC Comments at 3; Local Governments Reply Comments at 22; NDIA Comments at 7; NUL Comments at 4, 5; U.S. Chamber of Commerce Reply Comments at 1. NUL recommends higher grant amounts to experienced organizations who subgrant to others, and smaller grants to smaller organizations or those new to outreach. *Id.* at 5. We note that while CGB has the authority to consider applicants’ prior outreach experience, this must be balanced against the need to not exclude new organizations that may be effective at reaching priority groups. As the Michigan Public Service Commission points out, relying solely on prior experience could eliminate applicants otherwise more suitable to perform ACP outreach. *See* MPSC Comments at 3; *see also* Local Governments Reply Comments at 23 (“The experience of the City of Chicago, as it stood up Chicago Connected, was that some of the most effective CBO partners were not the largest, most resourced, or even the most experienced entities.”); NaLA Reply Comments at 5. We make clear that while experience may be important and could be considered as part of the evaluation process, it should not be a gating criteria to apply for an outreach grant.

<sup>225</sup> The Urban League maintains that “the most critical component of outreach is sending trusted people into the community,” and many commenters echoed the importance of community connections to outreach efficacy. NUL Comments at 2; EducationSuperHighway Comments at 6; *id.* at 8, 14; AFN Comments at 4; CETF Comments at 6; BDT Comments at 3; Centri Tech Comments at 2; City of Los Angeles Reply Comments at 3; Common Sense Media Comments at 7; EveryoneON Comments at 2; Hawaii Comments at 5; Laura Flannigan Comments; Local Governments Reply Comments at 14; Leadership Conf. Reply Comments at 2; NDIA Comments at 4, 7; NHMC Comments at 3; USTelecom Reply Comments at 2-3.

<sup>226</sup> BDT Comments at 4 (Commission should evaluate experience with identifying ACP eligible but not enrolled individuals); CETF Comments at 6 (recommending eligible entities have experience performing digital literacy and adoption training); EducationSuperHighway Comments at 8 (asserting that “outreach staff must have a detailed understanding of the ACP eligibility criteria and application process”); Centri Tech Comments at 4; LISC Comments at 4; NDIA Comments at 8.

<sup>227</sup> NHMC Comments at 3-4 (recommending Commission “prioritize funding allocation to grantees within in-language capacities and expertise to expand the accessibility, impact, and effectiveness of outreach materials for grantees, public interest groups, and the Commission itself”); *see also* Common Sense Media Comments at 4; *cf.* Latino Community Foundation Comments at 2-3 (noting that overcoming linguistic barriers will require participation of community-based organizations with multilingual capacity).

- A plan and/or demonstrated capacity to collect data and track metrics in order to comply with reporting requirements;<sup>228</sup>
- Ability to provide outreach to multiple categories of outreach targets;<sup>229</sup>
- Experience working with subrecipients with relationships to targeted communities, if an applicant intends to pass through awards to subrecipients.<sup>230</sup>

## 8. Ensuring Diversity of Grant Awards

70. The *ACP Further Notice* also sought comment on whether and how grants should be distributed to achieve geographic diversity and diversity in recipient organization sizes and types.<sup>231</sup> A few commenters advocate allocating grants based on geographic diversity.<sup>232</sup> Others recommend ensuring funding to entities of various sizes.<sup>233</sup> We agree that a diversity of award recipients and geographic areas would further the interest in nationwide ACP enrollment and outreach to target populations. Accordingly, in developing and administering the grant program, we direct CGB to consider how best to ensure that grant awards are made to diverse geographic regions and entity sizes or types, whether through the funding announcement or evaluation process, and to consult with OEA and WCB to make these determinations.

## 9. Performance Period

71. The Infrastructure Act does not establish a performance period for the outreach grants. In the *ACP Further Notice*, we sought comment on an appropriate performance period for the outreach grants.<sup>234</sup> We direct CGB to determine the performance period for any grant opportunity issued for the grant program. We note that many commenters indicated that a one-year performance period would not provide grantees sufficient time to develop and implement their proposed ACP outreach, and that a more than one-year performance period is more likely to incentivize applications.<sup>235</sup> To determine an

<sup>228</sup> BDT Comments at 4, 10 (stating the Commission should evaluate a applicant experience with clear and accurate reporting); SANDAG Comments at 5 (arguing Commission should give special consideration to “partners that have capacity and demonstrated experience to effectively collect, monitor, and manage performance metrics”).

<sup>229</sup> AFN Comments at 3 (recommending “priority in awarding grants to statewide or regional organizations that can serve multiple eligible target populations”); *id.* at 4.

<sup>230</sup> *E.g.*, NUL Comments at 4-5; *see also supra* para. 58 (discussing subrecipient model).

<sup>231</sup> *ACP Further Notice* at 126, para. 278.

<sup>232</sup> AFN Comments at 5 (suggesting that “[a]t least one grant should be made in every state to address its unique needs”).

<sup>233</sup> BDT Comments at 12 (“The Commission should consider awarding funding to applicants from a range of organization types and sizes . . . and ensuring diversity in geographic areas and intended outreach populations that will best serve the underlying goal of increasing enrollment in the ACP.”); Centri Tech Comments at 1 (advocating grantees that provide a mix of national and local reach and expertise); NDIA Comments at 8-9. NHMC suggests “earmarking” grant funds for an organization with expertise in data collection and coordination. NHMC Comments at 5.

<sup>234</sup> *ACP Further Notice* at 126, para. 278.

<sup>235</sup> *See* Coalition of Local Governments Reply Comments at 12 (advocating for more than one year to give grantees time to optimize performance); BDT Comments at 6 (stating that “the multi-year grant program is more attractive than a single-year program” and explaining that a “multi-year program “allows sufficient time for grantee evaluation and a adjustment of outreach methods to ensure the program receives the highest level of efficacy.”); CETF Comments at 8 (advocating for a two-year performance period and stating that one-year grants “are too short in duration and end up more costly to administer.”); AFN Comments at 5 (advocating for a two-year period because “it will take some time to get an outreach program such as this up and running.”); EveryoneOn Comments at 1

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appropriate performance period for the outreach grants, we direct CGB to consider the time frames needed to implement and execute meaningful outreach efforts based on its own outreach experience and those of existing outreach partners. We further direct CGB to take into account the ACP budget projections to ensure that the performance period maximizes the impact of grant funds as early as practicable. Consistent with federal regulations, any NOFO issued for the Outreach Grant Program will specify the performance period.<sup>236</sup> As such, applicants must submit a grant application with a budget spend or draw down plan to cover the period of performance, demonstrating a plan to execute outreach efforts and support grant award closeout activities within the established period of performance.

## 10. Performance Measures and Reporting Requirements

72. Federal agencies administering grant programs are required to establish performance measures to “show achievement of program goal and objectives, share lessons learned, improve program outcomes, and foster adoption of promising practices” and establish reporting requirements.<sup>237</sup> The *ACP Further Notice* sought comment on the performance measures and reporting requirements for the grant program.<sup>238</sup> Given its extensive experience conducting outreach, we direct CGB to develop performance measures and reporting requirements for the Outreach Grant Program in compliance with the applicable federal regulations. We direct CGB to consult with OEA, OMD, and WCB to determine the appropriate performance measures as well as data collection and reporting requirements and related deadlines for this grant program, and to ensure the metrics and reporting requirements comply with the applicable federal regulations, are consistent with the goal and objectives for the grant program, are tailored to accommodate a range of fundable outreach, and support a fiscally responsible administration of the program. We further direct USAC to provide Commission staff upon request Affordable Connectivity Program data relevant to assessing the performance of the Outreach Grant Program, as determined by CGB, WCB, OEA and OMD.

73. To develop the performance measures and related grantee reporting requirements, CGB should strike an appropriate balance between the need for robust metrics and reporting requirements to assess the performance of the grant program and need for financial reporting, and the administrative burden to grantees.<sup>239</sup> We note that many commenters caution against overly burdensome reporting requirements, and advocate for reporting on no more than an annual basis.<sup>240</sup> In addition, many

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(advocating for 2-4 years to conduct funded outreach and explaining that “[s]tanding up a specific outreach program, in this case around ACP, requires time to coordinate and train personnel, coordinate messaging, align efforts with existing program services, identify and/or leverage existing outreach channels, and time to get the word out.”).

<sup>236</sup> 2 CFR § 200.204(c).

<sup>237</sup> 2 CFR §§ 200.301, 200.329 (outlining performance reporting requirements); 200.302 and 200.328 (outlining financial reporting requirements).

<sup>238</sup> *ACP Further Notice* at 126, para. 279.

<sup>239</sup> Examples of performance metrics commenters propose include impression and outreach numbers for advertising campaigns, number of underserved households reached by outreach, average cost of outreach per household, number of community partners engaged, percentage change in eligible households enrolled, methods used for performing outreach and education, effectiveness of the outreach and education. *See, e.g.*, Common Sense Media Comments at 6-7, SANDAG Comments at 5; NY PSC Comments at 2. As some commenters note, permitting the use of subrecipients as appropriate (e.g., for grants awarded to national outreach partners or state or local government entities) would encourage the participation of smaller organizations because it reduces smaller entities’ burdens associated with compliance and reporting. *See, e.g.*, NHMC at 5; Leadership Conference on Civil and Human Rights Reply Comments at 2; LISC Comments at 3.

<sup>240</sup> *See, e.g.*, NALA Reply Comments at 2-3 (advocating for “reasonable and predictable reporting requirements.”); BDT Comments at 9 and 14 (recommending that “the application process, reporting requirements, and financial requirements be as minimally burdensome as possible” and advocating for annual reporting); NHMC Comments at 4 (urging the Commission to “design the application, reporting and requirements of the Outreach Grant program to be

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commenters stress the need for any performance measures to take into account the various types of outreach that may be funded through the grant program—metrics that may be appropriate for one type of outreach (e.g., in-person events) may not be appropriate for other types of outreach (e.g., paid media).<sup>241</sup> A few commenters also recommend collecting qualitative (such as personal stories) as well as quantitative data to measure performance.<sup>242</sup> At a minimum, we require grantees to report on the outreach activities they performed with the grant funds, how the grant funds were spent, and the effectiveness of those outreach activities.<sup>243</sup> Consistent with the applicable federal regulations, any NOFO that is released for the grant program will provide specific detail on the performance measures and reporting requirements and any reporting deadlines.<sup>244</sup> Grantees must comply with progress and financial reporting requirements for the grant program, as outlined in the NOFO.

## 11. Audits and Document Retention Requirements

74. All awards made through the Outreach Grant Program will be subject to the audit and document retention requirements under the applicable federal laws and regulations for grant programs.<sup>245</sup> In addition to these requirements, we direct CGB and OMD, to conduct compliance audits for grantees that are not subject to the single audit act requirements (i.e., non-federal entities that do not expend federal awards of \$750,000 or more in the recipient’s fiscal year) to ensure compliance with the federal grant regulations, and any program rules and requirements outlined in the NOFO and grant award for individual grantees. Grantees must cooperate with any such audits and provide the requested documentation pertaining to their participation in the grant program.<sup>246</sup> As noted below, failure to cooperate to the fullest extent required by the Commission or USAC staff may result in the termination of the award or disallowance of costs, subsequent recovery of funds by the Commission, or other enforcement actions.

75. We emphasize that the Commission is committed to program integrity, guarding against waste, fraud, and abuse and ensuring that funds disbursed through the Outreach Grant Program are used only for approved purposes. We make clear that the enforcement authority we have with respect to the Affordable Connectivity Program, including the authority to impose forfeiture penalties to enforce compliance, also applies to the Outreach Grant Program.<sup>247</sup> The Commission also has tools beyond forfeiture to address grantee noncompliance, including imposing additional conditions, disallowing costs, and suspending or terminating awards.<sup>248</sup> We take seriously our enforcement obligations. Consistent

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as simple and concise as possible.”); U.S. Chamber of Commerce Reply Comments at 1 (“we agree with commenters that the application and reporting requirements and processes should be minimally burdensome to encourage participation and ensure resources are focused on using the grant funding for outreach.”); AFN Comments at 4 (advocating for annual, not monthly or quarterly reports); *But see* Hawaii Comments at 3 (advocating for not more than monthly reporting from grantees and subawards).

<sup>241</sup> See Common Sense Media Comments at 6-7 (advocating for different performance metrics for advertisement outreach campaigns and hands-on enrollment events); NATOA Reply Comments at 7.

<sup>242</sup> See NHMC Comments at 6; Centri Tech Comments at 2.

<sup>243</sup> See NY PSC Comments at 2 (stating that grantees “should be required to report on how the funding is being used, including, but not limited to, the methods used for performing outreach and education”).

<sup>244</sup> 2 CFR §§ 200.204(c)(6), 200.211.

<sup>245</sup> 2 CFR §§ 200.334 (document retention requirements), 200.500 *et seq.* (audit requirements).

<sup>246</sup> See 2 CFR § 200.337(a) (providing that a Federal awarding agency must have “the right to access any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts”).

<sup>247</sup> *ACP Order* at 75, para. 153.

<sup>248</sup> 2 CFR §§ 200.339, 200.340; *see also supra* para. 42 (discussing potential for grantee suspension or debarment).



with the Infrastructure Act's requirement that the Commission act expeditiously to investigate potential violations of program rules and requirements and to enforce compliance,<sup>249</sup> we direct the Enforcement Bureau (EB) to expeditiously investigate potential violations of and enforce the Outreach Grant Program rules and grant award terms and conditions. We also reserve the right to take appropriate actions, including, but not limited to, seeking recovery of funds.<sup>250</sup>

### **G. Technical Assistance and Other Grantee Support**

76. The *ACP Further Notice* sought comment on the types of technical assistance and other support the Commission could provide to prospective applicants and grantees in connection with the Outreach Grant Program.<sup>251</sup> Specifically, we sought comment on what might be valuable technical assistance to grantees and how technical assistance might evolve over the duration of the grant program implementation.<sup>252</sup> We also sought comment on the types of materials that the Commission could provide outreach partners in connection with the Outreach Grant Program.<sup>253</sup>

77. Several commenters support providing technical assistance to applicants.<sup>254</sup> NDIA urges the Commission to provide technical assistance to prospective applicants by hosting informational webinars, holding office hours for real-time applicant assistance, and providing applicants with links to grant-writing resources and tools.<sup>255</sup> SANDAG requests that the Commission provide optional training sessions for grantees to attend that could “answer questions regarding materials, provide step-by-step instructions on how to use tools, and serve as another opportunity to share best practices.”<sup>256</sup> The Hawaii Broadband & Digital Equity Office recommends that the Commission provide technical assistance online or in-person as needed and specifically “conduct at minimum one annual ‘face-to-face’ technical assistance meeting” with representatives from both grantees and subgrantees.<sup>257</sup> The Hawaii Broadband & Digital Equity Office also asks that the Commission provide technical assistance related to allowable costs associated with facilities, refreshments, mileage reimbursement, and incentives for enrollment engagements.<sup>258</sup>

78. We agree that CGB should provide opportunities to walk prospective applicants through the application process and further explain the purpose and scope of the grant program. Due to the

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<sup>249</sup> See, e.g., 47 U.S.C. § 1752(b)(9)(C)(i); see also § 1752(g).

<sup>250</sup> See, e.g., 2 CFR § 200.344(d) (requiring grantee to promptly refund balances of unobligated cash paid to it that are not authorized to be retained for use in other projects); § 200.345(a)(1) (noting that closeout of federal award does not affect the right of Federal awarding agency to disallow costs and recover funds on basis of later audit or review); § 200.346 (providing that funds paid to grantee in excess of amount to which it is finally determined to be entitled constitute a debt to Federal Government).

<sup>251</sup> *ACP Further Notice* at 124, para. 275.

<sup>252</sup> *Id.*

<sup>253</sup> See, e.g., CentriTech Comments at 2-3 (asking that the Commission “[e]stablish a Technical Assistance program to provide expert assistance for proposals at all levels of public and private action, uniting the ACP with external assistance programs, collaboration of program resources, and the development then deployment of digitized resident services”); NDIA Comments at 6; Hawaii Comments at 5.

<sup>254</sup> See, e.g., CentriTech Comments at 2-3 (asking that the Commission “[e]stablish a Technical Assistance program to provide expert assistance for proposals at all levels of public and private action, uniting the ACP with external assistance programs, collaboration of program resources, and the development then deployment of digitized resident services”); NDIA Comments at 6; Hawaii Comments at 5.

<sup>255</sup> See NDIA Comments at 6.

<sup>256</sup> See SANDAG Comments at 4.

<sup>257</sup> Hawaii Comments at 5.

<sup>258</sup> See Hawaii Comments at 5.

competitive nature of the funding opportunities for this grant program, CGB cannot assist prospective applicants in preparing individual applications or developing outreach proposals, as this would undermine the integrity of the application and evaluation process. However, CGB will provide publicly available general information further explaining elements of the grant program and NOFO. We also find that it would be helpful to obtain feedback from participants concerning the administration and design of the grant program. We therefore direct CGB to provide opportunities (e.g., webinars, fact sheets, frequently asked questions) to help prospective applicants understand the Outreach Grant Program and its requirements and to obtain feedback from grantees during their period of performance. We direct CGB to determine the mechanisms for and timing of requesting any feedback from participants, and to provide information sessions tailored to specific funding opportunities, to make adjustments to the program administration as appropriate during the course of the grant program based on feedback from participants, and to provide new information sessions or training to reflect any such adjustments. In providing information sessions, we direct CGB to encourage applications from entities of all types and diverse organizations, including those serving, led, and/or owned by persons of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or who have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, and entities participating in the ACP Navigator Pilot and the Your Home, Your Internet Pilot Program.

79. Commenters also request that the Commission develop and disseminate toolkits, outreach materials, and train-the-trainer guides related to conducting outreach to eligible households about and encouraging eligible households to enroll in the Affordable Connectivity Program.<sup>259</sup> In addition, several commenters emphasize the importance of multilingual outreach and outreach resources, and request that the Commission provide grantees and subrecipients with multilingual outreach materials.<sup>260</sup> While CGB already provides and continues to make available extensive outreach toolkits and ACP materials in multiple languages,<sup>261</sup> we direct CGB to evaluate whether revisions should be made to the existing toolkits, trainer guides, and or other outreach materials for use by grant program participants and to also evaluate whether new toolkits or materials or additional non-English translations would help promote the effectiveness and impact of the grant program. To carry out these responsibilities, CGB may engage consultants or contractors. Providing standardized materials would increase efficiency and expedite grantees and subrecipients' outreach, particularly for smaller organizations with limited resources, and would promote accurate and consistent ACP messaging. However, to maximize the impact of grant-funded outreach, we encourage grantees to develop their own outreach materials tailored to the areas and communities that are the focus of their outreach.

80. We next address commenter requests for other types of support and assistance for grantees. For example, EducationSuperHighway requests that the Commission provide grantees a "sandbox," or virtual testing environment that would simulate the National Verifier application and enrollment process.<sup>262</sup> Other commenters request additional training for individuals providing application assistance.<sup>263</sup> We find that existing resources for partner organizations and potential grant resources for

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<sup>259</sup> See, e.g., Hawaii Comments at 5; Starry, Inc. Comments at 3-4; NUL Comments at 4; BDT Comments at 7; Local Governments Reply Comments at 17.

<sup>260</sup> See, e.g., BDT Comments at 5; City of Los Angeles Reply Comments at 2; EducationSuperHighway Comments at 8-9; Local Governments Reply at 17; NHMC Comments at 3.

<sup>261</sup> FCC, ACP Consumer Outreach, <https://www.fcc.gov/acp-consumer-outreach-toolkit> (last visited Aug. 5, 2022) (The Commission offers ACP promotional materials in [Arabic](#), [American Sign Language](#), [Chinese-Traditional](#), [Chinese-Simplified](#), [French](#), [Haitian-Creole](#), [Korean](#), [Portuguese](#), [Russian](#), [Spanish](#), [Tagalog](#), and [Vietnamese](#)).

<sup>262</sup> EducationSuperHighway Comments at 12.

<sup>263</sup> See NDIA Comments at 5 (urging the "Commission to provide outreach grantees and others with training and technical assistance on how to navigate the pain points and obstacles a consumer may encounter while enrolling in ACP. The Commission can support by offering two-way virtual webinars and trainings, providing written materials (continued....)

future grantees are sufficient to train and educate individuals providing consumers with application assistance. EducationSuperHighway and NDIA also ask that the Commission provide real-time support, either through live chat or a call center for grantees that provide application assistance.<sup>264</sup> We remind prospective applicants of the existing ACP call center resources to answer questions about the application process.<sup>265</sup> While extensive resources are already available to assist outreach partners with helping eligible consumers to navigate the ACP application process, CGB may, in consultation with WCB and USAC, explore the utility and feasibility of providing other avenues for providing assistance and technical support to grantees that provide application assistance.

## H. Affordable Connectivity Program and Outreach Grant Program Data

81. The Commission makes robust data available to track enrollments in the Affordable Connectivity Program and to allow grantees to identify potential areas where targeted outreach could be beneficial, including making aggregate enrollment data available by ZIP code, county, age, National Verifier selected eligibility criteria, and type of service.<sup>266</sup> Additionally, as explained in the *ACP Order*, separate from the grant program, the Commission has directed WCB and OEA, with support from USAC, to collect data to develop metrics to determine progress towards narrowing the digital divide, and WCB, OEA, and USAC are continuing to explore potential metrics to track that goal.<sup>267</sup> Some commenters request that the Commission collect and make available plan characteristic and pricing information for the Affordable Connectivity Program.<sup>268</sup> The Commission is required by the Infrastructure Act to make additional information concerning ACP plan pricing and characteristics available through the Commission's *Broadband Labels* or *ACP Transparency Data Collection* proceedings.<sup>269</sup> Once the Commission defines the requirements of those initiatives later this year, CGB may consider whether these data can be useful for participants engaged in or considering a meaningful outreach campaign. We also believe the program data already publicly available to grant recipients is sufficiently robust that the Outreach Grant Program need not be delayed pending the resolution of those proceedings. Indeed, today, CGB currently conducts outreach, and coordinates outreach with other organizations without this data.<sup>270</sup>

(Continued from previous page) \_\_\_\_\_

and guides, and making a available a live support line or point of contact who can provide real time feedback and support.”).

<sup>264</sup> EducationSuperHighway Comments at 13; NDIA Comments at 5.

<sup>265</sup> The ACP Support Center can be reached at (877) 384-2575. *See also* Universal Service Administrative Company, Help, <https://www.affordableconnectivity.gov/help/> (last visited Aug. 5, 2022).

<sup>266</sup> *See* Universal Service Administrative Company, *ACP Enrollments and Claims Tracker*, <https://www.usac.org/about/affordable-connectivity-program/ACP-enrollment-and-claims-tracker/> (last visited Aug. 5, 2022).

<sup>267</sup> *ACP Order* at 98, para. 211. *See also Affordable Connectivity Program*, WCB Docket No. 21-450, Notice of Proposed Rulemaking, FCC 22-44, 16, para. 12 (June 8, 2022) (*ACP Transparency Data Collection Notice*) (seeking comment on how the Commission can collect statutorily mandated pricing and subscription rate information of ACP services, and other plan characteristics).

<sup>268</sup> SANDAG Comments at 5 (suggesting that the FCC collect plan pricing data). *See* NDIA Comments at 9 (supporting collection of speed and data cap data from ACP enrollees).

<sup>269</sup> In both the *Broadband Labels* and the *ACP Transparency Data Collection* proceedings, the Commission has sought comment concerning the collection or disclosure of plan pricing and characteristic information. Both proceedings are ongoing, and the collection of any plan characteristic or pricing information has not been finalized. *See generally Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Notice of Proposed Rulemaking, FCC 22-7 (Jan. 27, 2022) (*Broadband Labels Notice*); *ACP Transparency Data Collection Notice*.

<sup>270</sup> *See* Press Release, FCC, Over 10 Million Households Enroll in Affordable Connectivity Program, (Feb. 14, 2022), <https://docs.fcc.gov/public/attachments/DOC-380259A1.pdf> (stating that the FCC will join outreach partners in hosting 10 ACP enrollment events in different areas of the United States).

82. At least one commenter requests that the Commission establish a grantee database of organizations engaged in Affordable Connectivity Program outreach efforts including organizations' contact information, details about service areas, expertise, and available resources. The purpose of this database would be to allow for resource sharing and coordination among grantees.<sup>271</sup> Federal regulations already require federal awarding agencies to announce all federal awards publicly and to publish the required information about the award on a publicly-available OMB designated website.<sup>272</sup> To promote transparency, we direct CGB also to provide publicly available information on the entities that have received awards through the Outreach Grant Program on the Commission's website. At a minimum this information should include the name of the awardee, the amount of the award, an abstract outreach project summary, and a main point of contact for the funding recipient. In addition, we recognize that grantees may be interested in additional information concerning other grantees and their outreach efforts to facilitate coordination and communication amongst grantees. Accordingly, we direct CGB to explore the possibility of making available additional information on participants in this grant program to facilitate coordination and communication amongst grantees, and we expect CGB to determine how this information could be made available, and also the types of data that could be made available to facilitate coordination and communication amongst participants in the grant program. Based on grantees' willingness to participate, CGB may also establish and host an information sharing forum to exchange lessons learned and best practices among grant recipients in executing outreach activities.

83. Additionally, some commenters request that the Commission issue unique grantee ID numbers to allow for tracking enrollments for specific outreach efforts, and communication and coordination amongst grantees.<sup>273</sup> Although this proposal raises potential technical, administrative, and legal issues, we agree there may be utility in tracking enrollments based on grantees' outreach efforts, perhaps by requiring the use of an FRN, SAM registration number, or other unique identifier a grantee would be required to obtain as part of the Outreach Grant Program, to the extent this is technically and administratively feasible. We nevertheless direct CGB and OEA to explore the feasibility and administrability of tracking enrollments by grantee outreach effort and legality of disseminating this information.

84. We acknowledge that many commenters stress the importance of and need for data transparency concerning the Outreach Grant Program.<sup>274</sup> To promote transparency, we direct CGB, with assistance from WCB, OMD, OEA, and USAC as appropriate, to submit to the Commission interim updates, and a final report detailing the results of the Outreach Grant Program. CGB shall submit the final report after the end of the grant program, after all grant awards have been closed out. At a minimum, the final report shall provide an assessment of the grant program's performance against the goal identified in this Order and shall also summarize any lessons learned concerning the development, administration, and management of the Outreach Grant Program.

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<sup>271</sup> Common Sense Comments at 5-6.

<sup>272</sup> 2 CFR § 200.212(a). We also note that pursuant to FFATA, certain information regarding grants and grantees are included in a public database that tracks federal funds to the final recipient level. 31 U.S.C. § 6101 note. See [USAspending.gov](https://www.usaspending.gov) (containing a vast array of other information about federal spending and recipients); OMB Memorandum, M-22-02, *New Financial Assistance Transparency Reporting Requirements* (October 21, 2022) (containing helpful information regarding OMB implementation of transparency reporting and citing past OMB memorandum still in effect).

<sup>273</sup> See Hawaii Comments at 4 (recommending that the Commission issue grantees a unique ID number for data tracking purposes); NUL Comments at 5 (recommending the creation of a grantee database or data collection tool for real-time grant and enrollment tracking).

<sup>274</sup> BDT Comments at 9; Local Governments Reply Comments at 11-13; SANDAG Comments at 5; EducationSuperHighway Comments at 14-15; and NUL Comments at 5.

## I. Assessing the Cost-Effectiveness of the Outreach Grant Program

85. Over 12 million low-income households have already benefited from ACP enrollment. Most providers offer plans that are either fully or largely covered by the monthly subsidy, allowing households to obtain affordable broadband to access job search and work options, educational, telehealth, and entertainment resources, and communicate with family and friends. However, tens of millions of eligible households have yet to enroll in the Affordable Connectivity Program. From our review of comments, it appears that many of these households have traditionally been the most underserved and underrepresented when it comes to broadband access. By increasing program awareness among this diverse and underserved population, the Outreach Grant Program will make substantial progress toward narrowing the digital divide.

86. While the potential benefits of the Outreach Grant Program are substantial, the Commission seeks to provide funding to support outreach in the most cost-effective manner possible, and our discussion in this Order reflects that goal. The Commission recognizes that outreach to a diverse and underserved population can be more effectively accomplished by providing support to a diverse group of qualified grantees that are capable of directly or indirectly (through subrecipients) conducting effective outreach activities or working directly with low-income populations to raise awareness of the Affordable Connectivity Program or provide application assistance. Our decision to open eligibility up to a wide range of governmental and non-governmental entities should result in a wide range and variety of outreach efforts targeted towards different segments of the targeted low-income population by grantees and subgrantees capable of conducting this outreach. Further, we only permit grantees to receive support for allowable costs consistent with the goal and objectives of the Outreach Grant Program.

87. We also extend to CGB the flexibility necessary to administer the Grant Program in a cost-effective manner. We make it possible for the Bureau to structure NOFOs for the grant program so as to make use of the performance measures that we require CGB to track, and grantees to provide, in order to make more cost-effective funding allocation decisions for the duration of the grant program. For example, by not prescribing the number of funding opportunities or the size of grants at this time, we allow CGB to make these determinations taking into account the information provided by potential outreach partners in the application process as well as enrollment, awareness or other programmatic data from the Program to the greatest possible extent. Likewise, unless otherwise specified in this Order, CGB has flexibility in how the overall grant program budget shall be distributed across one or more NOFOs. This prioritizes cost-effective spending by ensuring that funding decisions are driven by outreach needs and quality of grantee applications rather than presupposing uniformity. In taking these steps to maximize cost-effectiveness, we compromise none of the integrity of the Program: we still require that grantees operate in a broadband service provider-neutral manner, prohibit grantee representatives from receiving compensation based on the number of ACP applications or enrollments attributable to their outreach (including enrollment assistance), prohibit grantees from earning or keeping any profit resulting from a grant award, and we maintain full accordance with all federal requirements for the administration and management of federal grant programs.

## IV. SEVERABILITY

88. All of the rules that are adopted in this Order are designed to work in unison to develop, administer and manage the Outreach Grant Program, provide grant funds to eligible outreach partners, and to protect the integrity of the Outreach Grant Program's administration. However, each of the separate rules we adopt here serves a particular function toward these goals. Therefore, it is our intent that each of the rules adopted herein shall be severable. If any of the rules is declared invalid or unenforceable for any reason, it is our intent that the remaining rules shall remain in full force and effect.

## V. PROCEDURAL MATTERS

89. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a final regulatory flexibility analysis "whenever an agency promulgates a final rule under [5 U.S.C. § 553], after being required by that section or any other law to publish a general

notice of proposed rulemaking.”<sup>275</sup> An Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *ACP Further Notice*.<sup>276</sup> The Commission sought written public comment on the possible significant economic impact on small entities regarding the proposals addressed in the *ACP Further Notice*, including comments on the IRFA.<sup>277</sup> A Final Regulatory Flexibility Analysis is set forth in Appendix B.<sup>278</sup> The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *Second Report and Order*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).<sup>279</sup>

90. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management of Budget, concurs, that this rule is “major” under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this Second Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

91. *Paperwork Reduction Act.* Pursuant to 47 U.S.C. § 1752(h)(2) the collection of information sponsored or conducted under the regulations promulgated in this Second Report and Order is deemed not to constitute a collection of information for the purposes of the Paperwork Reduction Act, 44 U.S.C. §§ 3501-3521.<sup>280</sup>

## VI. ORDERING CLAUSES

92. Accordingly, IT IS ORDERED that, pursuant to the authority contained in Section 904 of Division N, Title IX of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182, as amended by section 60502 of Division F, Title V of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021), and the authority contained in sections 1, 4(i), 5(c), and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 303(r), 1752, and the authority contained section 60502 of Division F, Title V of the Infrastructure Investment and Jobs Act, 47 U.S.C. § 1752(b)(10)(C), this Report and Order IS ADOPTED.

93. IT IS FURTHER ORDERED, that Parts 0 and 54 of the Commission’s rules, 47 CFR Parts 0 and 54, are AMENDED as set forth in Appendix A, and such rule amendments shall be effective sixty (60) days upon publication of the text or summary thereof in the Federal Register.

94. IT IS FURTHER ORDERED, that Subtitle B of Title 2 of the Code of Federal Regulations are AMENDED as set forth in Appendix A, and such rule amendments shall be effective sixty (60) days upon publication of the text or summary thereof in the Federal Register.

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<sup>275</sup> 5 U.S.C. § 604(a).

<sup>276</sup> *ACP Further Notice* at 162, Appx. B.

<sup>277</sup> *Id.*

<sup>278</sup> Although this rulemaking proceeding may be exempt from the notice and comment requirements of the Administrative Procedure Act pursuant to 47 U.S.C. § 1752(h)(1), we have prepared a FRFA in the exercise of discretion.

<sup>279</sup> *See* 5 U.S.C. § 603(a).

<sup>280</sup> 47 U.S.C. § 1752(h)(2). We conclude that the PRA exemption in 47 U.S.C. § 1752(h)(2) applies to the regulations adopted in this Second Report and Order, which implements the Outreach Grant Program, because the Outreach Grant Program is an integral part of the Affordable Connectivity Program authorized under section 1752. We conclude that Congress, in adopting the section 1752(h) PRA exemption, intended to allow the Commission to speedily implement that program, including with respect to the outreach efforts in section 1752(b)(10)(C) that are so critical to making the program a success. *Compare* 47 U.S.C. § 1752(b)(11)(A) (expressly applying APA notice and comment provisions for ACP consumer protection provisions).

95. IT IS FURTHER ORDERED, that the Office of the Managing Director, Performance Evaluation and Records Management, SHALL SEND a copy of this Report and Order in a report to the Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

96. IT IS FURTHER ORDERED, that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**APPENDIX A****Final Rules**

For the reasons set forth above, Subtitle B of Title 2 of the Code of Federal Regulations and Part 0 and Part 54 of Title 47 of the Code of Federal Regulations are amended as follows:

**Title 2 – Grants and Agreements**

1. Add new Chapter LX<sup>1</sup> in Subtitle B, to read as follows:

**CHAPTER LX FEDERAL COMMUNICATIONS COMMISSION****PART 6000--UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS**

Sec.

[6000.1]           Applicable Regulations

**PART 6000 UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS**

Authority: 47 U.S.C. 154(i), 1752(b)(10)(C); 2 CFR part 200.

Source: [xxxx].

**§ 6000.1 Applicable Regulations**

Except as otherwise may be provided by this Part, the Federal Communications Commission adopts the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth at 2 CFR part 200.

**PART 0 – COMMISSION ORGANIZATION**

1. The authority for Part 0 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

2. Amend § 0.11 to add at (a)(11) to read as follows:

**§ 0.11 Functions of the Office**

(a)(11) Advise the Chairman, Commission, and Commission Bureaus and Offices on matters concerning the development, administration, and management of the Affordable Connectivity Outreach Grant Program.

3. Amend § 0.141 to read as follows and to add subsection (l):

**§ 0.141 Functions of the Bureau**

The Consumer and Governmental Affairs Bureau develops and administers the Commission's consumer and governmental affairs policies and initiatives to enhance the public's understanding of the Commission's work and to facilitate the Agency's relationships with other governmental

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<sup>1</sup> Chapter, part, and section numbers may be revised following review by the Federal Register.



agencies and organizations. The Bureau is responsible for rulemaking proceedings regarding general consumer education policies and procedures and serves as the primary Commission entity responsible for communicating with the general public regarding Commission policies, programs, and activities in order to facilitate public participation in the Commission's decision-making processes. The Bureau also serves as the primary Commission entity responsible for administering the Affordable Connectivity Outreach Grant Program for outreach, in coordination with the Office of the Managing Director, Office of the General Counsel, Wireline Competition Bureau, and Office of Economics and Analytics. The Bureau also performs the following functions:

\* \* \* \* \*

(l) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, to develop, administer, and manage the Affordable Connectivity Outreach Grant Program. This includes coordinating with the Office of the Managing Director (OMD) on interagency agreements with other federal agencies as may be necessary to develop, administer, and manage the Affordable Connectivity Outreach Grant Program, including, developing, administering, and issuing Notices of Funding Opportunity for and making grant awards or entering into cooperative agreements for the Affordable Connectivity Outreach Grant Program. This also includes, with the concurrence of the General Counsel, interpreting rules and regulations pertaining to the Affordable Connectivity Outreach Grant Program.

4. Amend § 0.231(j)-(l) to read as follows:

**§ 0.231 Delegation of Authority**

\* \* \* \* \*

(l) Subpoena Authority: The Managing Director is delegated authority to issue subpoenas for the Office of Managing Director's oversight of audits of the USF programs and other financial assistance programs, and the Office of Managing Director's review and evaluation of the interstate telecommunications relay services fund, the North American numbering plan, regulatory fee collection, FCC operating expenses, and debt collection.

**Part 54 – UNIVERSAL SERVICE**

1. The authority for Part 54 continues to read as follows: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303, 403, 1004, 1302, 1601-1609, and 1752, unless otherwise noted.
2. Add subpart S to read as follows:  
**Subpart S – Affordable Connectivity Outreach Grant Program**

**§ 54.1900 Uniform Administrative Requirements for Grant and Cooperative Agreements**

Applicability of and cross reference to 2 CFR part 200.

*Grants and Cooperative Agreements to non-Federal Entities.* Federal awards to non-Federal entities are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200, as implemented in 2 CFR 6000.1.

**§ 54.1901 Neutrality Requirement**

Outreach conducted by Grantees, Pass-through Entities, and Subrecipients, as defined in 2 CFR part 200, through the Commission's Affordable Connectivity Outreach Grant Program shall be

neutral with respect to a particular participating provider (as defined in 47 CFR 54.1800(r)(1-4)) or among a specific group of participating providers (including, but not limited to, broadband industry groups, such as trade associations).

#### **§ 54.1902 Prohibited Activities and Costs**

In addition to any prohibited activities or costs, or other restrictions on grantee activities and costs under 2 CFR part 200, as implemented by 2 CFR 6000.1, or any other federal statutes and regulations governing federal grants, the following prohibitions apply to Grantees, Pass-through Entities, and Subrecipients for the Affordable Connectivity Outreach Grant Program.

(a) *Prohibition against steering consumers to particular ACP participating providers.* Grantees, Pass-through Entities, and Subrecipients (as defined in 2 CFR 200.1) shall not direct, steer, incentivize, or otherwise encourage consumers to enroll with a particular participating provider (as defined in 47 CFR 54.1800(r)(1-4)) or among a specific group of participating providers (including, but not limited to, broadband industry groups, such as trade associations) when conducting grant-funded outreach activities. Grantees, Pass-through Entities, and Subrecipients shall also make clear that eligible households may enroll with the participating provider of their choice.

(b) *Prohibition against use of ACP participating provider-branded items.* Grantees, Pass-through Entities, and Subrecipients shall not use participating-provider (as defined in 47 CFR 54.1800(r)(1-4))-branded items such as outreach materials, gifts, or incentives when conducting grant-funded outreach activities.

(c) *Prohibition against ACP participating provider gifts, incentives, and funding.* Grantees, Pass-through Entities, and Subrecipients shall not 1) offer or provide consumers gifts or incentives provided by or funded by a participating provider (as defined in 47 CFR 54.1800(r)(1-4)) or a specific group of participating providers (including, but not limited to, broadband industry groups, such as trade associations) to encourage consumers to learn about, apply for, or enroll in the Affordable Connectivity Program when conducting grant-funded outreach activities, or 2) otherwise accept funding in any form, including in-kind contributions, from a participating provider or a specific group of participating providers for the purpose of conducting grant-funded outreach activities.

(d) *Prohibition against using grant funds for gifts and incentives.* Grantees, Pass-through Entities, and Subrecipients may not use grant funds to obtain or support gifts or incentives to offer or provide to consumers to encourage consumers to learn about, apply for, or enroll in the Affordable Connectivity Program or otherwise engage with the Grantee, Pass-through Entity, or Subrecipient concerning the Affordable Connectivity Program when conducting grant-funded outreach activities.

(e) *Prohibition of certain compensation for individuals engaged in outreach.* Grantees, Pass-through Entities and Subrecipients shall not offer or provide any form of compensation that is based on the number of consumers or households that learn about, apply for, or enroll in the Affordable Connectivity Program to individuals conducting grant-funded outreach activities, including but not limited to their personnel, their representatives, their contractors, or others acting on behalf of the entity to conduct grant-funded outreach.

**§ 54.1903 Ineligible entities**

(a) In addition to any participant restrictions in 2 CFR part 200, as implemented by 2 CFR 6000.1, the following entities may not receive awards, either as Grantees, Pass-through Entities, or Subrecipients under the Outreach Grant Program:

(i) Broadband providers (including municipal broadband providers), their affiliates, subsidiaries, contractors, agents, or representatives; and

(ii) Broadband industry groups and trade associations that represent broadband providers.

(b) For municipal broadband providers, the exclusion of broadband providers and their affiliates, subsidiaries, or representatives from eligibility does not extend to separate arms of the municipality that do not maintain, manage, or operate the municipal broadband network.

**§ 54.1904 Recordkeeping and Audits**

Participants in the Affordable Connectivity Outreach Grant Program must maintain records to document compliance with the rules and requirements for the Outreach Grant Program in accordance with 2 CFR 200.334, 200.335, 200.336, and 200.338, as implemented by 2 CFR 6000.1, and shall provide that documentation to the Office of the Managing Director or any other FCC Bureau or Office, or their assigns, upon request in accordance with 2 CFR 200.337 as implemented by 2 CFR 6000.1.

## APPENDIX B

### Final Regulatory Flexibility Analysis

1. Consistent with the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> the Federal Communications Commission (Commission) included an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *Affordable Connectivity Program Order* in WC Docket No. 21-450.<sup>2</sup> The Commission sought written public comment on the proposals in the *Affordable Connectivity Program Order*, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>3</sup>

#### A. Need for, and Objectives of, the Report and Order

2. In the Infrastructure Investment and Jobs Act (Infrastructure Act), Congress established the Affordable Connectivity Program (ACP), which is designed to promote access to broadband internet access services by households that meet specified eligibility criteria by providing funding for participating providers to offer certain services and connected devices to these households at discounted prices.<sup>4</sup> The Affordable Connectivity Program funds an affordable connectivity benefit consisting of a \$30.00 per month discount on the price of broadband internet access services that participating providers supply to eligible households in most parts of the country and a \$75.00 per month discount on such prices for households residing in qualifying Tribal lands.

3. The Infrastructure Act also requires the Commission to conduct outreach efforts to inform potentially eligible households about the Affordable Connectivity Program and encourage them to enroll in the program, and it authorizes the Commission to provide grants to outreach partners in order to carry out this responsibility.<sup>5</sup> With the expectation that the Affordable Connectivity Program will extend for multiple years, in this Order we promulgate rules and guidelines establishing the Affordable Connectivity Outreach Grant Program. We establish a program goal and objectives, implement applicable federal grant regulations, and provide a framework for the program.<sup>6</sup>

4. The Commission establishes rules and requirements in this Order necessary to establish the Outreach Grant Program. Additional information on the Outreach Grant Program, including, but not limited to, the application process and reporting requirements will be provided in a subsequent Notice of Funding Opportunity (NOFO). Establishing the Outreach Grant Program is consistent with our authorization under the Infrastructure Act and our ongoing efforts to bridge the digital divide by ensuring that eligible low-income households have access to affordable, high-quality, broadband Internet access service.

#### B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

5. There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

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<sup>1</sup> 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> *Affordable Connectivity Program, Emergency Broadband Benefit Program, Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 21-450, 20-445, at 162-170 (2022) (*ACP Further Notice or ACP Order*).

<sup>3</sup> See 5 U.S.C. § 604.

<sup>4</sup> 47 U.S.C. § 1752.

<sup>5</sup> 47 U.S.C. § 1752(b)(10)(C).

<sup>6</sup> See *supra* III.A (establishing the program goal and objectives), III.B-D (establishing program framework and adopting and implementing federal grant regulations).

**C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration**

6. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel of the Small Business Administration (SBA) and to provide a detailed statement of any change made to the proposed rule(s) as a result of those comments.<sup>7</sup>

7. The Chief Counsel did not file any comments in response to the proposed rule(s) in this proceeding.

**D. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply**

8. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>8</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>9</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>10</sup> A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>11</sup>

9. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein.<sup>12</sup> First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration’s (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.<sup>13</sup> These types of small businesses represent 99.9% of all businesses in the United States, which translates to 32.5 million businesses.<sup>14</sup>

10. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>15</sup> The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.<sup>16</sup> Nationwide, for tax year 2020, there

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<sup>7</sup> 5 U.S.C. § 604(a)(3).

<sup>8</sup> 5 U.S.C. § 603(b)(3).

<sup>9</sup> *See id.* § 601(6).

<sup>10</sup> *See id.* § 601(3) (incorporating by reference the definition of “small business concern” in 15 U.S.C. § 632).

<sup>11</sup> *See* 15 U.S.C. § 632.

<sup>12</sup> *See* 5 U.S.C. § 601(3)-(6).

<sup>13</sup> *See* SBA, Office of Advocacy, Frequently Asked Questions, “What is a small business?,” <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/12/06095731/Small-Business-FAQ-Revised-December-2021.pdf> (Dec. 2021).

<sup>14</sup> *Id.*

<sup>15</sup> *See* 5 U.S.C. § 601(4).

<sup>16</sup> The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C. § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number small organizations in this small entity description. *See* Annual Electronic Filing Requirement for Small Exempt Organizations — Form 990-N (e-Postcard), “Who must file,”

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were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.<sup>17</sup>

11. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>18</sup> U.S. Census Bureau data from the 2017 Census of Governments<sup>19</sup> indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.<sup>20</sup> Of this number there were 36,931 general purpose governments (county,<sup>21</sup> municipal and town or township<sup>22</sup>) with populations of less than 50,000 and 12,040 special purpose governments - independent school districts<sup>23</sup> with enrollment

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<https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>. We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

<sup>17</sup> See Exempt Organizations Business Master File Extract (EO BMF), "CSV Files by Region," <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-EO-BMF>. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for businesses for the tax year 2020 with revenue less than or equal to \$50,000, for Region 1-Northeast Area (58,577), Region 2-Mid-Atlantic and Great Lakes Areas (175,272), and Region 3-Gulf Coast and Pacific Coast Areas (213,840) which includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.

<sup>18</sup> See 5 U.S.C. § 601(5).

<sup>19</sup> See 13 U.S.C. § 161. The Census of Governments survey is conducted every five (5) years compiling data for years ending with “2” and “7”. See also Census of Governments, <https://www.census.gov/programs-surveys/cog/about.html>.

<sup>20</sup> See U.S. Census Bureau, 2017 Census of Governments – Organization Table 2. Local Governments by Type and State: 2017 [CG1700ORG02], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts). See also tbl.2. CG1700ORG02 Table Notes \_Local Governments by Type and State\_ 2017.

<sup>21</sup> See *id.* at tbl.5. County Governments by Population-Size Group and State: 2017 [CG1700ORG05], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

<sup>22</sup> See *id.* at tbl.6. Subcounty General-Purpose Governments by Population-Size Group and State: 2017 [CG1700ORG06], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 18,729 municipal and 16,097 town and township governments with populations less than 50,000.

<sup>23</sup> See *id.* at tbl.10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2017 [CG1700ORG10], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 12,040 independent school districts with enrollment populations less than 50,000. See also tbl.4. Special-Purpose Local Governments by State Census Years 1942 to 2017 [CG1700ORG04], CG1700ORG04 Table Notes \_Special Purpose Local Governments by State\_ Census Years 1942 to 2017.

populations of less than 50,000.<sup>24</sup> Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of “small governmental jurisdictions.”<sup>25</sup>

12. *Regional Planning Committees.* Neither the Commission nor the SBA have developed a small business size standard specifically applicable to Regional Planning Committees (RPCs). The closest applicable industry with a SBA small business size standard is Business Associations, which comprises establishments primarily engaged in promoting the business interests of their members.<sup>26</sup> Examples of such organizations include: real estate boards, chambers of commerce, trade associations and manufacturers’ associations.<sup>27</sup> The SBA small business size standard for Business Associations classifies firms with annual receipts of \$8 million or less as small.<sup>28</sup> For this industry, U.S. Census Bureau data for 2017 show that there were 14,540 firms that operated for the entire year.<sup>29</sup> Of these firms, 11,215 had revenue of less than \$5 million.<sup>30</sup> Based on this data, the majority of firms in this industry can be considered small.

13. The Commission set aside six megahertz of spectrum in the 800 MHz band for exclusive use by local, regional and state public safety agencies under guidelines developed by the National Public Safety Planning Advisory Committee (NPSPAC).<sup>31</sup> The 800 MHz NPSPAC spectrum is administered on a regional basis by 55 public safety Regional Planning Committees (RPCs).<sup>32</sup> RPCs consist of public safety volunteer spectrum planners and members that dedicate their time, to coordinate spectrum efficiently and effectively to make it available to public safety agency applicants in their respective regions. In the 700 MHz band the general use channels and some of the narrowband low power channels are subject to regional planning.<sup>33</sup> There are 55 RPCs for the 700 MHz band whose task is to create a

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<sup>24</sup> While the special purpose governments category also includes local special district governments, the 2017 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

<sup>25</sup> This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments - Organizations tbls. 5, 6 & 10.

<sup>26</sup> See U.S. Census Bureau, *2017 NAICS Definition, “813910 Business Associations,”* <https://www.census.gov/naics/?input=813910&year=2017&details=813910>.

<sup>27</sup> *Id.*

<sup>28</sup> See 13 CFR § 121.201, NAICS Code 813910.

<sup>29</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 813910, <https://data.census.gov/cedsci/table?y=2017&n=813910.&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>30</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in the individual category for less than \$100,000, to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in this category). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>31</sup> See Federal Communications Commission, Public Safety and Homeland Security Bureau, Policy and Licensing Division, 800 MHz Spectrum, <https://www.fcc.gov/general/800-mhz-spectrum>; see also <https://www.fcc.gov/general/800-mhz-rpc-directory>.

<sup>32</sup> *Id.*

<sup>33</sup> See Federal Communications Commission, Public Safety and Homeland Security Bureau, Policy and Licensing

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plan for General Use in their area and submit it to the Commission.<sup>34</sup> RPCs are volunteer committees and the Commission does not have revenue information to which the SBA size standard can be applied. However, these committees typically have less than 5 members per region,<sup>35</sup> therefore the Commission estimates that most RPCs are small.

**E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

14. *Grants to Consumer Outreach Partners.* The Commission, like all other federal agencies, is required to comply with government-wide regulations governing grant awards, codified primarily in Title 2 of the Code of Federal Regulations (2 CFR), that apply to all federal agencies.<sup>36</sup> Those uniform federal grant-related requirements, developed based on guidance provided over a number of years by the Office of Management and Budget (OMB), were codified in an interim final rule that OMB and over 30 other federal agencies jointly adopted and published in the Federal Register on December 19, 2014 (*Uniform Guidance*).<sup>37</sup> In adopting their own rules to implement these standardized grant-making requirements, some agencies that joined in the issuance of the *Uniform Guidance* – including the Department of Commerce, whose rules apply to sub-agencies including the National Telecommunications and Information Administration, and the Small Business Administration (SBA) – incorporated OMB’s guidance without change.<sup>38</sup> Other agencies that joined in the issuance of the *Uniform Guidance*, including the Department of Agriculture’s Rural Utilities Service (RUS), adopted additional language in their own regulations to provide more detail with respect to how they intended to implement the policy and to clarify any pertinent exceptions to the general rules.<sup>39</sup>

15. OMB and the other agencies that joined in issuing the *Uniform Guidance* in 2014 concluded that, under the standards of Regulatory Flexibility Act (RFA), the requirements regarding grant awards would not have a significant economic impact on a substantial number of small entities.<sup>40</sup> These agencies reached this conclusion based on the fact that largely identical generic requirements were already in place, and the *Uniform Guidance* simply codified them without any incremental impact on a substantial number of small entities.<sup>41</sup>

16. The grant-related rules adopted in this Order follow the *Uniform Guidance* that applies to all federal agencies. Like OMB, SBA, and other agencies that joined in issuing the *Uniform Guidance* in 2014, the Commission does not anticipate that such rules will have a significant economic impact on a substantial number of small entities. A subsequent Notice of Funding Opportunity will be issued with

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Division, 700 MHz Public Safety Spectrum,  
<https://www.fcc.gov/700-mhz-public-safety-narrowband-spectrum>; see also <https://www.fcc.gov/general/700-mhz-rpc-directory-0>.

<sup>34</sup> *Id.*

<sup>35</sup> See *supra* notes 30, 31.

<sup>36</sup> See generally, 2 CFR *et seq.* (describing grant regulations applicable to federal agencies).

<sup>37</sup> Executive Office of the President, Office of Management and Budget, *et al.*, *Federal Awarding Agency Regulatory Implementation of Office of Management and Budget’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, Interim Final Rule, 79 FR 75872 (Dec. 19, 2014) (*Uniform Guidance*).

<sup>38</sup> See, e.g., *id.* at 76050 (Department of Commerce); *id.* at 76080 (SBA).

<sup>39</sup> See *id.* at 76001-05 (RUS).

<sup>40</sup> *Id.* at 75877.

<sup>41</sup> *Id.*; see also Executive Office of the President, Office of Management and Budget, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, Final Guidance, 78 FR 78590 (Dec. 26, 2013) (providing guidance and seeking comments on which the *Uniform Guidance* was based).



additional information on the Outreach Grant Program, including the application and reporting requirements. These requirements will be necessary to ensure high-quality applications and facilitate the evaluation of the applications, and to also ensure compliance with the requirements in the *Uniform Guidance*.<sup>42</sup> In establishing these requirements, consideration will be given to the administrative and compliance burdens on Outreach Grant Program participants, including small entities.<sup>43</sup>

**F. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

17. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”<sup>44</sup>

18. We conclude that the rules adopted in this Second Report and Order are not likely to have any significant economic impact on eligible small entities that voluntarily opt to apply for outreach grants or participate in the Outreach Grant Program as subrecipients. Moreover, regardless of size, all entities that apply for an outreach grant will need to satisfy the minimum application requirements outlined in the applicable Notice of Funding Opportunity and entities participating in the Outreach Grant Program will be required to comply with Outreach Grant Program requirements, including, but not limited to, progress and financial reporting consistent with the government-wide *Uniform Guidance*, which necessarily will be the foundation of our rules and requirements for the Outreach Grant Program. The Second Report and Order declines to adopt a matching requirement for the Outreach Grant Program, because it would likely discourage or delay applications from potential outreach partners, particularly smaller organizations.<sup>45</sup> In developing the rules and requirements, including, but not limited to, the application requirements and reporting requirements, consideration will be given to the burdens on all participants, including small entities.<sup>46</sup> The Outreach Grant Program will permit subrecipients where appropriate (e.g., awards to state

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<sup>42</sup> Grantees will at a minimum be required to report on the outreach activities performed with the grant funds, how the grant funds were spent, and the effectiveness of those outreach activities. CGB will determine the timeline for reporting, and any other reporting requirements. *See infra* para. 73.

<sup>43</sup> *See supra* paras. 60-61, and 68 (directing the Bureau to take into consideration the burden to applicants and participants, among other things, in developing the application and reporting requirements); *supra* note 240 (noting potential burdens of small entities associated with reporting obligations), para. 35 (Outreach Grant Program should generally be open to a variety of entities to encourage participation from a diverse range of outreach partners, in terms of type and size, and to maximize the reach and impact of the grant program, and authorizing the Bureau to modify, expand, or limit the types of entities that may be eligible to receive grant funding under a particular funding opportunity in this grant program), para. 70 (directing CGB to consider how best to ensure that grant awards are made to diverse geographic regions and entity sizes or types, whether through the funding announcement or evaluation process), para. 79 (CGB directed to evaluate whether revisions should be made to the existing toolkits, trainer guides, and other outreach materials for use by grant program participants, noting that providing standardized materials would increase efficiency and expedite grantees and subrecipients’ outreach, particularly for smaller organizations with limited resources).

<sup>44</sup> 5 U.S.C. § 603(c)(1)-(4).

<sup>45</sup> *See supra* paras. 53-54.

<sup>46</sup> *See supra* paras. 60-61, and 68 (directing the Bureau to take into consideration the burden to applicants and participants, among other things, in developing the application and reporting requirements); *supra* note 240 (noting potential burdens of small entities associated with reporting obligations), para. 35 (Outreach Grant Program should generally be open to a variety of entities to encourage participation from a diverse range of outreach partners, in terms of type and size, and to maximize the reach and impact of the grant program, and authorizing the Bureau to

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or local government entities, or national entities), which will enable eligible small entities to participate in the Outreach Grant Program and benefit from the administrative capacity and resources of larger grantees with respect to reporting and other Outreach Grant Program requirements, which may minimize the administrative and compliance burdens for small entities that participate as subrecipients.<sup>47</sup>

### **G. Report to Congress**

19. The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.<sup>48</sup> In addition, the Commission will send a copy of the Report and Order, including the FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the Federal Register.<sup>49</sup>

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modify, expand, or limit the types of entities that may be eligible to receive grant funding under a particular funding opportunity in this grant program), para. 70 (directing CGB to consider how best to ensure that grant awards are made to diverse geographic regions and entity sizes or types, whether through the funding announcement or evaluation process), para. 79 (CGB directed to evaluate whether revisions should be made to the existing toolkits, trainer guides, and other outreach materials for use by grant program participants, noting that providing standardized materials would increase efficiency and expedite grantees and subrecipients' outreach, particularly for smaller organizations with limited resources).

<sup>47</sup> See *supra* para. 58 (describing subgrants permissibility).

<sup>48</sup> See 5 U.S.C. § 801(a)(1)(A).

<sup>49</sup> See 5 U.S.C. § 604(b).

**STATEMENT OF  
CHAIRWOMAN JESSICA ROSENWORCEL**

Re: *Affordable Connectivity Program*, WC Docket No. 21-450, Second Report and Order (August 5, 2022).

There are now 13 million households nationwide that subscribe to the Affordable Connectivity Program, the largest-ever broadband affordability program in the United States. Let me tell you about one of them.

Tiffany White is a mom and a North Carolinian through and through. I met her when I got to travel with the Vice President to Charlotte the week before last. Tiffany told me how she enrolled in a class at Queen's University that provided instruction in the basics of information technology. This class also put her in touch with the Center for Digital Equity at the school. The center let her know about the Affordable Connectivity Program and she signed her household up. Right away, it made a difference. She stuck with her online college classes. She could work remotely. It helped with paying the bills.

The best part is her connection with the Affordable Connectivity Program did not end when she started receiving the benefit. She now serves as a regional digital navigator. So when residents of Mecklenburg County call 311 to ask for help getting online, they get a call back from Tiffany. She explains what the Affordable Connectivity Program is and walks them through the application process. She's good at it. After all, she knows the benefits of this program first-hand. And she'll tell you straight up that everyone needs affordable internet in today's economy.

We need more people like Tiffany—more folks who can spread the word, more partners who can amplify the good that the Affordable Connectivity Program can do and more organizations that can help us reach those in their community, in their own language, in a way that is accessible for all.

That is exactly what we are starting right now. We are building a \$100 million outreach grant program at the Federal Communications Commission to make sure that those who are eligible for the Affordable Connectivity Program hear about it. This is a good thing. It's also something we were told to do in the Bipartisan Infrastructure Law. Congress specifically directed us to conduct outreach for the Affordable Connectivity Program to help ensure eligible households are enrolled. One of the ways to do this is by making grants available to those who can help develop outreach efforts. I'm thrilled that we have an opportunity to provide our partners with resources to get the word out about this program and make sure broadband reaches everyone, everywhere in this country.

To date, the FCC has held more than 750 events to promote the Affordable Connectivity Program. We have signed up nearly 50,000 partners. We have developed materials in 13 languages. This is what got us to 13 million households. It is what helped us reach Tiffany White. But we have millions more to go. Let's use this new outreach to make it happen.

For their efforts to develop this grant program, I want to thank Allison Baker, Cheryl Callahan, Jessica Campbell, River Crane, Rashann Duvall, Joel Graham, Jodie Griffin, Travis Hahn, Trent Harkrader, Diane Holland, Jamile Kadre, Hayley Steffen, and Kesha Woodward from the Wireline Competition Bureau; Eduard Bartholme, Miriam Montgomery, Alejandro Roark, and Joy Sears from the Consumer and Governmental Affairs Bureau; Mark Azic, Joanna Fister, Eugene Kiselev, Giulia McHenry, Eric Ralph, Deena Shetler, and Maciej Wachala from the Office of Economics and Analytics; Susan Aaron, Larry Atlas, Malena Barzilai, Andrea Kearney, Andrea Kelly, Rick Mallen, Brendan McTaggart, Linda Oliver, Bill Richardson, Paula Silberthau, Jeffrey Steinberg, Elliot Tarloff, and Chin Yoo from the Office of General Counsel; Cara Grayer, Maura McGowan, and Joy Ragsdale from the Office of Communications Business Opportunities; Hillary Burchuk, Sharon Diskin and Eric Phelps from the Office of Inspector General; Pam Gallant and Mindy Littell from the Enforcement Bureau; and Sanford Williams from the Office of Managing Director.

**STATEMENT OF  
COMMISSIONER BRENDAN CARR**

Re: *Affordable Connectivity Program*, WC Docket No. 21-450, Second Report and Order (August 5, 2022).

Over the last two years, Congress has made an historic commitment to extending high-speed Internet service to every American. Part of that effort has involved appropriating new funding that enables the FCC to tackle the affordability portion of the digital divide. At the FCC, we have worked quickly and collaboratively to achieve that goal. Together, we have stood up from scratch the \$3.2 Emergency Broadband Benefit Program, the \$7.1 billion Emergency Connectivity Fund, and the \$14.2 Affordable Connectivity Program (ACP). Today, we are coming together to further implement Congress's vision for the ACP by establishing a new grant program that will bolster efforts to ensure that the families Congress intended to benefit from these discounts are empowered to participate.

I want to express my thanks and appreciation to Chairwoman Rosenworcel and my colleagues for agreeing to incorporate suggestions I offered into the item before us today. First, I have long expressed the view that we must remain focused on those families that still remain unconnected today. Those that have not yet adopted broadband must be our top priority. That is why I am pleased that today's decision now determines that we will prioritize applications that target households that are on no Internet plan at all—the point of this is to increase adoption, not just shuffle money around. Second, I am very pleased that we are now including a \$10 million set-aside for bolstering ACP participation within Tribal communities. After all, I have seen firsthand the challenges that remain when it comes to ending the digital divide on Tribal lands—including on a visit last year to the Coeur D'Alene reservation where I met with Tribal leaders to discuss expanding participation in the ACP Program. So I am glad that we are now dedicating funding to make long-overdue progress on this issue. Third, we now ensure an equitable distribution of funding by establishing a set, minimum amount of funding that will be allocated evenly to every state. Fourth, I'm also pleased that the Order now includes a number of measures to help maximize the impact of the program, such as putting a cap on administrative expenses and committing to using objective measures. Finally, I'm glad we are incorporating some additional measures that are designed to promote transparency and accountability, including prohibiting undisclosed subrecipients. These edits will help maximize the odds that we achieve Congress's goals with the ACP initiative, but it will be important for the agency to remain vigilant as it selects and oversees grantees, including through the NOFO process.

Again, I would like to thank Chairwoman Rosenworcel for bringing this item forward and for working alongside me and my colleagues to incorporate feedback into the Order we adopt today. I'd also like to thank staff from the Wireline Competition Bureau for their hard work on this item. It has my support.

**STATEMENT OF  
COMMISSIONER GEOFFREY STARKS**

Re: *Affordable Connectivity Program*, WC Docket No. 21-450, Second Report and Order (August 5, 2022).

The Affordable Connectivity Program has achieved significant results this year—over 13 million eligible households have signed up to receive discounted or free broadband! This growth is worth celebrating, even more so because outreach and development has been organic, without a separately funded FCC outreach effort.

That changes today. I'm excited to vote for this item establishing the Affordable Connectivity Outreach Grant Program. It has my strong support for a number reasons. First, we will be funding outreach to diverse populations—persons with disabilities, individuals living in rural or Tribal communities, and those who have been historically underserved, marginalized, or adversely affected by poverty or inequality. I have called for outreach to these communities in past statements and speeches, and am glad to see this is reflected in this item.

These communities may not yet be aware of ACP, or may be skeptical. To reach them, we need exactly this type of targeted outreach. But, to be most effective, we need to support organizations and groups that are grounded in these communities. Specifically, we must ensure that media and other outreach organizations have real experience and expertise working with low-income people and communities of color. This is critical because we must close any trust gap that currently exists with many of the diverse populations that this Grant Program is designed to reach. Make no mistake—both the message and the messenger matter here.

Of course, many broadband providers have been promoting ACP to their customers and potential customers, and they should be commended. This is not an opportunity for them to take the foot off the gas. Not even close—we are full speed ahead. The Grant Program will compliment these efforts. We must all work together to get the word out.

Second, grants are an integral part of the *Your Home, Your Internet Pilot Program*. The Pilot Program will be giving out \$5 million in grant funding to Pilot Program participants focused on increasing awareness and enrollment among households receiving federal housing assistance. It is important that we have the grant process up and running as quickly as possible to support all of the important ongoing work for interested participants in the Pilot Program.

Third, I have heard from countless advocates, broadband providers, and community leaders over the past few years on how we can do better in reaching unconnected households, and meeting vulnerable communities where they are. This is your opportunity to become a full-fledged partner and help execute those ideas! Let's go—apply to participate and let's partner up to help close the digital divide.

Thank you to FCC staff for their impressive work on this item. It has my full support.