



July 10, 2023

MEMORANDUM FOR: Alan Davidson
NTIA Administrator
National Telecommunications and Information Administration

A handwritten signature in black ink, appearing to read "Arthur L. Scott, Jr." with a stylized flourish at the end.

FROM: Arthur L. Scott, Jr.
Assistant Inspector General for Audit and Evaluation

SUBJECT: Management Alert: *NTIA's Reliance on Self-Certifications Increased Fraud Risk for the Tribal Broadband Connectivity Program*
Final Memorandum No. OIG-23-022-M

Attached is a management alert about the National Telecommunications and Information Administration's (NTIA's) reliance on tribes' self-certifications of their broadband status to determine their eligibility for grants under the Tribal Broadband Connectivity Program (TBCP). Consistent with the Inspector General Act of 1978, as amended (IG Act),¹ we are notifying you of potential major risks that could affect NTIA because of this issue.

During our audit of NTIA's implementation of the TBCP,² we determined NTIA did not consistently identify possible duplicated funding for 88 TBCP broadband infrastructure awards, totaling \$1.6 billion. NTIA instead allowed tribes to self-certify that they were not currently served by a broadband provider and did not have an enforceable commitment from a provider to build out broadband service on their lands. As a result, some TBCP grant recipients may have received funding they were not eligible for, and NTIA may have reduced the amount of available funding for TBCP applicants who need it.

On May 25, 2023, we discussed our plans to issue this management alert with NTIA. We are not requesting a formal response to the alert. We will post the alert on our public website.

If you have any questions or concerns about this management alert, please contact me at (202) 792-4192 or Division Director Ms. Rosheek Williamson at (202) 578-3621.

Attachment

¹ The IG Act establishes that offices of inspectors general will "provide a means for keeping the head of the establishments and Congress fully and currently informed about problems and deficiencies relating to the administration of those programs and operations and the necessity for and progress of corrective action." 5 U.S.C. § 402(b)(3).

² Memorandum from the U.S. Department of Commerce Office of Inspector General announcing the audit of NTIA's implementation of the TBCP, 2023-443, November 22, 2022.

cc: Stephanie Weiner, Acting Chief Counsel, NTIA
Arthur Baylor, Information Assurance Branch Chief/Information Security Officer, Bureau
Chief Privacy Officer, NTIA
Gale Newton, IT Specialist, Information Assurance Branch, NTIA
MaryAnn Mausser, Audit Liaison, Office of the Secretary
Christiann Burek, Acting Deputy Chief of the Employment and Labor Law Division,
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Doug Kinkoph, Associate Administrator, Office of Internet Connectivity and Growth,
NTIA



Management Alert

NTIA's Reliance on Self-Certifications Increased Fraud Risk for the TBCP

July 10, 2023

Final Memorandum No. OIG 23 022 M

Key Issues

The National Telecommunications and Information Administration (NTIA) relied on tribes' self-certifications of their unserved status to determine their eligibility for Tribal Broadband Connectivity Program (TBCP) grant funding. NTIA used self-certifications instead of independently determining whether TBCP applicants' proposed broadband service areas (1) were actually unserved and (2) had already received, or were being considered for, funding from other federal programs.

NTIA's reliance on self-certification statements is an inherent, overarching key fraud risk that affects the TBCP. Self-certifications present opportunities for applicants, service providers, or consultants to misrepresent information in multiple application and funding documents submitted to NTIA.

As a result, there is an increased risk of fraud for the 88 TBCP broadband infrastructure awards, totaling \$1.6 billion, made as of December 31, 2022. Additionally, if grants were awarded to ineligible applicants, it reduced the funding available for eligible tribes that need it.

Proposed Actions for Change

To address the potential impact on TBCP grant awards, NTIA should

1. Independently validate past awards to confirm whether applicants' proposed broadband service areas were unserved or whether funding of other federal programs was duplicated. If applicants do not meet the requirements for awarded grants, NTIA should recover the funds and flag the applications as ineligible.
2. Develop and implement formal policy and procedures for independently validating self-certifications to determine eligibility for future broadband grant program awards.

Background

The TBCP was initially funded under the Consolidated Appropriations Act, 2021 (CAA),³ for \$1 billion for tribal governments to use for broadband deployment on tribal lands, as well as for telehealth, distance learning, broadband affordability, and digital inclusion. The TBCP's purpose is to improve quality of life; spur economic development and commercial activity; and create opportunities for remote employment and online entrepreneurship, remote learning, and telehealth by expanding broadband access and providing digital training and inclusion programs to Native American communities. In November 2021, Congress enacted the Infrastructure Investment and Jobs Act⁴ (IIJA), which provided an additional \$2 billion in funding for the TBCP.

³ Pub. L. No. 116-260 (2020).

⁴ Pub. L. No. 117-58 (2021).

NTIA issued a Notice of Funding Opportunity (NOFO) for the TBCP in June 2021 and plans to announce a second NOFO for the IIJA's remaining TBCP funding in 2023. During the first round of funding, which closed on September 1, 2021, NTIA received more than 300 applications, for over \$5 billion in funding requests.

Self-Certification Requirements

In the June 2021 TBCP NOFO, NTIA permitted tribes to self-certify the unserved status of proposed service areas within tribal lands, and lands that provide services to tribal members, with a description of how the tribe determined that the area was unserved. Therefore, a tribal government was not required to use a non-tribal coverage/speed data set, such as Federal Communications Commission (FCC) data. Instead, tribal governments could certify that proposed service areas were unserved by providing a statement on tribal letterhead, with any additional supporting information, explaining how they made that determination.

Additionally, tribes were required to certify that there were no existing commitments that would provide qualifying service within a proposed service area. Specifically, the tribal governments were directed not to certify tribal lands as unserved if they were covered under an enforceable buildout commitment.⁵ The NOFO also required tribal governments to disclose whether they had terminated any existing agreements qualifying as enforceable buildout commitments in anticipation of receiving funding under the TBCP.

Increased Fraud Risk Related to Self-Certifications

A variety of audit organizations have identified increased fraud risk when self-certifications are relied on to determine program eligibility.⁶ For example:

1. **Government Accountability Office (GAO):** Identified several key fraud risks, including a reliance on self-certification statements, affecting the FCC's e-rate program.
2. **Small Business Administration and Department of Labor Offices of Inspectors General (OIGs):** Found in recent reports that self-certification is a major fraud risk that cuts across program and agency boundaries.
3. **Housing and Urban Development OIG:** Found that when self-certification is the sole or most significant control for program eligibility, opportunities increase for bad actors to take advantage of the programs for personal gains.

Without additional requirements or controls to validate applicants' eligibility, grant programs are vulnerable to a high risk of fraud.

Validating self-reported information is a key fraud risk management leading practice. In [A Framework for Managing Fraud Risks in Federal Programs](#),⁷ GAO calls for agencies to take steps to verify reported information,

⁵ The NOFO defines an enforceable buildout commitment as a legally binding agreement, including a tribal government resolution, between the tribal government of the tribal lands in the proposed service area, or its authorized agent, and a service provider offering "qualifying broadband service" to unserved households on those lands. TBCP NOFO, June 2021, 7.

⁶ U.S. Government Accountability Office Report No. GAO-20-606, September 2020; U.S. Small Business Administration Office of Inspector General Report No. 21-02, October 28, 2020; U.S. Department of Labor Office of Inspector General Report No. 19-21-001-03-315, October 21, 2020; and U.S. Department of Housing and Urban Development Office of Inspector General Report No. 2022-FO-0007, September 29, 2022.

⁷ U.S. Government Accountability Office Report No. GAO-15-593SP, July 2015.

particularly self-reported data and other key data necessary to determine eligibility for enrolling in programs or receiving benefits.

Our Observations to Date

During our audit of TBCP funds awarded by NTIA,⁸ we found that NTIA relied on tribal self-certifications to award 88 TBCP broadband infrastructure awards, totaling \$1.6 billion, prior to December 31, 2022. As a result, there is an increased risk of fraud associated with these awards. Additionally, if grants were awarded to ineligible applicants, it reduced the funding available for eligible tribes that need it.

Certification of "Unserviced" Status

NTIA relied on tribes' self-certifications that proposed areas were unserved. Specifically, applicants were able to certify that proposed service areas were "unserved" and provide a statement on tribal letterhead, along with any available supporting information, explaining how it made that determination. NTIA did not confirm the supporting information before making TBCP awards. NTIA also considered the FCC maps when reviewing applications and making awards but realized that these maps did not reliably identify existing broadband connections; therefore, NTIA did not fully rely on the maps when awarding TBCP grants. Because of resource constraints, NTIA did not send staff into the field to verify that the applicants did not have existing broadband connections.

Instead, NTIA relied on the tribes to have the best knowledge of the status of broadband on their own lands and whether connections or enforceable buildout commitments existed. Without NTIA's validation of tribes' self-certifications, however, some TBCP grant recipients may have received funding they were not eligible for, and NTIA may have reduced the amount of available funding for TBCP applicants who need it.

Certification of Duplication of Funding

The CAA required NTIA to consult with FCC and the U.S. Department of Agriculture (USDA) before awarding TBCP grants to ensure funding was not duplicated.⁹ In determining whether such overlaps existed, NTIA shared lists of potential TBCP awardees and their proposed service areas with FCC and USDA, which reviewed the lists for any conflicts with USDA or FCC program applications.

However, instead of relying on or confirming the information NTIA received from its federal partners, it emailed the potential awardees, asking them to "reconfirm" their self-certifications in their TBCP applications. Specifically, NTIA asked whether the applicant or its authorized agents had an enforceable buildout commitment. The applicant was required to check either "No. There are no enforceable buildout commitments with any service providers in the proposed project's service area identified in the TBCP application," or "Yes. If yes, please identify the name(s) of the service providers and which portion of your application is in conflict."

NTIA did not verify whether a proposed service area overlapped with funding areas for other federal grant programs or reconvene with FCC and USDA after the applicant submitted its recertification to ensure no duplication of funding existed. Because NTIA did not independently verify whether proposed service areas

⁸ Our specific audit objective was to determine whether NTIA properly disbursed the federal funds provided for the TBCP.

⁹ CAA, 2021. Section 905 part (f)(1)(B), "Provision of Information to FCC and USDA."

were being considered for multiple opportunities for funding, NTIA may have made awards that overlapped with funding from other federal programs, which may have reduced the amount of funding available for all tribes.

Proposed Actions for Change

To address the potential impact on TBCP grant awards, NTIA should

1. Independently validate past awards to confirm whether applicants' proposed broadband service areas were unserved or whether funding of other federal programs was duplicated. If applicants do not meet the requirements for awarded grants, NTIA should recover the funds and flag the applications as ineligible.
2. Develop and implement formal policy and procedures for independently validating self-certifications to determine eligibility for future broadband grant program awards.

We are not requesting a formal response to this management alert, as these are not formal recommendations.

Our Future Work

We plan to issue a report on our audit of NTIA's implementation of the TBCP in early 2024 and will continue to monitor NTIA's progress in implementing our proposed actions for change.