



Rural Health Care Committee Meeting

Audit Reports Briefing Book

Thursday, April 20, 2023

Available For Public Use

Universal Service Administrative Company Offices

700 12th Street NW, Suite 900

Washington, DC, 20005

Summary of Rural Health Care Support Mechanism Beneficiary Audit Report Released: February 2023

Entity Name	Number of Findings	Significant Findings	Amount of Support	Monetary Effect	USAC Management Recovery Action	Commitment Adjustment	Entity Disagreement
TeleQuality Communications, LLC Attachment A	6	<ul style="list-style-type: none"> • Service Provider’s Rural Rates Are Not Substantiated. The Service Provider did not provide the proper supporting documentation to substantiate the rural rates. • Competitive Bidding Process was Not Fair and Open. The Service Provider contacted two Beneficiaries and discussed, contract terms, copay arrangements, network options, and the FCC Form 465 filings prior to the Beneficiaries submitting their FCC Forms 465 to USAC. 	\$24,070,887	\$2,473,434	\$0	\$0	Y
Total	6		\$24,070,887	\$2,473,434	\$0	\$0	

Attachment A

RH2018SP002

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TeleQuality Communications, LLC

Limited Review Performance Audit on Compliance with the Federal
Universal Service Fund Rural Health Care Support Mechanism Rules

USAC Audit No. RH2018SP002

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EXECUTIVE SUMMARY

January 10, 2022

Anne Turner, Director of Compliance and Regulatory Affairs
ENA Healthcare Services, LLC (Formerly TeleQuality)
618 Grassmere Park Drive, Suite 12
Nashville, TN. 37211

Dear Ms. Turner:

The Universal Service Administrative Company (USAC or Administrator) Audit and Assurance Division (AAD) audited the compliance of TeleQuality (Service Provider), Service Provider Identification Number (SPIN) 143031579, using the regulations and orders governing the federal Universal Service Rural Health Care Support Mechanism, set forth in 47 C.F.R. Part 54, as well as other program requirements (collectively, the Federal Communications Commission (FCC) Rules). Compliance with the FCC Rules is the responsibility of the Service Provider's management. AAD's responsibility is to make a determination regarding the Service Provider's compliance with the FCC Rules based on the limited review performance audit.

AAD conducted the audit in accordance with Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States (2018 Revision, as amended). Those standards require that AAD plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for its findings and conclusions based on the audit objectives. The audit included examining, on a test basis, evidence supporting the competitive bidding process undertaken to select the Service Provider, the type and amount of services provided, and maintained, as well as performing other procedures AAD considered necessary to make a determination regarding the Service Provider's compliance with the FCC Rules. The evidence obtained provides a reasonable basis for AAD's findings and conclusions based on the audit objectives.

Based on the test work performed, our audit disclosed six detailed audit findings (Findings) discussed in the Audit Results and Commitment Adjustment/Recovery Action section. For the purpose of this report, a Finding is a condition that shows evidence of non-compliance with the FCC Rules that were in effect during the audit period.

Certain information may have been omitted from this report concerning communications with USAC Management or other officials and/or details about internal operating processes or investigations. This report is intended solely for the use of USAC, the Service Provider, and the FCC and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of those procedures for their purposes. This report is not confidential and may be released to a requesting third party.

We appreciate the cooperation and assistance extended by you and your staff during the audit.

Sincerely,



Jeanette Santana-Gonzalez
USAC Senior Director, Audit and Assurance Division

cc: Radha Sekar, USAC Chief Executive Officer
Mark Sweeney, USAC Vice President, Rural Health Care Division
Teleshia Delmar, USAC Vice President, Audit and Assurance Division

Audit Results And Commitment Adjustment/Recovery Action

Audit Results	Monetary Effect	Recommended Recovery (A)	Overlapping Recovery ¹ (B)	Recommended Recovery after overlap (A) - (B)	Recommended Commitment Adjustment
Finding #1: 47 C.F.R. § 54.607(b) - Inadequate Documentation - Service Provider's Rural Rates Are Not Substantiated. The Service Provider did not provide the proper supporting documentation to substantiate the rural rates.	\$1,682,831	\$0	\$0	\$0	\$0
Finding #2: Hospital Networks Management Order, para. 4 - Competitive Bidding Process was Not Fair and Open. The Service Provider contacted two Beneficiaries and discussed, contract terms, copay arrangements, network options or improvements and the FCC Form 465 filings prior to the Beneficiaries submitting their FCC Forms 465 to USAC for the Funding Year 2016 services the Service Provider was selected to provide.	\$721,634	\$0	\$0	\$0	\$0
Finding #3: 47 C.F.R. §54.619(a) and 54.615(b) - Inadequate Documentation - Beneficiary Did Not Demonstrate It Paid the Urban Rate Portion of Services - The Beneficiary did not provide sufficient evidence to support that the full urban rate payment was made to satisfy the purchase or cost of services.	\$37,175	\$0	\$0	\$0	\$0

¹ If a finding is subsequently withdrawn on appeal, any overlapping recovery for that finding will be recommended for recovery for the remaining findings.

Audit Results	Monetary Effect	Recommended Recovery (A)	Overlapping Recovery ¹ (B)	Recommended Recovery after overlap (A) - (B)	Recommended Commitment Adjustment
Finding #4: 47 C.F.R. §54.615(a) – Improper Competitive Bidding Evaluation Process. The Beneficiary did not demonstrate it selected the most cost-effective offering based on its bid evaluation criteria.	\$24,073	\$0	\$0	\$0	\$0
Finding #5: 47 C.F.R. §54.615(b), 54.619(a) and 54.619(d) – Inadequate Documentation - Unable to Determine Whether the Beneficiary Paid Its Urban Rate. The Beneficiary and Service Provider did not provide sufficient documentation to demonstrate that the Service Provider collected the Beneficiary’s urban rate portion of the RHC Telecommunications Program supported services for July 2016.	\$4,992	\$0	\$0	\$0	\$0
Finding #6: 47 C.F.R. § 54.615(b) – Inadequate Documentation - Beneficiary’s Urban Rate Not Substantiated. For several FRNs, the Service Provider over-invoiced the RHC program because the urban rates that were substantiated with publicly available rates are higher than the urban rates reported in the FCC Forms 466.	\$2,729	\$0	\$0	\$0	\$0
Total Net Monetary Effect	\$2,473,434	\$0	\$0	\$0	\$0

USAC MANAGEMENT RESPONSE

USAC Management concurs with the audit results. In addition, USAC Management will conduct outreach to the Service Provider to address the areas of deficiency that are identified below in the audit report.

PURPOSE, SCOPE, BACKGROUND AND PROCEDURES

PURPOSE

The purpose of the audit was to determine whether the Service Provider complied with the FCC Rules.

SCOPE

The following chart summarizes the Rural Health Care Telecommunications program support amounts committed and disbursed to the Service Provider for Funding Year 2016 (audit period):

Service Type	Amount Committed	Amount Disbursed
Telecommunications	\$24,759,595	\$24,070,887
Total	\$24,759,595	\$24,070,887

Note: The amounts committed and disbursed reflect funding year activity as of the date of the commencement of the audit.

The committed total represents 974 FCC Form 466 applications with 974 Funding Request Numbers (FRNs). AAD selected 33 FRNs,² which represents \$3,757,086 of the funds committed and \$3,717,774 of the funds disbursed during the audit period, to perform the procedures enumerated below with respect to the Funding Year 2016 applications submitted.

BACKGROUND

The Service Provider provides telecommunication services to its health care provider customers, and its headquarters are located in Nashville, Tennessee.

PROCEDURES

AAD performed the following procedures:

A. Eligibility Process

AAD obtained an understanding of the Service Provider's processes and internal controls governing its participation in the Rural Health Care (RHC) program. Specifically, AAD conducted inquiries of the Service Provider and the selected Beneficiaries and examined documentation to obtain an understanding of the controls that exist to determine whether services were eligible, delivered, and installed in accordance with the FCC Rules. AAD conducted inquiries and examined documentation to determine whether the Service Provider assisted with the completion of each selected Beneficiary's FCC Form 465.

B. Competitive Bid Process

AAD examined documentation to determine whether all bids for the services received were properly evaluated. AAD conducted inquiries and examined documentation to determine whether the Beneficiaries selected the most cost-effective method. AAD examined evidence that the Beneficiaries

² The FRNs included in the scope of this audit were: 1676025, 1676027, 1676030, 1676032, 1676048, 1676051, 1676058, 1676133, 1679379, 1686003, 1686305, 1686558, 1686617, 1686759, 1686772, 1686807, 1686920, 1686921, 1687910, 1687926, 1687932, 1687937, 1688082, 1688114, 16881211, 1688254, 1688912, 1689301, 1689313, 1695263, 1695554, 1696040, and 1696713.

waited the required 28 days from the date the FCC Form 465 was posted on USAC's website before selecting or signing contracts with the Service Provider. AAD evaluated the services requested and purchased to determine whether the Beneficiary selected the most cost-effective option.

C. Rural and Urban Rates

AAD conducted inquiries and examined the Service Provider's contract(s), service agreement(s), service quote(s), tariff(s), and/or other documentation to determine whether the Service Provider's rural rate was established in accordance with the FCC Rules. AAD also conducted inquiries and examined documentation to substantiate the urban rate listed in the FCC Form(s) 466.

D. Invoicing Process

AAD examined invoices for which payment was disbursed by USAC to determine whether the services identified on the Service Provider invoices submitted to USAC and the corresponding Service Provider bills submitted to the Beneficiaries were consistent with the terms and specifications of the Service Provider's agreements. AAD examined documentation to determine whether each Beneficiary paid its non-discounted share in a timely manner.

E. Billing Process

AAD examined the Service Provider bills for the RHC program supported services to determine whether the services identified were consistent with the terms and specifications of the Service Provider's contracts, or other service agreements, and eligible in accordance with the FCC Rules. In addition, AAD examined documentation to determine whether the Service Provider billed the selected Beneficiaries for the rural rate and only collected payment for the selected Beneficiaries' equivalent of the urban rate for the eligible services purchased with universal service discounts.

F. Health Care Provider Location

AAD determined through inquiry and direct observation whether the services were provided and were functional. AAD also determined through inquiry and direct observation whether the supported services were used for purposes reasonably related to the provision of health care services and in accordance with the FCC Rules.

DETAILED AUDIT FINDINGS

Finding #1: 47 C.F.R. § 54.607(b) – Inadequate Documentation - Service Provider’s Rural Rates Are Not Substantiated

CONDITION

AAD obtained and examined documentation provided by the Service Provider to determine whether the Service Provider established its rural rates in accordance with the FCC Rules for FRNs 1676025, 1676027, 1676030, 1676032, 1676048, 1676051, 1676058, 1676133, 1679379, 1686003, 1686305, 1686558, 1686617, 1686759, 1686772, 1686807, 1686920, 1686921, 1687910, 1687926, 1687932, 1687937, 1688082, 1688114, 16881211, 1688254, 1688912, 1689301, 1689313, 1695263, 1695554, 1696040, and 1696713.³ AAD determined that the Service Provider (1) did not provide an itemization of the costs of providing the requested services with its rural rate submissions to the state commissions, (2) provided documentation for rural rates that did not support the rural rates on the applicable FCC Forms 466, (3) submitted some of their rural rates to the state commissions after the HCPs submitted the applicable FCC Forms 466, (4) did not provide documentation to support its rural rates for one FRN; and (5) did not provide documentation demonstrating it complied with the FCC Rules in deciding to submit rural rates to the state commissions rather than to the FCC for approval. The Service Provider used a combination of Method 2 and 3 to attempt to substantiate the rural rates used, which is in violation of the applicable FCC Rules as detailed below.

The Service Provider informed AAD that “TeleQuality did not identify any other tariffed or other publicly available rates charged by other service providers for similar services being provided to the HCPs [Health Care Providers] under audit[; therefore,] [b]ecause the Rule allows Method 3 when the carrier cannot find tariffed or publicly available rates in that rural area or when that method of calculating the rural rate is unfair, TeleQuality determined Method 3 was the appropriate methodology.”⁴

Service Provider Did Not Include an Itemization of Costs of Providing the Requested Services with its Rural Rate Submissions to the State Commissions

The Service Provider must provide a justification of the proposed rural rate including an itemization of the costs of providing the requested service to the state commission, for intrastate rates, or to the Commission, for interstate rates.⁵ In addition, the request “must take into account anticipated and actual demand for telecommunication services by all customers who will use the facilities over which services are being provided to eligible health care providers.”⁶ Further, “the material to be submitted... must include an explanation of... the reasons for the filing, the basis of the ratemaking employed, and economic information...”⁷ However, for the FRNs identified above, the Service Provider’s request for approval of a cost-based rural rate for Funding Year 2016 did not include an itemization of the costs or a cost study demonstrating how the costs are allocated to its RHC program customers. The Service Provider provided documentation to AAD of its submission of an itemization of the costs to the Georgia, Idaho, Mississippi, Texas, West Virginia and Arizona state commissions; however, the documentation of itemized costs established rates effective May 2018, which

³ 47 C.F.R. § 54.607(b)(2015).

⁴ See Service Provider’s responses to the *Audit Inquiries Record* received May 7, 2019.

⁵ 47 C.F.R. § 54.607(b)(1) (2015).

⁶ 47 C.F.R. § 54.607(b)(2) (2015).

⁷ 47 C.F.R. § 61.38(b)(2015)

is outside Funding Year 2016. Because its submissions to the state commissions did not contain the information required by the FCC Rules, the Service Provider did not demonstrate that its rural rates complied with the FCC Rules.

Service Provider’s Rural Rate Documentation Did Not Agree to the Rural Rates on the FCC Forms 466

For FRNs 1679379, 1686003, 1686305, 1686759, 1686772, 1686807, 1686920, 1686921, 1687910, 1687926, 1687932, 1687937, 1688082, 1688254, 1689301, 1689313, 1695263, 1695554, and 1696713, the Service Provider submitted copies of its own rate sheet to the public service commission for the states of Arizona, Georgia, Idaho, and Mississippi as its justification of its proposed rural rates. However, the rate sheets submitted to the Arizona, Georgia, Idaho and Mississippi public service commissions provided maximum and minimum range of rates (see in chart below) for the services rather than an itemization of the costs of providing the requested service to its RHC program customers. In addition, the submissions to the public service commissions were made subsequent to the HCPs’ submissions of the FCC Forms 466. Without an itemization of costs to its RHC program customers, the Service Provider has not demonstrated that the HCPs should be charged more than the minimum rate identified on the rate sheets. Further, as the submission of the rates to the public service commissions were subsequent to the submission of the FCC Forms 466, the Service Provider did not have sufficient documentation supporting the rural rates at the time the FCC Forms 466 were submitted to RHC program. The comparison of the rural rate per the FCC Form 466 to the rate supported by the rate sheet is as follows:

FRN	State	Rural Rate Per FCC Form 466 ⁸ A	Minimum Rate per Rate Sheets ⁹ B	Maximum Rate per Rate Sheets ¹⁰	FCC Form 466 Rate in Excess of Minimum Rate per Rate Sheets C=A-B	No. of Months Invoiced to RHC program D	Total Amount Over-Invoiced E=C*D
1679379	Idaho	\$7,600	\$1,400	\$15,200	\$6,200	12	\$74,400
1686003	Mississippi	\$11,957*	\$6,400	\$25,600	\$5,557	12	\$66,689
1686305	Georgia	\$10,477	\$700	\$15,400	\$9,777	12	\$117,324
1686759	Georgia	\$12,804	\$700	\$15,400	\$12,104	12	\$145,248
1686772	Georgia	\$10,099	\$700	\$15,400	\$9,399	11.54839	\$108,543
1686807	Georgia	\$3,667	\$700	\$15,400	\$2,967	12	\$35,604
1686920	Georgia	\$16,879	\$1,200	\$46,100	\$15,679	12	\$188,148
1686921	Georgia	\$16,879	\$1,200	\$46,100	\$15,679	12	\$188,148
1687910	Arizona	\$22,650	\$12,000	\$27,700	\$10,650	11.32258	\$120,585
1687926	Arizona	\$12,950	\$12,000	\$27,700	\$950	11.32258	\$10,756
1687932	Arizona	\$10,050	\$5,000	\$12,100	\$5,050	10.74194	\$54,247
1687937	Arizona	\$9,250	\$5,000	\$12,100	\$4,250	10.74194	\$45,653
1688082	Georgia	\$11,307	\$700	\$15,400	\$10,607	10.64516	\$112,913
1688254	Arizona	\$9,250	\$5,000	\$12,100	\$4,250	9.76667	\$41,508

⁸ Amounts denoted with an asterisk (*) where the result of commitments for funding request submitted during the second filing window period for Funding Year 2016. The pro-rata factor for this filing window period was 92.52804%.

⁹ See State Rate sheet provided by Gina Spade, Telecom Attorney (Apr. 12, 2019).

¹⁰ *Id.*

1689301	Mississippi	\$5,474*	\$200	\$54,400	\$5,274	12	\$63,288
1689313	Mississippi	\$9,772*	\$350	\$90,300	\$9,422	12	\$113,062
1695263	Idaho	\$13,972*	\$6,700	\$30,700	\$7,272	7.8	\$56,720
1695554	Idaho	\$14,059*	\$6,700	\$30,700	\$7,359	7.93333	\$58,379
1696713	Mississippi	\$6,731	\$50	\$12,900	\$6,681	8.61290	\$57,543
Total							\$1,658,758

Service Provider Submitted Rural Rates to the State Commissions Subsequent to the Submission of the FCC Forms 466

In addition to the FRNs noted in the chart above, the Service Provider also submitted copies of their rates to the public service commissions for FRNs 1676025, 1676027, 1676030, 1676032, 1676048, 1676051, 1676058, 1676133, 1686558, 1686617, 1688114, 1688121, and 1688912. As with the FRNs above, the date of the Service Provider’s rural rate submission to the state public service commissions occurred subsequent to the date the HCPs submitted the FCC Forms 466. Although AAD compared the rural rates per the FCC Form 466 to the rate sheets and determined that the reported rural rate did not exceed the rate sheets, the Service Provider did not have sufficient documentation supporting the rural rates at the time of the submission of the FCC Forms 466.

Service Provider Did Not Provide Documentation to Support the Rural Rates on the FCC Forms 466

For FRN 1696040, the Service Provider provided AAD a tariff applicable to the competitive local exchange services of TeleQuality Communications, Inc.¹¹ However, this schedule did not include any bandwidth, costs, or the associated rural cities to support the rate denoted on the applicable FCC Form 466. The schedule states that “pricing for all dedicated access services is on an individual case basis.”¹² Further, as the Service Provider did not provide evidence of submission to either the state or the FCC, the Service Provider did not have sufficient documentation supporting the rural rates at the time the FCC Forms 466 were submitted to RHC program. The total amount that was over-invoiced to RHC is \$24,073 for FRN 1696040.

Service Provider Did Not Provide Documentation to Substantiate the Decision to Submit Rates to the State Commissions Rather than to the FCC

For all FRNs identified at the beginning of this finding, AAD inquired of the Service Provider and requested documentation to determine whether the rates submitted to the state commissions were only for circuits carrying intrastate traffic.¹³ The Service Provider informed AAD that it was its understanding that the circuits were intrastate but did not provide evidence demonstrating that no more than ten percent of the circuits’ traffic was interstate.¹⁴ Per examination of the Service Provider’s approved FCC Form 499-A, line 406 identifies that 41 percent of the Service Provider’s annual revenue from local private lines and business data services was interstate for the fiscal year ending during Funding Year 2016. Due to the volume of interstate traffic identified on its FCC Form 499-A, there is an increased likelihood that the circuits’ traffic within the states for

¹¹ See Service Provider’s response to the *Audit Inquiries Record* received Apr. 12, 2019.

¹² *Id.*

¹³ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9173, para. 778 (1997).

¹⁴ See Service Provider’s response to the *Audit Inquiries Record* received Apr. 5, 2019.

the FRNs audited should be classified as interstate. Therefore, the Service Provider did not demonstrate that it complied with the FCC Rules when submitting its rural rates to the state commissions rather than to the FCC.

USAC is required to conduct audits in accordance with generally accepted government auditing standards,¹⁵ which require AAD to obtain sufficient, appropriate evidence to substantiate audit findings and conclusions.¹⁶ Because the Service Provider did not provide sufficient evidence to support the rural rates for all FRNs identified in this finding as (1) the submissions to the state commissions did not include an itemization of the costs for providing the requested services, (2) the rates submitted to the state commissions were submitted after the HCPs' submission of the FCC Forms 466, (3) the Service Provider did not demonstrate it was appropriate to submit its rates to the state commissions rather than to the FCC, and there was no other documentation provided that established a rural rate in accordance with the FCC Rules by either (4) supporting its rural rate or (5) its decision to submit the rates to the state commissions, AAD concludes that the Service Provider did not provide sufficient documentation demonstrating its rural rates were determined in accordance with the FCC Rules.

CAUSE

The Service Provider did not have adequate controls and procedures in place for maintaining documentation that demonstrates the Service Provider's determination of its rural rates was in accordance with the FCC Rules. In addition, the Service Provider did not perform an adequate review of the FCC Rules to understand the requirements for submitting its rural rates to the state commissions.

EFFECT

The monetary effect of this finding is \$1,682,831. This represents the total amount of RHC program funds disbursed for the FRNs in which the Service Provider did not provide documentation demonstrating its rural rates were determined in accordance with the FCC Rules and also represents, for other FRNs, the difference in the amounts disbursed by RHC program and the amounts supported by tariff rate documentation provided by the Service Provider, as follows:

FRN	Monetary Effect
1679379	\$74,400
1686003	\$66,689
1686305	\$117,324
1686759	\$145,248
1686772	\$108,543
1686807	\$35,604
1686920	\$188,148

¹⁵ See 47 C.F.R. § 54.702(n) (2015).

¹⁶ See U.S. Government Accountability Office, *Government Auditing Standards*, GAO-12-331G, para 6.56 (Rev. Dec. 2011) (“Auditors must obtain sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions.”).

1686921	\$188,148
1687910	\$120,585
1687926	\$10,756
1687932	\$54,247
1687937	\$45,653
1688082	\$112,913
1688254	\$41,508
1689301	\$63,288
1689313	\$113,062
1695263	\$56,720
1695554	\$58,379
1696040	\$24,073
1696713	\$57,543
Total	\$1,682,831

There is no monetary effect associated with FRNs 1676025, 1676027, 1676030, 1676032, 1676048, 1676051, 1676058, 1676133, 1686558, 1686617, 1688114, 1688121, and 1688912 as AAD was able to perform procedures to determine that the rural rates reported on the FCC Form 466 were appropriate.

RECOMMENDATION

For FRNs 1679379, 1686003, 1686305, 1686759, 1686772, 1686920, 1687910, 1687926, 1687932, 1687937, 1688082, 1688254, 1695263, and 1695554, AAD does not recommend that USAC Management seek recovery of the monetary effect noted above, totaling \$1,201,113, based on TeleQuality's Consent Decree as the amounts were already recovered by USAC (i.e., to avoid duplicative recovery).¹⁷

For FRNs 1689313 and 1696713, AAD recommends that USAC Management seek partial recovery of the monetary effect noted above, totaling \$156,619.¹⁸ In addition, AAD does not recommend recovery of \$13,986, because these FRNs were listed in Appendix A of the Demand Payment letter.¹⁹ Because only \$13,986 of the total monetary value for these FRNs are due to a separate internal investigation, where the special

¹⁷ The consent decree is available at <https://docs.fcc.gov/public/attachments/DA-20-69A1.pdf>.

¹⁸ See The Demand Payment Letter at <https://ecfsapi.fcc.gov/file/1061128021386/ENA%20Healthcare%20Petition%20for%20Reconsideration%206-11-20%20FINAL%20Part%201%20-%20Pet%20and%20Ex%201-2.pdf> per Exhibit I. Total monetary effect for FRN 1689313 and 1696713 is \$170,605 per the chart above. The amount per Appendix A of the Demand Payment Letter that is subject to recovery under the terms of the Demand Payment Letter is \$13,986 (6,585+7,401 for FRN 1689313 and 1696713, respectively). Therefore, the recommended recoverable amount is \$156,619 (170,605 – 13,987).

¹⁹ *Id.*

compliance review revealed additional violations necessitating recovery, AAD is only recommending partial recovery.

For FRN 1686807, 1686921, 1689301, and 1696040, AAD recommends that USAC Management seek recovery of the monetary effect noted above, totaling \$311,113. AAD also recommends that USAC Management issue a downward commitment adjustment for \$311,113 for these FRNs.²⁰

In the future, if there are no tariffed or publicly available rates for such services in that rural area or if the Service Provider reasonably determines the rate is unfair, the Service Provider must submit to the state commission (for intrastate rates) or for the FCC's approval (for interstate rates), a cost-based rate for the provision of the service in the most economically efficient, reasonably available manner (that includes a justification of the proposed rural rate with an itemization of the costs of providing the requested service). In addition, the Service Provider must implement controls and procedures to ensure it maintains documentation demonstrating it determined its rural rates in accordance with the FCC Rules. Further, AAD recommends that the Service Provider visit USAC's website at <https://www.usac.org/rural-health-care/learn/> to become familiar with the training and outreach available from the RHC program.

SERVICE PROVIDER RESPONSE

ENA Healthcare Services (formerly TeleQuality) acknowledges that it disclosed to the Federal Communications Commission that it submitted its Method 3 rural rates and cost-itemization to state commissions, for intrastate services, or to the FCC, for interstate services, after the Company set the rural rate, and did not comply in other ways with the Commission's rules governing the determination of rural rates. See Consent Decree at para. 13. The findings correctly note that the Consent Decree addresses the issues identified in Finding #1 and therefore does not recommend recovery for several FRNs in the audit.

The findings, however, erroneously recommend a recovery amount of \$156,619 for FRNs 1689313 and 1696713, and \$313,113²¹ for FRNs 1686807, 1686921, 1689301, and 1696040, even though liability for those was released by the Consent Decree. Each of these FRNs is listed in Appendix D of the Consent Decree, which means that each was specifically reviewed [as] a part of the Enforcement Bureau's investigation. The Consent Decree states that it "resolves all claims for repayment to the Universal Service Fund arising from (1) the 2015-2018 practices described in paragraphs 2 and 13 of this Consent Decree and disclosed in response to the LOI . . ." See Consent Decree at para. 17. The findings describe practices specifically disclosed and described in paragraphs 2 and 13 of the Consent Decree. USAC nonetheless appears to believe that disbursed funding related to these FRNs is recoverable because they are not included within Appendix A of the Consent Decree. That is not correct. The releasing sentence in Paragraph 17 of the Consent Decree cites to Appendix D, which includes all of the FRNs for which USAC is seeking recovery, and lists all the FRNs that were the subject of the investigation. The specific purpose of Appendix D was to ensure that additional FRNs within the scope of the investigation would not be re-opened. This audit is reviewing FRNs from FY 2016 so they are covered by the time period in the Consent Decree. As such, USAC's recommended recovery is precluded by the terms of the Consent Decree.

²⁰ These FRNs are not included within Appendix A of the TeleQuality Consent Decree. In addition, they are not included within Appendix A of the Demand Payment Letter.

²¹ It appears that this number has a typo; our calculation of the recovery amount is \$311,113.

We also disagree with the auditors' decision to use the minimum rate from TeleQuality's tariffs and rate sheets as the appropriate rural rate, and thus as the basis for its recovery calculations. TeleQuality's tariffs and rate sheets had a minimum and maximum rate, and the state commissions permit any rate between the minimum and the maximum to be charged. Consistent with Section 2(b) of the Communications Act, the FCC's regulations do not specify the manner in which states must approve rates, and do not preclude a range of rates. TeleQuality's cost-itemization documentation justified the maximum rate for each bandwidth so the cost-itemization would also support any lower charges. Contrary to the statement in Finding #1, that "without an itemization of costs to its RHC program customers, the Service Provider has not demonstrated that the HCPs should be charged more than the minimum rate on the rate sheets," TeleQuality in fact provided state commissions and the USAC auditors with cost-itemization support for its rates. USAC acknowledges this fact in Finding #1 ("The Service Provider provided documentation to AAD of its submission of an itemization of the costs to the Georgia, Idaho, Mississippi, Texas, West Virginia and Arizona state commissions . . .").

AAD RESPONSE TO SERVICE PROVIDER RESPONSE

In its response, the Service Provider states that "The findings . . . erroneously recommend a recovery amount of \$156,619 for FRNs 1689313 and 1696713, and \$313,113 [\$311,113] for FRNs 1686807, 1686921, 1689301, and 1696040, even though liability for those was released by the Consent Decree." AAD notes that this amount was a typo in the original text, and the amount should denote \$311,113, not \$313,113. The error has been updated to reflect the change both here and in the original text.

The Service Provider asserts that "[e]ach of these FRNs is listed in Appendix D of the Consent Decree, which means that each was specifically reviewed [as] a part of the Enforcement Bureau's investigation." The Service Provider continued to state that "[t]he Consent Decree states that it resolves all claims for repayment to the Universal Service Fund arising from (1) the 2015-2018 practices described in paragraphs 2 and 13 of this Consent Decree and disclosed in response to the LOI See Consent Decree at para. 17." AAD confirmed with the FCC Enforcement Bureau and noted FRNs 1689313, 1696713, 1686807, 1686921, 1689301, and 1696040 were part of the scope and subject to the disclosures in the investigation and therefore resolved by the Consent Decree. As such, AAD has revised its recommendation to state: "For FRNs 1679379, 1686003, 1686305, 1686759, 1686772, 1686920, 1687910, 1687926, 1687932, 1687937, 1688082, 1688254, 1695263, 1695554, 1689313, 1696713, 1686807, 1686921, 1689301, and 1696040, AAD does not recommend that USAC Management seek recovery of the monetary effect noted above, totaling \$1,682,831, based on TeleQuality's Consent Decree as the amounts were already recovered by USAC (i.e., to avoid duplicative recovery)."²²

Finding #2: Hospital Networks Management Order, para. 4 – Competitive Bidding Process Was Not Fair and Open

CONDITION

AAD conducted inquiries and obtained and examined documentation, including the FCC Form 465;

²² The consent decree is available at <https://docs.fcc.gov/public/attachments/DA-20-69A1.pdf>.

correspondence between Beneficiaries and the Service Provider; and the Beneficiaries' competitive bidding documentation, including requests for proposals (RFPs), bid proposals received, and notes taken during the bid evaluation process, to determine whether the Beneficiaries conducted a competitive bidding process that complied with the FCC Rules for FRNs 1687910, 1687926, 1687932, 1687937, 1688254, and 1696040. When conducting a competitive bidding process, the Beneficiary must consider all bids submitted and select the most cost-effective alternative.²³ In selecting a cost-effective alternative, the Beneficiary must ensure that the competitive bidding process does not disadvantage one service provider over another.²⁴ AAD identified instances in which the Service Provider contacted two Beneficiaries and discussed, among other things, contract terms, copay arrangements, network options or improvements, and the FCC Form 465 filings prior to the Beneficiaries submitting their FCC Forms 465 to USAC for the Funding Year 2016 services the Service Provider was selected to provide. Therefore, the Beneficiary did not have a fair and open competitive bidding process because the Service Provider assisted during the application process, as detailed below.

While examining documentation associated with North Country Healthcare's (North Country) competitive bidding and service provider selection process, AAD identified email exchanges in August 2015 between the Service Provider and North Country establishing in person meetings to discuss paperwork provided by the Service Provider that included a contract, copay agreement, and network services agreement.²⁵ In addition, on August 25, 2015, North Country accepted a meeting invitation from the Service Provider to discuss a possible fiber project in Holbrook or Springville, Arizona. The meeting agenda included a review of the Service Provider's understanding of North Country's Internet requirements, fiber project options, and the next steps, including a discussion on the filing of the FCC form 465.²⁶ Following the meeting, the Service Provider emailed North Country a summary of the items discussed in the meeting and confirmed that North Country was seeking a 100 Mbps dedicated Internet circuit to two locations in Holbrook, Arizona and Flagstaff, Arizona.²⁷ North Country then submitted its FCC Form 465 for the requested services on September 1, 2015. North Country selected the Service Provider and executed 60-month contracts on November 10, 2015 for FRNs

²³ 47 C.F.R. § 54.603(b)(4) (2015).

²⁴ See *Requests for Review of Decisions of the Universal Service Administrator by Hospital Networks Management, Inc. Manchaca, Texas et al.*, WC Docket No. 02-60, Order, 31 FCC Rcd. 5731, 5733, DA 16-619, para. 4 (2016) (*Hospital Networks Management Order*); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9133-34, paras. 686, 688 (1997) (requiring competitive bidding processes to be fair and open such that no bidders receive an unfair advantage); *Rural Health Care Support Mechanism et al.*, WC Docket No. 02-60, Order, 22 FCC Rcd. 20360, 20414, para. 102 (2007) (*RHC Pilot Program Selection Order*) (explaining that "competitive bidding furthers the requirement of 'competitively neutrality' by ensuring that universal service support does not disadvantage one provider over another"). See also *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, et al., Public Notice, 31 FCC Rcd 9615, 9622, fns.19 and 20 (2016) (finding that service provider involvement in the bidding process violates the RHCP competitive bid rules).

²⁵ See email from Bill Smith, IT Manager at North Country Healthcare, to Trent Moller, Regional Account Manager at TeleQuality (Aug. 14, 2015).

²⁶ See Outlook meeting invitation from Trent Moller, Regional Account Manager at TeleQuality, to Bill Smith, IT manager at North Country Health Care (Aug. 25, 2015).

²⁷ See email to AAD from Trent Moller, Regional Account Manager at TeleQuality, Bill Smith, IT manager at North Country Health Care (Aug. 25, 2015).

16879101 and 16879261 for 1GB Ethernet and on February 2, 2016 for FRNs 16879321, 16879371, and 16882541 for 100MB Ethernet.

While examining documentation associated with Wirt County Health Services' (Wirt County) competitive bidding and service provider selection process, AAD identified a phone call between the Service Provider and Wirt County in March 2016 to discuss Wirt County's current network, areas for improvement, and Wirt County's wish list for its network.²⁸ Wirt County had previously been introduced to the Rural Health Care Program by the Service Provider in February 2016.²⁹ The Service Provider then emailed Wirt County in April 2016 and stated that the Service Provider would call Wirt County to review the FCC Form 465 filing instructions. An email from the Service Provider after the call included a link for filing the FCC Form 465, instructions on how to obtain a FCC registration number, and a phone number to contact the Service Provider's Funding Specialist, Tara Nordstrom, if there were any problems.³⁰ Wirt County informed AAD that it did not have evidence to suggest Wirt County followed-up and contacted the Funding Specialist.³¹ Wirt County then submitted its FCC Form 465 for the requested services on May 11, 2016. During the 28-day window for accepting bids following the posting of the FCC Form 465, as required by the FCC Rules, the Service Provider contacted Wirt County with instruction on performing its competitive bidding process. Specifically, the Service Provider informed Wirt County that it is required to respond to all bidders, but not required to respond to the consultants offering to help them file the FCC forms. An email from the Service Provider to Wirt County stated that "[c]onsultants are a waste of [Wirt County's] time."³² Wirt County selected the Service Provider and executed a 60-month contract on July 15, 2016 for FRN 16960401.

Because Service Provider assistance with the Beneficiary's application process is prohibited by the FCC Rules and prevents a fair and open competitive bidding process, resulting in a conflict of interest that compromises the Beneficiaries' competitive bidding process, AAD concludes that the Beneficiary did not comply with the FCC Rules governing a fair and open competitive bidding process.

CAUSE

The Beneficiaries and the Service Provider did not comply with the FCC Rules governing the competitive bidding process. The Beneficiaries and the Service Provider did not perform sufficient research of the FCC Rules or utilize outreach available from the RHC program to distinguish when the Service Provider's customer service and involvement efforts taint the underlying competitive bidding process.

EFFECT

The monetary effect of this finding is \$721,634. This amount represents the total amount committed and disbursed by RHC program for the following FRNs:

²⁸ See email with attached meeting agenda from Chris Morgan, Regional Account Manager at TeleQuality, to Chris Kucia, Chief Information Officer at Wirt County Health Services (Mar. 29, 2016).

²⁹ See email from Chris Kucia, Chief Information Officer at Wirt County Health Services, to Greg Thompson, Regional Account Manager at TeleQuality (Feb. 25, 2016).

³⁰ See email from Chris Morgan, Regional Account Manager at TeleQuality, to Chris Kucia, Chief Information Officer at Wirt County Health Services (Apr. 26, 2016).

³¹ See email from Chris Kucia, Chief Information Officer at Wirt County Health Services, to AAD (May 1, 2019).

³² See email from Chris Morgan, Regional Account Manager at TeleQuality, to Chris Kucia, Chief Information Officer at Wirt County Health Services (Jun. 2, 2016).

FRN	Monetary Effect
1687910	\$254,727
1687926	\$144,898
1687932	\$107,964
1687937	\$99,370
1688254	\$90,602
1696040	\$24,073
Total	\$721,634

RECOMMENDATION

For FRNs 1687910, 1687926, 1687932, 1687937, and 1688254, AAD does not recommend that USAC Management seek recovery of the monetary effect noted above, totaling \$697,561, based on TeleQuality’s Consent Decree as the amounts were already recovered by USAC (i.e., to avoid duplicative recovery).³³

For FRN 1696040, AAD recommends that USAC Management seek recovery of the monetary effect noted above, totaling \$24,073, from the Beneficiary. AAD also recommends that USAC Management issue a downward commitment adjustment for \$24,073 for this FRN.

The Service Provider must implement controls and procedures to ensure that it does not assist a Beneficiary with the preparation of its FCC Form 465, assist in the Beneficiary’s RHC program application process, or assist in the Beneficiary’s competitive bidding process, and thereby compromise the integrity of the Beneficiary’s competitive bidding process.

In addition, each Beneficiary must implement controls and procedures to ensure it conducts a competitive bidding process that complies with the FCC Rules, including not permitting bidding service providers to assist with the preparation of its FCC Form 465, assist with its RHC program application process, or assist in the competitive bidding process. Further, the Service Provider and Beneficiary visit USAC’s website at <https://www.usac.org/rural-health-care/learn/> to become familiar with the training and outreach available from the RHC program.

SERVICE PROVIDER RESPONSE

We agree that these FRNs are included in the Consent Decree and therefore recovery is precluded. FRN 1696040 is also included in the Consent Decree for the reasons explained under Finding #1. Therefore, USAC should not seek recovery of any of the funding associated with this FRN. In addition, we note that the Consent Decree directed TeleQuality to implement a compliance plan to remediate issues related to the competitive bidding process.

However, we do not agree that the specific actions and communications detailed in the findings rise to the level of a competitive bidding violation. We note that in a presentation of potential findings, AAD initially indicated to TeleQuality that the communications did not “taint the competitive bidding process.” After receiving the Draft Audit Findings, when we inquired as to why the auditors had now identified the communications as a violation of the rules, AAD cited to the FCC’s Hospital Networks Management Order as having been issued by the Commission, providing additional guidance to USAC. That order, which was issued in 2016, addresses a situation where health care providers’ consultant

³³ See *Supra* Note 15.

was also the service provider, creating a direct conflict of interest. That case does not have the same facts that AAD has identified here so that ruling does not appear to be applicable.

AAD RESPONSE TO THE SERVICE PROVIDER'S RESPONSE

In its response, the Service Provider stated "FRN 1696040 is also included in the Consent Decree for the reasons explained under Finding #1. Therefore, USAC should not seek recovery of any of the funding associated with this FRN." AAD confirmed with the FCC Enforcement Bureau and noted FRN 1696040 was part of the scope and subject to the disclosures in the investigation and therefore resolved by the Consent Decree. As such, AAD has revised its recommendation to state: "For 1696040, AAD does not recommend that USAC Management seek recovery of the monetary effect noted above, totaling \$721,634, based on TeleQuality's Consent Decree as the amounts were already recovered by USAC (i.e., to avoid duplicative recovery)."³⁴

BENEFICIARY RESPONSE

Wirt County Health Services Association ("Wirt County") is grateful for this opportunity to respond to Finding #2, which is set forth in the draft report prepared by the Audit and Assurance Division ("AAD").³⁵ At the outset, although Wirt County has attempted to respond to AAD's findings as thoroughly as possible, its ability to respond has been affected by two critical factors. First, AAD's report deals with matters, which occurred almost six years ago. Second, and relatedly, the individual most closely involved in this matter (i.e., former Wirt County Chief Information Officer Chris Kucia) has not been employed by Wirt County in more than two and a half years.

Because facts relating to Wirt County's nature and its mission are relevant in placing various facts in context and to illustrate the impact that Wirt County might suffer from any order to repay the grant funds, this response begins by describing Wirt County's healthcare practice and patients it serves. Given the population served by Wirt County, it has been designated as a Federally Qualified Health Center ("FQHC"), under the federal Public Health Service Act. As a FQHC, Wirt County provides high quality medical care to all residents within its service area, regardless of income or insurance status. In fact, in 2020, 4.2 percent of Wirt County's patients had no health insurance, while 34.9 percent were covered by Medicaid and 22.6 were covered by Medicare.

Wirt County's patients are among the most medically underserved in the United States. Unsurprisingly, the patients served by Wirt County suffer from various morbidities at rates far exceeding those seen in other parts of the United States. Notably, Wirt County provides medical care directly to school-aged children through three locations hosted by local school systems.

Wirt County respectfully believes that these facts should be taken into consideration in relation to any decision as to whether it should be required to repay USAC grant funds. In approving the consent decree resolving the underlying investigation into TeleQuality Communications, LLC (n/k/a ENA Healthcare Services, LLC) ("TeleQuality"), the Federal Communications Commission ("FCC") wisely took into account "the need to ensure rural health care providers do not experience a gap in critical

³⁴ The consent decree is available at <https://docs.fcc.gov/public/attachments/DA-20-69A1.pdf>.

³⁵ Wirt County does business as "Coplin Health Systems" and generally refers to itself as either Coplin Health Systems or Coplin. Given that AAD's draft report refers to Coplin using its legal name, this response also refers to it using its legal name.

services.” (FCC, Order at 2, Feb. 5, 2020.) If anything, this factor is even more important as to Wirt County, which is a small FQHC serving a handful of rural West Virginia communities.

Subject to the two caveats noted above, Wirt County acknowledges that it failed to comply with various FCC and USAC requirements in relation to the procurement process. Although lack of sophistication or experience is no excuse for failing to comply with FCC’s regulations, Wirt County believes that it never intended to violate any FCC regulations. At the end of the day, Wirt County naively relied upon advice provided by TeleQuality, including the advice quoted in the AAD’s report: “[c]onsultants are a waste of [Wirt County’s] time.” (brackets in AAD report).

Relatedly, it is important to note the fraud and intentional misconduct committed by TeleQuality, which is chronicled in great detail in the FCC’s consent decree. Although Wirt County made procurement-related mistakes, there is no evidence that these mistakes were the product of anything other than Wirt County’s naïve reliance upon what it viewed as a leading and reputable provider of telecommunications products and services to rural healthcare providers. Without diminishing or excusing Wirt County’s errors, Wirt County was arguably a victim itself of TeleQuality’s misconduct. Lastly, Wirt County believes that the consent decree entered by the FCC in relation to its investigation into TeleQuality—and TeleQuality’s agreement to pay \$31 million—should cover, and preclude, any requirement to repay the \$24,073 in grant funds that are at issue.

Wirt County also respectfully notes that the issues identified in relation to Finding #2 are very unlikely to occur in the future. Among other things, the Wirt County employee who managed and oversaw the procurement process in this matter is no longer employed by Wirt County. Moreover, based on the findings set forth in the AAD report, Wirt County intends to engage in a comprehensive review of its existing controls, procedures, and vendor relationships. At the conclusion of this review, Wirt County will make all necessary changes to ensure that the issues identified in the report do not recur.

In summary, Wirt County acknowledges that it made errors in relation to the procurement process, but it respectfully asserts that none of these errors were intentional. Moreover, requiring Wirt County to repay the \$24,073 in grant funds would be inconsistent with “ensur[ing] rural health care providers do not experience a gap in critical services.” Likewise, any action that would impair Wirt County’s ability to access funds under this grant or receive funds through future grants, would also potentially expand the already existing gap that Wirt County’s patients experience in receiving critical healthcare. Lastly, as noted above, Wirt County respectfully asserts that the FCC’s consent decree with TeleQuality covers the \$24,073 in grant funds at issue here.

AAD RESPONSE TO THE BENEFICIARY RESPONSE

In its response, the Beneficiary states that “... Wirt County believes that the consent decree entered by the FCC in relation to its investigation into TeleQuality—and TeleQuality’s agreement to pay \$31 million—should cover, and preclude, any requirement to repay the \$24,073 in grant funds that are at issue.” .” AAD confirmed with the FCC Enforcement Bureau and noted FRN 1696040 was part of the scope and subject to the disclosures in the investigation and therefore resolved by the Consent Decree. As such, AAD has revised its recommendation to state: “For 1696040, AAD does not recommend that USAC Management seek recovery of

the monetary effect noted above, totaling \$721,634, based on TeleQuality's Consent Decree as the amounts were already recovered by USAC (i.e., to avoid duplicative recovery).³⁶

Finding #3: 47 C.F.R. §54.619(a) and 54.615(b) - Inadequate Documentation – Beneficiary Did Not Demonstrate It Paid the Urban Rate Portion of Services

CONDITION

AAD requested, obtained and examined documentation to determine whether the Beneficiary (North Mississippi Medical Center) paid the urban rate portion plus any portion of the bill remaining after the application of the pro-rata factor (Portion) for eligible services supported by RHC Telecommunications Program funds as required by the FCC Rules for FRN 16860031. The Service Provider provided a copy of a check stub from the Beneficiary in the amount of \$13,085 for bill no. 100085, which was a bill to the Beneficiary in the amount of \$13,085 for services provided in Funding Year 2017 and not applicable to FRN 16860031. AAD then requested documentation from the Beneficiary substantiating it paid its Portion of services for Funding Year 2016. However, the Beneficiary did not provide sufficient evidence to support that the full urban rate payment was made to satisfy the purchase or cost of services.

The Service Provider then provided four check copies totaling \$12,500 and stated the checks were for the Beneficiary's Portion of Funding Year 2016 services. However, based upon review of documentation, including the Service Provider's bills for Funding Year 2016, AAD determined that the Beneficiary was billed a monthly urban rate of \$498 plus an additional \$928 per month for the balance due after applying the pro-rata factor of 92.52804 percent to the rural rate,³⁷ resulting in a total balance due from the Beneficiary of \$17,111 ($(\$498 + \$928) * 12$ months) for its Portion. The Service Provider is permitted to bill the remainder balance due after applying the pro-rata factor to the rural/urban differential.³⁸ No other documentation was provided by the Service Provider or the Beneficiary to demonstrate the remaining \$4,611 ($\$17,111 - \$12,500$) was paid by the Beneficiary. The Service Provider provided a reconciliation showing \$4,611 was paid on check no. 1968035 but did not provide evidence of the check or payment.

³⁶ The consent decree is available at <https://docs.fcc.gov/public/attachments/DA-20-69A1.pdf>.

³⁷ In the Beneficiary's Funding Commitment Decision Letter, a pro-rata factor of 92.52804 percent was applied to the *Monthly Recurring Funding Amount* (i.e., rural rate less the urban rate) of \$12,425, which reduced the monthly amount approved for RHC Telecommunication Program support to \$11,497. Therefore, the Beneficiary's portion of the amount charged after application of the pro-rata factor was \$928 ($\$12,425 - \$11,497$).

³⁸ See the NMMC- Calhoun Health Services Health Care Provider Support Schedule (HSS) Letter. Per the invoicing process, USAC sends the "HSS Letter" to the Beneficiary and the Service Provider. Among other items, it includes (a.) the total Funding amount and (b.) the total committed funding amount that is allowed to be billed to the Beneficiary. For this FRN, the total monthly *Funding Amount* is \$12,425 [FCC Form 466 Rural rate of \$12,923 minus urban rate \$498]; however, the total monthly *committed Funding amount* is \$11,497 [$\$12,425 * 92.52804\%$]. Therefore, the monthly amount that should be paid by the Beneficiary is \$1,426 [FCC Form 466 Rural rate of \$12,923 minus monthly committed funding amount of \$11,497]. Thus, the \$1,426 includes the monthly urban rate of \$498 plus an additional \$928 per month for the balance due after applying the pro-rata factor of 92.52804.

Pursuant to FCC Rules, HCPs must maintain records to document compliance with program rules and orders for at least five years after the last day of service delivered in a particular funding year.³⁹ Further, USAC is required to conduct audits in accordance with generally accepted government auditing standards,⁴⁰ which require AAD to obtain sufficient, appropriate evidence to substantiate audit findings and conclusions.⁴¹ Because the Service Provider and the Beneficiary did not provide documentation demonstrating the Beneficiary paid its full Portion of eligible services, AAD concludes that the Service Provider and Beneficiary did not maintain sufficient documentation in accordance with the FCC Rules.

CAUSE

The Beneficiary and Service Provider did not have an adequate record retention system to ensure that it maintained adequate documentation to demonstrate the Beneficiary paid and the Service Provider collected the urban rate portion, plus any portion remaining after application of the pro-rata factor, of eligible telecommunication services charged on the Service Provider bills. The participating HCP location supported under this FRN is no longer a part of the Beneficiary's health care network.⁴² The Beneficiary verbally informed AAD that the HCP location experienced turnover of key personnel that was responsible for the RHC Telecommunications Program processes.

EFFECT

The monetary effect of this finding is \$37,175.⁴³ This amount represents the amount disbursed by RHC program associated with the services billed to the Beneficiary in which the Beneficiary and Service Provider did not demonstrate the Beneficiary paid its urban rate portion for FRN 16860031.

RECOMMENDATION

For FRN 16860031, AAD does not recommend that USAC Management seek recovery of the monetary effect, totaling \$37,175, based on TeleQuality's Consent Decree as the amounts were already recovered by USAC (i.e., to avoid duplicative recovery).⁴⁴

The Beneficiary and the Service Provider must implement controls and procedures to ensure it maintains documentation demonstrating compliance with the FCC Rules for services supported under the RHC Telecommunications Program for five years after the end of the funding year, as required by the FCC Rules. The Beneficiary and Service Provider may visit USAC's website at <https://www.usac.org/rural-health-care/learn/> to become familiar with the training and outreach available from the RHC program.

³⁹ See 47 C.F.R. § 54.619(a)(1) (2015).

⁴⁰ See 47 C.F.R. § 54.702(n) (2015).

⁴¹ See U.S. Government Accountability Office, *Government Auditing Standards*, GAO-12-331G, para. 6.56 (Rev. Dec. 2011) ("Auditors must obtain sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions.").

⁴² Email from David Wager, North Mississippi Medical Center's consultant to AAD (Apr. 27, 2019). In addition, see <https://health.usnews.com/best-hospitals/area/ms/calhoun-health-services-6540116>, illustrating that the Calhoun Health Service location is now managed by Baptist Memorial Hospital-Calhoun.

⁴³ The Beneficiary's Portion of \$4,611, in which documentation was not provided demonstrating payment was made to the Service provider, was 27 percent of the total Portion due of \$17,111 for Funding Year 2016. Therefore, by not demonstrating payment of the Beneficiary's Portion of \$4,611, the Beneficiary and Service Provider did not demonstrate compliance with the FCC Rules associated with \$37,175 disbursed by RHC program (\$137,959 disbursed * 27 percent).

⁴⁴ See *supra* note 15.

BENEFICIARY RESPONSE

AAD did not receive a response from the Beneficiary.

SERVICE PROVIDER RESPONSE

We agree that this FRN is included in the Consent Decree and therefore recovery is precluded.

Finding #4: 47 C.F.R. §54.615(a) – Improper Competitive Bidding Evaluation Process

CONDITION

AAD obtained and examined documentation, including the Beneficiary’s (Wirt County Health Services) bid evaluation and copies of all bids, winning and losing, to determine whether the Beneficiary conducted a fair and open competitive bidding process resulting in the selection of the most cost-effective option for FRN 1696040. The Beneficiary provided documentation for two bids received from the Service Provider and Network Services Solutions (NSS). The Beneficiary did not demonstrate it selected the most cost-effective offering based on its bid evaluation criteria. The Beneficiary’s bid evaluation for each bid established the following criteria: Cost (30%), Single Solution (20%), Personnel (10%), Project Management Quality (20%), and Prior Experience/Reputation (20%).

The Beneficiary’s bid evaluations assigned the Service Provider a score of 22.5 and NSS a score of 5.1 in the cost criterion. The Beneficiary informed AAD that the cost score was calculated using the following formula:

$$100 - ((\text{highest cost} - \text{point base}) / \text{point multiplier}), \text{ where point base is the average cost less the “factor” } ((\text{highest Cost} - \text{average Cost}) * 2) \text{ and point multiplier is } (\text{average cost} + \text{factor}) - (\text{average Cost} - \text{factor}) / 100.$$

AAD recalculated the score for the cost criterion using the pricing from both bids and the scoring formula as described by the Beneficiary and determined the following:

Cost Criterion Score Calculation		
Calculation Inputs	Service Provider	NSS
Highest Cost	\$4,820	\$3,192
Average Cost	\$4,415	\$2,203
(Highest Cost – Average Cost) * 2 = Factor	\$810	\$1,978
Average Cost + Factor	\$5,225	\$4,181
Average Cost – Factor = Point Base	\$3,605	\$226
Point Multiplier	16.2	39.55
Cost Formula Calculation		
Highest Cost	\$4,820	\$3,192

Point Base	\$3,605	\$226
Cost Score	25	25

Based on AAD’s recalculation above, the Beneficiary’s cost criterion formula did not support the score results of the higher cost bid receiving a more favorable score in the Beneficiary’s bid evaluation. Using the Beneficiary’s formula, the calculation for the cost score results in the same score of 25 regardless of the highest and average costs entered. Since NSS provided a lower bid and the cost criterion was the highest weighted factor, changes to the cost score could impact the overall outcome and resulted in the selection of a different service provider.

Because the Beneficiary used a formula that did not support the score results and did not reflect a higher score to the cheaper bid, AAD concludes that the Beneficiary did not demonstrate it selected the most cost-effective offering.⁴⁵

CAUSE

The Beneficiary did not have sufficient controls and procedures in place to ensure its competitive bidding process demonstrated it selected the most cost-effective service provider. The Beneficiary informed AAD that its incorrect bid evaluation cost score formula was caused by human error.⁴⁶ Thus, the Beneficiary did not have an adequate review process in place to determine the accuracy of the bid evaluation formulas and scoring.

EFFECT

The monetary effect of this finding is \$24,073. This amount represents the total amount committed and disbursed by RHC program for FRN 1696040.⁴⁷

RECOMMENDATION

AAD recommends that USAC Management seek recovery of \$24,073 and issue a downward commitment adjustment to reduce the amount committed for FRN 1696040 to \$0.

The Beneficiary must establish controls and procedures to ensure that its competitive bidding process complies with the FCC Rules and that the Beneficiary selects the most cost-effective method of providing the requested service. The Beneficiary must develop and implement policies, procedures and processes that describe how the Beneficiary will prepare, document and review its bid evaluation, including a review of mathematical calculations. In addition, the Beneficiary may visit USAC’s website at <https://www.usac.org/rural-health-care/learn/> to become familiar with the training and outreach available from RHC program and familiarize itself with the FCC Rules governing the competitive bidding process.

SERVICE PROVIDER RESPONSE

⁴⁵ See 47 C.F.R. §54.615 (c)(7) (2016).

⁴⁶ See Wirt County Health Services’ response to AAD’s Audit Inquiries Record (AIR) (Apr. 25, 2019).

⁴⁷ These FRNs are not included within Appendix A of the TeleQuality Consent Decree. In addition, they are not included within Appendix A of the Demand payment letter.

As noted above, FRN 1696040 was also included in the Consent Decree for the reasons explained under Finding #1. Therefore, USAC should not seek recovery of any of the funding associated with this FRN.

AAD RESPONSE TO THE SERVICE PROVIDER

Refer to AAD's response to the Service Provider per the explanation denoted in Finding #1. AAD confirmed with the FCC Enforcement Bureau and noted FRN 1696040 was part of the scope and subject to the disclosures in the investigation and therefore resolved by the Consent Decree. As such, AAD has revised its recommendation to state: "For 1696040, AAD does not recommend that USAC Management seek recovery of the monetary effect noted above, totaling \$721,634, based on TeleQuality's Consent Decree as the amounts were already recovered by USAC (i.e., to avoid duplicative recovery)."⁴⁸

BENEFICIARY RESPONSE

In responding to Finding #5, Wirt County respectfully incorporates by reference its response to Finding #2.

AAD RESPONSE TO THE BENEFICIARY

Refer to AAD's response to the Beneficiary response to both Finding #2 and Finding #5 per section "AAD's Response to the Beneficiary Response." AAD confirmed with the FCC Enforcement Bureau and noted FRN 1696040 was part of the scope and subject to the disclosures in the investigation and therefore resolved by the Consent Decree. As such, AAD has revised its recommendation to state: "For 1696040, AAD does not recommend that USAC Management seek recovery of the monetary effect noted above, totaling \$721,634, based on TeleQuality's Consent Decree as the amounts were already recovered by USAC (i.e., to avoid duplicative recovery)."⁴⁹

Finding #5: 47 C.F.R. §54.615(b), 54.619(a) and 54.619(d) – Inadequate Documentation - Unable to Determine Whether the Beneficiary Paid Its Urban Rate

CONDITION

AAD obtained and examined documentation to determine whether the Beneficiary (Lakes Regional) paid its urban rate for RHC program supported telecommunications services for FRN 1686558. However, the Beneficiary and Service Provider did not provide sufficient documentation demonstrating that the Beneficiary paid the urban rate to the Service Provider.

⁴⁸ The consent decree is available at <https://docs.fcc.gov/public/attachments/DA-20-69A1.pdf>.

⁴⁹ The consent decree is available at <https://docs.fcc.gov/public/attachments/DA-20-69A1.pdf>.

AAD requested proof of payment for a non-representative sample of Funding Year 2016 bills from the Service Provider. For bill no. 75445 dated July 1, 2016, the documentation did not demonstrate payment was made based on the following:

- The urban rate equivalent due per the Service Provider's bill was \$276.
- The Service Provider provided a copy of its August 2016 bank statement illustrating a deposit amount of \$4,889 via an ACH payment made by the Beneficiary on August 19, 2016.
- The Service Provider's documentation did not demonstrate what services the ACH payment was for.
- The Service Provider provides numerous services to the Beneficiary and, therefore, AAD is unable to conclude whether the documentation provided applies to the July 1, 2016 bill.

AAD then requested and obtained monthly service provider bills and the corresponding payment support for the entire funding year from the Beneficiary. The Beneficiary provided copies of the monthly statements it received from the Service Provider and informed AAD that the monthly statements identified the total amount due for the month and listed each bill number included within the statement balance.⁵⁰

AAD reviewed the July 2016 Service Provider statement, the Beneficiary's documentation for its payment to the Service Provider, and the documentation from the Service Provider for the payment received and identified the following:

- There were two different versions of bills for the same bill number. For example, the Service Provider's version of bill number 75445 showed a copay amount⁵¹ of \$276 and the Beneficiary's version of the same bill number showed a copay amount of \$373.
- In addition to the copay amount, both bills identified a "Balance Due" of \$5,269.
- The documentation for the ACH payment of \$4,889 included a hand-written note stating that this payment includes \$552 for FRN 16865581.
- On April 29, 2019, the Beneficiary provided additional payment detail for the ACH amount of \$4,889 that demonstrated the amount was for the August bill no. 76694 rather than for the July bill.
- On April 29, 2019, the Beneficiary also provided a monthly statement dated July 1, 2016 that stated "Please pay \$4,467 for current co-pay." Bill no. 75445 was listed among the detail in the amount of \$5,269. However, the bill balances included in the detail did not sum to the \$4,467 that the Beneficiary was being asked to pay by the Service Provider.
- On April 29, 2019 and November 5, 2019 the Beneficiary and the Service Provider, respectively, provided a copy of a check for \$10,176 that each stated was applicable to bill no. 75445. The payment detail provided for the \$10,176 included \$5,003 for the July 2016 statement and \$5,173 for the June 2016 statement. However, the \$5,003 identified in the detail did not agree to the \$5,269 balance due listed in bill no. 75445 nor did it agree to the July monthly statement amount of \$4,467.

As a result of the discrepancies described above and due to inadequate documentation provided by the Beneficiary and Service Provider, AAD is unable to determine whether the payment documentation provided was applicable to the July 2016 bill.

⁵⁰ AAD discussion with Larry Jonczak, Director of Information for Lakes Regional MHMR Center, while conducting a site visit (July 16, 2019).

⁵¹ See similar issue noted in Finding #4.

AAD is required to conduct its audits in accordance with Generally Accepted Government Auditing Standards (GAGAS),⁵² which require AAD to obtain sufficient, appropriate evidence to substantiate audit findings and conclusions.⁵³ Because the Beneficiary and Service Provider did not provide sufficient documentation, the Beneficiary and Service Provider did not demonstrate that the Service Provider collected the Beneficiary's urban rate portion of the RHC Telecommunications Program supported services for July 2016.

CAUSE

The Beneficiary and Service Provider did not have adequate controls and procedures in place to retain documentation demonstrating the Beneficiary was accurately billed for and that the Beneficiary paid the urban rate of eligible services. The Service Provider's bill and monthly statement did not provide an adequate reconciliation for the urban rate portion due from the Beneficiary and the Beneficiary's payment documentation did not agree to the amounts per the Service Provider's bill or statement.

EFFECT

The monetary effect of this finding is \$4,992. This amount represents the amount of funds disbursed by the RHC program for July 2016 services for FRN 1686558.

RECOMMENDATION

For the FRN noted above, AAD does not recommend that USAC Management seek recovery of the monetary effect noted above, totaling \$4,992 based on TeleQuality's Consent Decree as the amounts were already recovered by USAC (i.e., to avoid duplicative recovery).⁵⁴

The Beneficiary and Service Provider each must implement controls and procedures to ensure that it retains adequate records for the purchase and delivery of services supported by the RHC Telecommunications Program for at least five years after the end of the funding year, as required by the FCC Rules. The Service Provider must develop and implement policies, procedures and processes that describe how the Beneficiary reconciles the Beneficiary payments to its billed services. The Service Provider may visit USAC's website at <https://www.usac.org/rural-health-care/learn/> to become familiar with the training and outreach available from the RHC program.

SERVICE PROVIDER RESPONSE

We agree that this FRN is included in the Consent Decree and therefore recovery is precluded.

BENEFICIARY RESPONSE

Lakes Regional paid the monthly amount due as invoiced by TeleQuality each month and in accordance with the urban rates provided by TeleQuality via the contract addendum that listed the monthly urban rate for each location. In instances where urban rates were adjusted by TeleQuality, Lakes Regional modified the monthly payment accordingly. As is standard practice, Lakes Regional paid one lump sum monthly for all of their contracted services.

⁵² 47 C.F.R. § 54.702(n) (2015).

⁵³ See U.S. Government Accountability Office, *Government Auditing Standards*, GAO-12-331G, para. 6.56 (Rev. Dec. 2011) ("Auditors must obtain sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions.").

⁵⁴ See *supra* note 15.

AAD RESPONSE TO THE BENEFICIARY

In its response, the Beneficiary asserts that it paid one lump sum monthly for all their contracted services. However, as described in the Condition section, AAD described discrepancies were inadequate documentation provided by the Beneficiary and Service Provider that did not represent a payment applicable to the July 2016 bill for \$4,992. Therefore, AAD’s position on this finding remains unchanged.

Finding #6: 47 C.F.R. § 54.615(b) – Inadequate Documentation - Beneficiary’s Urban Rate Not Substantiated

CONDITION

AAD obtained and examined documentation provided by Service Provider to determine whether the urban rates listed in the FCC Forms 466 were established in accordance with the FCC Rules for FRNs 1676032, 1676133, 1686617 and 1688912. The FCC Rules state that the urban rate “shall be a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service...”⁵⁵ The Service Provider informed AAD that it “determines urban rates by reviewing tariffs, obtaining quotes from other service providers, and consulting USAC’s website among other sources.”⁵⁶ The Service Provider did not provide adequate documentation to support its urban rates as detailed below.

To substantiate its urban rates, the Service Provider initially provided AAD with *Proposed Network Pricing* quotes that were not publicly available. As the documentation provided was not sufficient, the Service Provider then informed AAD that it did not want USAC to use the *Proposed Network Pricing* quotes initially provided and submitted additional documentation to be reviewed.⁵⁷ The additional documentation supported urban rates that differed from the urban rates listed on the FCC Forms 466; therefore, AAD determined that the urban rates on the FCC Forms 466 were incorrect.

AAD examined the additional documentation obtained from the Service Provider and determined that all rates except for one agreed to the rates noted within the E-rate Open Data platform.⁵⁸ The remaining rate was obtained from the Service Provider agreed to the rates noted within USAC’s Safe Harbor Urban Rate Search.⁵⁹ The E-rate Open Data platform and USAC’s safe harbor rates are both publicly available rates, as required by the FCC Rules. However, AAD reviewed the publicly available rates and determined that for FRNs 1676032, 1676133, 1686617 and 1688912, the urban rates that were substantiated with publicly available rates are higher than the urban rates reported in the FCC Forms 466; therefore, the RHC program was over-invoiced as the rural and urban differential would have decreased by \$2,729 to the Beneficiary, as follows:

FRN	Urban Rate Per FCC Form 466 A	Publicly Available Urban Rate B	Difference C=B-A	No. of Months Invoiced to RHC program	Total Amount Over-Invoiced E=C*D
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⁵⁵ See 47 C.F.R. § 54.605(a),(b) (2015).

⁵⁶ TeleQuality’s response to AAD’s *Process Interview Questionnaire* received Nov. 26, 2018.

⁵⁷ See *id.*

⁵⁸ See <https://opendata.usac.org/E-rate/E-rate-Recipient-Details-And-Commitments/avi8-svp9>.

⁵⁹ See <https://apps.usac.org/rhc/tools/UrbanRates/search.asp>.

					D	
1676032	\$133	\$216	\$83		12	\$998
1676133	\$133	\$216	\$83		8	\$665
1686617	\$133	\$216	\$83		11.84	\$984
1688912	\$95	\$103	\$8		10.23	\$82
					Total	\$2,729

CAUSE

The Service Provider did not demonstrate sufficient knowledge of the FCC Rules governing the determination of its urban rates at the time it established the urban rates for the Beneficiaries' FCC Forms 466. The Service Provider used price proposals that were not publicly available.⁶⁰

EFFECT

The monetary effect of this finding is \$2,729. This amount represents the difference between the urban rates substantiated with publicly-available rates and the urban rates listed on the FCC Forms 466 that were invoiced to RHC program for the FRNs noted above.

FRN Number	Monetary Effect
1676032	\$998
1676133	\$665
1686617	\$984
1688912	\$82
Total	\$2,729

RECOMMENDATION

For the FRNs noted above, AAD does not recommend that USAC Management seek recovery of the monetary effect noted above, totaling \$2,729 based on TeleQuality's Consent Decree as the amounts were already recovered by USAC (i.e., to avoid duplicative recovery).⁶¹

The Service Provider must perform a thorough analysis to ensure the urban rate is a rate no higher than the highest tariffed or publicly available rate charged to a commercial customer for a functionally similar, complete end-to-end service in an urban area. In addition, the Service Provider may visit USAC's website at <https://www.usac.org/rural-health-care/learn/> to become familiar with the training and outreach available from the RHC program.

BENEFICIARY RESPONSE

Camino Real Community Services does not have anything to add at this time.

As with all other healthcare providers participating in the FCC RHC Program, Lakes Regional relied upon their service provider, TeleQuality, to provide valid urban rates for each location. Lakes Regional had no other reasonable means to obtain urban rates as comparable commercial rates are

⁶⁰ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9128, paras. 674-675 (1997) (subsequent history omitted). See also C.F.R. §54.605(a),(b) (2016) ("the urban rate for that service shall be a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer...").

⁶¹ See *supra* note 15.



not publicly available due to the lack of regulation over the industry. We have found that other service providers and private companies are unwilling or unable to disclose their services and rates.

SERVICE PROVIDER RESPONSE

We agree that these FRNs are included in the Consent Decree and therefore recovery is precluded.

CRITERIA

Finding	Criteria	Description
#1	47 C.F.R. §54.607(b)(2015)	<p>(1) The carrier must provide, to the state commission, or intrastate rates, or to the Commission, for interstate rates, a justification of the proposed rural rate, including an itemization of the costs of providing the requested service.</p> <p>(2) The carrier must provide such information periodically thereafter as required, by the state commission for intrastate rates or the Commission for interstate rates. In doing so, the carrier must take into account anticipated and actual demand for telecommunications services by all customers who will use the facilities over which services are being provided to eligible health care providers.</p>
#1	47 C.F.R. §61.38(b) (2015)	<p><i>Explanation and data supporting either changes or new tariff offerings.</i> The material to be submitted for a tariff change which affects rates or charges or for a tariff offering a new service, must include an explanation of the changed or new matter, the reasons for the filing, the basis of ratemaking employed, and economic information to support the changed or new matter.</p>
#1	Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 , 9173, para. 778 (1997)	<p>Interstate. Telecommunications are "interstate" when the communication or transmission originates in any state, territory, possession of the United States, or the District of Columbia and terminates in another state, territory, possession, or the District of Columbia. In addition, under the Commission's rules, if over ten percent of the traffic carried over a private or WATS line is interstate, then the revenues and costs generated by the entire line are classified as interstate. In response to CNMI's comments that territories and possessions should be included within the definition of "interstate," 1989 we agree with the Joint Board's conclusion that interstate telecommunications services include telecommunications services among U.S. territories and possessions because such areas are expressly included within the definition of "interstate"</p>
#1,#3, #5	47 C.F.R. §54.702(n) (2015)	<p>The Administrator shall account for the financial transactions of the Universal Service Fund in accordance with generally accepted accounting principles for federal agencies and maintain the accounts of the Universal Service Fund in accordance with the United States Government Standard General Ledger. When the Administrator, or any independent auditor hired by the Administrator, conducts audits of the beneficiaries of the Universal Service Fund, contributors to the Universal Service Fund, or any other providers of services under the universal service support mechanisms, such audits shall be conducted in accordance with generally accepted government auditing standards. In administering the Universal Service Fund, the Administrator shall also comply with all relevant and applicable federal financial management and reporting statutes.</p>

Finding	Criteria	Description
#2	<i>Requests for Review of Decisions of the Universal Service Administrator by Hospital Networks Management, Inc. Manchaca, Texas, WC Docket No. 02-60, Order, 31 FCC Rcd. 5731, DA 16-619, para. 4 (2016) (Hospital Networks Management Order).</i>	The Commission has consistently stated that the competitive bidding process must be fair and open and must not have been compromised because of improper conduct by the applicant, service provider, or both parties. In essence, all potential bidders and service providers must have access to the same information and must be treated in the same manner throughout the procurement process. Under the Commission's rules, a service provider participating in the competitive bidding process cannot be involved in the preparation of the applicant's technology plan, FCC Form 465, request for proposal (RFP), or the vendor selection process. Consultants who have ownership interest, sales commission arrangement, or other financial stake with respect to a bidding service provider are also prohibited from performing any of those tasks on behalf of the applicant.
#2	47 C.F.R. §54.603(b)(4) (2015)	After selecting a telecommunications carrier, the health care provider shall certify to the Rural Health Care Division that the provider is selecting the most cost-effective method of providing the requested service or services, where the most cost-effective method of providing a service is defined as the method that costs the least after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing a method of providing the required health care services. The health care provider shall submit to the Administrator paper copies of the responses or bids received in response to the requested services.

Finding	Criteria	Description
#2	<p><i>Federal-State Joint Board on Universal Service</i>, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9133-34, paras. 686, 688 (1997)</p>	<p>Consistent with the Joint Board's recommendation for eligible schools and libraries, we conclude that eligible health care providers shall be required to seek competitive bids for all services eligible for support pursuant to section 254(h) by submitting their bona fide requests for services to the Administrator. Such requests shall include a statement, signed by an officer of the health care provider authorized to order telecommunications services, certifying under oath to the bona fide request requirements discussed below. The Administrator shall post the descriptions of requested services on a website so that potential providers can see and respond to them. As with schools and libraries, the request may be as formal and detailed as the health care provider desires or as required by any applicable federal or state laws or other requirements. The request shall contain information sufficient to enable the carrier to identify and contact the requester and to know what services are being requested. The posting of a rural health care provider's description of services will satisfy the competitive bidding requirement for purposes of our universal service rules. We emphasize, however, that the submission of a request for posting under our rules is not a substitute for any additional and applicable state, local, or other procurement requirements.</p> <p>We adopt a competitive bidding requirement because we find that this requirement should help minimize the support required by ensuring that rural health care providers are aware of cost-effective alternatives. Like the language of section 254(h)(1) targeting support to public and nonprofit health care providers, this approach "ensures that the universal service fund is used wisely and efficiently."</p>
#2	<p><i>In the Matter of Rural Health Care Support Mechanism</i>, WC Docket No. 02-60, Order, 22 FCC Rcd. 20360, 20414, para. 102 (2007) (<i>RHC Pilot Program Selection Order</i>).</p>	<p>Requiring all selected participants to strictly comply with the competitive bidding process is in the public interest because the competitive bidding process is vital to the Commission's effort to ensure that universal service funds support services that satisfy the exact needs of an institution in the most cost-effective manner. The competitive bidding requirements ensure that selected participants are aware of the most cost-effective method of providing service and ensures that universal service funds are used wisely and efficiently, thereby providing safeguards to protect against waste, fraud, and abuse. Additionally, the competitive bidding rules are consistent with section 254(h)(2XA) of the 1996 Act because competitive bidding furthers the requirement of "competitively neutrality" by ensuring that universal service support does not disadvantage one provider over another, or unfairly favor or disfavor one technology over the other. We find that it is in the public interest and consistent with the 2006 Pilot Program Order to require all participants to participate in the competitive bidding process. None of the selected participants that seek a waiver of the competitive bidding process offer persuasive evidence to the contrary. Accordingly, we do not find good cause exists to waive the Commission's competitive bidding rules.</p>



<p>#2</p>	<p><i>See also Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company, CC Docket No. 02-6, et al., Public Notice, 31 FCC Rcd 9615, 9622, fns.19 and 20 (2016)</i></p>	<p>See, e.g., Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9076, para. 480 (1997) (subsequent history omitted) (requiring competitive bidding processes to be fair and open such that no bidders receive an unfair advantage); Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket No. 96-45, Order, 16 FCC Rcd 4028, 4033 (2000) (stating that a service provider participating in the competitive bidding process cannot be involved in the preparation of the entity's technology plan, FCC Form 470 or RFP); Request for Review by Ysleta Independent School District of the Decision of the Universal Service Administrator, CC Docket Nos. 96-45, 97-2 1, Order, 18 FCC Rcd 26407 (2003) (stating that all potential bidders and service providers must have access to the same information and must be treated in the same manner throughout the procurement process); In the Matter of Rural Health Care Support Mechanism, WC Docket No. 02-60, Order, 22 FCC Rcd 20360, 20415, para. 104 (2007) (Pilot Program Order) (requiring participants to identify, when they submit their Form 465 to USAC and the Commission, any consultants, service providers, or other outside experts, whether paid or unpaid, who aided in the preparation of their Pilot Program applications); Request for Review by Sullins Academy of the Decision of the Universal Service Administrator, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket Nos. 96-45, 97- 21, Order, 17 FCC Rcd 23829 (2002) (stating that where a party has received erroneous advice, the government is not estopped from enforcing its rules in a manner that is inconsistent with the advice provided by the employee, particularly where relief is contrary to a rule).</p> <p>In this instance, Mr. Anthony Crandell, owner of Access Integration Specialists (AIS), assisted Iowa Rural Health Telecommunications Program (Iowa) in developing and drafting Iowa's quality assurance RFP for the FRNs at issue. The RFP resulted in two bid submissions from AT&T and Adesta. Iowa's Steering Committee and Mr. Crandell met to discuss the bids and determined that neither proposal would be selected because they exceeded Iowa's budget. During this meeting, the Steering Committee and Mr. Crandell also discussed ways to reduce the cost of quality assurance services and decided that Iowa would issue a new, scaled-back RFP. Mr. Crandell indicated to the Steering Committee that his company would be interested in submitting a bid on the scaled-back quality assurance RFP. No other service providers were privy to these discussions. Iowa then attempted to screen Mr. Crandell from the bidding process for scaled-back services after receiving assurances from USAC that he would be eligible to bid on behalf of AIS. Iowa issued the scaled-back RFP and received two bids, including a bid from AIS. Ultimately, Iowa selected AIS to provide the scaled-back quality assurance services. Although the scaled- back RFP used a different pricing structure than the initial RFP, our review of the record reveals significant similarities between the RFPs with respect to "vendor qualifications," "site</p>
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Finding	Criteria	Description
		<p>inspectors," and "services requested." Thus, it appears that the scaled-back quality assurance RFP does contain similarities with the initial quality assurance RFP. Given these circumstances, we find that, despite Iowa's efforts to screen Mr. Crandell from the scaled-back quality assurance bidding process, his assistance in developing and drafting Iowa's initial quality assurance RFP created an unfair advantage because he had the ability to influence the products and services that were requested in the scaled-back RFP and had access to information that other bidders did not have about the initial RFP. Moreover, of those who submitted bid responses to the scaled-back RFP, only Mr. Crandell was privy to the specific price concerns that led Iowa to issue the scaled-back RFP. We also find that Iowa failed to identify Mr. Crandell as an outside expert when submitting its FCC Form 465, contrary to specific Commission directives to do so. See Pilot Program Order, 22 FCC Red at 20415, para. 104. We are deeply concerned about conduct which suppresses fair and open competitive bidding. Neither Iowa nor AIS have presented sufficient evidence demonstrating that USAC erred in its decisions.</p>
#3, #5, #6	47 C.F.R. §54.619(a) (1) (2015)	<p>Health care providers shall maintain for their purchases of services supported under the Telecommunications Program documentation for five years from the end of the funding year sufficient to establish compliance with all rules in this subpart. Documentation must include, among other things, records of allocations for consortia and entities that engage in eligible and ineligible activities, if applicable. Mobile rural health care providers shall maintain annual logs indicating: The date and locations of each clinic stop; and the number of patients served at each such clinic stop.</p>
#3, #5	47 C.F.R. §54.615(b) (2015)	<p>Upon receiving a bona fide request, as defined in paragraph (c) of this section, from a rural health care provider for a telecommunications service that is eligible for support under the Telecommunications Program, a telecommunications carrier shall provide the service at a rate no higher than the urban rate, as defined in §54.605, subject to the limitations applicable to the Telecommunications Program.</p>
#4	47 C.F.R. §54.615(a) (2015)	<p><i>Selecting a provider.</i> In selecting a telecommunications carrier, a health care provider shall consider all bids submitted and select the most cost-effective alternative.</p>
#4	47 C.F.R. §54.615(c)(7) (2015)	<p>The requester is selecting the most cost-effective method of providing the requested service or services, where the most cost-effective method of providing a service is defined as the method that costs the least after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing a method of providing the required health care services.</p>
#5	47 C.F.R. §54.619(d) (2015)	<p>Service providers shall retain documents related to the delivery of discounted services under the Telecommunications Program for at least 5 years after the last day of the delivery of discounted services. Any other document that demonstrates compliance with the statutory or regulatory requirements for the rural health care mechanism shall be retained as well.</p>

Finding	Criteria	Description
#6	47 C.F.R. §54.605(a) (2015)	If a rural health care provider requests support for an eligible service to be funded from the Telecommunications Program that is to be provided over a distance that is less than or equal to the “standard urban distance,” as defined in paragraph (c) of this section, for the state in which it is located, the “urban rate” for that service shall be a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service in any city with a population of 50,000 or more in that state, calculated as if it were provided between two points within the city.
#6	47 C.F.R. §54.605(b) (2015)	If a rural health care provider requests an eligible service to be provided over a distance that is greater than the “standard urban distance,” as defined in paragraph (c) of this section, for the state in which it is located, the urban rate for that service shall be a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service provided over the standard urban distance in any city with a population of 50,000 or more in that state, calculated as if the service were provided between two points within the city.

Finding	Criteria	Description
#6	<p><i>Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9128, paras. 674-675 (1997)</i></p>	<p>Based on the record filed in response to the Joint Board's recommendation, we agree with the Advisory Committee that support for some distance-based charges is necessary to ensure that rates charged to rural health care providers are "reasonably comparable" to urban rates. We define distance-based charges as charges based on a unit of distance, such as mileage-based charges. We note that the term "rate" is not defined in section 254(h)(1)(A) or elsewhere in the 1996 Act. Although several incumbent LECs and USTA contend that the term "rate" refers to the cost of each element or sub-element of a telecommunications service, we conclude that, as used in section 254(h)(l)(A), the term "rate" refers to the entire cost or charge of a service, end-to-end, to the customer.</p> <p>Such an interpretation is consistent with the language and purpose of section 254(h)(l)(A). As discussed above, section 254(h)(l)(A) refers to "rates for services provided to health care providers" and "rates for similar services provided to other customers, not rates for particular facilities or elements of a service. As the record indicates, many, if not most, base rates for telecommunications services are averaged across a state or study area. It is often distance-based charges, not differences between base rates for service elements that create great disparities in the overall cost of telecommunications services between urban and rural areas. Indeed, distance-based charges are often a serious impediment to rural health care providers' use of telemedicine. If, as several LECs contend, a rural rate is "reasonably comparable" to an urban rate provided that per-mile charges are the same for rural and urban areas, section 254(h)(1)(A) could do little to reduce the disparity between rural and urban rates. Given that Congress emphasized the importance of making telecommunications services affordable for rural health care providers, it seems unlikely that Congress intended to adopt such a restrictive definition of "rate." Accordingly, we will support distance-based charges incurred by rural health care providers, consistent with the limitations described herein.</p>

****This concludes the report****