



Perspectives from FSF Scholars
January 22, 2025
Vol. 20, No. 4

**The Failure's in the Footnote:
Agencies Must Improve Broadband Expenditure Coordination Efforts**

by

Andrew Long *

I. Introduction and Summary

"How did this even happen?" Excellent question!

In the [December 23, 2024, edition of *Policyband*](#), Ted Hearn asked how a situation could arise wherein the FCC's Wireline Competition Bureau was forced to issue an [Order](#) to spare one recipient of federal broadband subsidies – RiverStreet Communications of Virginia, Inc. (RiverStreet) – from non-compliance consequences for *not* wastefully overbuilding another recipient of federal broadband subsidies obtained from a different source – Cox Communications (Cox).

After all, there are multiple interagency data-sharing agreements, broadband deployment and funding maps, and other safeguards supposedly in place to prevent the allocation of taxpayer dollars from more than one federal source to a single location. As this incident demonstrates, however, these existing safeguards do not appear to be up to the task and more should be implemented.

In other words, the doubts voiced by [FCC Chairman Brendan Carr](#), the [Government Accountability Office](#) (GAO), numerous Free State Foundation scholars (see the lengthy *Further Readings* section below), and [others](#) regarding the ability of over a dozen federal agencies to coordinate a multitude of distinct broadband subsidy programs have been validated. Even more troubling, the two agencies involved in this particular breakdown in process – the FCC and the Department of Treasury – represent two of four signatories to a [Memorandum of Understanding](#) (MOU) specifically intended to prevent problems like this from arising.

All the while, the \$42.45 billion Broadband Equity, Access, and Deployment (BEAD) Program continues to inch through hoop after bureaucratic hoop. As it slowly makes its way to actual grants, followed at some point by actual shovels in the ground, issues of potential duplication specific to the BEAD Program are arising with increasing frequency. In Delaware, Talkie Communications, Inc. recently [alleged](#) that the state's [Draft Final Proposal](#) "includes 31 BEAD funded locations where there are existing Rural Digital Opportunity Fund ("RDOF") Enforceable Commitments." And in New Mexico, government officials have [stated](#) that they *intend* to use \$70 million in state funds to connect 95,000 locations using low-earth orbit satellite broadband service – and then use some of its \$675.2 million in BEAD Program money to overbuild those connected locations.

Setting aside these issues unique to the BEAD Program, there is an overabundance of other federal broadband subsidy programs with the potential, absent adequate oversight, to overlap one another. [According to the GAO](#), at least 132 other programs are overseen by 15 federal agencies. The duplication dilemma in New Kent County involves two of those initiatives: the FCC's \$20.4 billion Rural Digital Opportunity Fund (RDOF) and the Department of Treasury's \$350 billion State and Local Fiscal Recovery Funds (SLFRF) program.

Clearly, current efforts to avoid overlapping federal broadband subsidies are falling short. In this instance, the duplication was identified not by the responsible agencies, but by a recipient of broadband subsidies at risk of non-compliance consequences through no fault of its own. It is therefore time for the federal government writ large to recommit to the essential task of preventing duplication and the wasteful expenditure of federal dollars.

II. Existing Safeguards to Prevent Duplicative Broadband Subsidies Are Insufficient

In December 2020, RiverStreet was the [winning bidder](#) in the FCC's \$20.4 billion RDOF auction for federal assistance to build broadband infrastructure in New Kent County, Virginia. In February 2022, RiverStreet was [authorized](#) to receive roughly \$40 million from the Universal Service Fund to provide service to 24,213 locations. Several months later, however, New Kent County entered [an agreement with Cox](#) to connect those same locations at identical speeds: 1 Gigabit downstream and 500 Mbps upstream. That agreement included [roughly \\$4 million](#) from the \$350 billion SLFRF program administered by the Department of Treasury.

Rather than take responsibility for this breakdown in process, however, the Chief of the Wireline Competition Bureau cursorily wrote in the [Order](#) relieving RiverStreet of its buildout obligation that it "could not have learned of New Kent's agreement with Cox when conducting the required

due diligence prior to bidding because the agreement was entered into after RiverStreet had been awarded and authorized to receive RDOF support in New Kent."

While that statement may be accurate, it by no means tells the whole story. For that, one must unpack footnote 26, which mentions two separate formal arrangements created specifically to prevent duplicate funding. The first, an [interagency agreement](#) between the FCC, the Department of Agriculture, and NTIA, was required by the [Broadband Interagency Coordination Act of 2020](#) and finalized on June 25, 2021. It directed those agencies to enter an arrangement to "share information with each other about existing or planned projects that have received or will receive funds under the programs described [herein] for new broadband deployment."

The Broadband Interagency Coordination Act of 2020 also tasked the FCC to seek public comment regarding "the effectiveness of the interagency agreement in facilitating efficient use of funds for broadband deployment." Free State Foundation President Randolph J. May and I filed [comments](#) in that proceeding cautioning that "the use of multiple federal funding sources creates an unacceptably high risk that duplication, as well as waste, fraud, and abuse, will occur."

The second, a [Memorandum of Understanding](#) (MOU) between the aforementioned three agencies as well as the Department of Treasury, is dated May 9, 2022, and was [extended](#) for four years in May 2024. It committed the participating agencies to "share information with each other about certain projects that have received or will receive funds for broadband deployment."

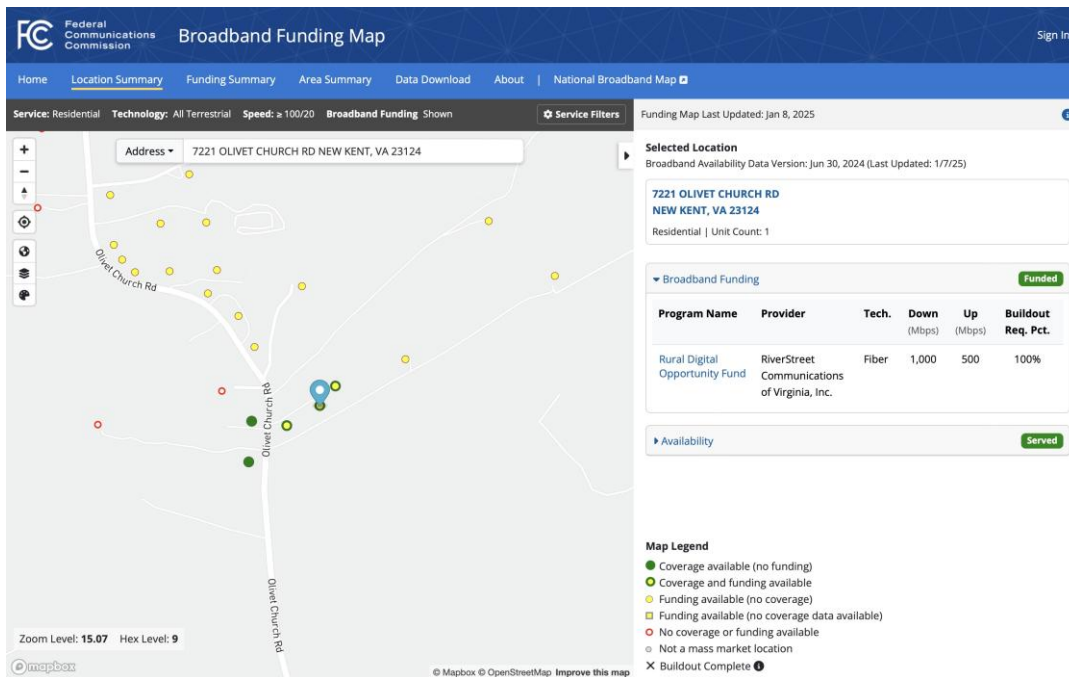
Despite these formalized commitments to work together to prevent duplicate funding, the New Kent County predicament demonstrates that federal agencies currently are not doing enough. To appreciate the breakdown in process that occurred, I present the following timeline:

December 7, 2020: The FCC [announced](#) that RiverStreet had prevailed in the RDOF reverse auction and would receive federal dollars from the Universal Service Fund to connect 24,213 unserved locations in New Kent County.

December 27, 2020: The [Broadband Interagency Coordination Act of 2020](#) becomes law as part of the [Consolidated Appropriations Act, 2021](#).

May 10, 2021: The Department of Treasury [announced](#) how the SLFRF program's \$350 billion would be allocated, including the [roughly \\$4 million that went to New Kent County](#). The construction of broadband infrastructure – including in areas already served, an issue Mr. May and I spotlighted in "[Self-Defeating Treasury Subsidy Rule Wrongly Champions Broadband Overbuilds](#)," a January 2022 *Perspectives from FSF Scholars* – is only one permissible use of SLFRF program money. Given the sequence of events it appears that this \$4 million was allocated to New Kent County before its ultimate use (broadband infrastructure construction) was determined – and with no apparent process in place for that information to flow back to the Department of Treasury and thereby inform interagency coordination efforts.

Perhaps that explains why, even after the release of the RiverStreet [Order](#), which promised updates to the FCC's Broadband Funding Map, that critical interagency coordination tool still does not reflect the \$4 million allocated to Cox:



June 5, 2021: The [interagency agreement](#) between the FCC, the Department of Agriculture, and NTIA mandated by the Broadband Interagency Coordination Act of 2020 is finalized.

February 14, 2022: The FCC [authorized](#) RiverStreet to receive roughly \$40 million from RDOF.

May 9, 2022: The FCC, the Department of Agriculture, NTIA, and the Department of Treasury finalize their [MOU](#).

May 31, 2022: The GAO published "[BROADBAND: National Strategy Needed to Guide Federal Efforts to Reduce Digital Divide](#)," a report that "identified at least 133 funding programs ... creating a fragmented, overlapping patchwork of funding [that] could lead to wasteful duplication of funding and effort"; that "[e]ffective coordination can help reduce risks, to ensure that programs are complementary when possible and minimize wasteful duplicative support"; and that "[u]nless these interagency efforts are synchronized by a national strategy with clear roles, goals, objectives, and performance measures, they could miss opportunities to align federal broadband programs and thereby continue to risk overlap and duplication of effort." (We obviously are still waiting for that national strategy.)

August 8, 2022: The New Kent County Board of Supervisors [approved](#) the agreement with Cox.

May 15, 2023: The FCC releases its [Broadband Funding Map](#). As I described in "[Wasteful Duplication by Design: A Case Study on Overlapping Federal Broadband Subsidies](#)," the purpose of the Broadband Funding Map is "to highlight those areas to which federal subsidies have been allocated for the construction of broadband infrastructure in order to facilitate

interagency coordination and, more to the point, avoid duplicate grants." As illustrated above, it is not doing its job.

November 15, 2024: RiverStreet [requests a waiver](#) of FCC RDOF rules so that it may *not* overbuild the broadband infrastructure for which Cox received SLFRF program funding.

December 19, 2024: The Chief of the Wireline Competition Bureau [grant's RiverStreet's request](#) but does so without acknowledging in the text the culpability of the FCC and its MOU co-signatory, the Department of Treasury. That heavy lifting is left to footnote 26.

As one can discern from the above timeline, it technically is accurate for the *Order* to assert that RiverStreet "could not have learned of New Kent's agreement with Cox when conducting the required due diligence prior to bidding because the agreement was entered into after RiverStreet had been awarded and authorized to receive RDOF support in New Kent." However, it is also true that when Cox and New Kent County finalized their agreement, (1) RiverStreet already had been authorized to receive RDOF money to construct broadband infrastructure in New Kent County, and (2) the MOU signed by the FCC and the Department of Treasury was not just in effect – it should have stopped this duplication from ever happening.

Instead, that responsibility was left to RiverStreet, which discovered the duplication independently and [brought the issue to the FCC for resolution](#).

III. Conclusion

In relieving RiverStreet of its commitment to squander FCC dollars overbuilding broadband infrastructure subsidized by Department of Treasury dollars, the Chief of the Wireline Competition Bureau wrote that "[o]ur waiver ... furthers the Commission's responsibility to coordinate with other agencies and deduplicate funding so that only one source of public funding is used to support the provision of broadband to these locations, maximizing the use of public funding."

But how, exactly? The two federal agencies involved – the FCC and the Department of Treasury – should have worked together, as Congress intended and they had promised, to prevent this situation from arising in the first place. Had they done so, then perhaps it could be said that the resolution of this situation did in fact "further[] the Commission's responsibility to coordinate with other agencies." Instead, the job of preventing duplicate funding fell to RiverStreet, one of the two broadband providers awarded subsidies.

Perhaps [Citizens Against Government Waste's Deborah Collier](#) was on to something when she titled a recent blog post on interagency coordination "133 Broadband Programs May Be 132 More Than Necessary."

* Andrew Long is a Senior Fellow of the Free State Foundation, an independent, nonpartisan free market-oriented think tank located in Rockville, Maryland. The views expressed in this

Perspectives do not necessarily reflect the views of others on the staff of the Free State Foundation or those affiliated with it.

Further Readings

Andrew Long, "[Broadband: Billions at Risk of Wasteful Duplication](#)," *Perspectives from FSF Scholars*, Vol. 18, No. 29 (July 13, 2023).

Andrew Long, "[BEAD Program State-by-State Funding Allocations Announced](#)," *FSF Blog* (July 6, 2023).

Andrew Long, "[GAO Reiterates Broadband Funding Coordination Concerns](#)," *FSF Blog* (June 12, 2023).

Andrew Long, "[FCC Releases Broadband Funding Map](#)," *FSF Blog* (May 16, 2023).

Andrew Long, "[Wasteful Duplication by Design: A Case Study on Overlapping Federal Broadband Subsidies](#)," *Perspectives from FSF Scholars*, Vol. 18, No. 19 (May 8, 2023).

Andrew Long, "[Absent Oversight, the Broadband Funding Faucet Likely Will Overflow](#)," *Perspectives from FSF Scholars*, Vol. 17, No. 58 (November 10, 2022).

Andrew Long, "[GAO, FCC's Carr Echo Broadband Funding Coordination Concerns](#)," *FSF Blog* (June 14, 2022).

Seth L. Cooper, "[#FSFConf14: FCC Commissioner Carr Addresses Agency Coordination and Connecting Unserved Americans](#)," *FSF Blog* (May 31, 2022).

Andrew Long, "[Broadband Funding Agencies Ink Data-Coordination MOU](#)," *FSF Blog* (May 16, 2022).

Andrew Long, "[Overlapping Broadband Appropriations Demand Agency Coordination: New FCC Maps Can Track Grants, Avert Waste](#)," *Perspectives from FSF Scholars*, Vol. 17, No. 12 (March 2, 2022).

Randolph J. May and Andrew Long, "[Self-Defeating Treasury Subsidy Rule Wrongly Champions Broadband Overbuilds](#)," *Perspectives from FSF Scholars*, Vol. 17, No. 4 (January 19, 2022).

[Comments of the Free State Foundation](#), *Facilitating Interagency Coordination of Broadband Deployment Funding*, WC Docket No. 22-251 (August 1, 2022).