Audit of the
Federal Communications Commission
Compliance with the Payment Integrity Information Act of 2019
FY 2020

(Report No. 21-AUD-01-01)
May 17, 2021

FINAL REPORT

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EXECUTIVE SUMMARY

The objective of our performance audit of the Federal Communications Commission (FCC) was to evaluate FCC's compliance with the Payment Integrity Information Act (PIIA) of 2019. The PIIA repeals and replaces prior payment integrity laws and is intended to improve and further efforts to identify and reduce improper payments. PIIA directs federal agencies and departments to undertake activities designed to reduce and recover improper payments.

According to the PIIA, Inspectors General are to annually determine agency compliance with the PIIA criteria based on an assessment of (a) the adequacy of its risk assessment and improper payment estimates methodology, (b) the adequacy of its plans on how it addresses the causes of improper payments, (c) whether it has correctly identified the causes of improper payments and whether the actions to address those causes are adequate and effective, and (d) its efforts to prevent and reduce improper payments and any recommendations for actions to further improve the prevention and reduction of improper payments[1]. The table below identifies ten FCC programs with outlays exceeding the statutory threshold dollar amount that may be susceptible to significant improper payments[2] and the status of FCC's compliance with each of the six PIIA criteria.

Table 1. FCC PIIA Compliance Table

Program Name	Published an AFR[3]	Conducted a Risk Assessment	Published an Improper Payment Estimate	Published Corrective Action Plan	Published and Demonstrates Improvement in Meeting Reduction Targets	Reported an Improper Payment Rate of Less than 10 Percent
USF – High Cost	5	NA[4]	5	5	5	5
USF – Schools and Libraries	Compliant	NA	Compliant	Compliant	Compliant	Compliant
USF – Lifeline	N/A-1[6]	NA	N/A-1	N/A-1	N/A-1	N/A-1
USF – Rural Health Care	Compliant	NA	Compliant	Compliant	Compliant	Compliant
USF – Administrative Costs	Compliant	Compliant	NA	NA	NA	NA
Interstate Telecommunications Relay Services	Compliant	Compliant	NA	NA	NA	NA
North American Numbering Plan	Compliant	Compliant	NA	NA	NA	NA
FCC Operating Expenses	Compliant	Compliant	NA	NA	NA	NA
TV Broadcasting Relocation Fund	Compliant	Compliant	NA	NA	NA	NA
COVID19 Telehealth – CV19TP	Compliant	Compliant	NA	NA	NA	NA

[1] PIIA Section 3353 (a)(3)
[2] PIIA Section 3352 (a)(3)(A)
[3] FCC has reported detailed information on its activities related to improper payments for FY 2020 to a centralized website (https://www.paymentaccuracy.gov/) managed by OMB.
[4] NA – The PIIA criteria for compliance is not applicable.
[5] As in FYs 2018 and 2019, the auditor was unable to rely on the improper payment rate reported for the USF-HC Program because of the deficiencies in the procedures used to estimate improper payments. Additional details are provided in the Other Matters section of this report.
[6] N/A-1- Due to the limitation on the audit scope, the auditor was unable to render opinion on the accuracy of the USF-LL Program estimated gross improper payment rate and accompanying information. See the "Limitation on Scope" section of this report.

FCC identified all four Universal Service Fund (USF) programs as susceptible to significant improper payments for FY 2020. The programs outlays, improper payment rates and the amount of estimated improper payments for those four USF programs are presented in Table 2 below:

Table 2 – FCC Improper Payments for Current Year[7] (As Reported By FCC)

FCC Program	Outlays ($ in Millions)	Improper Payment Rate	Estimated Improper Payment ($ in Millions)
USF-LL	$ 983.88	13.81%	$ 135.84
USF-HC	$ 5,165.75	0.01%	$ 0.75
USF-S&L	$ 1,981.78	4.46%	$ 88.43
USF-RHC	$ 251.00	6.24%	$ 15.67

We could not form an opinion on the FCC's compliance with PIIA because we did not receive sufficient, appropriate evidence to support the USF-LL Program's estimated improper payment rate and the related payment integrity information. We were unable to perform alternative procedures to obtain such evidence. Additional details are provided in the "Limitation on Scope" section of this report.

We also reported on other matters relevant to the audit results and FCC compliance with PIIA. Specifically, we noted that FCC had not addressed three of the four FY 2018 USF High-Cost (USF-HC) Program audit recommendations, which were also reported as repeat recommendations in FY 2019. Additionally, FCC did not conduct recovery audits for all programs that expended $1,000,000 or more annually due to COVID 19 pandemic.

We provided a draft copy of this report to FCC management for its review and comments. We reviewed the response from FCC management and considered the response in finalizing the report. FCC management is responsible for the representations made in the FY 2020 AFR and paymentaccuracy.gov. Therefore, we present FCC's written comments in full in Appendix B. Additionally, a summary of FCC management comments and the auditor's responses are provided in the Limitation on Scope and Other Matters sections of this report.

FCC management did not concur that the auditor could not render an opinion on whether FCC was compliant with PIIA due to the lack of sufficient appropriate audit evidence. However, FCC management agreed that the USF-HC Program continues to be non-compliant with the payment integrity law.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. However, the auditor could not obtain sufficient appropriate audit evidence on the USF-LL program estimated gross improper payment rate and the related payment integrity

[7] Source: The paymentaccuracy.gov

information. Also, because FCC has not implemented recommendations from FYs 2018 and 2019, the auditor was unable to rely on the FY 2020 USF-HC Program estimated improper payment rate. Therefore, we were unable to form an opinion on FCC's compliance with the PIIA . We believe that the evidence gathered provides a reasonable basis for our conclusions on the remaining FCC programs. Our audit covered the period October 1, 2019 through September 30, 2020.

BACKGROUND

The Federal Communications Commission (FCC) is an independent United States government agency directly responsible to Congress. FCC was established by the Communications Act of 1934 and is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. FCC has seven operating Bureaus and ten Staff Offices. The Bureaus' responsibilities include processing applications for licenses and other filings, analyzing complaints, conducting investigations, developing and implementing regulatory programs, and participating in hearings.

FCC's component entities are the Universal Service Fund (USF), Interstate Telecommunications Relay Services Fund (TRS), and North American Numbering Plan (NANP). Universal Service Administrative Company (USAC) serves as the Administrator and Billing & Collections (B&C) agent for the Universal Service Fund; RolkaLoube serves as the Administrator and B&C agent for the Interstate Telecommunications Relay Services Fund, and Welch LLP serves as the Administrator and B&C agent for the NANP. FCC's Office of the Managing Director, the Wireline Competition Bureau, and the Consumer and Governmental Affairs Bureau provide direction to the administrators and B&C agents.

The Payment Integrity Information Act of 2019 (PIIA) repeals and replaces the Improper Payment Information Act of 2002, the Improper Payments Elimination and Recovery Act of 2010, the Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012, and the Fraud Reduction and Data Analytics Act of 2015. The PIIA defines an improper payment as a payment that should not have been made or was made in an incorrect amount, including an overpayment or underpayment. The PIIA requires the federal executive agency head to take actions to identify and reduce improper payments. These actions include (a) periodic review of all federal programs and activities that the head of the executive agency administers; (b) identification of all programs and activities with outlays exceeding $10 million and 1.5 percent of the program outlays, or $100 million; (c) performance of a periodic risk assessment at least once every three fiscal years (FYs); and (d) publishing of an annual report that includes a listing of each program or activity identified in (b) above, and a listing of any program or activity for which the executive agency makes any substantial changes to the methodologies of the reviews conducted. The FCC and its Administrators' outlays exceed the statutory testing and reporting thresholds for the following 10 programs:

- Universal Service Fund High-Cost Program,
- Universal Service Fund Lifeline Program,
- Universal Service Fund Rural Health Care Program,
- Universal Service Fund Schools and Libraries Program,

- Universal Service Fund Administrative Costs,
- Interstate Telecommunications Relay Service Fund,
- North American Numbering Plan,
- FCC Operating Expenses,
- TV Broadcasting Relocation Fund, and
- COVID 19 Telehealth – CV 19TP.

Also, the PIIA requires the executive agency to (a) produce statistically valid estimates or estimates using sampling and estimation methodology approved by the Director of the Office of Management and Budget (OMB); (b) report on the actions the executive agency is taking to reduce and recover improper payments, and (c) review the executive agency's prepayments and pre-award procedures and databases of relevant eligibility information to determine eligibility and prevent improper payments. FCC management certified that its FY 2020 sampling plans for the four USF programs with significant risks of improper payments were statistically valid. FCC reported on www.paymentaccuracy.gov the FCC's actions taken and planned to reduce and recover improper payments. Also, FCC utilized federal and state databases (e.g., National School Lunch Program database and the Social Security Administration's Death Master File) to determine the program's beneficiary eligibility.

Per the PIIA, the Inspector General (IG) of the agency will annually (a) review the level of risk associated with the agency's programs and activities and the quality of its improper payment estimates and methodology; (b) review the agency financial controls to identify and prevent improper payments, and (c) submit to the appropriate authorizing and appropriation committee of Congress recommendations for modifying the agency's payment integrity plan (e.g., improvements to improper payments determination and methodology)[8].

As required by the PIIA, the agency IG determines and reports the executive agency's compliance with the six PIIA criteria. If an agency does not meet one or more of the criteria for any of the identified programs, then the agency is noncompliant with the PIIA. According to the PIIA, compliance means the executive agency has met all of the following six criteria[9]:

(i) Published improper payments information with the annual financial statement for the most recent fiscal year and posted on the agency's website and the paymentaccuracy.gov the annual financial statement and any accompanying materials required under the guidance of the Office of Management and Budget;

(ii) Conducted a program-specific risk assessment for each program or activity, if required;

(iii) Published improper payments estimates for all programs and activities identified in the accompanying materials to the annual financial statement, if required;

[8] PIIA, Section 3352 (b)(2)(E)
[9] PIIA, Section 3351 (2)

(iv) Published programmatic corrective action plans in the accompanying materials to the annual financial statement;

(v) Published improper payments reduction targets for each program or activity assessed to be at risk, and has demonstrated improvements and developed a plan to meet the reduction targets, and

(vi) Reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published.

LIMITATION ON SCOPE

During the course of our audit, we reviewed documentation and responses USAC management provided regarding USAC's execution of the FCC Sampling and Estimation Plan used for the 2020 USF-LL Program improper payment reporting. We raised questions and concerns regarding the accuracy of the Program's reported payment integrity information. USAC management provided a response and a revised USF-LL Program improper payment rate to address our concerns regarding the accuracy of the Program's payment integrity information. However, USAC's response did not adequately address the concerns raised by the auditor and did not provide adequate documentation to support the revised improper payment rate.

The auditor was unable to conclude on the evidence provided by USAC or perform alternative audit procedures to obtain sufficient evidence to conclude on the accuracy of the USF-LL Program payment integrity information, including the estimated improper payment rate.

BACKGROUND

The Payment Integrity Information Act of 2019, Section 3352, (c)(1) and (c)(2)(A), states:

> "ESTIMATION OF IMPROPER PAYMENTS.— (1) ESTIMATION.—With respect to each program and activity ….the head of the relevant executive agency shall—(A) produce a statistically valid estimate, or an estimate that is otherwise appropriate using a methodology approved by the Director of the Office of Management and Budget, of the improper payments made under the program or activity; and (B) include the estimates ….in the accompanying materials to the annual financial statement of the executive agency and as required in applicable guidance of the Office of Management and Budget. (2) LACKING OR INSUFFICIENT DOCUMENTATION. —(A) For the purpose of producing an estimate …, when the executive agency cannot determine, due to lacking or insufficient documentation, whether a payment is proper or not, the payment shall be treated as an improper payment."

According to the FCC Sampling and Estimation Plan (the sampling plan), USAC will conduct the Payment Quality Assessments[10](PQA) on a single monthly invoice from each of 250 Study Area Codes (SACs)[11] selected. The sampling plan employs stratified random sampling from a population of 1,628 SACs with at least $900 in total disbursements to the Eligible Telecommunications Carriers (ETCs) from January through December 2019. The 250 SACs in the sample received $783 million in disbursements for 2019, about 80 percent of the total $984 billion disbursed in the USF-LL Program for the year.

[10] Payment Quality Assessment is a review performed by USAC to identify improper payments in the USF programs.
[11] SAC is a unique number USAC assigns to ETCs that identifies the company based on its service area. ETCs can have multiple SACs within a state.

The states of California, Oregon and Texas have opted out of reporting USF-LL Program subscribers in their states in the National Lifeline Accountability Database[12]. The SACs in the opt-out states accounted for 27 percent of the total USF-LL Program subscribers[13]. FCC management informed the auditor that the opt-out states accounted for $216 million of the total disbursements of $984 million (22 percent). The USF-LL Program disbursements to ETCs for all SACs in the sample were $79 million, including $17 million disbursed to the ETCs for SACs in the opt-out states.

The sampling plan defines an improper payment (exception) as a Lifeline support payment to an ETC for a subscriber that did not meet all FCC USF-LL Program requirements:

(1) Improper billing rate, unsupported telephone lines, duplicate subscribers, missing/incomplete data or documentation;

(2) Missing enrollment or re-certification forms and submitted forms with one or more required fields missing or incomplete; and

(3) Subscribers that received Lifeline support when others in the same household claim support: one-per-household (OPH) incomplete documentation.

The sampling plan requires assessing each of the monthly invoices in the selected 250 SACs for improper payments.

MATTER NOTED

We raised concerns to FCC and USAC management regarding the accuracy of the USF-LL estimated improper payment rate reported on the www.paymentaccuracy.gov. Specifically, we noted the following:

1. The sampled subscribers in the opt-out states, which represented 22 percent of the sampled disbursements, were excluded from some of the assessment procedures performed to determine compliance with specific FCC USF-LL Program requirements. USAC acknowledged that it did not assess the eligibility, certification, and recertification of the subscribers in the opt-out states because any errors identified would not be due to actions of the ETCs. Also, USAC did not review subscribers' documents to determine whether the subscribers received multiple USF-LL Program support.

2. USF-LL Program PQA testing procedures were inconsistent with how the PIIA and the USF-LL Program's sampling and estimation plan defines an improper payment. Per the PQA instructions for USF-LL Program, USAC did not test the certification or eligibility

[12] The database is used to record enrollment of consumers certified as eligible for USF-LL Program supported services, except for eligible consumers in the opt-out states.
[13] https://www.usac.org/lifeline/learn/program-data/

documentation in the opt-out states because any exceptions identified would not be considered ETCs-related exceptions, as the process was outside of the ETCs control. Neither PIIA nor the sampling plan provides an exception for ETCs or the sources of the improper payments.

3. The sample of SACs assessed for improper payments was not representative of the population of the USF-LL Program subscribers because USAC excluded the subscribers in the opt-out states in their assessments of eligibility, certification, recertification and duplicate benefits. USAC erroneously projected the sample results to the USF-LL Program subscribers' total population, despite excluding the opt-out states from the assessments discussed above.

Also, it appears that FCC management did not obtain OMB's approval for the material change to its sampling and estimation plan. We believe that the USF-LL Program sampling plan as implemented may not yield an accurate estimated improper payment rate.

MANAGEMENT RESPONSE:

FCC management stated that it provided all the requested documents and information to the auditors and the auditors did not offer any additional questions that would have helped FCC provide the proper documentation or answer outstanding issues.

FCC management noted that USAC did not test eligibility and certification of subscribers in the opt-out states in FY 2020. FCC agrees with the auditor that USAC should have tested for eligibility and certification. However, FCC management disagrees that this justifies the auditor's conclusion that FCC used improper payment criteria inconsistent with PIIA or its sampling plan. FCC management stated that it stands by the FY 2020 USF-LL Program estimated improper payment rate of 13.81 percent reported in the paymentaccuracy.gov, and its sampling plan is statistically valid and compliant with PIIA.

Also, FCC management disagrees that the sample of SACs assessed for improper payments was not representative of the population of the Lifeline program subscribers. According to FCC management, USAC applied testing procedures to the disbursements for the opt-out states and any errors noted were extrapolated and included in the USF-LL Program estimated improper payment rate. FCC management further stated that there were no material changes to the USF-LL Program sampling and estimation plan.

AUDITOR'S RESPONSE:

The USF-LL Program FY 2020 estimated improper payment rate of 13.81 percent and the accompanying information may be misleading because they were not supported by sufficient, appropriate audit evidence. Also, FCC management confirmed that in FY 2020, USAC did not conduct tests of subscribers' eligibility and certification in the opt-out states. Out of the USF-LL

Program total disbursements of $982 million, the disbursements for USF-LL Program-supported services to subscribers in the opt-out states accounted for 22 percent (or $216 million).

We continue to believe that projection of the results from an assessment for a partial sample of SACs to the entire population of SACs would not produce a statistically valid estimated improper payment rate. According to FCC management, 250 SACs, including 28 SACs from opt-out states, were selected for assessment. However, USAC did not assess the subscribers in the opt-out states for eligibility, certification, recertification, and duplicate benefits.

We noted a decrease of more than 5 percent in the sample size over the last five years and changes to the methodology used to assess subscribers' eligibility, certifications, recertifications, and duplicate benefits in the opt-out states. Also, the USF-LL Program PQA testing procedures were inconsistent with how the PIIA and the USF-LL Program's sampling and estimation plan defines an improper payment. Therefore, we reiterate our conclusion that FCC should have submitted the USF-LL Program's sampling and estimation plan to OMB for approval.

OTHER MATTERS

We present below the outstanding USF-HC Program audit recommendations that the auditor deemed important to FCC's plans to reduce and prevent improper payments and report on its actions to recover any improper payments.

The USF High-Cost Program Outstanding FY 2018 Recommendations

In the FCC FY 2018 IPERIA report, Finding No. 3, *USF-High-Cost Program Estimated Improper Payment Rate May Not Be Accurate*[14], the auditor reported that USAC's PQA and its sampling and estimation methodology did not adequately reflect the changing characteristics of the USF-HC Program resulting from the implementation of the FCC Transformation Order[15]. Also, the USF-HC Program estimated improper payment rate published in FCC's FY 2018 Agency Financial Report (AFR) did not adequately reflect the risks of improper payment in the USF-HC Program. We issued four recommendations to FCC management and FCC has implemented one of the four recommendations.

FCC management has not implemented the following three audit recommendations:

1. Modify the PQA assessment procedures to target the USF-HC Program rules and significant risks of improper payments. (REPEAT)

2. Direct USAC management to use the Beneficiary and Contributor Audit Program (BCAP)[16] results or a modified version of BCAP to project the estimated improper payments rate in the USF-HC Program. (UPDATED)

3. Direct USAC management to develop guidance consistent with OMB Memorandum M-18-20 for analyzing the results of PQA procedures. (REPEAT)

FCC informed the auditor that it had obtained OMB's concurrence to split the USF-HC Program into two components (i.e., the USF-HC Legacy and the USF-HC Connect America Fund) for improper payment testing and reporting. FCC will then separately assess each of the USF-HC Program components' susceptibility to the risks of significant improper payments. In the auditor's opinion, the issues raised in the FY 2018 IPERIA finding and repeated in FY 2019 remain valid and continue to represent a substantial risk to the USF-HC Program integrity and accurate reporting of payment information. The three unimplemented recommendations remain open and will be tracked by the FCC OIG until they are closed.

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[14] https://www.fcc.gov/sites/default/files/19-aud-02-01_fy18_iperia_rpt_05302019.pdf
[15] Order to reform and modernize the USF-HC Program and the intercarrier compensation system.
[16] FCC designed BCAP to measure rates of program compliance among universal service beneficiaries and contributors.

Non-Compliance with PIIA Recovery Audit Requirement

Under a provision of PIIA[17], FCC must conduct a recovery audit for each program and activity that expends $1,000,000 or more annually. The auditor determined that ten FCC programs met the criteria for conducting a recovery audit. FCC reported in the FY 2020 Annual Financial Report that USAC did not perform recovery audits for the USF-LL Program and the USF-RHC program. USAC management informed the auditor that 32 USF-LL Program and 24 USF-RHC Program recovery audits were ongoing in FY 2020. However, USAC did not complete any audits as of the fiscal year-end due to delays attributed to the COVID-19 pandemic.

MANAGEMENT RESPONSE:

FCC management acknowledged that USAC had not implemented the prior fiscal years' USF-HC Program audit recommendations. FCC management believes it is more valuable to split USF-HC Program into the legacy program and the Connect America Fund to understand the true root cause of improper payments.

According to FCC management, USAC conducted recovery audits for the USF-LL Program and the USF-RHC Program. However, USAC did not complete the recovery audits in FY 2020 due to COVID-19.

AUDITOR'S RESPONSE:

The auditor's position is that implementing the outstanding recommendations will significantly improve FCC's efforts to safeguard federal funds from fraud, waste, and abuse.

According to the FCC's FY 2020 Annual Financial Report, USAC did not perform recovery audits for the USF-LL Program and the USF-RHC Program.

[17] PIIA, Section 3352, (i)(1)(A) "…if not prohibited under any other provision of law, the head of each executive agency shall conduct recovery audits with respect to each program and activity of the executive agency that expends $1,000,000 or more annually if conducting the audits would be cost-effective."

APPENDIX A – OBJECTIVES, SCOPE, AND METHODOLOGY

Our audit objective was to determine whether FCC has complied with the six PIIA criteria. We evaluated whether FCC has:

(1) Published improper payments information with the annual financial statement of the executive agency for the most recent fiscal year; and (ii) posted on the website of the executive agency the annual financial statement and any accompanying materials required under the guidance of the Office of Management and Budget;

(2) Conducted a program-specific risk assessment for each program or activity that conforms with the requirements under PIIA, section 3352(a), if required;

(3) Published improper payments estimates for all programs and activities identified in the accompanying materials to the annual financial statement, if required;

(4) Published programmatic corrective action plans in the accompanying materials to the annual financial statement, if required;

(5) Published improper payments reduction targets in the accompanying materials to the annual financial statement for each program or activity assessed to be at risk, and has demonstrated improvements and developed a plan to meet the reduction targets; and

(6) Reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published.

Also, we evaluated the accuracy and completeness of FCC's PIIA reporting and performance in reducing and recapturing improper payments.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. As discussed in the "Limitation on Scope" section of this report, the auditor could not obtain sufficient appropriate audit evidence on the USF-LL program estimated gross improper payment rate and the related payment integrity information. Therefore, we were unable to form an opinion on FCC compliance with the PIIA. However, we believe that the evidence gathered provides a reasonable basis for our conclusions on the remaining nine FCC programs. Our audit covered the period October 1, 2019 through September 30, 2020.

To achieve the objectives, we performed audit procedures as deemed appropriate, including:

- Obtained and reviewed the PIIA to understand the provisions significant to the audit objectives.
- Reviewed Government Accountability Office (GAO) reports on payment integrity and related challenges faced by federal agencies in implementing IPERIA, to update our understanding and awareness of compliance issues with PIIA.
- Made inquiries with appropriate FCC and USAC officials and obtained documentation to understand the following: how FCC implemented the provisions of PIIA; significant programs/activities; guidance provided in FCC's directives and policies and procedures manuals; documentation maintained to support PIIA data; information reported on the AFR and paymentaccuracy.gov; and FCC's oversight of the calculation of improper payments.
- Reviewed previous years' IPERIA audit reports and work papers to understand the FCC's PIIA program and processes, challenges, and focus areas for process improvement and reporting.
- Reviewed FCC's effort in improving the PIIA process by following up on FCC's implementation of prior year audit recommendations.
- Reviewed FCC's FY 2020 AFR and paymentaccuracy.gov to assess compliance with the reporting requirements of the PIIA.
- Reviewed the latest program risk assessments to assess FCC's compliance with OMB Memorandum M-18-20 risk assessment requirements.
- Reviewed USAC's sampling and estimation plan, and sampling results and FCC's correspondence with OMB.
- Reviewed PQA objectives and the procedures applied to the samples selected.
- Examined a sample of test worksheets to validate the appropriateness of conclusions.
- Validated the improper payment rate calculation methodology and the amounts reported for the TRS Fund.
- Reviewed the AFR and paymentaccuracy.gov and obtained additional supporting documentation to evaluate FCC's effort in preventing, reducing, and recovering improper payments.
- Reviewed FCC's processes for identifying and reporting recaptures of improper payments.
- Reviewed, recalculated and agreed key information in the AFR and paymentaccuracy.gov to supporting program documentation, including USF-HC, USF-RHC, USF-S&L, and USF-LL.

UNITED STATES GOVERNMENT
FEDERAL COMMUNICATIONS COMMISSION

Office of Managing Director

MEMORANDUM

DATE: May 11, 2021

TO: David L. Hunt, Inspector General

FROM: Mark Stephens, Managing Director

SUBJECT: Management's Response to Independent Auditor's Report on the Federal Communications Commission's Compliance with the Payment Integrity Information Act of 2019 (PIIA) Reporting for Fiscal Year (FY) 2020

Thank you for the opportunity to respond to the draft report from the Office of Inspector General (OIG) to the Managing Director, regarding the Federal Communications Commission's (FCC or Commission) compliance with the requirements described in the Office of Management and Budget (OMB) *Memorandum M-18-20, Appendix C to OMB Circular No. A-123, Requirements for Payment Integrity Improvement*, for the year ending September 30, 2020. We appreciate the efforts of your team to work with the Commission on this audit and share your interest in reducing waste, fraud, and abuse across all programs overseen by the Commission. This audit was conducted by the independent auditors, Lani Eko & Company, CPAs, PLLC.

We have reviewed the draft report and agree with Lani Eko that the Commission is compliant in eight of the ten programs it oversees. The High Cost program continues to be non-compliant, however, the Commission is working with USAC to more accurately assess the program. This is addressed in the other matters below. Furthermore, we were disappointed that Lani Eko could not come to a conclusion on whether the Lifeline program was compliant with PIIA. Lani Eko informed the Commission and the Universal Service Administrative Company (USAC) that they were not rendering an opinion on the Lifeline program due to a scope limitation. Scope limitations are usually a result of the auditee not providing the requested documents to the auditor in a timely manner in order for the auditor to render an opinion. Lani Eko specifically stated that the scope limitation was not due to the lack of documentation received during the audit, however, it was due to the fact that they ran out of time and the documentation they received was not adequate and sufficient.

Below are the FCC's and USAC's responses to inaccuracies in the report that should be addressed.

Lifeline Program

Lack of sufficient, appropriate evidence

The report states that the auditors could not form an opinion on the FCC's compliance with PIIA because they did not receive sufficient, appropriate evidence from USAC. USAC and the Commission provided all of the requested information and documentation to the auditors. The auditors did not offer any additional questions that would have helped us provide the proper documentation or answer issues that remained outstanding.

Inaccuracy of IPR

Annually, the Commission approves the improper payment testing procedures in all of the Universal Service Fund programs. The opt-out states were not tested for eligibility and certification in FY 2020, and we agree that those opt-out states should have been tested for that criteria. To gain an understanding of how the untested procedures would impact the improper payment rate (IPR), Lani Eko asked USAC to work with its statistician to assess what would be an estimated IPR had the eligibility and certification procedures been applied to subscribers in opt-out states.[1] The analysis resulted in an estimated 14.73% IPR (with an estimated 5.31% margin of error), which is less than a 1% variance from the 13.81% originally reported. While USAC agreed to work with the statistician to determine what the IPR would be in this instance, we disagree with the auditor's assertion that there is a "revised" IPR. The IPR was not changed in the documentation presented to OMB or on the paymentaccuracy.gov website. We stand by the FY 2020 Lifeline estimated IPR of 13.81% as reported in paymentaccuracy.gov.

Lack of Compliance with PIIA and Sampling and Estimation Plan

The auditor states that the "FCC and USAC defined improper payments in a manner not consistent with PIIA or their Sampling and Estimation Plan." This is not an accurate statement. The FCC uses the definition in OMB M-18-20 which states: "An improper payment is any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative or other legally applicable requirements."[2] Although USAC did not test certain procedures for the opt-out states, this does not deviate in any way from how the Commission applies the standard for what is considered an improper payment. Modified testing procedures are compliant with PIIA guidance and also comply with the letter of the law when determining what should be considered an improper payment for PIIA purposes. As stated earlier, we agree more testing should have been applied to the opt-out states for eligibility and certification but in no way does this justify saying the Commission used improper payment criteria inconsistent with PIIA or its sampling plan. Additionally, the sampling plan is statistically valid and does not exclude carriers in opt-out states for all procedures so it is our position that the sampling plan is compliant with PIIA even though more testing in opt-out states could have taken place.

[1] The error rate for the eligibility and certification testing for non-opt-out states was 3.94%. The statistician applied that same error rate to the sample for opt-out states.

[2] *See* Part 1.A.1 of OMB M-18-20 at pg. 8.

Non-representative Sample

Lani Eko states the sample of study area codes (SACs) assessed for improper payments was not representative of the population.[3] Of the 250 SACs tested, 28 SACs consisted of carriers in NLAD opt-out states. From separately testing those 28 SACs, USAC identified 11 SACs with exceptions amounting to $1,517. This amount represents approximately 8% of the FY 2020 total Lifeline improper payments of $19,735. Thus, there were testing procedures applied to the disbursements for the opt-out states and the errors noted were extrapolated and included in the IPR, similar to the results noted for the non-opt-out states. Therefore, we disagree with Lani Eko's statement that the sample of SACs assessed for improper payments was not representative of the population of the Lifeline program subscribers. Lani Eko also states the Commission should have obtained OMB approval for any material change to the sampling and estimation plan. We disagree with this assertion. The Commission provided all sampling plans, statistician certifications, and Commission certifications including the Lifeline program to OMB via their instructions. The OMB M-18-20 guidance specifically states: "*It is important to note that OMB will not be issuing a formal approval to the agency for the statistically valid sampling plan rather, it is the agency's responsibility to produce a statistically valid methodology. The signed certification will serve as evidence that the agency believes the methodology is statistically sound. OMB does reserve the right to raise questions about the particular methodology, should the need arise*."[4] Given that the sampling plan did not exclude disbursements made to carriers in NLAD opt-out states, we do not agree with the auditor's statement that there were material changes to the sampling plan.

FCC management notes that the Commission will continue to make the necessary improvements to the Lifeline program that will reduce the improper payments in the program. Thus far, the FCC has worked with USAC to implement: 1) the National Lifeline Eligibility Verifier, 2) Universal Lifeline Consumer Forms, 3) the Lifeline Claims System, and (4) the Representative Accountability Database. The Commission continues to implement new rules adopted in the FCC's 2019 Lifeline Order to strengthen enrollment, recertification, and reimbursement processes to reduce waste, fraud, and abuse in the Lifeline program. In addition, the Commission will work with USAC to improve improper payment testing procedures as necessary, as well as continue to develop and implement proactive controls and processes to timely identify issues that can lead to improper payments. The Commission remains fully committed to minimizing improper payments and reducing fraud, waste, and abuse in the Lifeline program.

Other Matters

USF High Cost Program FY 2018 and FY 2019 Recommendations

USAC has not implement the FY 2018 and FY 2019 recommendations from the auditor; therefore, the auditor reissued the following High Cost program audit recommendations:

1. Modify the PQA assessment procedures to target the USF-HC Program rules and significant risks of improper payments. (REPEAT)

[3] A Study Area Code (SAC) represents a defined area in which a carrier operates.

[4] See Part 1.D. 1e of OMB M-18-20 at pgs. 15-16.

2. Direct USAC management to use the Beneficiary and Contributor Audit Program (BCAP) results or a modified version of BCAP to project the estimated improper payments rate in the USF-HC Program. (UPDATED)
3. Direct USAC management to develop guidance consistent with OMB Memorandum M-18-20 for analyzing the results of PQA procedures. (REPEAT)

The Commission did not implement the prior year recommendations because it believed it to be more valuable to re-assess the High Cost program and understand the true root cause of improper payments. The Commission had discussions with the FCC OIG and OMB. We all agreed it was best to split the High Cost program into two separate categories to better understand the root cause of improper payments in the program. The High Cost program for FY 2021 will be divided between the legacy fund and modernized fund, and for both pieces we will determine a new baseline of improper payments. The first step will be to perform a risk assessment of each piece in FY 2021 to determine whether each piece is susceptible to significant risk. We will work with USAC to perform the risk assessment analysis to determine whether improper payment testing is required in FY 2022.

<u>Non-Compliance with PIIA Recovery Audit Requirement</u>

The auditors stated that the FCC did not conduct recovery audits of all programs that expended $1,000,000 or more annually. USAC reiterates that audits were conducted, although not complete. There were thirty-two Lifeline program audits in process during FY 2020 that have been delayed by carriers requesting multiple extensions to provide data to the auditors given the demand on carriers and lack of resources attributed to the COVID-19 global pandemic. There were twenty-four Rural Health Care program audits in process during FY 2020, although not completed, as they were severely impacted by delays experienced due to the COVID-19 waivers issued by the FCC to grant automatic extensions of forty-two days to all USAC requests of information, including audits, from March 26, 2020 to December 31, 2020.[5]

In conclusion, the Commission continues to work diligently to comply with the requirements of the law, to adhere to OMB's guidance, and to prevent, reduce, and recover improper payments in the Commission's programs. We look forward to updating the OIG and its auditor on progress made toward improving our processes going forward.

Mark Stephens
Digitally signed by Mark Stephens
Date: 2021.05.11 15:18:48 -04'00'

Mark Stephens
Managing Director

See In the Matter of Rural Health Care Support Mechanism, WC Docket No. 02-60, Order, 35 FCC Rcd 2922 (WCB 2020)*; In the Matter of Rural Health Care Support Mechanism and Schools and Libraries Universal Service Support,* WC Docket No. 02-60, CC Docket No. 02-6, Order, 35 FCC Rcd 9416 (WCB 2020).

APPENDIX C – LIST OF ACRONYMS

AFR	Agency Financial Report
B&C	Billing and Collection
ETC	Eligible Telecommunications Carrier
FCC	Federal Communications Commission
FY	Fiscal Year
NANP	North American Numbering Plan
OMB	Office of Management and Budget
PIIA	Payment Integrity Information Act
PQA	Payment Quality Assurance
TRS	Telecommunications Relay Service
TVF	TV Broadcasting Relocation Fund
USAC	Universal Service Administrative Company
USF	Universal Service Fund
USF-HC	Universal Service Fund - High Cost
USF-LL	Universal Service Fund – Lifeline (formerly the USF Low Income Program)
USF-RHC	Universal Service Fund – Rural Health Care
USF-S&L	Universal Service Fund - Schools and Libraries