



***Audit of the Federal Communications Commission's FY 2023
Compliance with the Payment Integrity Information Act of
2019 Requirements***

24-AUD-01-01

Report Date: May 29, 2024

May 29, 2024

Ms. Fara Damelin, Inspector General
Federal Communications Commission
45 L Street NE
Washington, D.C. 20554

Dear Ms. Damelin,

Kearney & Company, P.C. (Kearney) has conducted an audit of the Federal Communications Commission (FCC) Fiscal Year (FY) 2023 compliance with the Payment Integrity Information Act (PIIA) of 2019. This performance audit, conducted under Contract No. GS00F031DA, was designed to meet the objectives identified in the “Objectives” section of this report.

Kearney conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS), issued by the Government Accountability Office (GAO). The purpose of this report is to communicate the results of Kearney’s performance audit and our related findings and recommendations.

Kearney appreciates the cooperation provided by the FCC’s personnel during the audit.

Sincerely,

A handwritten signature in blue ink that reads "Kearney & Company". The signature is written in a cursive, flowing style.

Kearney & Company, P.C.
Alexandria, VA
May 29, 2024

TABLE OF CONTENTS

	Page #
Executive Summary	1
Objectives.....	7
Background	7
Conclusion	12
Findings.....	12
Appendix A – Scope and Methodology of the Audit.....	23
Appendix B – Management’s Views on Conclusions and Findings	25
Appendix C – Kearney’s Evaluation of Management’s Comments.....	30
Appendix D – Status of PY Audit Recommendations	32
Appendix E – Abbreviations and Acronyms.....	34

Executive Summary

As requested by the Office of Inspector General (OIG), Kearney & Company, P.C. (defined as “Kearney,” “we,” and “our” in this report) audited the Federal Communications Commission’s (FCC or Commission) compliance with the Payment Integrity Information Act of 2019 (PIIA). We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS).

The objective of Kearney’s performance audit was to evaluate the FCC’s compliance with PIIA, in accordance with the Office of Management and Budget (OMB) Memorandum M-21-19, Appendix C to OMB Circular A-123, *Requirements for Payment Integrity Improvement*. OMB M-21-19 outlines the 10 PIIA criteria that the FCC must follow. Specifically, we reviewed the FCC’s risk assessment methodology, Improper Payment (IP) rate estimates, Sampling and Estimation Methodology Plans (S&EMP), Corrective Action Plans (CAP), and efforts to prevent and reduce IPs. In addition, Kearney followed the Council of the Inspectors General on Integrity and Efficiency (CIGIE), *Guidance for Payment Integrity Information Act Compliance Reviews*. The guidance was developed to assist OIGs that are required to conduct an annual IP review under the PIIA.

PIIA requires that FCC categorize programs with annual gross outlays over \$10 million and one year old as either Phase 1 or Phase 2. Phase 1 programs are not likely to have annual improper payments plus unknown payments exceeding the threshold of both 1.5 percent and \$10 million of program payments made in the Fiscal Year (FY) or \$100 million. Phase 2 includes all programs exceeding the threshold amounts.

For Phase 1 programs, the FCC must conduct a risk assessment at least once every three years. For newly developed programs, the FCC must conduct a risk assessment after the first 12 months of the program, even if the 12 months do not coincide with the FY.

The FCC identified four programs that are in Phase 2 because of the programs’ susceptibility to IPs in FY 2023. The FCC is required to create an S&EMP and test a statistical sample of disbursements to determine the IP rate for Phase 2 programs. Phase 2 programs include the Telecommunications Relay Services (TRS) program, as well as three Universal Service Fund (USF) programs, including the USF-Lifeline, USF-Schools and Libraries (S&L), and USF-High-Cost Legacy (HC Legacy) programs.

The IP rate, Unknown Payment (UP) rate, tolerable rates, and associated amounts for the four Phase 2 programs are listed in **Table 1** below:

Table 1: IP and UP in FY 2023

Program Name	Outlays (\$ in Millions)	Tolerable Error Rate ⁺	IP Rate [*]	UP	Estimated IP (\$ in Millions)	Estimated UP (\$ in Millions)
TRS	\$1,200.00	-	-	-	-	-
USF-Lifeline	\$526.85	1.500%	2.18%	-	\$11.50	-

Program Name	Outlays (\$ in Millions)	Tolerable Error Rate ⁺	IP Rate [*]	UP	Estimated IP (\$ in Millions)	Estimated UP (\$ in Millions)
USF-S&L	\$2,065.61	1.560%	1.59%	-	\$32.90	-
USF-HC Legacy	\$1,796.00	2.879%	2.88%	-	\$51.71	-

Source: Data tables from paymentaccuracy.com

⁺The FCC provided the tolerable rates for USF-Lifeline, USF-S&L, and USF-HC Legacy.

^{*}A de minimis error was noted during testing of the TRS program, resulting in an error rate of .000004%

Kearney’s audit concluded that the FCC was compliant with respect to eight Phase 1 programs and three Phase 2 programs. However, the FCC was non-compliant with PIIA overall because two of the 13 assessed FCC programs, the USF Lifeline and the Affordable Connectivity Program, did not comply with one of the 10 PIIA criteria in accordance with OMB Memorandum M-21-19 requirements, as shown by **Table 2**.

Non-Compliance Findings

For the third consecutive year and fourth year overall, the USF-Lifeline program was non-compliant with the PIIA criterion that requires the FCC to publish applicable payment integrity information on paymentaccuracy.gov. Specifically, the FCC did not report a \$30 million overpayment that was first identified in FY 2019. The FCC issued two Orders and a Consent Decree regarding this matter on May 7, 2024. The Orders and related Consent Decree have the effect of retroactively making the overpayments valid. As a result, no additional action is required and the Prior Year (PY) recommendations 1, 2 and 3, as noted in **Appendix D**, were closed. However, because the Orders and Consent Decrees had not been issued at the time of FCC’s 2023 statutory reporting deadline under the PIIA, the payments should have been reported as a \$30 million overpayment. Therefore, the FCC was non-compliant with the PIIA criterion with respect to these payments.

In addition, the FCC’s Affordability Connectivity Program (ACP) was non-compliant with the requirements of PIIA for FY 2023 because the FCC did not report \$6 million in IPs, which were self-reported by a provider during FY 2023. The service provider submitted downward revisions on reimbursements received between June 2021 to June 2023; however, following the direction of the Commission, the Universal Service Administrative Company (USAC) did not report the downward revisions as improper payments in the FY 2023 reporting cycle.

Recommendations for Further Improvement

The FCC demonstrated payment integrity improvements in the S&L program by reducing its IP rate and exceeding its reduction target. As a result, Prior Year (PY) recommendation 7, as noted in **Appendix D**, was closed. However, the program could still use improvement as the root causes of the top dollar drivers of the Improper Payment Rate (IPR) remained the same as last year.

For the fifth consecutive year, the FCC did not implement TRS program policies and procedures that identify the interdependent relationships between the FCC, the TRS Administrator, and TRS providers.

The FCC demonstrated improvements in the USF Lifeline program through the reduction of IPs and UPs during FY 2023. Kearney concluded that the Lifeline program showed improvements in its PIIA performance by establishing a tolerable rate and reducing the IPR from 6.13% in FY 2022 to 2.18% in FY 2023. Additional improvements to its process surrounding certain eligibility determinations could help the program reach its tolerable rate of 1.5%.

PIIA Improvements Demonstrated in FY 2023

The FCC showed improvements to payment integrity in the USF-HC Legacy program when it published a tolerable error rate in FY 2023, which serves as a baseline for FY 2024. In addition, USF-HC Legacy program effectively implemented expanded testing procedures to cover additional risks of IPs. As a result, Prior Year (PY) recommendations 9 and 10, as noted in *Appendix D*, were closed.

In FY 2022, the FCC and the TRS administrator determined, through its risk assessment, that the program was likely to make IPs and UPs above the statutory threshold and, as a result, was classified as a Phase 2 program in FY 2023. IP testing for FY 2023 resulted in one de minimis error and an IP rate of .000004%. Therefore, the TRS fund did not establish a tolerable error rate and will return to a Phase 1 program in FY 2024.

In FY 2023, the FCC implemented the updated risk assessment methodology that was recommended in the FY 2021 PIIA audit report for the FCC Operating Expenses, Secure and Trusted Communications Reimbursement Program, TV Broadcaster Relocation Fund (TVBRF), Coronavirus Disease 2019 (COVID-19) Telehealth, Emergency Connectivity (ECF), and ACP programs. As a result, PY recommendation 4, as noted in *Appendix D*, was closed.

Table 2 below shows each of the FCC’s 13 programs for which PIIA compliance was required. In addition, the program’s compliance with each of the 10 PIIA criteria is noted.

Table 2: PIIA Compliance Reporting Table¹

Item No.	Criteria	FCC COVID-19 Telehealth	FCC Operating Expenses	FCC TV Broadcast Relocation	Secure and Trusted Communications Network Reimbursement Program	ECF	ACP	TRS	USF HC Modernized ²	USF HC Legacy ²	USF – Lifeline ³	USF – RHCS	USF – S&L	USF Administrative Costs
1	Published Payment Integrity Information with the Annual Financial Statement	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Yes	Yes
2	Posted the Annual Financial Statement and Accompanying Materials on the Agency Website	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
3	Conducted IP Risk Assessment for Each Program with Annual Outlays Greater Than \$10 Million	Yes	Yes	Yes	Yes	Yes	Yes	N/A ²	N/A ³	N/A ²	N/A ²	N/A ³	N/A ²	Yes
4	Adequately Concluded Whether Each Program is Likely to Make IPs and Ups Above or Below the Statutory Threshold	Yes	Yes	Yes	Yes	Yes	Yes	N/A ²	N/A ³	N/A ²	N/A ²	N/A ³	N/A ²	Yes

Item No.	Criteria	FCC COVID-19 Telehealth	FCC Operating Expenses	FCC TV Broadcast Relocation	Secure and Trusted Communications Network Reimbursement Program	ECF	ACP	TRS	USF HC Modernized ²	USF HC Legacy ²	USF – Lifeline ³	USF – RHCS	USF – S&L	USF Administrative Costs
5	Published IP and UP Estimates for Each Program Susceptible to Significant IPs and UPs	N/A1	N/A1	N/A1	N/A1	N/A1	N/A1	N/A1	N/A1	Yes	Yes	N/A1	Yes	N/A1
6	Published CAP for Each Program for Which an Estimate Above the Statutory Threshold was Published	N/A1	N/A1	N/A1	N/A1	N/A1	N/A1	Yes	N/A1	Yes	Yes	N/A1	Yes	N/A1
7	Published an IP and UP Reduction Target for Each Program for Which an Estimate Above the Statutory Threshold was Published	N/A1	N/A1	N/A1	N/A1	N/A1	N/A1	Yes	N/A1	Yes	Yes	N/A1	Yes	N/A1
8	Demonstrated Improvements to Payment Integrity or Reached a Tolerable IP and UP Rate	N/A1	N/A1	N/A1	N/A1	N/A1	N/A1	N/A4	N/A1	Yes	Yes	N/A1	Yes	N/A1
9	Developed a Plan to Meet the IP and UP Reduction Target	N/A1	N/A1	N/A1	N/A1	N/A1	N/A1	Yes	N/A1	Yes	Yes	N/A1	Yes	N/A1

Item No.	Criteria	FCC COVID-19 Telehealth	FCC Operating Expenses	FCC TV Broadcast Relocation	Secure and Trusted Communications Network Reimbursement Program	ECF	ACP	TRS	USF HC Modernized ²	USF HC Legacy ²	USF – Lifeline ³	USF – RHCS	USF – S&L	USF Administrative Costs
10	Reported an IP and UP Estimate of Less Than 10% for Each Program for Which an Estimate was Published	N/A1	N/A1	N/A1	N/A1	N/A1	N/A1	Yes	N/A1	Yes	Yes	N/A1	Yes	N/A1

N/A1 – The agency program is in Phase 1 and, therefore, per OMB guidance, was not at risk of significant IPs and UPs.

N/A2 – The agency program is in Phase 2 because it was above the statutory threshold and, therefore, per OMB guidance, was not required to conduct a risk assessment.

N/A3 – The agency program is on a three-year rotational risk assessment schedule and was not required to conduct a risk assessment this year, therefore, per OMB guidance, this step is not applicable.

N/A4 – The agency program was in Phase 1 for FY 2022 and moved to Phase 2 for FY 2023. Therefore, we were unable to assess this criterion for FY 2023.

- 1- See the “FCC Programs” section below for a comprehensive list of all the FCC programs, including those that were not assessed during the PIIA Performance Audit, due to not having 12 months of data or not meeting the \$10 million gross outlays threshold.
- 2- USAC reevaluated the USF-High-Cost program in FY 2021. As part of the reevaluation, USAC analyzed the USF-HC Legacy and USF-HC Modernized funds separately. Therefore, we have listed them separately for the purpose of reporting compliance with PIIA.
- 3- The non-compliance criterion was updated from criterion 2 in the FY 2022 report to criterion 1 in the FY 2023 report. This more accurately correlates to the FCC’s failure to report certain amounts on the accompanying materials to the financial statements as the root cause of non-compliance.

Objectives

As requested by the OIG, Kearney audited the FCC's compliance with PIIA for FY 2023. The objective of our performance audit was to evaluate the FCC's compliance with PIIA, in accordance with the OMB Memorandum M-21-19, Appendix C to OMB Circular A-123, *Requirements for Payment Integrity Improvement*. OMB M-21-19 outlines the 10 PIIA criteria that agencies must follow. Specifically, we reviewed the FCC's risk assessment methodology, IP rate estimates, S&EMP, CAPs, and efforts to prevent and reduce IPs. In addition, Kearney followed CIGIE's *Guidance for Payment Integrity Information Act Compliance Reviews*. The guidance was developed to assist OIGs that are required to conduct an annual IP review under the PIIA.

Please see *Appendix A* of this report for the scope and methodology of the audit.

Background

The FCC is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. The FCC also regulates telecommunications and advanced communication services and video programming for people with disabilities. The Communications Act of 1934 (Act) created the FCC, centralized authority granted by law to several agencies and granted to the FCC additional authority with respect to interstate and foreign commerce in wire and radio communication. The FCC was charged with executing and enforcing the provisions of the Act. The FCC's jurisdiction covers the 50 states, the District of Columbia, and United States possessions. The purpose of the Act was to "[regulate] interstate and foreign commerce in communication by wire and radio so as to make available... to all the people of the United States without discrimination... a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges." Additionally, the Act's purpose was to support the effective execution of policies related to national defense and the safety of life and property through the use of wire and radio communication. The responsibilities granted to the FCC by this Act include, but are not limited to, collecting regulatory fees, assessing fines, and conducting auctions.

In 1996, Congress passed the Telecommunications Act of 1996 (Telecommunications Act), a major legislation amending, repealing, or adding new legislation to the Act. The Telecommunications Act was enacted to promote competition and reduce regulation to secure lower prices and higher-quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies. The USF was created by the Telecommunications Act as the mechanism by which interstate long-distance carriers were assessed fees to subsidize telephone service to low-income households and High-Cost areas (i.e., rural areas where infrastructure is more costly). The rules and regulations governing contributions to USF were established pursuant to Section 254 of the Act, as amended by the Telecommunications Act. The USF includes four programs: HC, S&L (also known as E-Rate), Lifeline, and RHC. These four programs and the Connected Care Pilot Program (CCPP) are funded through mandatory contributions from U.S. telecommunications service providers,

including local and long-distance phone companies, wireless and paging companies, payphone providers, and providers of interconnected Voice over Internet Protocol (VoIP) services. USAC is the administrator of the USF. USAC also administers the ACP, ECF, and COVID-19 Telehealth program under the Commission's direction.

Title IV of the Americans with Disabilities Act of 1990 established the TRS Fund. This Fund compensates TRS providers for reasonable costs of providing interstate telephone transmission services that enable a person with a hearing or speech disability to communicate with a person without hearing or speech disabilities. The costs of providing interstate TRS are recovered from subscribers of interstate telecommunications services.

Enactment of PIIA

On March 2, 2020, PIIA became law. PIIA (Public Law [PL] 116-117) was enacted to improve efforts to identify and reduce Government-wide IPs. Agencies are required to identify and review all programs and activities they administer that may be susceptible to significant IPs based on guidance provided by OMB. Payment integrity information is published with the agency's annual financial statement in accordance with payment integrity guidance in OMB A-136. The agency must also publish any applicable payment integrity information required in the accompanying materials to the annual financial statement in accordance with applicable guidance. The most common accompanying materials to the annual financial statement are the payment integrity information published on paymentaccuracy.gov (<https://paymentaccuracy.gov/>).

FCC Programs

The FCC is required under PIIA guidance to assess programs that are over a year old and have reported gross outlays greater than \$10 million. The following 13 FCC programs met the outlay and age thresholds requiring a PIIA compliance assessment to be performed in FY 2023:

- **COVID-19 Telehealth Program**: The FCC program that was established to fulfill its responsibilities under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to provide support efforts of health care providers to address COVID-19 by providing telecommunications services, information services, and devices necessary to enable the provision of telehealth services during the pendency of the COVID-19 pandemic.¹
- **FCC Operating Expenses**: The FCC funds for conducting payroll and nonpayroll operating activities, including auction refunds.
- **TVBRF**: The TVBRF was formed as a result of the Spectrum Act of 2012 (Spectrum Act). The Act authorized the FCC to conduct incentive auctions aimed at repacking the

¹ <https://www.usac.org/about/covid-19-telehealth-program/>

spectrum. TV Broadcasters and Multichannel Video Programming Distributors (MVPD) who were relocated to different spectrum bands were eligible to receive reimbursement of their relocation costs. With the passage of the Spectrum Act and later passage of the 2018 Reimbursement Expansion Act, TV broadcasters, Low Power Television Stations, television translators and FM stations, MVPDs could access funding to relocate to different spectrum bands.²

- TRS: The FCC component administered by Rolka Loube, LLC (RL). The TRS Fund compensates TRS providers for the reasonable costs of providing interstate telephone transmission services that enable a person with a hearing or speech disability to communicate with a person without hearing or speech disabilities. The costs of providing interstate TRS are recovered from subscribers of interstate telecommunications services.³
- USF-HC: The USF-HC program is the largest of the four USF programs. Beginning in FY 2021, this program is reviewed in its two components: USF-HC Legacy and USF-HC Modernized. The USF-HC Modernized program provides funding to telecom carriers to provide service in rural areas where the market alone cannot support the substantial cost of deploying network infrastructure and providing connectivity. The program was modernized into the Connect America Fund (CAF) to support broadband to ensure that all people in America have access to affordable connectivity.⁴
 - The USF-HC Modernized: Known as CAF, component consists of the Alaska Plan, Alternative Connect America Cost Model, Revised Alternative Connect America Cost Model, Alternative Connect America Cost Model II, Connect America Fund Phase II Model, Connect America Fund Phase II Auction, Connect America Fund Broadband Loop Support, Mobility Fund, Rural Broadband Experiments, Rural Digital Opportunity Fund, Bringing Puerto Rico Together, and the Connect USVI funds. These funds help to subsidize the delivery of voice and broadband service across rural America.
 - USF-HC Legacy: The USF-HC Legacy component of the general USF-HC program is smaller than the USF-HC Modernized component. It also provides funding to telecom carriers to provide service in rural areas where the market alone cannot support the substantial cost of deploying network infrastructure and providing connectivity.⁴ USF-HC Legacy contains the Frozen High-Cost Support, High-Cost Loop and Safety Value Support, Intercarrier Compensation Recovery, and Interstate Common Line Support funds. These funds help to subsidize the delivery of voice and broadband service across rural America.

² <https://www.fcc.gov/about-fcc/fcc-initiatives/incentive-auctions/reimbursement>

³ <https://www.fcc.gov/telecommunications-relay-service-trs-general-management-and-oversight>

⁴ <https://www.usac.org/high-cost/program-overview/>

- USF-Lifeline: The Lifeline program is responsible for data collection and maintenance, support calculation, and disbursement for the USF low-income program. Since 1985, the Lifeline program has provided a discount on phone service for qualifying low-income consumers to ensure all Americans have the opportunities and security that phone service brings, including being able to connect to jobs, family, and emergency services. The Lifeline program is available to eligible low-income consumers in every state, territory, commonwealth, and on Tribal lands.⁵
- USF-RHC: The RHC Program provides funding to eligible health care providers for telecommunications and broadband services necessary for the provision of health care. The goal of the program is to improve the quality of health care available to patients in rural communities by ensuring that eligible health care providers have access to telecommunications and broadband services.⁶
- USF-S&L: The S&L program, commonly known as the E-rate program, helps schools and libraries to obtain affordable broadband. The E-rate program is administered by USAC under the direction of the FCC. Specifically, USAC is responsible for processing the applications for support, confirming eligibility, and reimbursing service providers and eligible schools and libraries for the discounted services.⁷
- USF-Administrative Costs: USAC, established in 1997, is an independent, not-for-profit corporation that administers the four (i.e., USF-HC, USF-Lifeline, USF-RHC, USF-S&L) USF universal service support mechanisms. Under the direction of the Commission, USAC is responsible for the billing and collection of USF monies and for disbursing funds for the USF programs. The administrative costs program oversees the compensation, benefits, and other operating expenses required to carry out USAC's responsibilities for administering the USF programs.
- Secure and Trusted Communications Reimbursement Program: An FCC program that was created to reimburse communication providers with advanced communication services. Specifically, the program assists providers who have fewer than 10 million customers for services, including the removal, replacement, and disposal of communications equipment for the purpose of protecting the security and integrity of communications networks or communications supply chain.⁸
- ECF: An FCC program intended to help schools and libraries provide both tools and services that are needed for remote learning during the COVID-19 emergency period.

⁵ <https://www.fcc.gov/general/lifeline-program-low-income-consumers>

⁶ <https://www.fcc.gov/general/rural-health-care-program>

⁷ <https://www.fcc.gov/general/e-rate-schools-libraries-usf-program>

⁸ <https://www.fcc.gov/supplychain/reimbursement>

Specifically, this program assists in providing internet access and devices to students to connect them with online classrooms.⁹

- ACP: An FCC benefit program that supports households to ensure broadband internet access. The program provides a discount of up to \$30 per month for internet service and up to \$75 per month for homes on qualifying Tribal lands. Additionally, the program provides one-time discounts for the purchase of computers and tablets.¹⁰

Programs that are less than a year old and/or have gross outlays of less than \$10 million for the FY under review are not required to be assessed for compliance with PIIA guidance. The following five programs did not meet the outlay and/or age thresholds and as a result, were not assessed during FY 2023 to determine compliance with PIIA criteria:

- Broadband Federal Mapping: An FCC program that maps broadband access in the United States.¹¹
- Connected Care Pilot Program: An FCC program that provides funding from the USF over a three-year period to support the provision of connected care services. This pilot program will provide funding to cover 85% of costs towards broadband connectivity and network equipment, in addition to information services.¹²
- Affordable Connectivity Program Outreach Grants: An FCC program that provides funding support for eligible partners in their outreach efforts to increase the awareness and reach of the ACP program. One of the primary objectives of the grant program is to broaden the ACP program to diverse communities and individuals with disabilities.¹³
- North American Numbering Plan: An FCC program administered by Welch & Company, LLP. This program is the basic numbering scheme that permits interoperable telecommunications services within the U.S., Canada, Bermuda, and the Caribbean.¹⁴
- Broadband Deployment Locations Map: An FCC program that develops a centralized, authoritative source of information on funding that is made available by the Federal Government for broadband infrastructure development within the United States.¹⁵

⁹ <https://www.fcc.gov/emergency-connectivity-fund>

¹⁰ <https://www.fcc.gov/acp>

¹¹ <https://www.fcc.gov/document/national-broadband-map-fact-sheet>

¹² <https://www.fcc.gov/wireline-competition>

¹³ <https://www.fcc.gov/acp-grants>

¹⁴ <https://www.fcc.gov/north-american-numbering-plan-general-management-and-oversight>

¹⁵ [47 U.S. Code § 1704-Broadband Deployment Locations Map](#)

Conclusion

Based on Kearney's audit of the PIIA information contained in the FCC FY 2023 Agency Financial Report (AFR), accompanying materials, and supporting documentation, we concluded that 11 of the 13 assessed programs were compliant with all 10 PIIA criteria. Further, the FCC was compliant with nine of the 10 PIIA criteria in the final two assessed programs. However, Kearney concluded that the FCC was non-compliant with PIIA overall. Specifically, two programs were non-compliant, USF-Lifeline and ACP, because the FCC did not publish applicable payment integrity information in the accompanying materials to the annual financial statements as required in OMB Circular A-136.

Kearney also noted areas for further improvement surrounding overpayments in the USF-S&L program resulting from invoice and competitive bidding errors, the FCC's management of payment integrity risks for the TRS fund and overpayments in the USF-Lifeline program from incorrect eligibility determinations. Further, Kearney highlighted PIIA improvements made by the FCC in FY 2023 and the related closure of seven prior year PIIA recommendations in *Appendix D*.

Kearney issued five findings and offered five recommendations to improve the Commission's PIIA reporting. If implemented, the recommendations will aid in the FCC's compliance with PIIA and strengthen controls for payment integrity.

Findings

Finding #1 – USF Lifeline Overpayment Amounts Reported Were Inaccurate

Condition: In FY 2023, for the fifth consecutive year, the FCC was non-compliant with PIIA, 31 United States Code (U.S.C.) §3351(2)(A)(i) because the FCC again declined to report the full \$30 million balance of an unreported improper payment that was first noted in the FY 2019 Improper Payments Elimination and Recovery Improvement Act (IPERIA) audit report. In 2019, an Eligible Telecommunications Carrier (ETC) violated the FCC rules by operating outside the ETC's approved jurisdiction for an eight-month period between 2012 and 2013. The FCC should have reported that it improperly disbursed \$30 million to the ETC but the agency did not. In FY 2021, the agency reported an improper payment related to the ETC's rule violation. However, instead of reporting the full amount, the agency reported \$70,000, which was the amount of a proposed settlement between the FCC and an ETC.

On May 7, 2024, the FCC issued two Orders and a related Consent Decree regarding this matter. The Orders and Consent Decree had the effect of retroactively expanding the ETC's jurisdiction to the full area for which they had been operating. Therefore, the Orders had the effect of retroactively making the \$30 million balance of payments valid.

When the FCC published its applicable payment integrity information on paymentaccuracy.gov, there was a proposed settlement that would presumably grant the ETC's petition requesting

approval to retroactively revise its operating jurisdiction. However, the settlement had not been formally enacted by issuing a Forfeiture Order or Consent Decree at the time of the publishing of the applicable payment integrity information paymentaccuracy.gov. As a result, the FCC should have reported the \$30 million overpayment as the IP, as this represented the amount that was improperly disbursed as a result of a rule violation that continued to exist at the time of the FCC's PIIA reporting.

Cause: The FCC did not follow PIIA guidance that required it to report the full amount of \$30 million an overpayment in the year the overpayment was discovered, as the FCC management believed the estimated amount of \$70,000 from the proposed settlement was more reflective of the actual overpayment than \$30 million.

Criteria: OMB-M-21-19, Appendix C, Section VI Compliance, sub-section 1a, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, dated March 5, 2021, states:

“In addition, the agency must publish any applicable payment integrity information required in the accompanying materials to the annual financial statement in accordance with applicable guidance. The most common accompanying materials to the annual financial statement are the payment integrity information published on paymentaccuracy.gov. This information is provided by the agency to OMB through the Annual Data Call and is then subsequently published on paymentaccuracy.gov.”

OMB M-21-19, Appendix C, Section VIII, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, dated March 5, 2021, states:

“Improper Payment: A payment that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. The term improper payment includes; any payment to an ineligible recipient; any payment for an ineligible good or service; any duplicate payment; any payment for a good or service not received, except for those payments where authorized by law; and any payment that does not authorized by law; and any payment that does not account for credit for applicable discounts.”

Effect: Understating amounts identified through recovery activities by reporting proposed settlements instead of identified overpayment amounts puts the FCC at risk of inaccurately reporting recovery activities for the USF-Lifeline program. At the time, the FCC published applicable payment integrity information paymentaccuracy.gov, the possibility remained that the Chairwoman's office may modify or reject the proposed settlement requiring the FCC to update the IP information in subsequent years to increase the amount. Upwardly adjusting IP information may lead to taxpayer mistrust of the FCC. Further, Congress may not be accurately informed regarding the full extent of IPs for the USF-Lifeline program.

Recommendation: As a result of the Orders and Consent Decree that were issued on May 7, 2024, no additional action is required.

Management's Response: See *Appendix B* – Management's Views on Conclusions and Findings.

Finding #2 – USAC S&L Program Could Further Improve Payment Integrity

Condition: While the FCC and USAC demonstrated improvements to payment integrity for the S&L program by decreasing its IPR and exceeding its reduction target, the FCC continued to report IPs above the statutory reporting threshold and its set tolerable rate. Additional improvements are needed to reduce the IPR and meet the tolerable rate. Of the \$32.9 million in overpayments reported in 2023, \$23.5 million (or 71%) were overpayments resulting from competitive bidding errors (\$9.8 million) and invoicing errors (\$13.7 million). In FY 2022, \$62.9 million (\$51.2 million and \$11.7 million, respectively) of the \$80.56 million in overpayments reported (or 78%) was attributable to those error types.

To remediate competitive bidding errors, USAC implemented additional training and updated its online content related to competitive bidding, which resulted in fewer errors compared to FY 2022; however, these trainings were not mandatory for program applicants and the competitive bidding errors continue to contribute to the IPR.

In addition, while USAC made progress implementing the new E-Rate Productivity Center (EPC) system module that will check for invoicing errors, the module did not go live during FY 2023. Thus, invoice errors remained a significant contributor to IPs in FY 2023.

Cause: S&L competitive bidding rules are complex. Applicants must follow state and/or local procurement rules. The FCC did not effectively implement adequate internal controls to ensure applicants are engaging in the trainings for competitive bidding. Specifically, USAC does not require applicants to participate in training prior to requesting bids in the open market. This contributes to a lack of understanding about what competitive bidding steps should be followed to comply with the program rules.

In addition, USAC did not implement processes to effectively identify invoicing errors prior to disbursing payments in time for FY 2023 reporting. USAC management explained that the implementation process took longer than expected and was not completed during FY 2023. However, USAC went live with the EPC system module that checks for invoicing errors after USAC concluded PIIA testing in November 2023. Further, USAC's implementation of a reporting tool that will monitor manual reviews and edit codes to assess their effectiveness has not been completed. USAC is still working through various components of the implementation process, such as creating procedures, driver cycle, data tracking, trainings, and future improvements for the Repeat Cancellations and Limited Manual Reviews stages. USAC expects this recommendation to be completed and fully implemented in FY 2024.

Criteria: OMB M-21-19 Appendix C, Section VI.A Criteria 5b, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, dated March 5, 2021, states: “If the program reported an IP and UP estimate above the statutory threshold in the prior year and the CY, and the program has not yet achieved its tolerable IP and UP rate, the program is responsible for demonstrating improvements. The program should ensure that it undertakes new actions during the year to improve their payment integrity.”

OMB M-21-19 Appendix C, Section II C1, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, dated March 5, 2021, states: “Programs are considered to be above the statutory threshold if they are reporting an annual IP and UP estimate that is either above \$10,000,000 and 1.5% of the program’s total annual outlays or above \$100,000,000 regardless of the associated percentage of the program’s total annual outlays that the estimated IP and UP amount represents.”

OMB M-21-19 Appendix C, Section VI C, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, dated March 5, 2021, states:

“... for each agency program reporting an estimate above the statutory threshold, the OIG must include recommendation(s) for action(s) to further improve prevention and reduction of IPs and UPs within the program. The OIG will engage with the program and/or other part of the agency regarding the specific corrective action recommendations to ensure appropriate and effective corrective action recommendations are made”

Effect: USAC erroneously disbursed payments to applicants that could not provide adequate documentation when requested by USAC during payment integrity audits. The documentation was required to confirm that the applicant adhered to the competitive bidding process, which includes following the appropriate waiting periods required by competitive bidding rules. USAC also disbursed IPs when applicants submitted invoices that claimed ineligible services and equipment, in excess of the discount rates, as well as equipment that did not appear on the providers bills. If the FCC does not make improvements to reduce the IP and UP rate to below statutory thresholds or tolerable rate, then the FCC may receive negative public feedback due to concerns regarding the potential misuse of taxpayer money, resulting in the mistrust of the FCC and S&L program.

Recommendation: Kearney recommends that the FCC take the following actions:

1. Direct USAC to continue enhancing applicant outreach programs to educate applicants on the S&L program rules, especially rules relating to the competitive bidding processes. Specifically, this may include implementing measures, such as gauging applicant participation to ensure applicants are cognizant of the material being presented or requiring mandatory, comprehensive training for new applicants. *[Repeat]*
2. Direct USAC to enhance the use of automation tools in EPC to check invoices for common errors and invoices that are flagged as having a high risk of non-compliance with program invoicing requirements. *[Repeat]*

Management’s Response: See *Appendix B* – Management’s Views on Conclusions and Findings.

Finding #3 – FCC Payment Integrity Oversight Needs Improvement

Condition: The FCC’s Consumer and Governmental Affairs Bureau’s (CGB) efforts to implement Policies and Procedures (P&P) that govern how risks for the TRS program are managed were not achieved for the third consecutive year and fourth year overall. Specifically, it did not adequately document how payment integrity risks were managed amongst the FCC, the TRS Administrator, and TRS Providers. To remediate the prior year finding, the FCC drafted a P&P document to outline the roles of the FCC, the TRS Administrator, and TRS Providers; however, the P&P document has not been finalized as of March 2024. In addition, the draft P&P did not specifically outline the interdependent responsibilities for managing payment integrity risks. Instead, the P&P documented financial management responsibilities of the Office of the Managing Director (OMD) at a high-level, as well as the collection and disbursement responsibilities of the TRS Fund Administrator, without explicitly stating that the responsibilities should include managing payment integrity risks. Further, the P&P did not describe methodologies used to obtain assurance that each party manages the risks of IPs appropriately and as intended.

Cause: CGB, OMD, and the TRS Administrator were aware of the recommendation to document policies and procedures that define the interdependent relationship and how each party is responsible for and manages IP risks. However, management officials stated that, because the OMD changed the process owner who was responsible for drafting the P&P during the year, completing and reviewing the P&P in FY 2023 was delayed. This resulted in the P&P not being finalized for FY 2023.

Criteria: GAO’s *Standards for Internal Control in the Federal Government* (Green Book), Paragraph 12.02, dated September 2014, states: “Management documents in policies the internal control responsibilities of the organization.”

GAO’s Green Book, Paragraph 12.03, dated September 2014, states: “Management documents in policies for each unit its responsibility for an operational process’s objectives and related risks, and control activity design, implementation, and operating effectiveness...”

GAO’s Green Book, Paragraph 12.04, dated September 2014, states:

“Those in key roles for the unit may further define policies through day-to-day procedures, depending on the rate of change in the operating environment and complexity of the operational process. Procedures may include the timing of when a control activity occurs and any follow-up corrective actions to be performed by competent personnel if deficiencies are identified. Each unit, with guidance from management, determines the policies necessary to operate the process based on the objectives and related risks for the operational process. Each

unit also documents policies in the appropriate level of detail to allow management to effectively monitor the control activity. Management communicates to personnel the policies and procedures so that personnel can implement the control activities for their assigned responsibilities.”

GAO’s Green Book, Paragraph 3.10, dated September 2014, states:

“Effective documentation assists in management’s design of internal control by establishing and communicating the who, what, when, where, and why of internal control execution to personnel. Documentation also provides a means to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel, as well as a means to communicate that knowledge as needed to external parties, such as external auditors.”

GAO’s Green Book, Paragraph 3.11, dated September 2014, states: “Management documents internal control to meet operational needs. Documentation of controls, including changes to controls, is evidence that controls are identified, capable of being communicated to those responsible for their performance, and capable of being monitored and evaluated by the entity.”

OMB M-21-19, Appendix C, Section VIII.A.1, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, dated March 5, 2021, states:

“The actions management establishes through policies and procedures to achieve objectives and responds to risks in the internal control system, which includes the entity’s information system. In the context of payment integrity, the agency has developed control activities to help management achieve the objective of reducing IPs and unknown payments (UP) by, establishing internal control activities that are responsive to management’s objectives to mitigate risks of IPs and UPs (e.g., policies and procedures related to transaction authorization and approvals of program activities).”

Effect: Failure to identify and manage payment integrity risks may result in inaccurate IP and UP estimations.

Recommendation: Kearney recommends that the FCC take the following actions:

3. Develop P&P that a) acknowledge the interdependent relationships between the FCC, the TRS Fund Administrator, and TRS Providers; b) address the responsibilities of each party to manage the risks of IPs; and c) describe methodologies used to obtain assurance that each party manages its risks of IPs appropriately and as intended. [*Repeat*]

Management’s Response: See *Appendix B* – Management’s Views on Conclusions and Findings.

Finding #4 – USAC Lifeline Program Could Further Improve Payment Integrity

Condition: While the FCC and USAC showed improvements to payment integrity for the Lifeline program by decreasing its IPR and meeting its reduction target, the FCC continued to report improper payments above the statutory reporting threshold and above its set tolerable rate. Additional improvements are needed to reduce the IPR and meet the tolerable rate. Specifically, of the reported 2.18% IPR, \$10.3 million (or 1.97%) was associated with errors within the agency’s control and was caused by inadequate documentation related to manual eligibility determinations.

Cause: When eligibility is determined manually, USAC did not have a sufficient process to ensure that reviews of the required eligibility documentation were accurate. During FY 2023, USAC implemented additional training for their staff related to the manual reviews process. However, management has stated that documentation errors remained high because the process was manual and subject to human error.

Criteria: The OMB M-21-19, Appendix C, Section VI.A Criteria 5b, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, dated March 5, 2021, states: “If the program reported an IP and UP estimate above the statutory threshold in the prior year and the CY, and the program has not yet achieved its tolerable IP and UP rate, the program is responsible for demonstrating improvements. The program should ensure that it undertakes new actions during the year to improve their payment integrity.”

OMB M-21-19, Appendix C, Section II C1, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, dated March 5, 2021, states: “Programs are considered to be above the statutory threshold if they are reporting an annual IP and UP estimate that is either above \$10,000,000 and 1.5% of the program’s total annual outlays or above \$100,000,000 regardless of the associated percentage of the program’s total annual outlays that the estimated IP and UP amount represents.”

OMB M-21-19, Appendix C, Section VI C, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, dated March 5, 2021, states:

“... for each agency program reporting an estimate above the statutory threshold, the OIG must include recommendation(s) for action(s) to further improve prevention and reduction of IPs and UPs within the program. The OIG will engage with the program and/or other part of the agency regarding the specific corrective action recommendations to ensure appropriate and effective corrective action recommendations are made”

Effect: USAC erroneously disbursed payments for applicants although they were not eligible for Lifeline.

Recommendation: Kearney recommends that the FCC take the following actions:

4. Direct USAC to perform a cost-benefit analysis to identify additional approaches for further reducing the IPR below the reporting threshold. Additional approaches could include, but are not limited to, evaluating the appropriateness of the volume of applications assigned per reviewer, increasing the effectiveness of employee training, providing program requirement reminders and updates, adding additional layers of review, creating a documentation checklist to determine program eligibility, and providing ongoing coaching to educate staff on the Lifeline Program requirements, including documentation requirements relating to eligibility. [New]

Management’s Response: See *Appendix B* – Management’s Views on Conclusions and Findings.

Finding #5 – The FCC Underreported ACP Overpayment Amounts

Condition: The FCC was non-compliant with PIIA, 31 U.S.C. §3351(2)(A)(i), because it failed to report improper ACP payments that were self-reported by a provider during FY 2023. Based on Public Notice FCC-22-A1, providers are allowed to make upward and downward revisions for ACP within the six-months after the snapshot date (i.e., the date USAC captures all subscribers that can be claimed for a given month for the ACP). However, downward revisions submitted after the six-months claims revision period should be treated as improper payments. During FY 2023, a provider notified USAC of errors in the provider’s certified ACP claims data. The reimbursement payments that had been received by the provider totaled \$14 million, \$6 million of which was for claims outside of the six-month revision window. These errors resulted from the provider’s failure to adhere to ACP usage rules that require subscribers to use the service at least once every 45 days if services were provided to the subscriber at no cost. After having received payment, the provider determined these subscribers should not have been enrolled and the provider independently de-enrolled the subscribers who did not meet the usage requirements of the program because the subscribers were not entitled to receive the ACP benefit. In addition, the provider failed to provide written notice within five business days to subscribers who were transferring their service as required by program rules.

Cause: USAC stated that, at the direction of the Commission, it did not report improper payments for the ACP if the improper payment resulted from a provider-reported downward revision. The Commission interpreted the rules in Public Notice FCC-22-A1 to exclude reporting downward revisions as improper payments. However, Public Notice FCC-22-A1 states that although providers may submit downward revisions, “the Order does not alter the duty of a provider to disclose non-compliant conduct and return improperly received funds...”

Criteria: Title 47 Code of Federal Regulations (CFR) § 54.1808, sub-section (c)(2) states:

“[A participating provider] Shall certify that every subscriber claimed has used their service subject to the affordable connectivity benefit, as “usage” is defined by §

54.407(c)(2), at least once in the last 30 consecutive days or has cured their non-usage as provided in § 54.1809(c), in order to claim that subscriber for reimbursement for a given service month.”

Title 47 CFR § 54.1809, sub-section (c) states:

“Notwithstanding paragraph (a) of this section, if an Affordable Connectivity Program subscriber fails to use, as “usage” is defined in § 54.407(c)(2), for 30 consecutive days an Affordable Connectivity Program service that does not require the participating provider to assess and collect a monthly fee from its subscribers, the participating provider shall provide the subscriber 15 days' notice, using clear, easily understood language, that the subscriber's failure to use the Affordable Connectivity Program service within the 15-day notice period will result in service termination for non-usage under this paragraph (c).”

Title 47 CFR § 54.1808, sub-section (e)(3) states:

“[An officer of the participating provider shall certify ... that] The participating provider is in compliance with and satisfied all requirements in the statute, rules, and orders governing the Affordable Connectivity Program reimbursement, and the provider acknowledges that failure to be in compliance and remain in compliance with Affordable Connectivity Program statutes, rules, and orders may result in the denial of reimbursement, cancellation of funding commitments, and/or recoupment of past disbursements.”

OMB-M-21-19, Appendix C, section VIII Appendix 1A: Definitions for Purposes of this Guidance, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, dated March 5, 2021, states:

“A payment that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. The term improper payment includes; any payment to an ineligible recipient; any payment for an ineligible good or service; any duplicate payment; any payment for a good or service not received, except for those payments where authorized by law; and any payment that does not authorized by law; and any payment that does not account for credit for applicable discounts.”

OMB-M-21-19, Appendix C, section VI Compliance, sub-section 1a, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, dated March 5, 2021, states:

“In addition, the agency must publish any applicable payment integrity information required in the accompanying materials to the annual financial statement in accordance with applicable guidance. The most common accompanying materials to the annual financial statement are the payment integrity information published on [paymentaccuracy.gov](https://www.paymentaccuracy.gov). This information is provided by the agency to OMB through the

Annual Data Call and is then subsequently published on paymentaccuracy.gov. ”

Public Notice FCC-22-2A1, *Report And Order And Further Notice Of Proposed Rulemaking*, paragraph 124, states:

“The ACP Public Notice also sought comment on whether providers would be able to revise their certified claims. Many commenters supported allowing revisions. We agree that allowing downward and upward revisions would be beneficial. We establish that providers can submit upward or downward revisions within the same six-month time period after the snapshot date that certified reimbursement claims are due. Given the somewhat limited nature of the Affordable Connectivity Program, we find that it is appropriate to limit the amount of time for which providers can submit revisions, similar to the reasoning for submitting certified claims as discussed above. We also clarify that nothing in this Order alters the duty of a provider to disclose non-compliant conduct and return improperly received funds from this Program to the Commission, and providers can submit downward revisions beyond the six-month time period. Moreover, providers cannot delay in contacting USAC about the need to repay improperly received funds or downwardly revise their claims if they become aware of an improper payment. Providers must promptly contact USAC if they are outside of the six-month claims/revision window, and they have received improperly disbursed funds. We also delegate to the Bureau and OMD the authority to establish a different timeline to submit revisions to certified reimbursement claims as a result of projections and forecasts of when the Affordable Connectivity Fund is winding down or to the extent necessary to comply with government-wide federal financial statutes and/or U.S. Treasury procedures.”

Public Notice FCC-22-2A1, *Report And Order And Further Notice Of Proposed Rulemaking*, paragraph 185, states:

“The ACP Public Notice also sought comment on whether notice of transfer should be communicated to the household, and whether other requirements, such as additional certification requirements for transfer transactions, are warranted. Given the concerns about improper transfers in the EBB Program, we find additional protections against unwanted and uninformed transfers are necessary. Accordingly, we also require providers to provide written notice of transfer-in transactions to the transferred ACP household within five business days of completing the transfer in the NLAD. The notice of transfer to the ACP household should indicate the name of the transfer-in provider to which the household’s ACP benefit was transferred, the date the transfer was initiated, and an explanation of the dispute process if the household believes the transfer was improper. We do not prescribe the specific method for issuing this written notice or prescribe specific language that must be used in this notice. Providers must retain documentation demonstrating compliance with this notice requirement consistent with the document retention requirements adopted in this Order and make such documentation available to the Commission and USAC upon request.”

Effect: The FCC underreported improper payment amounts of \$6 million in its submission that was published to paymentaccuracy.gov.

Recommendation: Kearney recommends that the FCC take the following actions:

5. Develop and implement policies and procedures to identify, quantify, and report in the OMB Annual Data Call any downward revisions that are submitted by providers resulting from provider non-compliant conduct. [*New*]

Management's Response: See *Appendix B* – Management's Views on Conclusions and Findings.

Appendix A – Scope and Methodology of the Audit

Scope and Limitations

The Payment Integrity Information Act of 2019 (PIIA) requires the Office of Inspector General (OIG) to provide an annual report of the Federal Communications Commission’s (FCC) compliance with Improper Payment (IP) requirements. In accordance with the PIIA requirement, an external audit firm, Kearney & Company, P.C. (referred to as “Kearney,” “we,” and “our” in this report), acting on behalf of OIG, conducted an audit to determine whether the FCC complied with PIIA for Fiscal Year (FY) 2023. As part of this objective, Kearney also evaluated the FCC’s efforts to prevent and reduce IPs.

Kearney conducted this audit from December 2023 to March 2024. The scope of this audit covered the FCC’s FY 2023 IP reporting process. Kearney’s performance audit engagement was conducted in accordance with the performance audit standards established by GAGAS. Those standards require that we obtain reasonable assurance that evidence is sufficient and appropriate to support our findings and conclusions in relation to the audit objectives. Kearney believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objective and accordingly did not experience any scope limitations throughout the course of the audit.

Methodology and Work Performed

To obtain background information, Kearney researched and reviewed legislative requirements related to IPs, Office of Management and Budget (OMB) guidance, the Council of the Inspectors General on Integrity and Efficiency (CIGIE) *Guidance for Payment Integrity Information Act Compliance Reviews* and prior OIG and Government Accountability Office (GAO) audit reports, as applicable. We designed the audit to obtain insight into the FCC’s current processes, procedures, and organizational structure regarding compliance with IP requirements. To expedite the audit process, Kearney leveraged the results of our FY 2023 audit of the FCC’s financial statements to confirm our understanding of the nature and profile of the FCC operations, regulatory requirements, and supporting information systems and controls. To determine compliance with PIIA, Kearney reviewed the FCC’s FY 2023 Agency Financial Report (AFR) and conducted the following:

- Performed virtual walkthroughs and interviews with the applicable FCC, Universal Service Administrative Company (USAC), and Rolka Loube (RL) personnel to gain an understanding of the controls for payment integrity, PIIA risk assessments, and processes for reporting results in the FY 2023 AFR (Appendix 3, *Payment Integrity Information Act Reporting*) and accompanying materials on [paymentaccuracy.gov](https://www.paymentaccuracy.gov)
- Reviewed the risk assessments implemented by the FCC and components, along with applicable supporting documentation to corroborate the results reported in the accompanying materials to the FY 2023 AFR

- Reviewed and validated documentation related to the Sample and Estimation Methodology Plan, IP estimates, and Unknown Payment (UP) estimates
- Reviewed and validated the FCC's payment recapture audit program and amounts identified outside of recapture audits
- Reviewed Corrective Action Plans (CAP) and supporting documentation to corroborate information reported in the FY 2023 AFR (Appendix 3, *Payment Integrity Information Act Reporting*) and accompanying materials on [paymentaccuracy.gov](https://www.paymentaccuracy.gov)
- Reviewed documentation related to CAPs implemented as a result of findings noted in the FY 2019 Improper Payment Elimination and Recovery Improvement Act (IPERIA) Compliance Report and the FYs 2020, 2021, and 2022 PIIA Compliance Reports
- Reviewed tolerable rates determined by Phase 2 programs.

Work Related to Internal Controls

The FCC management is responsible for the design, implementation, and operating effectiveness of internal controls to identify and prevent IPs in its programs and activities. While planning and performing our audit, Kearney considered several factors, including the subject matter of the project, to determine whether internal control was significant within the context of the audit objectives. We determined that internal control principles related to designing, implementing, and monitoring activities were significant for this audit.

Kearney assessed whether internal controls are properly designed and implemented as they relate to payment integrity. We determined the operating effectiveness by gathering information through walkthroughs, inspecting documents, and re-performing certain procedures. As noted in **Finding 3** above, Kearney identified deficiencies with the FCC's documentation of the interdependent relationships and responsibility for the management of payment integrity risks. Our consideration of internal control was for the limited purpose described in the paragraph above and was not designed to identify all deficiencies in internal control. Therefore, all internal control deficiencies may not be disclosed. In addition, this report is meant to define our internal control procedures and the results of testing and not to provide an opinion on the effectiveness of the FCC's internal control.

Kearney assessed the reliability of data by conducting walkthroughs with the FCC and component entities and reconciling data received to supporting documentation. We determined that data was sufficiently reliable for the purposes of determining compliance with the objectives of the audit.

APPENDIX B – MANAGEMENT’S VIEWS ON CONCLUSIONS AND FINDINGS

Please find management’s views on the auditor’s conclusions and findings on the following pages.



Federal Communications Commission
Office of the Managing Director
Washington, D.C. 20554

To: Fara Damelin, Inspector General, FCC
From: Mark Stephens, Managing Director, FCC
Date: May 22, 2024
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) 2023

In response to the FY 2023 Draft PIIA Audit Report, the Federal Communications Commission (Commission or FCC) and the Universal Service Administrative Company (USAC) provide the following responses below.

FINDING 1: USF Lifeline Overpayment Amounts Reported Were Inaccurate

The Commission does not concur with the non-compliance finding for the Lifeline program. We appreciate the auditors' recognizing that no further action is required going forward. However, we respectfully disagree with the reasoning and conclusions that have been reached. The auditors continue to base their finding on dated inputs (namely, an initial response that gave a preliminary estimate done by USAC of what might be a "potential" overpayment). In addition, the auditors appear to have consistently disregarded subsequent written responses by the agency itself indicating that the Commission had determined that the "potential" overpayment estimate the auditors are relying on is vastly overstated and that the actual overpayment was at most \$70,000. The consequence of the auditor's approach is to require the agency to report a substantial amount as improper which the agency has repeatedly determined (as a regulatory matter) was not in fact improper, undermining the accuracy of improper payment reporting.

As the Commission has previously explained at length, this matter involved an unusual regulatory wrinkle. The Commission had been considering a pending request from an eligible telecommunications carrier (ETC) for a correction to the appendix to the June 13, 2012 order granting it an ETC designation in Florida.¹⁶ The consideration of that request was an exercise of the Commission's regulatory authority, and a decision on the application had to be made before a determination was made regarding whether any payments were improper. The basic substance of that decision was made in 2020—namely that the particular circumstances justified a *nunc pro tunc* grant of authorization that would substantially reduce or eliminate any overpayment—and has been communicated to the auditors since that time. Ultimately, on May 7, 2024, the agency issued an order granting the request *nunc pro tunc* to June 13, 2012, the date of the original

¹⁶ *In the Matter of Federal-State Joint Board on Universal Service, i-wireless, LLC Petition for Limited Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Delaware, Florida, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia*, WC Docket No. 09-197, Order, DA 12-934 (WCB 2012).

grant.¹⁷ The effect of this order corrects the clerical filing error made by the ETC and is retroactive to the date the original order was issued. Moreover, because the order is effective to the date of the original June 2012 order, the ETC provision of service in the relevant areas of Florida giving rise to the audit finding was authorized. Thus there were no improper payments and there was never a need to report such. Although the entry of the order has taken longer than expected, it was always the intent of the Commission to finalize this outstanding issue. If the auditors and the Commission could have come to an understanding on the effect of the *nunc pro tunc* grant prior to the issuance of the findings, we believe the appropriate outcome for this situation would have been to downgrade the non-compliant finding to a standard finding. Instead because of the misunderstanding and resulting finding of noncompliance at issue, the Commission is now obligated to divert agency resources and draft a letter within thirty days to the Government Accountability Office, the Office of Management and Budget, and the Congressional committees to explain the audit findings regarding non-compliance for three consecutive years in the Lifeline program and a to provide a description of the actions that the agency has already taken (i.e., the grant of the ETC request to correct a long standing clerical omission) to bring the program or activity into compliance.

Additionally, and as the agency has previously explained, as the Commission was gathering facts regarding the underlying situation, we asked our Administrator of the program to estimate the Lifeline disbursements the ETC received for services provided to the AT&T study area customers in Florida to give us a preliminary assessment of what it believed the impact of not including a particular service area would look like. The estimate of \$30 million the Administrator provided was just that: it was expressly labeled as a “potential” overpayment, and it was incomplete and subject to further review. Moreover, the Administrator does not have the authority to determine improper payments; that authority resides with the agency. The Commission’s own analysis, made in connection with the exercise of its regulatory authority with respect to the pending request for correction and a *nunc pro tunc* grant of that request, initially determined that the potential overpayment could be no more than \$70 thousand for the eight month period between 2012 and 2013 because that was the total amount paid to the ETC for the whole state of Florida for Lifeline services. The Commission thus reported \$70 thousand as an overpayment in its FY 2021 improper payment reporting process. Despite this reporting, the auditors insisted that the agency should report \$30 million as an improper payment, again misunderstanding the intersection of the agency’s regulatory authority and improper payment reporting. Now following the entry of the May 7 order granting the ETC request *nunc pro tunc* to June 2012, the auditors agree that issuing the order resolves this finding going forward and no further action is required. Therefore, it seems incongruous that although the *nunc pro tunc* order precludes this finding, the report still persists in concluding that \$30 million should be reported as an overpayment and thus the Commission received a non-compliant rating for the Lifeline program. We thus object to this finding’s inclusion, and believe there should be no finding of non-compliance from the FY 2023 PIIA review.

FINDING 2: USAC S&L Program Could Further Improve Payment Integrity

¹⁷ *In the Matter of Federal-State Joint Board on Universal Service, i-wireless, LLC Petition for Limited Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Delaware, Florida, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia*, WC Docket No. 09-197, Order, DA 24-428 (WCB 2024).

The FCC continues to work with USAC on improving the E-Rate trainings and materials to better assist E-Rate participants with complying with the rules, including the competitive bidding and invoicing rules. USAC hosted one in-person training session in the fall for the current funding year (FY 2024) – the first in-person training session held in over four years. For the upcoming funding year (FY 2025), USAC will host four in-person trainings across the country, in addition to the on-demand and virtual trainings that are available to E-Rate applicants on its public website. The FCC has also worked with USAC on standing up a one-to-one assistance program for newly eligible Tribal libraries to help them learn about E-Rate program rules and successfully apply for and receive E-Rate support. The FCC has prioritized its efforts to improve E-Rate training materials to make it easier, especially for beginner and new E-Rate applicants, to understand the E-Rate rules and be successful in the program. The FCC will also work with USAC to work with new participants in the E-Rate program and ensure they are notified of the E-Rate trainings and other materials available on USAC’s website as they begin to participate in the E-Rate program, although the numbers of new participants tend to be small as most schools within the U.S. already participate in the program. As the improper payment rate (IPR) for E-Rate has decreased from 3.73% in FY 2022 to 1.59% in FY 2023, we believe the additional in-person trainings and improved training materials have greatly contributed to the significant decrease in the program’s IPR and we will continue to work with USAC on improving the training sessions and materials for all E-Rate participants.

In addition, USAC will continue to conduct outreach and training to support greater awareness and availability of competitive bidding training and materials to increase compliance with the E-Rate competitive bidding and invoicing rules. USAC conducted a January 2024 Competitive Bidding Training session during the E-Rate FCC Form 471 filing window to educate and remind applicants of the competitive bidding rules and ensure that applicants were aware of these rules as while they were submitting their FY 2024 funding requests. USAC will continue to conduct competitive bidding trainings and will include reminders in the monthly E-Rate news brief about these and other E-Rate program requirements. In addition, USAC’s E-Rate Program Heightened Scrutiny (HS) team enhanced the current competitive bidding review process by establishing additional criteria and employing additional data analytics for the Selective Review population. The HS team will continue to review its procedures post-implementation for any insights that may be gained from this update, to coincide with the E-Rate annual procedures updates. Currently, new applicants are not required to attend USAC’s trainings or review the materials on USAC’s website in order to participate in the E-Rate program pursuant to the Commission’s rules. However, new applicants are strongly encouraged to attend USAC’s trainings and sign up for the monthly E-Rate news briefs as they are identified as new participants in the program. In regard to USAC’s actions to address invoicing errors, in November 2023, USAC transitioned the invoicing functionality from its legacy system to the E-Rate Productivity Center (EPC). EPC enhancements include improved upfront system validations, including automatically validating discount rates and payment calculations to prevent calculation errors. EPC also enables USAC staff to more readily pull invoices for corrective action prior to payments. For example, USAC’s E-Rate Program invoicing staff (invoicing staff) have been engaging in mandatory training to ensure correct disbursements are made for Basic Maintenance of Internal Connections (BMIC) related invoices and correcting BMIC invoices before they are paid. Lastly, invoicing staff have implemented new reviews within the EPC system to prevent and decrease the chances of

improper payments being made. The new reviews include the random sampling of invoices that pass automated system controls, manual investigation of invoices that receive repeated payment reductions, and manual investigation of invoices associated with funding requests with high cancellation rates. USAC will also continue to make enhancements to the EPC invoicing system to add validations and flags for other high-risk invoicing errors that will help to continue to reduce the number of invoicing errors and resulting improper payments in the E-Rate program.

FINDING 3: FCC Payment Integrity Oversight Needs Improvement

The Commission agrees that there needs to be improvements made to the current Telecommunication Relay Service (TRS) policies and procedures. Although the TRS policies and procedures were completed after the FY23 deadline due to a change in the process owner, the Commission will continue to work with the internal process owners to address the concerns brought by the auditors. Instead of just focusing on financial management aspects of the TRS program, the Commission will work with the process owners to address managing program integrity risks. Managing program integrity risks has many components and includes but is not limited to the susceptibility of making improper payments, reviewing payment accuracy through audit activity, performing risk assessments, updating gaps in internal controls and a host of other control activities. The Commission is committed to addressing the program integrity risks in the TRS program and will work towards this goal of improvement prior to the next audit cycle.

FINDING 4: USAC Lifeline Program Could Further Improve Payment Integrity

The Commission concurs with this finding and notes that it and USAC have already been working to address the issues raised in the Audit Report. USAC has increased internal Quality Assurance reviews of its manual review eligibility determinations as of January 2024. Such reviews include a statistically valid, random sample of each unique eligibility program and income. In doing so, USAC is establishing separate baseline error rates for manual reviews for each program (Medicaid, Supplemental Nutrition Assistance Program, etc.) and for income, allowing for a more data-driven approach to error rate reduction. USAC is also developing and implementing required bi-annual refresher training on eligibility requirements for each eligibility determination type for its review agents. The first bi-annual training will occur in June 2024. USAC will re-assess the effectiveness of these changes and of the overall manual review performance after these changes have been implemented.

FINDING 5: The FCC Underreported ACP Overpayment Amounts

The Commission generally concurs with this finding.

Sincerely,



Mark Stephens
Managing Director

APPENDIX C – KEARNEY’S EVALUATION OF MANAGEMENT’S COMMENTS

Kearney & Company, P.C. (Kearney) provided a draft of this report to the Federal Communications Commission (FCC or Commission) on April 30, 2024. The FCC provided a response to the findings, as seen in [Appendix B – Management’s Views on Conclusions and Findings](#). In this appendix, we present our evaluation of the FCC’s response in instances where we’ve determined that the FCC’s comments are inconsistent with the report findings and the source documentation provided to our audit team pertaining to the applicable reporting period. The following is Kearney’s response to the comments that the FCC provided in regard to our *Audit of the Federal Communications Commission’s FY 2023 Compliance with the Payment Integrity Information Act of 2019 Requirements*.

Kearney’s Response:

Finding #1: In its response, the FCC did not concur with the finding of noncompliance in the Lifeline program because it asserted that the auditors misunderstood the dynamics between the Commission’s regulatory authority and improper payment reporting, and as a result the auditors continued to base its noncompliance finding on dated input. Kearney carefully reviewed two orders and a consent decree that were issued by the FCC on May 7, 2024. In addition, we met with the Managing Director, Legal Counsel, and the Office of Inspector General (OIG) to discuss matters related to the finding. Kearney understands that, although the *nunc pro tunc* effect of the order would retroactively make the payment proper, the orders were not in place when the FCC reported its fiscal year (FY) 2023 payment integrity information on [paymentaccuracy.gov](https://www.paymentaccuracy.gov). The objective of our audit was to assess the FCC’s compliance with Federal improper payments requirements during FY 2023 based on information that was available at the time.

The FCC stated that the Administrator of USF does not have the authority to determine improper payments. Kearney understands that the \$30 million estimate was prepared by the Administrator; however, the FCC provided the Administrator’s estimate to us through the audit process. During our audit and in prior audits, FCC officials represented to us that the \$30 million, which was the estimate of the Lifeline disbursements received by the eligible telecommunications carrier (ETC) for services provided in the service area in question, was significantly overstated. However, despite our requests, the FCC did not provide us with supporting documentation for a different estimate, such as the \$70,000 cited by management in its response. Accordingly, we continued to report the Administrator’s \$30 million estimate in our report as it was the only figure for which we have received support. The FCC also stated in its response that it was communicated to us dating back to 2020 that the circumstances of this situation justified a *nunc pro tunc* grant of authorization to the provider. While the FCC had represented to us that the Commission was working towards a settlement with the provider, this was still in process at the time of our audits and this type of authorization was not specifically communicated to us until we were briefed on the actions that were finalized on May 7, 2024.

Based on our review, we determined that no adjustments to our finding are warranted.

Findings #2-5: The FCC concurred with Kearney’s findings. However, it should be noted that Kearney did not perform procedures to substantiate the FCC’s statements contained in the response because they related to activities that occurred after FY 2023, the scope period of our audit. These statements include the following:

- The Universal Service Administrative Company (USAC) conducted a January 2024 Competitive Bidding Training session, and that USAC plans to continue similar trainings and include reminders in the monthly E-Rate new brief
- USAC’s E-Rate Program Heightened Scrutiny Team enhanced the current competitive review process
- USAC transitioned the invoicing functionality from its legacy system to the E-Rate Productivity Center (EPC) or the activities surrounding the implementation of EPC, and
- USAC increased internal quality assurance reviews of its manual review eligibility in January 2024 and the effectiveness of any such processes.

Appendix D – Status of PY Audit Recommendations

Kearney & Company, P.C. (referred to as “Kearney,” “we,” and “our” in this report) followed up on the status of the recommendations reported in Fiscal Year (FY) 2022. Through the testing procedures completed, we determined the current status of the prior recommendations. Recommendation Numbers (Rec. #) shown are from the respective FY 2022 and FY 2023 Payment Integrity Information Act (PIIA) reports.

FY 2022 NFR #	Report Rec #	FY 2022 Description	Status	FY 2023 NFR #	Report Rec #
NFR-22-01	1	Correct the 2019 Improper Payment (IP) estimate amount reported in the Prior Year (PY) in the current year reporting by reporting the full estimated amount of \$30 million as an overpayment.	Closed	NFR-23-01	N/A
NFR-22-01	2	If a settlement is reached by issuing a Forfeiture Order or Consent Decree, then report the amount recovered from the provider as an overpayment recaptured outside payment recapture audits.	Closed	NFR-23-01	N/A
NFR-22-01	3	Through the Office of Management and Budget (OMB) annual data call, include measurable milestones to accurately report IP information on paymentaccuracy.gov and achieve compliance.	Closed	NFR-23-01	N/A
NFR-22-02	4	Develop and implement a written IP and Unknown Payment (UP) risk assessment methodology that incorporates the Enterprise Risk Management (ERM) framework from OMB Circular A-123, to assist in the identification and management of payment integrity risk and support whether the program is susceptible to making IPs and/or UPs. The methodology should include a risk scoring or weighting factor for each program and associated risk.	Closed	N/A	N/A
NFR-22-03	5	Direct Universal Service Administrative Company (USAC) to continue enhancing applicant outreach programs to educate applicants on the Schools and Libraries (S&L) program rules, especially rules relating to the competitive bidding processes. Specifically, this may include implementing measures, such as gauging applicant participation to ensure applicants are cognizant of the material being presented or requiring mandatory, comprehensive training for new applicants.	Repeat	NFR-23-02	1
NFR-22-03	6	Enhance the use of automation tools in E-Rate Productivity Center (EPC) to check invoices for common errors and invoices that are flagged as having high-risk of non-compliance with program invoicing requirements.	Repeat	NFR-23-02	2
NFR-22-03	7	Through the OMB annual data call, include measurable milestones to accurately report IP information on paymentaccuracy.gov and achieve compliance.	Closed	N/A	N/A
NFR-22-04	8	Develop policies and procedures that a) acknowledge the interdependent relationships between the Federal Communications Commission (FCC),	Repeat	NFR-23-03	3

FY 2022 NFR #	Report Rec #	FY 2022 Description	Status	FY 2023 NFR #	Report Rec #
		Telecommunications Relay Services (TRS) Fund Administrator, and TRS providers; b) address the responsibilities of each party to manage the risks of IPs; and c) describe methodologies used to obtain assurance that each party manages its risks of IPs appropriately and as intended.			
NFR-22-05	9	Adequately plan the Payment Quality Assurance (PQA) assessments for Universal Service Fund (USF)-High-Cost (HC) Legacy to account for additional review time needed to complete the expanded procedures. Specifically, create and gain approval for the assessment procedures and select samples in an approved timeframe that allows for the expanded procedures to be completed by the reporting deadline.	Closed	N/A	N/A
NFR-22-05	10	Perform outreach to all beneficiaries of USF-HC Legacy prior to PQA assessments to ensure beneficiaries are aware and understand the expanded procedures for PQA, the additional documentation requests and requirements, and feasibility of the requested due date in providing the documentation.	Closed	N/A	N/A

Explanation of Status:

Closed: The FCC has successfully implemented its corrective actions related to the FY 2022 recommendation.

Repeat: The FY 2023 recommendation is a repeat of a prior recommendation, which remains open because the FCC has not successfully implemented its corrective actions.

Appendix E – Abbreviations and Acronyms

Acronym	Definition
ACP	Affordability Connectivity Program
Act	Communication Act of 1934
AFR	Agency Financial Report
BCAP	Beneficiary and Contributor Audit Program
CAF	Connect America Fund
CAP	Corrective Action Plan
CARES ACT	The Coronavirus Aid, Relief, and Economic Security Act
CCPP	Connected Care Pilot Program
CFR	Code of Federal Regulations
CGB	Consumer and Governmental Affairs Bureaus
CIGIE	Council of the Inspectors General on Integrity and Efficiency
COVID-19	Coronavirus Disease 2019
ECF	Emergency Connectivity Fund
EPC	E-Rate Productivity Center
ERM	Enterprise Risk Management
ETC	Eligible Telecommunications Carrier
FCC	Federal Communications Commission
FY	Fiscal Year
GAGAS	Generally Accepted Government Auditing Standards
GAO	Government Accountability Office
Green Book	<i>Standards for Internal Control in the Federal Government</i>
IP	Improper Payment
IPA	Independent Public Accountant
IPERIA	Improper Payment Elimination and Recovery Improvement Act of 2012
IPR	Improper Payment Rate
Kearney	Kearney & Company, P.C.
MVPD	Multichannel Video Programming Distributors
NFR	Notification of Findings and Recommendations
OIG	Office of Inspector General
OMB	Office of Management and Budget
OMD	Office of the Managing Director
P&P	Policy and Procedure
PIIA	Payment Integrity Information Act
PL	Public Law
PQA	Payment Quality Assurance
PY	Prior Year
Rec.	Recommendation
RFP	Request for Proposal
RHC	Rural Health Care
RL	Rolka Loube, LLC
S&EMP	Sampling and Estimation Methodology Plan
S&L	Schools and Libraries Program
Spectrum Act	Spectrum Act of 2012
Telecommunications Act	Telecommunications Act of 1996
TRS	Telecommunications Relay Service
TVBRF	TV Broadcaster Relocation Fund
UP	Unknown Payment
USAC	Universal Service Administrative Company

Acronym	Definition
U.S.C.	United States Code
USF	Universal Service Fund
USF-HC	Universal Service Fund – HC Program
USF-HC Legacy	Universal Service Fund – High-Cost Legacy Program
USF-HC Modernized	Universal Service Fund – High-Cost Modernized Program
USF-Lifeline	Universal Service Fund – Lifeline Program
USF-RHC	Universal Service Fund-Rural Health Care
USF-S&L	Universal Service Fund- Schools and Libraries Program
VoIP	Voice over Internet Protocol

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