

Audit of the  
Federal Communications Commission  
Improper Payments Elimination and  
Recovery Improvement Act

FY 2015

Lani Eko & Company, CPAs, PLLC

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## EXECUTIVE SUMMARY

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The objective of our performance audit of the Federal Communications Commission (FCC) was to evaluate the FCC’s compliance with the Improper Payments Information Act (IPIA) of 2002, as amended by the Improper Payments Elimination and Recovery Act (IPERA) of 2010 and the Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012 in accordance with the Office of Management and Budget (OMB)’s guidance - OMB Memorandum M-15-02 *Issuance of Revised Parts I and II to Appendix C of OMB Circular A-123*.

We determined that the FCC was non-compliant with IPERIA in accordance with criteria defined in OMB’s Memorandum M-15-02 Appendix C to Circular No. A-123, *Requirements for Effective and Remediation of 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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our audit covered the period from October 1, 2014 through September 30, 2015. The result of our audit is summarized below.

OMB M-15-02 Criteria	Compliant	
	Yes	No
Published an Annual Financial Report (AFR) for the most recent fiscal year and posted that report and any accompanying materials required by OMB on the agency website.		X <sup>1</sup>
Conducted a program-specific risk assessment for each program or activity (if required).	X	
Published improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment (if required).	X	
Published programmatic corrective action plans in the AFR (if required).		X <sup>1</sup>
Published and is meeting annual reduction targets for each program assessed to be at risk and estimated for improper payments (if required and applicable).	X	
Reported a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the PAR.		2

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<sup>1</sup> The FCC published the AFR, but did not provide accurate and complete accompanying materials and corrective action plans, as stated in Finding No.1.

<sup>2</sup> Auditor was unable to validate the accuracy of the reported gross improper payment rate. Refer to Finding No. 1.

We noted instances of inaccuracies and omissions in the FCC's *IPERIA Reporting Details* of the AFR and *OMB Circular A-123 Payment Recapture Audit Report* to Congress.

The detailed findings, recommendations and management responses are provided in the respective sections of this report.

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## BACKGROUND

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The FCC is an independent United States government agency, directly responsible to Congress. The 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 taking part in hearings.

The FCC's component entities are: the Universal Service Fund (USF), Telecommunications Relay Service (TRS) Fund, and North American Numbering Plan (NANP). Universal Service Administrative Company (USAC) serves as the Administrator and Billing & Collections (B&C) agent for the USF; RolkaLoubé serves as the Administrator and B&C agent for the TRS Fund; and Neustar and Welch LLP serve as the Administrator and B&C agent, respectively, for the NANP Fund. The FCC Office of the Managing Director provides direction to these administrators and B&C agents, and the FCC approves the administrative costs paid to these entities from the respective funds they manage.

The FCC has eight programs that make disbursements under the direction of the FCC and its Administrators.

- Universal Service Fund High Cost Program (USF-HC)
- Universal Service Fund Lifeline Program (USF-LL)
- Universal Service Fund Rural Health Care Program (USF-RHC)
- Universal Service Fund Schools and Libraries Program (USF-S&L)
- Universal Service Fund Administrative Costs (USF-Admin)
- Interstate Telecommunications Relay Service Fund (TRS)
- North American Numbering Plan (NANP)
- FCC Operating Funds (FCC-OF)

In 2014, the Office of Management and Budget (OMB) issued Memorandum M-15-02 Appendix C to Circular No. A-123, *Requirements for Effective Estimation and Remediation of Improper Payments*. Parts I, II and III of Appendix C, previously issued under OMB Memoranda M-11-16 and M-10-13, were modified by Memorandum M-15-02 effective for fiscal year (FY) 2014 and beyond. OMB Memorandum M-15-02 provides government-wide guidance regarding implementation of the Improper Payments Information Act (IPIA) of 2002, as amended by the Improper Payments Elimination and Recovery Act (IPERA) of 2010 and the Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012. The Recovery Auditing Act was, generally, repealed by these amendments to OMB Circular A-123.

OMB Memorandum M-15-02 requires Federal agencies to conduct risk assessments to identify programs that are susceptible to significant improper payments, report improper payment estimates

for programs that are determined to be susceptible to significant improper payments, and report efforts in reducing improper payments and recapturing overpayments.

The FCC's FY 2012 IPERA report identified the following three programs that are susceptible to significant improper payments: High Cost, Schools and Libraries, and the TRS Fund. In FY 2013 FCC performed risk assessments for the remaining five programs (Rural Health Care, Lifeline, USF-Admin, NANP, and FCC-OF), one year earlier than the three-year cycle requirement for programs that are not classified as susceptible to significant improper payments. Also, in FY 2013, Lifeline was classified as susceptible to significant improper payments. The FCC's FY 2014 IPERA report identified the four programs as susceptible to significant improper payments: High Cost, Schools and Libraries, Lifeline, and TRS. FCC utilized OMB-approved alternative sampling methodologies<sup>3</sup> to obtain statistically valid estimates of the improper payments for High Cost, Schools and Libraries, Lifeline and TRS Programs. RolkaLoube's TRS improper payment estimate was zero. The FCC reported its efforts in reducing and recapturing improper payments for all USF and TRS programs and reported payment recapture audits for all the FCC programs.

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<sup>3</sup> OMB Memorandum, M-15-02 Part I.A.14

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## RESULTS OF AUDIT

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Based on our audit, we determined that the FCC is non-compliant with the requirements of IPERIA. Additionally, we found errors and omissions in the *IPERIA Reporting Details* of the AFR and *OMB Circular A-123 Payment Recapture Audit Report* to Congress.

### ***FINDING NO. 1 – NON-COMPLIANT UNDER REQUIREMENTS OF IPERIA***

The Federal Communications Commission (FCC) is non-compliant with the Improper Payments Elimination and Recovery Improvement Act of 2012. The FCC published and posted FY 2015 AFR on its website. However, the FCC did not report in its FY 2015 AFR or post on its website complete and accurate information on improper payments and a related corrective action plan for the Lifeline Program. Specifically, we noted the following:

- Duplicate Lifeline Program support claims identified during USAC’s duplicate resolution process were not reported as overpayments in the FCC’s FY 2015 AFR or posted as an accompanying material on the FCC’s website.
- Programmatic corrective action plans for Lifeline Program overpayments resulting from duplicate Lifeline support claims were not reported in the FCC’s FY 2015 AFR or posted as an accompanying material on the FCC’s website.

In addition to assessing the FCC’s compliance with the IPERIA, we evaluated the accuracy and completeness of the FCC’s reporting under IPERIA. We noted the following:

- We were unable to validate the accuracy of the reported gross improper payment rate or ascertain that the gross improper payment rate was less than 10 percent for the Lifeline Program because the data used in the calculation were not complete and excluded significant duplicate payments identified in the Lifeline Program. The FCC’s management did not identify those duplicate support claims as improper overpayments.
- We were unable to verify the reasonableness of the reported statistical estimates of improper payments due to the lack of supporting documentation for the Lifeline, High Cost, and Schools and Libraries Programs. Subsequent to the end of the audit fieldwork, the FCC management provided additional documents. However because the information was not provided timely it could not be evaluated.
- The FCC’s financial management improvement program did not address deficiencies that contributed directly to overpayments, potential fraud, waste and abuse in the Lifeline Program.

- The FCC did not disclose Lifeline Program’s improper overpayments resulting from potential fraudulent activities to its Office of Inspector General.

In 2014, USAC analyzed subscribers’ data in National Lifeline Accountability Database (NLAD) (referred to as a duplicate resolution process) to detect and de-enroll ineligible Lifeline Program’s subscribers. The duplicate resolution process was conducted in two “Tracks.” Track 1 (March 2014 – August 2014) identified 1.28 million subscribers receiving multiple Lifeline Program benefits, while Track 2 (September 2014 – December 2014) identified 1.15 million subscribers with single addresses receiving multiple Lifeline Program benefits. The Lifeline Program rules prohibit subscribers from receiving more than one Lifeline Program service, and effective 2012, allow only one Lifeline Program benefit per household, except in an instance where the additional subscriber in the same household had submitted an Independent Economic Household worksheet that is certified by the telecommunications carrier. USAC de-enrolled 2.4 million subscribers from NLAD who did not “pass” the Lifeline Program service eligibility criteria for Track 1 or Track 2, and who did not respond timely to USAC letters requesting that subscribers substantiate their eligibility for Lifeline Program service.

Subsequent to the end of the audit field work, the FCC disclosed to the auditors, through an email from USAC to the FCC, \$15.7 million of Lifeline Program overpayments that were identified during the duplicate resolution process. The FCC did not report this amount in Table 4, *Improper Payment Recaptures with and without Audit Programs*. The overpayment of \$15.7 million, disclosed to the auditors significantly understates overpayments in the Lifeline program identified during the duplicate resolution process. The \$15.7 million was derived based on overpayments for Lifeline support claims from one telecommunications carrier, for one month. Excluded from the \$15.7 million overpayments disclosed to the auditors were overpayments for: 1) duplicate or ineligible Lifeline Program service to subscribers retroactive to the initial date of service, or 2014 when the FCC’s rules for multiple subscribers in a single address were clarified, 2) Lifeline Program subscribers who enrolled with two or more telecommunications carriers, and 3) the 1.3 million subscribers who were de-enrolled from NLAD during the Track 1 duplicate resolution process. Out of the 11.7 million Lifeline Program subscribers reviewed by the USAC during the duplicate resolution process, about 21 percent (or 2.4 million) subscribers were identified as receiving duplicate Lifeline program service or ineligible for Lifeline Program service, and de-enrolled from NLAD. Lifeline Program authorized funding support for 2013, 2014 and 2015 were \$1.8 billion, \$1.6 billion and \$1.5 billion, respectively. Table 1 below details de-enrolled subscribers.

**Table 1 – Duplicate Subscribers/Addresses De-Enrolled from NLAD**

Track Number	Completion Date	Subscribers Accepted in NLAD	Subscribers De-Enrolled from NLAD	De-Enroll Percent
1	8/2014	11,730,838	1,281,819	11%
2	12/2014		1,152,123	10%



## **CRITERIA:**

OMB Memorandum M-15-02, Part II.A.3, states: "...Compliance under IPERA means that the agency has: a. Published an AFR or PAR for the most recent fiscal year and posted that report and any accompanying materials required by OMB on the agency website; ...d. Published programmatic corrective action plans in the AFR or PAR (if required); ...and f. Reported a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the AFR or PAR."

OMB Memorandum M-15-02, Part I.D.4 (h), states, "Instances of potential fraud discovered through payment recapture audit and recapture activities shall be reported immediately to the appropriate parties as determined by specific agency policy. Such parties may include, but are not limited to, the Office of Inspector General or the Department of Justice."

According to OMB Memorandum M-15-02, Part II.A.4, the Inspector General may evaluate the accuracy and completeness of agency reporting.

OMB Memorandum M-15-02, Part I.D.15, states, "Are agencies authorized to implement Financial Management Improvement Programs? Yes. IPERA authorizes agencies to implement "financial management improvement programs." Such programs shall take the information obtained from the payment recapture audit program (as well as other audits, reviews, or information that identify weaknesses in an agency's internal controls), and ensure that actions are taken to improve the agency's internal controls to address problems that directly contribute to agency improper payments. In conducting its financial management improvement programs, agency heads may also seek to reduce errors and waste in programs and activities other than where funds are recaptured."

## **CAUSE:**

The FCC and USAC's management are of the opinion that payments made to the telecommunications carriers for Lifeline Program service provided to ineligible subscribers, subscribers receiving multiple Lifeline Program support, or multiple subscribers in a single address did not qualify as improper payments under the FCC's rules or OMB Circular A-123 criteria.

The officials of the FCC told us that the Lifeline Program duplicate resolution was on-going and the complete improper payment information was not available for reporting in the FY 2015 AFR. However, we examined evidence, including a Lifeline duplicate resolution handout from USAC's Lifeline program staff and email traffic between officials of USAC and the FCC, indicating the Lifeline improper payment information was available for reporting in the FY 2015 AFR. Also, USAC and FCC's officials stated that the Lifeline Program subscribers' service commencement dates were not readily available for calculating improper payments from date of service. We determined that the Lifeline Program subscriber date of service is one of the required data elements and thus was available within NLAD. We also noted mathematical errors in the report provided by the statistician who was contracted by USAC to provide statistical services to determine the estimates of improper payments for the USF's High Cost, Lifeline, and Schools and Libraries

Programs. Additionally, the statistician did not make the working papers supporting the calculations in the report available timely for the auditor's examination.

**EFFECT:**

The FCC did not comply with IPERIA and the provisions of Appendix C to OMB Circular No. A-123, *Requirements for Effective Estimation and Remediation of Improper Payments*.

**RECOMMENDATIONS:**

We recommend the FCC's Management:

- 1.1 Submit a plan, consistent with requirements of OMB Circular A-123, Appendix C, to the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Oversight and Government Reform, and the OMB, describing the actions the FCC will take to become compliant with the Circular.
- 1.2 Develop a robust and focused Corrective Action Plan that addresses the root causes of duplicate support claims in the Lifeline Program.
- 1.3 Report to the FCC's Office of Inspector General improper overpayments in the Lifeline Program due to potential fraudulent activities.

**MANAGEMENT RESPONSE:**

Management did not concur with the report findings and recommendations. The full management response is located in Appendix B of this report.

**AUDITOR'S RESPONSE:**

In response to management's comments related to the definition of improper payment and how they calculated the improper payment rate for lifeline, we offer the following.

The FCC's management definition of "improper payments" as presented is not consistent with OMB Circular a-123, Appendix C (OMB M-15-02) and OMB guidance. We are not aware of federal laws that defer to the agency's rules for guidance on whether, for a specific federal program or benefit, the amount disbursed was improper. As clearly stated in OMB M-15-02, improper payments are payments that should not have been made or were made in error such as: a) federal funds paid to the wrong recipient, b) a recipient received the incorrect amount of funds, c) documentation is not available to support a payment, or the recipient uses federal funds in an improper manner.

The FCC's projected Lifeline Program improper payment amount for FY 2015 was \$7.31 million or 0.45%. The known improper payment identified during Track 1 (1.28 million subscribers that received multiple benefits) and Track 2 (1.15 million subscribers with duplicate addresses) of the

duplication resolution process was significant. As we stated above, the \$15 million improper payments disclosed by management was based on disbursements for one month and does not reflect disbursements made for ineligible Lifeline subscribers from their initial date of service. As a result, we were unable to conclude that the Lifeline Program's Improper Payment Rate (IPR) was under 10 percent for FY 2015. As reported in Finding No. 2, management performed a duplicate resolution process in 2014 that provided additional evidence that the PQA used in projecting the Lifeline Program IPR may not adequately reflect the actual risk of improper payments in the Lifeline Program. Based on audit procedures performed, the known IPR was significantly more than the projected IPR. The known IPR should have been reported by the FCC's management in the AFR.

We believe the Lifeline Program meets the statutory definition of "significant improper payments". The FCC's management is statutorily required by OMB Memorandum M-15-02, Part II.A.3 to put in place and publish in FY 2015 AFR, a corrective action plan to reduce improper payments in the Lifeline Program.

Due to the errors noted in the statistician's report on March 29, 2016, we requested additional documents from FCC's management. On March 30, 2016, FCC management informed the auditors that our request for additional documents was denied. March 31, 2016, was the last day of the auditor's field work. On May 2, 2016, the FCC's management informed the auditor the requested documents were available for auditor's examination. Because the FCC's management requires 30 days to review the auditor's draft report, and the statutory deadline for submission of the auditor's report to OMB would have been breached; we were unable to examine the additional documents. The auditee has the responsibility to provide the auditor sufficient and accurate supporting documentation in a timely manner.

## ***FINDING NO. 2 – PAYMENT QUALITY ASSURANCE PLAN INEFFECTIVE***

The FCC's Payment Quality Assurance (PQA) plan was ineffective for extrapolating an improper payment error rate that reflects the reasonable risks of improper payments in the Lifeline Program. The PQA plan did not address areas in the Lifeline Program in which a significant amount of improper payments were expected to occur. For example, the PQA plan did not address the risks of significant improper payments in the Lifeline Program, including: a) subscribers receiving Lifeline Program support from multiple telecommunications carriers and b) ineligible or fictitious subscribers receiving Lifeline Program support.

In FY 2015, the FCC used the PQA plan to extrapolate the improper payment error rate in the Lifeline program. According to the FCC FY 2015 AFR, PQA testing criteria for calendar year 2014 Lifeline program transactions included: 1) steps to measure the accuracy of disbursements, including information on the FCC Form 497; 2) evaluation of carrier eligibility; 3) testing of subscriber detail and certifications; 4) toll limitation service support calculations; and 5) verifying that the language contained in the subscriber certification forms conform to the Lifeline Program rules. We determined that the attributes tested by the FCC did not focus on the areas susceptible to risk of significant improper payments. Our determination is supported by:

- History and nature of improper payments identified by the FCC’s Enforcement Bureau and U.S. Department of Justice in the Lifeline program;
- Independent verifications of accuracy and completeness of the FCC Form 497, and testing of subscriber’s detail and certification may not be feasible because program rules do not require the FCC Form 497 to be accompanied with supporting documents, nor permit the telecommunications carriers to retain subscribers’ records; and
- Exceptions identified in the testing criteria number 5 above rarely results in an improper payment.

**CRITERIA:**

OMB Memorandum M-15-02, Part II.A.14, states: “.....The agency should develop an annual improper payment rate for a component of the program. The component can be defined based on population, program area, or known problem area. To the extent possible, the component chosen for analysis should be based on risk so that the agency is targeting an area of the program in which a significant amount of improper payments is expected to occur. This approach could mean choosing an area because of overall financial exposure, or in the case of State-administered programs, possibly selecting larger states to cover more of the risk. This program component should be statistically sampled annually to obtain an improper payment rate consistent with the statistical rigor requirements of this guidance. The goal for the component study is not to extrapolate an improper payment rate for the program as a whole. Rather, the goal is only to estimate an improper payment amount for the relevant program component being studied. Component-specific baseline and target rates, as well as corrective action plans, should be developed to assess agency progress in reducing improper payments in the program component”

**CAUSE:**

The FCC’s management implemented a PQA plan for components of Lifeline Program rules that were minimally susceptible to significant improper payments.

**EFFECT:**

The Lifeline Program improper payment error rate may have been significantly understated.

**RECOMMENDATIONS:**

We recommend the FCC’s Management:

- 2.1 Modify the PQA plan to target components of Lifeline Program rules that are susceptible to significant risk of improper payments such as ineligible subscribers, subscribers receiving multiple Lifeline Program benefits, multiple subscribers from a single address and fraudulent claims reported on FCC Form 497 submitted by telecommunications carriers to USAC.

## MANAGEMENT RESPONSE:

Management did not concur with the report findings and recommendations. The full management response is located in Appendix B of this report.

## AUDITOR'S RESPONSE:

We evaluated management's response to finding number 2 and while we are not in agreement on the overall explanation given, we do agree with the FCC's management that the FY 2015 Lifeline Program alternative sampling and estimation approach were approved by OMB. However, our audit determined that the FY 2015 Lifeline Program alternative approach for estimation of improper payments did not adequately address areas in which a significant amount of improper payments were expected to occur in the Lifeline Program. OMB Memorandum M-15-02, Part II.A.14, states: ".....The agency should develop an annual improper payment rate for a component of the program. The component can be defined based on population, program area, or known problem area. To the extent possible, **the component chosen for analysis should be based on risk** [emphasis added] so that the agency is targeting an area of the program in which a significant amount of improper payments is expected to occur...."

We recognize that management may face challenges in computing a reasonable improper payment amount for intercompany duplicates (subscribers that receive multiple Lifeline Program benefits by enrolling with multiple telecommunications carriers). We found that USAC has the information needed for these calculations. The information available includes the subscriber's initial date of service, monthly Lifeline Program subsidy rate, and date of de-enrollment. In addition, the Track 1 and Track 2 duplicate resolution process was completed in 2014, not January 2015 as stated in the FCC's management response.

**FINDING NO. 3 – QUALITY CONTROL REVIEW PROCESS**

Improvement is needed in the FCC’s methodology for collecting and reporting Payment Recapture Audit data to the U.S. Congress and on the AFR.

In Section X, *Recapture of Improper Payments Reporting* of FCC’s FY 2015 AFR, the narrative and table on page 99 does not agree with the estimated recovery amounts reported to the U.S. Congress. Specifically, Section II, *Completed FY 2015 Payment Recapture Audits* of FCC’s FY 2015 OMB Circular A-123 *Payment Recapture Audit Report* does not agree to the AFR for the programs identified in the Table 2 below.

**Table 2 - Estimated Recovery Differences**

<b>Program or Activity</b>	<b>Number of Audits</b>	<b>Number of Audits with Overpayments</b>	<b>Estimated Recovery (Congress Report)</b>	<b>Estimated Recovery (AFR)</b>	<b>Difference In Estimated Recovery Amounts</b>
USF-HC	20	6	\$ 315,644	\$ 315,222	\$ 422
USF-S&L	20	13	\$ 4,165,041	\$ 3,824,270	\$ 340,771
USF-LL	24	14	\$ 220,791	\$ 216,715	\$ 4,076
USF-RHC	2	2	\$ 831,865	\$ 831,865	\$ 0
<b>Total</b>	<b>66</b>	<b>35</b>	<b>\$ 5,533,341</b>	<b>\$ 5,188,072</b>	<b>\$ 345,269</b>

**CRITERIA:**

Government Accountability Office’s Standards for Internal Control in the Federal Government states, “Control activities occur at all levels and functions of the entity. They include a wide range of diverse activities such as approvals, authorizations, verifications, reconciliations, performance reviews, maintenance of security, and the creation and maintenance of related records, which provide evidence of execution of these activities as well as appropriate documentation.”

**CAUSE:**

According to FCC Management, the OMB Circular A-123 Payment Recapture Audit Report extracted narratives from payment recapture audit reports that included recovery amounts for overlapped findings. However, when the Universal Service Administrative Company (USAC) recorded recovery amounts in its audit tracking system, duplications created by overlapped findings were removed. The AFR reflects data obtained from USAC’s audit tracking system.

**EFFECT:**

U.S. Congress may lack complete and accurate payment recovery audit data to perform its oversight functions.

## **RECOMMENDATIONS:**

In order to promote accurate reporting, we recommend the FCC's Management:

- 3.1 Implement a uniform method for accumulating and reporting *Payment Recapture Audit* data to the U.S. Congress and on the AFR or provide a footnote explanation for differences in the methodology.

## **MANAGEMENT RESPONSE:**

Management did not concur with the report findings and recommendations. The full management response is located in Appendix B of this report.

## **AUDITOR'S RESPONSE:**

We evaluated management's response to finding number 3 and while we are not in agreement on the overall explanations provided by management, we do agree with the FCC's management that in future reporting years, the method used to accumulate and report recovery amounts should be disclosed in the AFR and the FCC's report to U.S. Congressional committees.

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## APPENDIX A – OBJECTIVES, SCOPE AND METHODOLOGY

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The objectives of our audit of the FCC IPERIA were to determine whether the FCC has complied with the six IPERIA criteria defined in the Office of Management and Budget (OMB) Memorandum M-15-02 Appendix C to Circular No. A-123, *Requirements for Effective Estimation and Remediation of Improper Payments*:

1. Published a Performance and Accountability Report (PAR) or Agency Financial Report (AFR) for the most recent fiscal year and posted that report and any accompanying materials required by OMB on the agency website;
2. Conducted a program-specific risk assessment for each program or activity that conforms with IPERIA, Section 3321 of Title 31 U.S.C. (if required);
3. Published improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment (if required);
4. Published programmatic corrective action plans in the PAR or AFR (if required);
5. Published, and has met, annual reduction targets for each program assessed to be at risk and measured for improper payments; and
6. Reported a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the PAR or AFR.

In addition, we evaluated the accuracy and completeness of the FCC's 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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our audit covered the period October 1, 2014 through September 30, 2015.

In order to achieve the objectives, we performed audit procedures as deemed appropriate including:

- Obtained and reviewed significant provisions of laws and regulations applicable to IPERIA.
- Reviewed Government Accountability Office reports on IPERIA and related challenges faced by federal agencies in implementing IPERIA, in order to update our understanding and awareness of compliance issues with IPERIA.
- Made inquiries with appropriate FCC officials and obtained documentation to understand: how FCC implemented the provisions of IPERIA; significant programs/activities; guidance provided in the FCC's directives and policies and procedures manuals; documentations maintained to support IPERIA data; the information reported on the AFR; and oversight over the calculation of improper payments.



- Reviewed previous years' reports to understand the FCC's IPERIA program and processes, challenges, and focus areas for process improvement and reporting.
- Reviewed FCC's effort in improving the IPERIA process by following up on FCC's implementation of prior year audit recommendations.
- Reviewed the FCC's FY 2015 AFR, *IPERIA Reporting Details* for compliance with OMB Circular No. A-136, revised requirements for reporting IPERIA.
- Reviewed the latest risk assessments for all programs for compliance with OMB Memorandum M-15-02 risk assessment requirements.
- Reviewed sampling plans, sampling results and the FCC's correspondences with the OMB.
- Validated the improper payment rate calculation methodology and the amounts reported for the TRS program.
- Reviewed the AFR, *IPERIA Reporting Detail*, 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 of recaptures of improper payments.
- Reviewed, recalculated, and agreed with key figures and information in the AFR, *IPERIA Reporting Details* to supporting documentations excluding USF-HC, USF-S&L and USF-Lifeline.
- Reviewed the FCC's IPERIA reporting quality control procedures and supporting documentation.

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## APPENDIX B – MANAGEMENT’S RESPONSE

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UNITED STATES GOVERNMENT  
FEDERAL COMMUNICATIONS COMMISSION

*Office of Managing Director*

**MEMORANDUM**

DATE: July 7, 2016

TO: David L. Hunt, Inspector General

FROM: Mark Stephens, Acting Managing Director

SUBJECT: Management's Response to Independent Auditor's Report of the Federal Communications Commission (FCC) Improper Payments Elimination and Recovery Improvement Act (IPERIA) Reporting for Fiscal Year (FY) 2015

Thank you for the opportunity to respond to the draft report from the Office of Inspector General's (OIG) independent auditors to the Managing Director, regarding the Federal Communications Commission's (FCC or Commission) compliance with requirements described in the Office of Management and Budget (OMB) *Memorandum M-15-02 Appendix C to OMB Circular No. A-123, Requirements for Effective Estimation and Remediation of Improper Payments*, for the year ending September 30, 2015. We appreciate the efforts of your team and the independent auditors, Lani Eko & Company, CPAs, PLLC, on this audit. The Commission worked closely with your office and the independent auditors to provide necessary and timely information to facilitate an efficient audit process.

We are disappointed that the draft report fails to reflect all of the information provided by the FCC to the auditors, including but not limited to, responses to draft notices of findings and recommendations (NFRs) and other supporting documentation. The auditors' draft report disregards the FCC's responses to the NFRs where the FCC presented additional information and provided information disputing the findings. The Government Accountability Office's (GAO) *Government Auditing Standards* (Yellow Book) sets the standards for auditors conducting performance audits of Federal agencies, and unfortunately, in this audit, the FCC's management was not given proper due process by the OIG's independent auditors under the Yellow Book standards.<sup>1</sup>

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<sup>1</sup>See generally GAO, *Government Auditing Standards 2011 Revision*, GAO-12-331G, at paras. 7.33, 7.35, 7.37 (2011) (*Yellow Book*).

### ***Auditor Findings of Noncompliance***

We disagree with the auditor's findings of noncompliance with the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA). The Commission is compliant with IPERIA and OMB's guidance in this area. More specifically, the FCC published an Agency Financial Report (AFR) for FY 2015 that included all of the improper payments reporting information required by relevant OMB guidance. Furthermore, the FCC did not include a corrective action plan for the Lifeline program in the AFR because the error rate and dollar amount reported for Lifeline were below the threshold for a corrective action plan. Finally, the auditor notes that they were unable to validate the accuracy of the reported gross improper payment rate.<sup>2</sup> However the FCC provided auditors with the requested information for validation of its figures for the three Universal Service Fund (USF) programs under review, and the auditors then decided not to use that information as discussed in further detail below.

The auditors requested the "latest sampling plan for IPERA error rate" from the Commission and the Universal Service Administrative Company (USAC), the administrator for the USF. Additionally, the auditors requested the "PQA [Payment Quality Assurance] IPERA reporting detail in excel that shows the actual disbursements, selected sample disbursements and actual improper payment amounts for each Universal Service Fund program that were included in the sampling plan and results-USF-HC, USF-LI, USF-SL and USF-RHC."<sup>3</sup> All of this information was provided and approved by the auditors by February 29, 2016.

In a meeting on March 25, 2016 with the auditors, the auditors confirmed that they had no outstanding request for information and that the FCC and USAC had provided all requested information. On March 29 (two days before the end of fieldwork, which occurred on March 31) the auditors sent an e-mail to the Commission requesting USAC's statisticians "Fully worked spreadsheets". The Commission then immediately requested this information from USAC's statistician, and the Commission was informed that this additional requested information was proprietary and confidential. The Commission passed this response on to the auditors on March 30 and informed the auditors that "if there was any other related request that you need from us, please let us know." The Commission requested a meeting with the auditors on March 31 "to make sure that we are on the same page regarding outstanding requests from the auditors." The FCC informed the auditors that the FCC thought there was one outstanding request. The auditors responded that there were two outstanding requests and identified the two requests by their

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<sup>2</sup> See *Audit of the Federal Communications Commission Improper Payments Elimination and Recovery Improvement Act FY 2015*, Lani Eko & Company, CPAs, PLLC. (FY 2015 IPRIA Audit Report). On page 1 in footnote 2 of the audit report, the auditors state: "Auditor was unable to validate the accuracy of the report gross improper payment rate. Refer to Finding No. 1." In the second to last bullet on page 5 of the audit report, when discussing finding number 1, the auditors state: "We were unable to verify the reasonableness of the reported statistical estimates of improper payments due to the lack of supporting documentation for the Lifeline, High Cost, and Schools and Libraries programs. Subsequent to the end of the audit fieldwork, the FCC's management provided additional documents that could not be evaluated."

<sup>3</sup> PQA stands for "Payment Quality Assurance" program. The PQA Program allows USAC to provide the FCC with information about improper payments to program beneficiaries, as required by IPERIA. Under the PQA program, USAC assesses specific payments made to select beneficiaries in all four USF programs to determine if these payments were made in accordance with FCC rules. Using the results of the assessments, USAC calculates estimates of improper payment rates that the FCC then uses to inform its oversight and management of the USF as well as complying with annual Federal financial reporting requirements. When the auditors refer to USF-HC, USF-LI, USF-SL and USF-RHC in their request, they are referring to the four USF programs: High Cost, Lifeline, Schools and Libraries, and Rural Health Care.

tracking numbers but the request for "fully worked spreadsheets," from the statistician was not one of the two items listed by the auditors as outstanding. The FCC was under the impression at that point that the auditors no longer needed the "fully worked spreadsheets" because the auditors did not list that request as outstanding, nor did the auditors express any concerns or reservations about this item. The Commission proceeded to provide the two outstanding items to the auditors by March 31. Field work ended on March 31, and the Commission waited for any response from the auditors for any findings or requests for information. The Commission did not hear back from the auditors until April 27 when the auditors provided three NFRs. Included in one of the NFRs was the issue that the auditors were unable to verify the reasonableness of the reported improper payments due to lack of supporting documentation for the Lifeline, High Cost, and Schools and Libraries programs; the auditors tied this issue to the request for "fully worked spreadsheets."

This issue came as a complete surprise to the Commission. Because as mentioned above when the Commission asked the auditors on the last day of fieldwork which items were outstanding, the auditors did not identify this item as outstanding. Nor did the auditors communicate to the FCC at any time on March 31 or after that date that they needed this information to complete their analysis of the compliance of the USF programs with IPERIA.

On April 27, the Commission immediately reached out to USAC to obtain this information from the statistician to alleviate the issues raised by the auditors that same day. On May 2, the Commission provided the "fully worked spreadsheets" to the auditors. On June 7, the auditors provided a draft report to the Commission, which stated "we are unable to verify the reasonableness of the reported statistical estimates of improper payments due to the lack of supporting documentation for the Lifeline, High Cost, and Schools and Libraries programs. Subsequent to the end of the audit fieldwork, the FCC's management provided additional documents that could not be evaluated."

Continued below, the FCC provides additional background information about Lifeline and more detailed responses to each of the three findings in the auditor's report. However, at the outset, the FCC wanted to note its concerns about how this situation was handled and to describe its efforts to ensure that the auditors had everything they need in a timely manner. The FCC has and will continue to work diligently to comply with the requirements of the law, to adhere to OMB's guidance, and to reduce improper payments in all of the Commission's programs.

### **Background**

For nearly 30 years, the Lifeline program has ensured that qualifying low-income Americans have the opportunities and security that voice service brings, including able to find jobs, access health care, and connect with family. In 2012, the Commission adopted the *Lifeline Reform Order*, which substantially strengthened protections in the program and improved program enrollment and administration.<sup>4</sup> These reforms set the Lifeline program on an improved path to more effectively and efficiently provide vital services to the Nation's low-income consumers.

As part of these reforms, the Commission adopted a National Lifeline Accountability Database (NLAD) to prevent and detect duplicate support in the Lifeline program.<sup>5</sup>

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<sup>4</sup> See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rd 6656 (2012) (*Lifeline Reform Order*).

<sup>5</sup> See *id.* at 6734.

program, after implementation in 2014, service providers were able to check an independent source to determine whether a prospective subscriber or his/her household already had a Lifeline benefit.

Also in the 2012 reforms, the Commission codified rules regarding duplicative support in the program and directed the Wireline Competition Bureau (WCB), working with the USAC, to develop duplicate resolution processes.<sup>6</sup> These duplicate resolution processes would ensure that the records contained in the NLAD complied with the rules adopted in 2012 by the *Lifeline Reform Order*. The duplicate resolution processes involved integrating information for millions of consumers in to a single, cohesive database. For current Lifeline subscribers, the duplicate resolution processes provided individual subscribers with the opportunity to select the service provider from who to continue receiving their Lifeline benefit.<sup>7</sup> For households, the duplicate resolution process provided current Lifeline subscribers with the opportunity to select the member of their household to continue receiving service and to select the service provider that would serve the household.<sup>8</sup> In summary, the duplicate resolution processes provided a smooth process that allowed millions of current Lifeline subscribers to choose a provider and confirm compliance with the newly adopted rules.

While the duplicate resolution process was underway, the Commission acknowledged that it was appropriate to continue paying for subscribers' Lifeline benefits until the duplicate resolution process was completed. Until the duplicate resolution process was complete, it was difficult to say that one subscriber enrollment was proper and the other was a duplicate. If the Commission has not provided for the duplicate resolution processes, millions of eligible subscribers would have been de-enrolled from the Lifeline program.

As mentioned above, the duplicate resolution processes provided subscribers with an opportunity to demonstrate compliance with the new rules. One such rule was the one-per household rule. For the first time in the program, the Commission defined the term "household" and adopted a one-per-household rule that limited Lifeline support to a single subscription per household.<sup>9</sup> In adopting the new definition and rule, the Commission recognized that, at a time 2012, there was a wide variety of ways service providers viewed and applied the construct of "household."<sup>10</sup> The Commission determined that going forward, the program would benefit from a consistent application of the term "household."<sup>11</sup> The Commission also adopted a rule that required consumers to certify compliance with the one-per household requirement by executing a one-per-household worksheet. During the duplicate resolution process, WCB and USAC required current subscribers to complete the one-per-household worksheet in order to determine which subscriber enrollments were eligible for support going forward.

In addition to the new rules regarding duplicates, the Commission adopted a rule that only after the resolution process was completed would subscribers be de-enrolled from the program.<sup>12</sup> Specifically,

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<sup>6</sup>See *id.* at 6748-49.

<sup>7</sup>See *id.* at 6734.

<sup>8</sup>See *Wireline Competition Bureau Takes Additional Steps to Eliminate Duplicative Claims for Lifeline Support*, Public Notice, DA 14-1234 (Wireline Comp. Bur., rel. Aug. 25, 2014).

<sup>9</sup>See 47 C.F.R. § 54.405(e) (2). See also *Lifeline Reform Order*, 27 FCC Red at 6687-89

<sup>10</sup>See *Lifeline Reform Order*, 27 FCC Red at 6689-90, note 196.

<sup>11</sup>See *id.* at 6689.

<sup>12</sup>See 41 C.F.R. § 54.40.5(e) (2).

section 54.405(e)(2) states that upon notification by the CSF Administrator (U5AC) that a subscriber is receiving a Lifeline benefit from another carrier, the carrier is required to de-enroll the subscriber and will not be eligible for Lifeline reimbursement for the de-enrolled subscriber following the date of de-enrollment.<sup>13</sup>

In 2014, WCB released a Public Notice describing the duplicate resolution process and reminding service providers that they were not to de-enroll subscribers until after the process was complete.<sup>14</sup> Providers were to continue to provide subscribers with the Lifeline benefit while the duplicate resolution process was underway, so long as the subscriber enrollments were otherwise valid.<sup>15</sup> Subscribers who failed to complete the new requirement were de-enrolled.<sup>16</sup> Thus, again, while the process was underway, payment to service providers was proper. Payment to the service provider would have been improper if it claimed support for subscribers after they had been de-enrolled.<sup>17</sup>

***Auditor Finding No.1 – Non-Compliant Under Requirements of IPERIA.***

***Management Response: The Auditor Identified Amount Not Improper.***

We find that the auditors failed to account for the Commission's orders, rules, and public notices in concluding that the amounts identified during the duplicate resolution process should have been reported as overpayments in the Commission's AFR. The definition of "improper payments" specifically defers to the agency's rules for guidance on whether, for a specific federal program or benefit, the amount disbursed was improper. Accordingly, the auditor identified amount was not an overpayment and did not need to be posted as accompanying material on the Commission's website.

The auditors failed to account for the Commission's NFR responses which explained the background above and the application of the definition of "improper payment" to the Commission's Lifeline rules. The amount referred to by the auditor was an estimate of a change in policy codified by the Commission and not a finding that the payments had been made improperly. As discussed above, pursuant to Commission orders, rules and public notices, service providers continued to provide the Lifeline benefit to current Lifeline subscribers until the conclusion of the resolution process and were provided reimbursement for their services, if there were no other discrepancies found.

Furthermore, the chart provided by the auditor regarding the duplicate resolution processes ("Track 1" and "Track 2") does not support the auditor's conclusion that the improper payment rate (IPR) for the Lifeline program is significantly higher than the percentage reported in the AFR.<sup>18</sup> First, the chart does not recognize that the FCC FORM 497 is currently the basis for payment and that the underlying support for the Form is the service providers' internal subscriber listings. The chart does not include the

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<sup>13</sup>See *id.*

<sup>14</sup>See *Wireline Competition Bureau Takes Additional Steps to Eliminate Duplicative Claims for Lifeline Support*, Public Notice, DA 14-1234 (Wireline Comp Bur, rel Aug 25, 2014) However, we note that this process did not apply to intracompany duplicates.

<sup>15</sup> See generally *id.*

<sup>16</sup> See *id.* at 3.

<sup>17</sup>See 47 C.F.R. § 54.405(e) (2).

<sup>18</sup>See *FY 2015 IPERIA Audit Report* at p. 6, "Table I – Duplicate Subscribers/Addresses De-Enrolled from NLAD"

subscribers in the opt-out NLAD states, which include California, Vermont, Texas, and Oregon. There are overlaps in the subscribers that participated in the Track 1 (duplicate subscriber resolution) and Track 2 (duplicate household resolution) processes. Finally, the chart adds together percentages that do not necessarily reflect ineligible subscribers. For example, the number de-enrolled by both the Track 1 and Track 2 processes may contain subscribers who are eligible and who later re-enroll in the program. For these reasons, the chart is misleading and fails to support the auditor's conclusion.

Most critically, the auditor does not explain that its chart depicting de-enrollment is not the correct method of deriving the IPR. OMB requires the IPR to be derived using a statistical methodology as described in Circular A-123 and further described below.

***Management Response: The Auditor Identified Amount Did Not Need To Be Included In IPR Calculation.***

As the auditor identified amount was not an improper payment, it did not need to be included in the calculation of the IPR for the Lifeline program. The auditor had sufficient documentation to conclude that the IPR was less than ten percent.

The Commission has an OMB-approved statistically valid alternative methodology that produced an accurate IPR and an accurate dollar amount based on the parts of the program being tested. OMB Circular A-123 requires the Commission to develop a statistically valid estimate for a baseline improper payment, or, if an agency does not have a baseline error rate yet, a statistically valid estimate via a method approved by the Director of OMB.<sup>19</sup> As OMB acknowledges, the Commission does not have a baseline error rate for the Lifeline program as of yet. The Commission has received approval from OMB to utilize an alternative method until such time that the Commission establishes a baseline error rate. The Commission's PQA Program provides a statistically valid alternative method of estimating the improper payment rate for the Lifeline program. Again, the Commission has obtained approval from OMB to use this method that is considered an "alternative method" because it is not yet testing all the Lifeline rules. As discussed below, the Commission's Lifeline program has changed enormously in the last four years and the PQA program has developed alongside the changing program. Therefore, we find that the Commission is in compliance with OMB Circular A-123, and we find that we accurately reported the Lifeline program's IPR in the Commission's AFR.

***Management Response: The FCC Did Not Need To Publish A Corrective Action Plan for Lifeline.***

As the Lifeline's program's IPR was under 1.5 percent and under \$10 million, the Commission did not have to publish a corrective action plan for Lifeline in the AFR. OMB Circular A-136 only requires corrective action plan for programs that exceed the statutory threshold of 1.5 percent and have \$10 million in improper payments.<sup>20</sup> The FCC's estimated improper payment rate for Lifeline was below 1.5 percent. Therefore, the Commission was not required to publish a corrective action plan in its AFR for the Lifeline program.

While we did not publish a formal corrective action plan, the Commission has implemented significant reforms and taken corrective measures to address issues discovered during the PQA process. For example, after implementation of the NLAD, service providers were (and currently are) required to query the NLAD to determine whether prospective subscribers are already receiving a Lifeline benefit

<sup>19</sup> See OMB Circular, A-123, Appendix Cat 18

<sup>20</sup> See *id.* at 6.



from another service provider or whether anyone else living at the prospective subscriber's address are receiving a Lifeline benefit. The NLAD checks a prospective subscriber's address against addresses in the NLAD and informs the service provider as to whether that address is found in the NLAD. If the address is found, then the service provider must obtain a one-per-household worksheet from the subscriber, which certifies the subscriber's compliance with the Commission's one-per-household rule. The Commission and USAC continue to improve the detection and prevention capabilities of the NLAD and welcome any recommendations from the auditor and OIG to improve the database's ability to prevent waste, fraud, and abuse proactively.

***Management Response: The Auditor Failed to Review Commission Provided Information***

With respect to documentation to support the improper payment rates for the Lifeline, High Cost, and Schools and Libraries program, the FCC provided the relevant supporting data May 2, 2016, to the auditors. In reviewing the auditor's draft NFR, the Commission and USAC determined that the auditor used a draft report rather than the final report to support the Lifeline improper payment rate. The correct, revised report was used to prepare the AFR and was provided to the auditor. The Commission also provided working papers from its statistician to the auditors and explained that the mathematical error did not materially alter the conclusions of the statistician.

***Conclusion to Management Response to Auditor Finding No.1***

As stated above, the FCC is compliant with IPERIA and OMB Circular A-123, Appendix C. Therefore, we disagree with the first auditor recommendation to submit a plan to the Senate and House Committees and OMB regarding actions that the FCC will take to comply with IPERIA. As described above, we have already implemented reforms to prevent and detect duplicate Lifeline benefits through the NLAD. We continue to take corrective actions to address issues discovered through the PQA process, audit process, or any other process and are open to any constructive recommendations the auditors and OIG may have on how to improve our procedures for PQA and/or duplicate prevention and detection processes and existing internal controls. With respect to the third recommendation, as described above, the amounts identified by the auditor related to the duplicate resolution process was proper and complied with the Commission's orders, rules, and public notices. We consistently report fraudulent activities to the OIG's office, and we will continue to do so in the future.

Overall, we are disappointed that the draft report does not reflect the additional explanation and documents provided by the FCC. We have spent significant time and resources to more than adequately address all questions and document requests made by the auditors. Pursuant to the Yellow Book, the auditors should consider all documents and NFR responses from the Commission prior to issuing the final report on the is audit.<sup>21</sup>

***Auditor Finding No. 2: Payment Quality Assurance Plan was Ineffective***

***Management Response:***

Appendix C of OMB Circular A-123 (OMB-M-15-02) provides that agencies may utilize alternative sampling and estimation approaches. Specifically in section I.A.14 at page 18, OMB provides the following guidance:

<sup>21</sup> See generally *Yellow Book* GAO-12-331 G. at paras. 733, 735, and 737.

14) May agencies use alternative sampling and estimation approaches?

Yes, Section 2(b) of IPERA requires agencies to produce a statistically valid estimate, or “an estimate that is otherwise appropriate using a methodology approved” by the Director of OMB. This means that if, and only if, agencies are unable to develop sampling methodology that follows the guidance described above in section I.A.9, step 2 they may utilize an alternative sampling and estimation approach after obtaining OMB approval. A request for approval and the proposed alternative sampling and estimation approach must be submitted in writing to OMB no later than June 30 in the fiscal year for which the alternative approach is being developed (e.g., an alternative approach to be used for the FY 2014 reporting cycle must be submitted by June 30, 2014.) The request must describe the proposed alternative methodology in detail, and clearly explain why the agency is unable to produce a statistically valid estimate (as describe in section I.A.9, step 2).OMB anticipates that a statistician 12 (either an agency employee or a contractor) will be consulted when preparing an alternative sampling and estimation approach.

The FCC provided the audit team with its correspondence with OMB on this issue. In August of 2015, OMB wrote to the FCC to provide approval of the FCC's sampling plan for Lifeline for 2015 if the FCC could confirm the following statement:

"USF Lifeline is an alternative plan that was approved last year with a few updates to the plan that are not supposed to materially affect the sampling. In FY17FCC hopes to achieve a baseline error rate"

The FCC confirmed OMB understanding and used the Lifeline sampling plan that was provided to the audit team. As noted in OMB's response to the FCC, the FCC is still working towards a baseline error rate for h Lifeline program. The Lifeline program has undergone significant reforms in recent years and it's the subject of a recent major overhaul by the Commission that will affect future sampling plans.

As previously noted, FCC staff is working towards a sampling plan for Lifeline that will allow the FCC to obtain a baseline error rate. However, the recommendation provided in this NFR will not assist the FCC in achieving this goal, nor does the recommendation take into account that OMB approved the Commission's Lifeline sampling plan for 2015. Furthermore, the auditors' description of finding number 2 and the associated recommendation do not take into account the efforts by USAC and the FCC to eliminate duplicates in the Lifeline program through the implementation of NLAD.

For USAC to gather and analyze the subscriber listings of all carriers prior to the implementation of NLAD would have been impractical and cost prohibitive. Per the Lifeline Program rules in 47 C.F.R. § 54.417(a), carriers have an obligation to maintain subscriber records for three full preceding calendar years. The effect of this rule may limit data available for review and analysis of subscriber records going back in time. The data available going back beyond three years may also be further impacted due to the prevalence of carrier mergers, bankruptcies or closures, or voluntary relinquishment of their eligibility telecommunications carrier (ETC) designations that could impact historical data retention.

To perform a test of intercompany duplicates would require gathering monthly subscriber listings for approximately 2,200 study area codes (SACs) comprising over 13 million subscriber records across 56 states and territories. This test would have to be performed across all carriers for every month independently as the reimbursement claims are based on discrete monthly reimbursement claims. The duplicate testing would also need to be further separated based on varying program rules over time. For instance prior to the *Lifeline Reform Order* and the implementation of NLAD, there was not a rule for

carriers to collect dates of birth, the last four digits of social security numbers, or the Lifeline service initiation date.<sup>22</sup> Furthermore, even the definition of a household and the full determination of what constitutes a household were new in the *Lifeline Reform Order*, which would make duplicate household determinations prior to the implementation of this reform impractical. The scale of effort and analysis would not have a clear benefit because, prior to the conclusion of the duplicate resolution process, the Commission's rules, Orders, and Public Notices did not preclude both carriers from receiving Lifeline payments.<sup>23</sup>

With the implementation of the Lifeline Reform Order and the full implementation of NLAD that directly addressed the issue of duplicated in the Lifeline program, the opportunity and risk for duplicate payments are now significantly reduced. NLAD has systematic controls that prevents the entry of duplicate records and was one of the central control mechanism established in the *Lifeline Reform Order*. In 52 states and territories carriers must query the NLAD system for duplicate verification prior to enrolling the subscriber into the Lifeline Program. In remaining 4 states (California, Oregon, Vermont, and Texas), the FCC prescribed a process in those states where they must have a similar comprehensive system in place to check for duplicate Lifeline subscribers.<sup>24</sup>

The duplicates identified during the loading of NLAD were eliminated in two phases: 2014 (track 1- duplicate subscribers) and then January of 2015 (track 2- duplicate household benefits)<sup>25</sup>. Furthermore, all new enrollments undergo several layers of verification in NLAD prescribed in the *Lifeline Reform Order* including the third party identify verification check, the USPS address validity check, duplicate household check, and duplicate subscriber check. The validation processes in place significantly reduce the risk an opportunity for carriers to enroll duplicate subscribers among their own subscribers or with those subscribers belonging to different Lifeline carriers.

In conclusion, the FCC could not have tested for intercompany duplicates as part of the FY 2015 IPERIA reporting process because the NLAD duplicate scrubbing was not completed until January of 2015. Also, as discussed in the response to finding number one, prior to the conclusion of the duplicate resolution process, the Commission's rules, Order, and Public Notices did not preclude both carriers from receiving Lifeline payments.<sup>26</sup> The NLAD duplicate scrubbing process helped to ensure that the risk of intercompany duplicates was significantly mitigated. Therefore the FCC did not exclude an area of significant risk for susceptibility for improper payments from the PQA during FY 2015 as is described in the auditor's report.

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<sup>22</sup>See *Lifeline Reform Order*, 27 FCC Red 6656.

<sup>23</sup>See 47 C.F.R. § 54.405 (e) (2)

<sup>24</sup>See *Wireline Competition Bureau Clarifies Minimum Requirements for States Seeking to Opt Out of National Lifeline Accountability Database*, Public Notice, DA 12-1624 (Wireline Comp. Bur. Rel. Oct 11, 2012)

<sup>25</sup>See *Wireline Competition Bureau Takes Additional Steps to Eliminate Duplicative Claims for Lifeline Support*, Public Notice, DA 14-1234 (Wireline Comp. Bur. rel. Aug. 25, 2014). Puerto Rico initially opted-out of NLAD, but the territory filed a request with the Commission to join NLAD, which was granted on November 3, 2015. See *in the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Order, 30 FCC Red 12322 (2015)

<sup>26</sup>See 47 C.F.R. § 54.405 (e) (2).

***Auditor Finding No. 3: Accuracy of Payment Recapture Audit Reporting  
Management Response:***

Included in OMB Circular A-123 is the requirement for agencies to annually report information on their payment recapture audit program in their AFRs, as outlined in OMB Circular A-136. In addition, by November 1, agencies are required to complete a separate, annual report to OMB as well as the Senate Committee on Homeland Security and Governmental Affairs and House Committee on Oversight and Government Reform. Per OMB Circular A-123, “[t]his report shall describe any recommendations identified by the payment recapture auditor on how to mitigate conditions giving rise to overpayments, and any corrective actions the agency took during the preceding fiscal year to address the auditor recommendations.”<sup>27</sup>

The FCC emphasizes that the difference in overpayment reporting in the AFR and Payment Recapture Audit Report are not a result of inaccurate reporting. Specifically, IPERA and OMB Circular A-123 do not specify types of data to be reported concerning estimated recovery amounts. Instead, the Payment Recapture Audit Report provides information on “on how to mitigate conditions giving rise to overpayments and any corrective actions the agency took during the preceding fiscal year to address the auditor recommendations”<sup>28</sup> The Commission provides a comprehensive list of all audits for the applicable year because the focus of the reporting obligations are to describe mitigating conditions and corrective actions. Accompanying each audit listed in the Payment Recapture Audit Report, the Commission, for informational purposes, provides estimated recovery amounts. Under the different OMB reporting obligations for the AFR, recovery amounts associated with these audits are later adjusted for any overlap.

In the 2016 Payment Recapture Audit Report, the Commission plans to include an explanation of how recovery amounts are reported in both the Payment Recapture Audit Report and the AFR.

***Conclusion to Management Response to Auditor Report***

In summary, the Commission and its staff disagree with the findings and recommendations in this report. However, we will look forward to updating the OIG and its auditor on progress made toward improving our processes going forward.



Mark Stephens  
Acting Managing Director

<sup>28</sup>See OMB Circular A-123, Appendix C, pp. 37-38.

<sup>29</sup>*Id.*

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## APPENDIX C – LIST OF ACRONYMS

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AFR	Agency Financial Report
B/O	Bureau/Offices
FCC	Federal Communications Commission
FO	Financial Operations
FY	Fiscal Year
IPERA	Improper Payments Elimination and Recovery Act
NANP	North American Numbering Plan
NLAD	National Lifeline Accountability Database
OE	Operating Expenses
OMB	Office of Management and Budget
OMD	Office of the Managing Director
PAR	Performance and Accountability Report
PQA	Payment Quality Assurance
TRS	Telecommunications Relay Service
USAC	Universal Service Administrative Company
USF	Universal Service Fund
USF-LL	Universal Service Fund – Lifeline (formerly Low Income)
USF-HC	Universal Service Fund - High Cost
USF- S&L	Universal Service Fund - Schools and Libraries