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

FY 2014

Lani Eko & Company, CPAs, PLLC

TABLE OF CONTENTS

EXECUTIVE SUMMARY

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 have determined that the FCC complied with all six IPERA 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, 2013 through September 30, 2014.

We did not identify any instances of noncompliance with IPERA related to the FCC's efforts in reducing and recapturing improper payments, required by OMB Memorandum M-15-02. However we noted the following matters relating to the accuracy and completeness of agency reporting:

1. Quality Control Review Process

Improvement is needed in the FCC's Quality Control Review process over preparation of IPERA Reporting Details of the Annual Financial Report (AFR) and revisions to its policies and procedures manual.

2. Misclassified Recaptured Overpayments

In the IPERA Section III, *Corrective Action Plans*, of the FY 2014 AFR, the FCC reported that they executed four consent decree orders with Telecommunications Relay Service (TRS) providers to resolve questionable costs for investigations. The consent decrees required the providers to pay $11.7 million into the TRS Fund. Although the $11.7 million was received, the FCC misclassified the amounts received from the TRS providers for the consent decrees, in Table 2, *Payment Recapture Audit Reporting*, instead of reporting these amounts in Table 6, *Overpayments Recaptured Outside of Payment Recapture Audits* of Section V - Recapture of Improper Payments Reporting.

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

BACKGROUND

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), and North American Numbering Plan (NANP). USAC serves as the Administrator and Billing & Collections (B&C) agent for the USF; Rolka Loube Saltzer & Associates (RLSA) 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 Services Fund (TRS)
- North American Numbering Plan (NANP)
- FCC Operating Funds (FCC-OE)

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 2014. 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 as 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; USF-HC, USF-S&L, and TRS. In FY 2013, FCC performed risk assessments for the remaining five programs (USF-RHC, USF-LL, USF-Admin, NANP, and FCC-OE) one year earlier than the three-year period requirement for programs that are not classified as susceptible to significant improper payments. Also, in FY 2013, USF-LL was classified as susceptible to significant improper payments. The FCC's FY 2014 IPERA report identified the following four programs as susceptible to significant improper payments; USF-HC, USF-S&L, USF-LL, and TRS. FCC utilized OMB-approved alternative sampling methodologies to obtain statistically valid estimates of the improper payments for USF-HC, USF-S&L, USF-LL and TRS programs. RLSA'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.

RESULTS OF AUDIT

Based on our audit, we determined that the FCC complied with all six IPERA requirements, including reducing and recapturing improper payments. However, we found errors in the quality control review process, and a misclassification in reporting of recaptured overpayments.

FINDING NO. 1 – QUALITY CONTROL REVIEW PROCESS

Improvement is needed in FCC's Quality Control Review process over preparation of IPERA Reporting Details of the AFR and revisions to its policies and procedures manual.

- In Section III, Corrective Action Plans, FY 2014 AFR, the FCC transposed the last two digits of the total Overpayments for Universal Service Fund (USF)-Schools and Libraries Improper Payments Identified in the Payment Quality Assurance (PQA) Process table on page 95. The "Total" line for the Overpayment column reported was $759,549; LEC recalculated and noted that the correct amount as $759,594.

- In Section V, Recapture of Improper Payments Reporting, FY 2014 AFR, the narrative preceding Table 3 Payment Recapture Audit Targets on page 105 incorrectly references USF Rural Health Care (RHC) targets as "not applicable" instead of USF High Cost (HC) targets.

- OMB M-15-02, Part I (A) (9) Step 1.b, lists nine factors which are likely to contribute to improper payments that agencies should take into account. Although FCC tested all nine factors, only eight of the nine risk factors are referenced in the FCC Policies and Procedures Manual Chapter 9, *American Recovery and Reinvestment Act and Improper Payments Elimination and Recovery Act*. OMB M-15-02 modified OMB Circular A-123 Appendix C to add an additional risk factor, "Inherent risks of improper payments due to the nature of agency programs or operations". Chapter 9 of the FCC Policies and Procedures Manual omits this risk factor.

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."

According to OMB Memorandum M-15-02, Issuance of Revised Parts I and II to Appendix C of OMB Circular A-123, Part I (A) (9) Step 1.b, agencies must take into account risk factors likely to contribute to improper payments, regardless of which method (quantitative or qualitative) is used:

i. Whether the program or activity reviewed is new to the agency;
ii. The complexity of the program or activity reviewed, particularly with respect to determining correct payment amounts;
iii. The volume of payments made annually;
iv. Whether payments or payment eligibility decisions are made outside of the agency, for example, by a State or local government, or regional Federal office;
v. Recent major changes in program funding, authorities, practices, or procedures;
vi. The level, experience, and quality of training for personnel responsible for making program eligibility determinations or certifying the payments are accurate;
vii. Inherent risks of improper payments due to the nature of agency programs or operations;
viii. Significant deficiencies in the audit reports of the agency including, but not limited to, the agency Inspector General or the Government Accountability Office (GAO) audit report findings, or other relevant management findings that might hinder accurate payment certification; and
ix. Results from prior improper payment work.

According to FCC Management, errors identified in the FY 2014 AFR were the result of oversights during the Quality Control Review process. Financial Statements and Policy Group accountants served as the reviewers, and the Financial Operations staff served as the preparers. Although the FCC's IPERA Report went through its Quality Control Review process in which the reviewers agreed the reported numbers to supporting documentation, the reviewers and preparers did not re-perform table calculations and reconcile the narrative related to data reported in Table 3 Payment Recapture Audit Targets, which would have revealed the errors noted.

FCC Management stated the newly added risk factor listed in OMB Memorandum M-15-02 Part I (A) (9) Step 1.b was omitted in error from the November 19, 2014 revision of the FCC Policies and Procedures Manual Chapter 9, *American Recovery and Reinvestment Act and Improper Payments Elimination and Recovery Act*.

Deficiencies in FCC's Quality Control Review process and omissions in its IPERA policies and procedures increases the risk that FCC's IPERA reporting will not accurately and completely report and reflect FCC's efforts in reducing and recapturing improper payments.

RECOMMENDATIONS:

We recommend the FCC's Management:

1.1 Enhance the existing Quality Control Review processes, at both the program and FCC Headquarters levels, to include reconciliation of narratives to related tables and reperformance of calculations contained in supporting documentation at the program and FCC Headquarters levels to ensure the IPERA data provided by FCC programs are accurate; and

1.2 Ensure policies and procedures are continuously updated to reflect the most current OMB guidance related to IPERA.

FINDING NO. 2 – MISCLASSIFIED RECAPTURED OVERPAYMENTS

The IPERA Section III, Corrective Action Plans, of the FY 2014 Agency Financial Report (AFR), stated that the FCC executed four consent decree orders with Telecommunications Relay Service (TRS) providers to resolve investigations of non-compliant registration and verification processes. The consent decrees required the providers to pay $11.7 million to the TRS Fund. The $11.7 million payment from consent decrees was erroneously reported in Table 2, *Payment Recapture Audit Reporting*, instead of Table 6, *Overpayments Recaptured Outside of Payment Recapture Audits* of Section V - Recapture of Improper Payments Reporting.

The Office of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements*, II.5.8 V. d states: “As applicable, agencies should also report on improper payments identified and recovered through sources other than payment recapture audits. For example, agencies could report on improper payments identified through: statistical samples conducted under IPIA; agency post-payment reviews or audits; Office of Inspector General reviews; Single Audit reports; self-reported overpayments; or efforts from the public.”

According to FCC Management, omission of payments from TRS consent decrees from Table 6 was an oversight. The IPERA reporting team failed to include a line item for TRS consent decrees in Table 6 for FY 2014 because this item had not been reported in the IPERA reports in previous fiscal years.

FCC’s IPERA reporting guidance did not provide specific instructions on the types of overpayments that may be recaptured outside of FCC’s payment recapture audit program.

Errors in reporting amounts recovered outside of the payment recapture audits for the TRS Fund, resulted in an inaccurate disclosure of improper payments recovery efforts for the FCC. In addition, errors in reporting amounts recovered prevented the FCC from accurately evaluating its overpayment recapture efforts.

RECOMMENDATIONS:

We recommend the FCC’s Management:

2.1 Enhance the existing Quality Control review processes, at both the program and FCC Headquarters levels, to ensure the reporting of improper payments recovered through sources other than payment recapture audits;

2.2 Agree information and overpayments identified and reported in IPERA-related source documents (i.e., Risk Assessments, Statistical Sampling Process, and Corrective Action Plans) to the Recapture of Improper Payments Reporting section of the AFR to ensure all overpayment amounts and information are identified and properly reported; and

2.3 Update the IPERA policies and procedures to include descriptions of the types of overpayments that may be identified for recovery outside of the FCC's payment recapture audits.

APPENDIX A – OBJECTIVES, SCOPE AND METHODOLOGY

The objectives of our audit of the FCC IPERA were to determine whether the FCC has complied with the six IPERA criteria defined in the Office of Management and Budget (OMB)'s 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 IPERA, 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, 2013 through September 30, 2014.

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 IPERA.
- Reviewed Government Accountability Office reports on IPERA and related challenges faced by federal agencies in implementing IPERA, in order to update our understanding and awareness of compliance issues with IPERA.
- Made inquiries with appropriate FCC officials and obtained documentation to understand: how FCC implemented the provisions of IPERA; significant

programs/activities; guidance provided in the FCC's directives and policies and procedures manuals; documentations maintained to support IPERA data; the information reported on the AFR; and oversight over the calculation of improper payments.

- Reviewed previous years' reports to understand the FCC's IPERA program and processes, and challenges and focus areas for IPERA process improvement and reporting.
- Reviewed FCC's effort in improving the IPERA process by following up on FCC's implementation of prior year audit recommendations.
- Reviewed the FCC's FY 2013 AFR, IPERA Reporting Details for compliance with OMB Circular No. A-136, revised requirements for reporting IPERA.
- Reviewed latest risk assessments for all programs for compliance with OMB Memorandum M-15-02 risk assessment requirements.
- Reviewed sampling plans and results, related correspondences with the OMB, and supporting documentation for the plans and results.
- Validated the improper payment rate calculation methodology and the amounts reported.
- Reviewed the AFR, IPERA Reporting Details, 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 key figures and information in the AFR, IPERA Reporting Details to supporting documentations.
- Reviewed the FCC's IPERA reporting quality control procedures and supporting documentation.

APPENDIX B – MANAGEMENT'S RESPONSE

UNITED STATES GOVERNMENT
FEDERAL COMMUNICATIONS COMMISSION

Office of ***Managing Director***

MEMORANDUM

DATE: May 12, 2015

TO: David L. Hunt, Inspector General

FROM: Mark Stephens, Chief Financial Officer

SUBJECT: Management's Response to Independent Auditors' Letter, dated May 8, 2015 to the Chief Financial Officer Regarding the Commission's Compliance with IPERIA

Thank you for the opportunity to respond to the letter dated May 8, 2015, from the Office of Inspector General (OIG) to the Chief Financial Officer, regarding the Federal Communications Commission's (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, 2014. We appreciate the efforts of your team and the independent auditors, Lani Eko & Company, CPAs, PLLC, to work with the Commission 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 note that we are pleased that the auditors did not identify any instances of noncompliance with the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA), P.L. No. 112-248, related to the Commission's efforts in reducing and recapturing improper payments, as required by OMB guidance (M-15-02) for the year that ended on September 30, 2014. The Commission works diligently to comply with the requirements of the law, to adhere to OMB's guidance, and to reduce improper payments in the Commission's programs.

We also recognize and appreciate the independent auditors' findings and recommendations related to the Commission's quality control review process and its classification of recaptured overpayments during the FY 2014 reporting process. We are currently taking steps, as recommended by the auditors, to review the process for preparation of IPERIA reporting details in the Commission's annual financial report and to make revisions to the Commission's policies and procedures manual. Furthermore, we will prepare specific instructions on the types of overpayments that may be identified for recovery outside of the Commission's payment recapture audit processes.

APPENDIX B – MANAGEMENT'S RESPONSE

The Commission and its staff welcome the findings and recommendations in this report. We look forward to updating the OIG and its auditors on progress made toward improving our reporting process going forward.

Mark Stephens
Chief Financial Officer
Office of Managing Director

2

APPENDIX C – LIST OF ACRONYMS

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
OE	Operating Expenses
OMB	Office of Management and Budget
OMD	Office of the Managing Director
PAR	Performance and Accountability Report
RLSA	Rolka Loube Saltzer & Associates
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