UNITED STATES GOVERNMENT
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF INSPECTOR GENERAL

MEMORANDUM

DATE: October 14, 2022

TO: Chairwoman Jessica Rosenworcel
Commissioner Brendan Carr
Commissioner Geoffrey Starks
Commissioner Nathan Simington

FROM: Inspector General David Hunt for RM

SUBJECT: Management and Performance Challenges

In accordance with the Reports Consolidation Act of 2000, the Office of Inspector General (OIG) is submitting the annual statement summarizing its assessment of the most serious management and performance challenges facing the Federal Communications Commission (FCC) in Fiscal Year (FY) 2022 and beyond. During its audits and investigations, OIG has recommended actions that best address these challenges. Additional information on OIG audits and investigations can be found in our most recent Semiannual Reports to Congress.

Information Security

In alignment with FCC's strategic objective to effectively modernize the agency's information technology, the FCC has implemented significant information technology (IT) initiatives to enhance services to its stakeholders. The onset of the COVID-19 pandemic in 2020 brought challenges that the agency had to address with accelerated timelines. Even so, FCC is moving forward to implement these initiatives, keeping IT security as an 'operational enabler' with high priority.

The 2021 Federal Information Security Management Act (FISMA) Evaluation resulted in the FCC's information security program being assessed as effective and in compliance with FISMA legislation, Office of Management and Budget (OMB) memoranda, and other applicable guidance for the first time. However, based on the FY 2022 FISMA evaluation results, the agency's information security program is no longer effective and in compliance with the FISMA legislation and OMB guidance. One of the most significant areas impacting FISMA compliance is the continued significant deficiency in the IT security Identity and Access Management domain. Most importantly, longstanding issues with FCC's implementation of HSPD-12 PIV (Homeland Security Presidential Directive-12 Personal Identity Verification)[1] card for logical access of all agency employees remain unresolved. The HSPD-12 PIV card deficiency and related recommendation has been repeated every

[1] HSPD-12 PIV cards, which may be generically referred to as PIV cards, refer to the common identification card required by Homeland Security Presidential Directive 12, Policy for a Common Identification Standard for Federal Employees and Contractors.

year since FY 2016. Management repeatedly has cited resource constraints as the reason why the recommendation was not implemented. There are two other areas with significant issues that require a focused effort - Risk Management, and Information Security Continuous Monitoring. We encourage management to prioritize recommendations in these areas, along with HSPD-12 recommendations, to limit the risk of unauthorized access and to ensure consistent governance and compliance. As we stated in the previous year, FCC must sustain efforts to keep the program in compliance, this will continue to be a significant challenge moving forward into FY 2023.

Universal Service Fund Programs

The Telecommunications Act of 1996 created the framework for the Universal Service Fund (USF), consisting of support mechanisms for: 1) providing financial support to eligible telecommunications carriers that serve high-cost areas; 2) assisting schools and libraries to obtain telecommunications and internet services; 3) assisting low-income consumers to obtain affordable telephone service; and 4) assisting rural health care providers to gain access to telecommunications and internet services. Under the direction of the Commission, the Fund is administered by the Universal Service Administrative Company (USAC).

On August 15, 2022, the Commission issued its Report on Future of the Universal Service Fund (Report) as required by Section 60104(c) of the Infrastructure Investment and Jobs Act (Infrastructure Act), which outlines the Commission's options for improving its effectiveness in achieving the universal service goals for broadband.[2] While the report contains recommendations for modifications to the existing universal service programs in light of the Infrastructure Act, it affirmed that its universal service goals for broadband cannot be achieved without the support of existing USF programs.

Achieving the Commission's goals and objectives (*Strategic Goal 1: Pursue a "100 Percent" Broadband Policy* and *Strategic Objective 1.1: Pursue policies to help bring affordable, reliable, high-speed broadband to 100 percent of the population, including rural areas, and Tribal lands as well as for low-income Americans and students*) requires a significant investment of Commission resources, as well as effective USAC administration of USF programs. Establishing direction and policy, and ensuring that all USF program rules and regulations foster effective and efficient programs, are significant management challenges.

Universal Service Fund Contributions Reform

Eligible telecommunications carrier (ETC's) contributed approximately $9.3 billion to the USF fund in 2021. However, the current USF contributions system is built on regulatory constructs from decades ago.[3] In a recent report adopted by the FCC on the future of the USF, Commissioner Brendan Carr noted that "…the FCC's funding mechanism…is stuck in a death spiral. The USF program is funded through a mechanism that made sense back in the dial up and screeching modem days of the 1990s—back when you were far more likely to have a long-distance calling card in your

[2] Report on the Future of the Universal Service Fund, WC Docket No. 21-476 (August 12, 2022).

[3] Testimony of Carol Mattey, Principal of Mattey Consulting LLC, before the Subcommittee on Communications, Technology, Innovation and the Internet, of the Committee on Commerce, Science and Transportation, U.S. Senate, on "The Impact of Broadband Investments in Rural America," March 12, 2019.

wallet than an email address in your name."[4] The aforementioned Future of the USF Report describes the multi-faceted arguments from the industry to update the funding mechanism for the FCC's USF programs. The proposals include expanding the contributions base to include revenues from Broadband Internet Access Service (BIAS) as well as to include edge providers (streaming video providers, digital advertising firms, and cloud service companies). Another consideration is to fund the USF by Congressional Appropriations. The report warns that the FCC's decision on this issue should ensure the sustainability of the fund and should not increase the financial burden of consumers.

Contribution reform is needed because, although the marketplace has shifted to new services and new technologies, businesses are not required to finance the USF based on revenues from these new sources. Only revenues from interstate and international telecommunications services and certain other telecommunications are subject to assessment. The telecommunications companies providing these services include wireline phone companies, wireless phone companies, paging service companies and certain voice over Internet Protocol (VoIP) providers. Total assessable telecommunications revenues, which make up the USF contributions base, have steadily declined from $66 billion in 2011 to $41.4 billion in 2020.[5] Additionally, the current form used to collect information from potential contributors uses obsolete terminology and categories.

The FCC has sought public comment on alternative contributions methodologies multiple times. For example, in an April 2012 Notice the FCC sought comment on modernizing the contributions methodology, to include an assessment of revenues from broadband networks.[6] Years later, in June 2020, the FCC sought comments to refresh the record in the 2012 Contributions Reform Further Notice of Proposed Rulemaking. The 2020 Notice pertains to whether the Commission should exercise its permissive authority under Section 254(d) of the Telecommunications Act of 1996[7] to include in the contribution base revenues derived from the provision of "one-way" VoIP services.[8] Despite the Commissions' efforts over the years to obtain and evaluate comments on this issue, an agreement has not yet been reached on the best way to increase contributions to the USF to ensure its sustainability. Per FCC officials, this issue will be addressed in accordance with the priorities on the

[4] Report on the Future of the Universal Fund, DA/FCC-22-67, issued August 15, 2022. See comments from Commissioner Brendan on page 1.

[5] Universal Monitoring Report; CC Docket No. 96-45; January 2022, For DATA Received Through September 2021, Prepared by Federal and State Staff for the Federal-State Joint Board on Universal Service; Table 1.5.

[6] Further Notice of Proposed Rulemaking, Universal Contribution Methodology—A National Broadband Plan for Our Future, FCC-12-46, April 2012.

[7] Title 47 CFR 254d-(d) Telecommunications carrier contribution. Every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service. The Commission may exempt a carrier or class of carriers from this requirement if the carrier's telecommunications activities are limited to such an extent that the level of such carrier's contribution to the preservation and advancement of universal service would be de minimis. Any other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.

[8] FCC Public Notice; DA 20-614; Released June 11, 2020; Pleading Cycles Established; Comments Sought to Refresh the Record in the 2012 Contribution Methodology Reform Proceeding with Regard to One-Way VOIP Service Providers; WC Docket No. 06-122; GN Docket No. 09-51.

Commission's agenda. Notably, in its August 2022 FCC report to Congress, the Commission provided suggested USF contribution reform. Resolving these matters and reforming USF contributions remains a significant management challenge.

USF High Cost Program

The USF High Cost program historically has provided billions of dollars annually, with a goal of ensuring that robust, affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation. High Cost program has been transitioning its support to multi-purpose networks capable of fixed and mobile broadband and voice services in rural, insular, and other high cost areas, and phasing out support for voice-only networks. During this transition, the HC program was modernized into the Connect American Fund (CAF), where funding is more transparent; easier to administer; and does not present the inherent risks and impediments to preventing fraud, waste and abuse in the program, compared to the historical model used to distribute funding to rate-of-return carriers, which remains problematic.

Under the comparatively simplified CAF distribution models, systematic monitoring and verification of the CAF programs have been necessary to ensure carriers have fulfilled their build-out obligations and service requirements to all required locations in their service areas, and provide service at speeds required under the Commission's rules. USAC developed an information system, the High Cost Universal Broadband (HUBB) portal, to assist USAC management in determining if carriers were meeting their obligation to provide high-speed internet to specific underserved locations, including meeting minimum performance standards and service speeds. Although the Commission must continue to ensure CAF orders are timely implemented and meet their purposes and goals, these will have to be reevaluated by the Commission given congressional funding of additional broadband programs. The CAF programs, as the Commission has recognized, will need to be modified to accommodate new broadband programs that Congress authorized during the pandemic.

USF Lifeline Program

The Lifeline Program is currently facing the following challenges:

- Program Integrity;
- Low participation rates;
- Intersecting benefits with the FCC's new Affordable Connectivity Program (ACP); and
- Halted plans to phase out subsidies for voice only services.

Program Integrity

The FCC and USAC must continue to devote significant resources to combat waste, fraud, and abuse in the Lifeline program. Significant reforms to the Lifeline program in 2012 and 2016, with implementation of reforms recommended by this Office, have significantly reduced fraud in the program. Nevertheless, OIG concerns related to eligible telecommunications carrier (ETC) monitoring and compliance with usage rules have proliferated over the last several years and continue. OIG maintains an active roster of investigations examining the conduct of multiple ETCs and their agents. The U.S. Department of Justice works with OIG to pursue culprits identified through its investigations pursuing criminal and civil sanctions against those already identified by OIG's investigations. The FCC must continue to ensure that adequate resources are dedicated to identifying new forms of fraud as the program evolves.

In response to the ongoing COVID-19 pandemic, starting in March 2020, the Wireline Competition Bureau (WCB) waived certain Lifeline program rules from April 2020 through June 30, 2022. The waived rules were related to recertification; reverification; general de-enrollment; subscriber usage; income documentation; documentation requirements for subscribers during several months of the pandemic, as well as guidance concerning USAC periodic reviews. The waivers arose from WCB's recognition that telemedicine, telework, and online learning are necessary social distancing measures and, therefore, access to affordable communications services for low-income consumers is even more important.

Nonetheless, many of the waived rules were originally implemented to prevent waste and abuse in the program. The Commission has now rescinded most of these waivers, except for those on Tribal lands concerning certification and reenrollment, until September 30, 2022. The FCC must work in the coming months, however, to ensure that ETCs are again abiding by the rules now in effect and that these waivers did not become vehicles for abuse of USF Funds.

Moreover, the FCC and USAC must continue to monitor National Verifier enrollment attempts to identify ETCs and their agents who may attempt to circumvent added program safeguards which have been implemented. Although USAC completed its implementation of the Representative Accountability Database (RAD), the FCC and USAC must ensure RAD fulfills its purpose by identifying and blocking agents who attempt fraudulent subscriber enrollments, and identifying attempts by agents previously blocked-out of RAD and preventing them from re-enrolling using other agent identities. Moreover, the FCC and USAC must ensure ETCs furnish agent identification information for all National Lifeline Accountability Database (NLAD) and National Verifier transactions. OIG finds that in many instances fraudulent enrollments are made by agents who fail to identify themselves in RAD when enrolling subscribers, and this requirement is not enforced by their employers.

Additionally, FCC and USAC must continue to monitor whether the National Verifier meets its intended goals to reduce the risk of enrollment of ineligible subscribers and improve the customer application and enrollment experience. GAO recently conducted an audit of the National Verifier and issued a report in January 2021.[9] The report recommends that the FCC develop and implement a plan to educate eligible consumers about the Lifeline Program and National Verifier, develop performance measures to track the Verifiers' progress in reaching its goals and ensure that the systems' online application is accurate, clear, easy to understand and includes an option to provide feedback. As of September 2022, the recommendations had not been closed.

Participation Rates

Low participation for the Lifeline Program is an issue and been pointed out in audits by GAO and assessments and evaluations by industry experts for many years. In 2021, $2.5 billion was budgeted

[9] GAO #21-235: The FCC Has Implemented the Lifeline National Verifier But Should Improve Consumer Awareness and Experience; released January 28, 2021.

to the Lifeline Program; however, only $724 million, or 29.5%, was disbursed. Currently, the participation rate is only approximately 17% of the eligible population.[10]

For example, a 2015 GAO report recommended that the FCC to conduct a program evaluation to determine the extent to which the Lifeline Program is efficiently and effectively reaching its goals of ensuring the availability of telecommunications services for low-income Americans while minimizing the contribution burden on consumers and business. The resulting 2021 Lifeline Program Evaluation Report, prepared by Grant Thornton,[11] echoed GAO's conclusions regarding the lack of specific performance measures for the program. Grant Thornton also reported that the FCC had not established performance measures or tasked USAC, the programs administrator, with increasing participation or collecting certain performance data. Therefore, USAC's strategies and plans may not address these activities.

Also, the forementioned GAO report on the National Verifier noted that consumers may lack an awareness of the Lifeline Program because FCC's consumer education planning efforts did not always align with key practices to develop consistent and clear messages and did not always include researching target audiences.

FCC and USAC must develop and implement a plan to address the low participation rate for the Lifeline Program.

Program Benefits Intersect with the Affordable Connectivity Program

In its 2016 Lifeline Order, the Commission made changes to the Lifeline Program to enable low-income consumers to obtain and use broadband. In response to the Infrastructure Act, the FCC launched the Affordable Connectivity Program on December 31, 2021, with final rules issued on January 21, 2022, with similar goals. The ACP is a long-term program designed to promote the availability of the broadband service for low-income consumers. While there are some distinct differences between the two programs, including eligibility criteria, device subsidy allowances, and service discount amounts, many commenters on the program rules suggested that the two programs should be merged or that the programs should cover distinctly different services. Currently, consumers can apply benefits from both programs to the same telecommunications service plan. The previously mentioned Future of the USF Report recommends that the device subsidy allowance be reconsidered. The report also recommends that the FCC conduct surveys to better understand household broadband needs, household awareness of the Lifeline Program, and their interaction with providers. The Commission must ensure that it continues to consider how best to structure, maximize and administer the benefits of the Lifeline Program and ACP.

Phase Down Voice-Only Service Subsidy

On July 1, 2022, the Bureau issued an Order extending, for an additional year, the waiver pausing the phase-down of support for voice-only services in the Lifeline Program.[12] Although the WCB's

---

[10] Data pulled from USAC's website on September 7, 2022, https://www.usac.org/lifeline/resources/program-data.

[11] Lifeline Program 2020 Program Evaluation, performed by Grant Thornton Public Sector LLC, final issued February 5, 2021.

[12] FCC Order, DA 22-706, Lifeline and Link Up Reform Modernization – Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund.

Report on the State of the Lifeline Marketplace, indicates that only about 8% of Lifeline subscribers receive voice-only services,[13] some argue that this minority of consumers is still significant, as they rely on traditional phone service for reliable access to emergency services like 911, for work, to receive healthcare and customer support, and to connect with friends and family. Additionally, data is lacking on the options for affordable service that will be available to low-income consumers if voice-only support is eliminated. The FCC must ensure that it resolves this matter in a way that meets the needs of the low-income community.

USF - Schools and Libraries (E-rate) Program

Effective in 2015, the Commission's two E-rate Modernization Orders adopted three program goals: 1) ensure schools and libraries have access to affordable high-speed broadband internet services; 2) maximize the cost-effectiveness of spending for E-rate program supported purchases; and 3) ensure the application process is fast, simple, and efficient. The orders established a performance management system to help evaluate the effectiveness of the modernization orders and identify program improvements. In March 2022, the E-Rate program funding cap for funding year 2022 was set at $4.456 billion. The new cap represents a 4.2% inflation-adjusted increase in the $4.276 billion cap from funding year 2021.

The COVID-19 pandemic directly affected school systems across the entire country and, thereby, stressed the delivery of E-rate program services. Instead of students attending school in person and accessing the internet within schools and libraries, many students began using remote learning for portions of the school year based on quarantines. Although many schools are back to in person learning the program must support a return to remote learning if it becomes necessary as the pandemic continues.

In addition to challenges associated with delivering effective E-rate program services during the pandemic, FCC and USAC management must ensure adequate program controls to detect and deter inherent program risks, as well as risks identified by prior OIG and USAC audits and OIG investigations, including those that transcend the pandemic:

- Missing or inadequate documentation to demonstrate compliance with FCC rules;
- Invoicing USAC for ineligible products/services;
- Untimely payment to service provider;
- Insufficient internet safety policy
- Product and/or services received by ineligible entity; and
- Service Provider billing inaccuracies.

Following-up on suggestions by an internal USAC risk assessment and a GAO review, OIG recommended a process by which USAC would collect and release competitive bidding documents and standardize bid responses from service providers to assist applicants in reviewing and selecting the most effective bid. The Commission has sought comments on this recommendation. While the majority of comments have been negative, the Antitrust Division of the US Department of Justice provided a comment in support of OIG's recommendation. The negative response to OIG's recommendation might be due to entrenched interests in preserving the

[13] Report on the State of the Lifeline Market place, June 2021, Prepared by WCB, pages 7-8, Figure 2, "Figure 2 shows that for the May 2021data month approximately 8% of Lifeline subscribers participate in a voice-only offering."

status quo by consultants who extract a significant amount of money from applicants for providing competitive bid collection and review from applicants. Resolving this issue in a manner that best protects program integrity is a management challenge.

USF Rural Health Care Program

To address various concerns in the RHC program, the Commission adopted the Report and Order, Promoting Telehealth in Rural America, WCB Docket No. 17-310. The Report and Order aimed to improve the RHC program competitive bidding process by adding a "fair and open" standard. It also implemented rules prohibiting service providers who intend to bid on supported services from assisting an applicant in completing the request for proposal or request for services forms and prohibiting a service provider who has submitted a bid from evaluating bids or choosing a winning bidder.

USAC began implementing these rules in 2021 and OIG has requested updates on that process. OIG is aware, however, that certain obstacles to full implementation of the revised rules have arisen and implementation has been delayed. Nevertheless, effective implementation of these newer rules by the FCC and USAC, diligent agency enforcement of both the newer rules and the existing rules, as well as general oversight of the Program, remain a significant management challenge. FCC's challenge is to continually use innovations to create ways to support rural hospitals and healthcare providers during the pandemic without creating gaps in controls that increase the risks for conflicts of interests, fraud, and abuse.

The RHC program funding cap is $637.7 million for funding year 2022, which includes a 4.2% inflation-adjusted increase from the $612 million cap in funding year 2021.

Pandemic Relief Funds

Affordable Connectivity Program

The EBBP was established pursuant to the Consolidated Appropriations Act of 2021, on December 27, 2020. Congress allocated $3.2 billion to support discounted broadband service to low-income households, including those experiencing COVID-19 related economic disruptions. On November 15, 2021, President Biden signed into law the Infrastructure Act, which transformed the EBBP into a longer-term broadband affordability program, the ACP, and appropriated an additional $14.2 billion of support.

In the Infrastructure Act, Congress reduced the monthly discount available to non-tribal households from $50 to $30 in the newly-renamed ACP. ACP funds may also be used to buy related equipment, such as computers and tablets. The ACP uses the Lifeline program's infrastructure, including the National Verifier, the NLAD, and the Lifeline Claims Systems, for subscriber eligibility, enrollment and service provider reimbursement.

The FCC must devote significant resources to monitor the ACP over the long-term to ensure that program service providers comply with program requirements. In its 2021 Management and Performance Challenges memo to the Commission, OIG outlined its assessment of the most serious management and performance challenges posed by the EBBP. Over the last year, OIG has identified a number of additional risks and challenges that FCC management must face as it administers the ACP.

Ensuring Subscriber Eligibility and Combatting Enrollment Fraud: As with the Lifeline program, one of the primary challenges the Commission faces is ensuring the eligibility of subscribers enrolled in the ACP. While the National Verifier has mitigated many risks associated with enrollment fraud, many challenges persist. As OIG shared with WCB and USAC, many of the routes within USAC systems that lead to eligibility and are unique to the ACP have proven vulnerable to fraud. As OIG discussed in its November 22, 2021 Advisory, providers and their agents took advantage of the less stringent enrollment requirements for households that participate in the CEP School Lunch Program to create tens of thousands of fraudulent enrollments.

In July and August 2022, OIG also shared extensive evidence with WCB and USAC that enrollments based on Pell Grant program participation and income eligibility may pose special challenges as subscriber eligibility based on those two avenues cannot be confirmed by National Verifier database connections. Moreover, OIG found many examples of purported Pell Grant documentation that were clearly fabricated to support fraudulent program enrollments. The Commission also relies on the efficacy of the National Verifier's manual review process to confirm the eligibility of subscribers who meet the ACP's broader income eligibility requirements, which include receiving free or reduced school lunch or Pell Grants. As discussed in greater detail below, the National Verifier's manual review process poses its own challenges.

The Commission must also confirm that program administrators are leveraging all data collected by the National Verifier and NLAD to ensure subscriber eligibility. For example, many ACP subscribers are eligible for program support through a Benefit Qualifying Person (BQP)—another household member, such as a child or dependent, who meets one of the ACP eligibility requirements. Subscribers who apply for ACP support based on a BQP's eligibility are required to furnish certain PII about the BQP to the National Verifier and NLAD as part of the ACP verification and enrollment processes. As OIG shared with WCB and USAC and as discussed in its September 8, 2022 Advisory, a number of providers and their agents enrolled many households into the ACP based on the eligibility of a single BQP. Some BQPs were used to qualify hundreds of ACP households.

While providers and their agents are clearly at fault for furnishing fraudulent information to the Verifier and NLAD, OIG's assessment of this issue did not require significant investigation, only a comparison of enrollment data already stored in those two systems. While we understand WCB and USAC plan to implement a mechanism to detect the use of a BQP to support more than one ACP enrollment in the future, this example demonstrates a missed opportunity—program administrators could have used readily available data to prevent these fraudulent program enrollments.

The FCC began this program under tremendous urgency. The expedited timeline in which this program was developed and implemented certainly contributed to some susceptibility to fraud and abuse. We urge the Commission to conduct an assessment of those vulnerabilities and develop measures necessary to close such gaps.

Missing and Bogus Enrollment Data: Relatedly, the Commission faces a significant challenge addressing several data integrity issues detected by OIG. Over the last year, OIG found that providers have failed to furnish the NLAD with information required by program rules. For example, 47 CFR 54.1806(d)(4) requires providers to transmit to the NLAD certain information about each subscriber including full name, residential address, date of birth, and the telephone number associated with ACP service. OIG found the phone number information missing for more than 35,000 enrollments by one provider—the database fields are simply empty. Also, as we pointed out for the first time in our December 10, 2021 memo to WCB, many providers have not provided any information regarding sales agent involvement in subscriber verification and enrollment activity. Provider failure to share such information violates program rules, negatively impacts program integrity and makes the missions of OIG and the Enforcement Bureau more challenging.

In addition to missing data, OIG has discovered a significant amount of bogus enrollment information in the National Verifier and NLAD databases. For example, many of the suspicious enrollments identified by OIG share identical subscriber email addresses. Frequently, these email addresses match email addresses used by sales agents to register with the RAD. Other examples of bogus email addresses include "gfy@gmail.com" where the "gfy" in the email address stands for "go [expletive removed] yourself." Fake email addresses often follow distinctive patterns. Other examples of bogus enrollment information include the single-family addresses used to enroll dozens of ACP households. Data authenticity and integrity are more important and pressing challenges for the Commission to consider as it administers the ACP.

National Verifier Manual Review Process: A significant number of ACP subscriber applications require manual review to confirm subscriber eligibility. OIG recognizes the profound challenges posed by conducting a manual review of subscriber eligibility proofs and other enrollment-related documents at this scale. USAC has worked carefully to make significant improvements to the manual review process including hiring a new vendor to conduct the day-to-day review. Recently, OIG made a number of preliminary recommendations to improve the efficacy of the manual review process and there remains room for improvement. We anticipate making additional recommendations in the coming months. Among the challenges FCC management faces regarding the manual review process include: 1) Ensuring the ServiceNOW platform is configured to allow reviewers to leverage all review information as they accept or reject an application; 2) Ensuring the Program Integrity team communicates its findings to the USAC BPO management team in a timely manner; and 3) Improving reviewer performance to mitigate reviewer errors.

Alternative Verification Process: The Consolidated Appropriations Act allowed a participating provider to "rely upon an alternative verification process of the participating provider," to determine household eligibility and enroll households in the EBB program, subject to certain conditions. Providers continue to utilize alternative verification processes (AVPs) to verify the eligibility of ACP subscribers.

The Commission approved the AVPs utilized by participating providers based on the information those providers furnished in their AVP applications, but the Commission and USAC have little visibility into the day-to-day working of these AVPs. This is concerning for two reasons. First, several of the largest ACP providers utilize AVPs to verify the eligibility of all or substantially all of their ACP subscribers. Second, the Commission has received a number of complaints from households who have received offers for "pre-qualified" ACP supported service from providers who utilize AVPs. These pre-qualified households complain that they are not the intended beneficiaries of the ACP and should not receive subsidized service. The Commission must learn more about how AVPs may lead to waste and abuse of government resources.

Tied ACP and Lifeline Enrollments: On March 11, 2022, OIG issued an Advisory to alert consumers and the public that certain providers were impermissibly tying enrollment in the ACP and Lifeline program. The Commission had previously warned providers against deceptive marketing practices that would undermine program integrity and threaten Lifeline service including "suggesting or implying that signing up for [ACP] services is required for obtaining or continuing services, including Lifeline services" and that "not clearly distinguishing the process of signing up for EBB services from the process of signing up for, renewing, upgrading or modifying other telecom services, including Lifeline services."[14] Moreover, the Commission later codified these consumer protection requirements in the ACP rules.[15] Despite this clear messaging, OIG found a number of providers who continued to tie enrollment in both programs.

Since OIG issued its Advisory, many of the providers appear to have ceased this harmful practice. Nevertheless at least one large ACP provider persists in deceptive marketing practices aimed at tying enrollment in both programs. Consumers should have the choice to enroll in either program or both programs according to their individual needs. Provider practices designed to require customers to enroll in both programs violate program rules and result in waste of government resources. FCC management should continue to monitor these deceptive marketing practices and take appropriate action in response.

The OIG's report on the Audit of Federal Communications Commission's Emergency Broadband Benefits Program, issued on June 21, 2022, found that the FCC did not have effective controls in place to ensure the verification of household eligibility when manual review was required. Specifically the controls did not ensure that payments made to eligible providers, were for eligible expenses, reduce improper payments, or prevent fraud, waste and abuse in the EBBP program. The audit report recommends strengthening internal around manual verification and Provider self-certification.

Many of the EBBP controls and processes transitioned to the permanent ACP program, therefore, the weaknesses identified during the EBBP audit must be addressed in the new ACP Program. Management has provided planned corrective actions for the issues identified. Full implementation of the planned corrective actions should strengthen ACP internal controls and reduce program fraud waste and abuse.

Emergency Connectivity Fund

In early 2021, the Office of Investigations tracked the progress of the American Rescue Plan Act of 2021 (ARPA), which proposed appropriating $7.6 billion to establish the "Emergency Connectivity Fund" (ECF), of which $1 million was to go to OIG to oversee the program. The ECF program was to generally follow the USF's Schools and Libraries program model but offer 100 percent reimbursement for items not eligible for funding under that program, such as computers and internet hotspots. The Commission has permitted three rounds of applications for funding from the program, and as of mid-August 2022, the Commission has committed over $5.7 billion from the program to fund 12 million connected devices and 7 million broadband

[14] May 11, 2021 Enforcement Advisory, DA 21-551.

[15] 47 CFR §54.1810(a)(3).

connections at 10,000 schools, 900 libraries and 100 consortia. OIG has obtained underlying ECF data and begun the process of inspecting schools to determine compliance with program rules and understanding how the program operates for applicants. As the Office of Investigations has only four full time employees working on ECF plus E-rate, RHC and other newly created pandemic-related programs, OIG has contracted for staffing to assist with inspections. OIG expects to commence targeted inspections utilizing these contracted staff in the fall of 2022. Oversight of this immense, new program, with which the agency still has little experience, is a significant management challenge.

Telecommunications Relay Service

The OIG understands that use of TRS-related services, particularly internet protocol captioned telephone service, has increased in recent years, threatening to exceed the amount of program funding available. Addressing potential funding shortfall may impose significant management challenges when confronting increasing program utilization.

In 2013, the FCC issued a Report and Order directing the establishment of the Telecommunications Relay Service User Registration Database (URD). The FCC requires video relay service (VRS) providers to submit a VRS user's personal information (name, address, date of birth, last 4 of SSN, and ten-digit phone number) to LexisNexis for identity validation before registering the user in the URD. The URD became operational on January 1, 2018 and is a safeguard to protect the VRS program from fraud, waste, and abuse. In January 2020, OMD directed Rolka Loube (RLA) to audit the URD.

Over the past year, OIG has learned the audit has uncovered serious problems. For example, the audit confirmed that several hundred deceased individuals were registered by a provider as VRS users. The auditors also made troubling discoveries regarding the documentation providers are supposed to collect to resolve identity validation errors—many of the documents were missing, expired, illegible or collected after the provider resolved the identity validation error. Some providers have voluntarily terminated large numbers of user accounts when the auditors discovered the user's documentation was missing or inadequate. OIG understands the program administrator has identified a number of suspicious name updates in the URD. As the Commission and the Administrator continue to assess measures implemented to reduce fraud, waste, and abuse in the TRS program, management needs to hold providers accountable for failing to comply with program rules.

Since 2019, the OIG Payment Information Improvement Act (PIIA) audit reports have included a finding that FCC and TRS improper payment risk assessment did not have adequate focus on program rules such as certification of eligible users, certification of TRS providers, and National Deaf-Blind Equipment Distribution Program[16] reimbursements for eligible individuals and authorized services. Although OMB granted the FCC relief from TRS program improper payment testing procedures required by the Program Integrity Information Act (PIIA) in 2020, the FCC is

[16] The FCC's National Deaf-Blind Equipment Distribution Program (NDBEDP), also known as iCanConnect, provides equipment needed to make telecommunications, advanced communications, and the Internet accessible to low-income individuals who are deaf-blind or have both significant vision loss and significant hearing loss.

still required to perform improper payment risk assessments for the TRS fund. Addressing the TRS risk assessment recommendations from the PIIA audit will help management combat the significant TRS performance challenges noted above.

Bridging the Digital Divide – Broadband Mapping

The Broadband funding to the National Telecommunications and Information Administration (NTIA), the Department Agriculture, the Treasury Department and the Commission for broadband mapping has been unprecedented. Under the FCC, USDA, NTIA and Treasury agreement, adopted in June of 2021, information will be shared among the agencies about projects they are working on. The Commission has recognized it will need to ensure there is extensive interagency coordination concerning mapping and funding commitments to identify broadband deployment locations and to avoid the expenditure of funds for duplicative support. Effectively doing so is a management challenge.

The Commission will also need to ensure access is widely available to the broadband maps that are being developed showing precise and granular broadband mapping data which will serve as an essential tool to evaluate where broadband spending is needed, as well as to measure progress towards ubiquitous broadband deployment. Carriers with deployment obligations are required to report progress in meeting their FCC-required milestones by filing broadband deployment data and related certifications within the HUBB portal: the portal tracks where carriers are building-out high-speed Internet service by latitude and longitude; provides evidence that carriers are meeting minimum performance standards, i.e., upload and download speeds; and, documents whether they have met applicable deployment milestones. All this information must be monitored and timely analyzed, and USAC must take appropriate action against carriers who are not meeting their deployment and performance requirements, including withholding funding and, as appropriate, timely reporting such activity to the FCC's Enforcement Bureau and to OIG, particularly where USAC observes carrier rule violations that suggest a carrier's actions are not isolated, but are part of a pattern of inappropriate activity.

Toward these ends, the Commission, through the work of the Broadband Data Task Force, must continue to develop new data collection and mapping platforms that provide the tools to meet the challenges of widening broadband's reach across the county and to ensure the efficient uses of spectrum. The Task Force's efforts to implement the Broadband Data Act will develop more precise and accurate fixed and mobile broadband coverage maps with the participation of the industry and the public. This will enable the Commission to better ensure service in underserved areas of the country, and provide it with an enforcement tool to ensure Commission spectrum grantees are fulfilling the conditions of their spectrum awards.

The public, state, local, and Tribal governmental entities on the ground will have access to a comprehensive database of all locations in the country to which mobile and fixed broadband will be available. Parties will be able to file whistleblower complaints about spectrum grantees who are violating the conditions of their spectrum grants, which could involve fraudulent activity on the part of grantees that would be difficult to detect without whistleblower reports. The Deployment Locations Map, which the Commission is required to develop to provide a comprehensive window of federal funding across the country, will be used by federal agencies as well as by the states.

In February 2022, the Commission announced that all covered providers (namely, all facilities-based providers of fixed and mobile broadband Internet access service) would be required to submit broadband availability data under the new rules and procedures by September 1, 2022. In March 2022, FCC's Office of Economics and Analytics published the data specifications related to the biannual submission of subscription, availability, and supporting data for the Broadband Data Collection (BDC). The Commission opened the filing window for the BDC on June 30, 2022.

In December 2020, the Commission announced the winners of the Rural Development Opportunity Fund's (RDOF's) Phase I auction. Out of $20.4 billion available funding, RDOF Phase I auction winner recipients will receive $9.23 billion, which will be distributed over ten years to bring high speed fixed broadband service to rural homes and small businesses that lack it. The areas targeted for 80 percent of the total RDOF investment were selected based on broadband mapping data known for inaccuracies. In fact, at least 38 auction winners have notified the Commission that they will default on their obligations for at least 1,614 of the census blocks awarded to them in the auction, in most cases because the blocks were found to be already served by another provider or devoid of people. In August 2022, the Commission announced that it had determined that two RDOF bid winners – Starlink and LRD Broadband – were not reasonably capable of complying with the program's requirements for speed and latency and, thus, it denied their long form RDOF applications. Also in August 2002, the Commission announced it was authorizing $791 million in RDOF funding to six providers in 19 states as part of the final round of RDOF grants.

It is a significant management challenge to ensure that the maps reflect accurate broadband deployment and, concurrently, that subsidies are disbursed to foster build-out in underserved areas to further bridge the digital divide and deploy 5G service.

Secure Networks Reimbursement Program (a/k/a "Rip and Replace")

In March 2020, the President signed into law the Secure and Trusted Communications Networks Act of 2019 (the Secure Networks Act), which among other things required the Commission to establish a program to reimburse providers of advanced communications services for the removal, replacement, and disposal of covered communications equipment and services from their networks. That law built upon previous actions by the Commission designating Huawei Technologies Company and ZTE Corporation as "covered companies," and rules prohibiting the use of USF support to purchase or obtain any equipment or services produced or provided by a covered company.

In December 2020, the Commission adopted the Supply Chain Second Report and Order, enacting rules that established the Secure and Trusted Communications Networks Reimbursement Program (SCRP), as required by the Secure Networks Act. A few weeks later, the President signed into law the Consolidated Appropriations Act of 2021 (CAA), amending the Secure Networks Act that, among other things, expanded the reimbursement program eligibility pool to include larger telecom companies. The CAA also appropriated $1.9 billion to fund the SCRP. In April 2021, the Commission selected Ernst & Young to administer the SCRP. In July 2021, the Commission adopted the Supply Chain Third Report and Order to conform the rules for the SCRP to be consistent with the changes made by the CAA, and to flesh out additional details for the program.

In November 2021, the FCC began accepting applications for SCRP funding. By February 2022, providers had submitted applications requesting approximately $5.6 billion in SCRP funding, much more than the $1.9 billion appropriated. In July 2022, after reviewing the applications, WCB determined that "Priority 1 applicants have submitted approximately $4.6 billion in cost estimates that are reasonable and supported," and that "[b]ecause available funding is substantially less than that amount, the Commission rules require that allocations to Priority 1 applicants be prorated on an equal basis." Additionally, while there has not been a significant amount of disbursements in the program yet, the reimbursements are allowed up to one year and extensions may be provided for an additional two years. Ensuring available program funds are allocated equitably and challenges from an extended disbursement process are managed properly will pose significant management challenges

Compliance with Payment Integrity Information Act of 2019

The Payment Integrity Information Act (PIIA) of 2019 (Public Law 116-117) directs federal agencies and departments to undertake activities designed to identify, report, reduce and recover improper payments in government's programs and activities. The OIG's FY 2021 Payment Integrity Information Act audit report, issued on June 28, 2022, found that 2 of the FCC's 10 programs, Lifeline and High Cost, were non-compliant with at least one PIIA criteria.

The USF Lifeline program was non-compliant because the combined improper and unknown payment rate was 15.87%, which exceeds the OMB threshold of 10%. Additionally, USAC, the program administrator, did not demonstrate improvements to its payment integrity program, as required by PIIA. Further, the auditors concluded that the FCC excluded $30 million of improper payments from the Commission's reported payment integrity information and was, thus, noncompliant with the PIIA.

The High Cost program was non-compliant because the FCC and USAC's risk assessment process did not consider all program risks for the Modernized and Legacy programs. Additionally, the risk assessment process for the High Cost program did not incorporate the Enterprise Risk Management (ERM) framework from OMB Circular A-123.

To ensure compliance with PIIA, FCC management and USAC must address the persistently high rate of improper payments in the Lifeline program. Additionally FCC management and USAC must address deficiencies noted in the risk assessment for the High Cost program. Ensuring the Commission is compliant with the requirements of PIIA is considered a significant management challenge.

Compliance with the Digital Accountability and Transparency Act of 2014

In 2006, Congress passed the Federal Funding Accountability and Transparency Act (FFATA) of 2006,[17] which requires OMB to ensure the existence and operation of a free, publicly accessible website containing data on federal awards (such as contracts, loans, and grants). In order to comply with FFATA reporting requirements, OMB launched the website USAspending.gov.

[17] Public Law No. 109-282, Federal Funding Accountability and Transparency Act of 2006, sections 1 to 4, September 26, 2006.

In May 2014, the Digital Accountability and Transparency Act (DATA Act) of 2014 was signed into law, amending and augmenting FFATA, to increase accountability, transparency, accessibility, quality, and standardization in federal spending data. The DATA Act requires federal agencies to report financial and payment information to the public through USAspending.gov in accordance with government-wide financial data standards developed and issued by OMB and the Department of the Treasury.

The OIG's FY 2021 DATA Act audit found that the FCC's DATA act submission was incomplete. Specifically, OIG's contract auditors reported that the FCC did not submit transaction-level TRS fund component spending data for the three consecutive audit cycles. Additionally, the FCC submitted USF spending data that did not comply with the DATA Act requirements because of significant deficiencies in the quality of the reported data. The FCC has not fully developed and executed a DATA Act project plan to capture, link, reconcile, and report on award-level financial and spending information with the TRS administrator, Rolka Loube. The auditors also found that the FCC did not implement a final Data Quality Plan (DQP) during the scope of their review. According to FCC's Corrective Action Plan , dated July 27, 2022, FCC expects to complete its TRS Fund project plan by January 31, 2023 and implement its DQP by September 30, 2022.

The FCC has taken steps to implement and use the data standards required by federal guidance, but improvements are still needed. As of September 2022, two of the nine 2021 audit report recommendations had been closed, and the remaining seven had not been fully implemented. While the performance of the DATA Act audit is no longer required, OIG continues to monitor FCC's progress in implementing prior year DATA Act audit recommendations. Until outstanding implementation issues surrounding FCC components are addressed, full compliance with DATA Act will remain a significant management challenge.

cc: Managing Director
Chief of Staff
Chief Financial Officer
Chief Information Officer