

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Part 54 of)
the Commission's Rules)

ORDER

Adopted: June 20, 2006

Released: June 23, 2006

By the Commission:

1. By this Order, we amend our rules to align oversight of the Universal Service Fund (“USF”) with the responsibilities of the Office of the Inspector General (“OIG”) and the Office of the Managing Director (“OMD”). Specifically, we assign certain audit activities formerly assigned to the Wireline Competition Bureau (“WCB”), including oversight of the annual Part 54 audit of the Universal Service Administrative Corporation (“USAC”), to the OIG and assign calculation of the quarterly USF contribution factor to OMD.

2. The Commission has in place a number of mechanisms to oversee the USF and its current Administrator, USAC. In this Order, we shift responsibility for two of these mechanisms, the annual audit of USAC and calculation of the USF contribution factor, to the OIG and OMD, respectively. These changes better align these USF oversight functions with the divisions within the Commission that can execute them most effectively.

3. First, we amend section 54.717 of our rules to give the OIG oversight of the annual USAC audit. Section 54.717 of the Commission’s rules requires USAC “to obtain and pay for an annual audit conducted by an independent auditor to examine its operations and books of account to determine, among other things, whether [USAC] is properly administering the universal service support mechanisms to prevent fraud, waste, and abuse.”¹ Under the Commission’s Part 54 rules, the Wireline Competition Bureau (“WCB”) has been the staff unit responsible for overseeing the conduct of the audit. The purpose of this annual audit has been to oversee the operations of the USF Administrator and to safeguard the USF from potential waste, fraud, and abuse. Because a principle purpose of this audit is to deter waste, fraud, and abuse, we amend the Commission’s rules to delegate oversight authority to the OIG. This amendment is consistent with the OIG’s responsibility to conduct audits of Commission programs² and

¹ 47 C.F.R. § 54.717.

² 47 C.F.R. § 0.13(a).

detect and prevent fraud and abuse.³ As an essential part of this responsibility, we also amend the audit requirements applicable to the Part 54 audit of USAC to allow the OIG to determine the type of audit to examine USAC's administration. The Commission's decision adopting the Part 54 independent audit requirement specified an agreed upon procedures ("AUP") form of audit.⁴ Although the codified Commission rules do not specify the type of audit, the order establishing the annual independent audit requires the use of an "agreed-upon procedures" engagement.⁵ We recognize that the OIG may conclude that other types of audits would better assist in carrying out its mission to detect potential waste, fraud, and abuse in the USF. We therefore clarify that, going-forward, the OIG may use whatever type of audit it concludes would be better suited to evaluating USAC and its operations. We also clarify that the OIG may require the use of government auditing standards for these audits.⁶

4. Finally, we revise section 54.709 of our rules to require USAC to submit to the OMD projections of demand for USF support mechanisms, projections of revenue, projections of administrative expenses, and the contribution base. Contributions to the universal service support mechanisms are determined using a quarterly contribution factor calculated by the Commission.⁷ We now revise our internal processes to require the OMD, instead of the Wireline Competition Bureau, to calculate the contribution factor and release the public notices pertaining to the contribution factor, consistent with the OMD's general responsibility over the Commission's financial matters.⁸ We are therefore revising section 54.709(a)(3) to require USAC to submit the above information to the OMD.

5. The rule amendments adopted in this Order involve rules of agency organization, procedure, or practice. The notice and comment and effective date provisions of the Administrative Procedure Act are therefore inapplicable.⁹

³ 47 C.F.R. § 0.13(c).

⁴ *USAC Order*, 12 FCC Rcd at 18440, para. 76. In an agreed-upon procedures attestation engagement, the auditors perform testing to issue a report of findings based on specific procedures performed on subject matter. *See* "Government Auditing Standards," section 6.02(c), GAO-03-673G, June 2003.

⁵ *See* 47 C.F.R. § 54.717(a)-(k).

⁶ *See* Application of Generally Accepted Accounting Principles for Federal Agencies and Generally Accepted Government Auditing Standards to the Universal Service Fund, *Order*, 18 FCC Rcd 19911, para. 5 (*GovGAAP Order*) (requiring the use of government auditing standards for audits of USF beneficiaries and contributors); *see also* General Accounting Office, GOVERNMENT AUDITING STANDARDS: 2003 REVISION, GAO-03-673G (Jun. 2003) ("GAGAS HANDBOOK") (specifying government auditing standards). We note that government auditing standards incorporate the auditing standards of the American Institute of Certified Public Accountants (AICPA). *Id.* at §§ 6.01, 6.05.

⁷ 47 C.F.R. § 54.709(a). We release a public notice quarterly, *see, e.g.*, "Proposed First Quarter 2006 Universal Service Contribution Factor," CC Docket No. 96-45, Public Notice, 20 FCC Rcd 19933 (2005).

⁸ 47 C.F.R. § 0.11(a)(8).

⁹ 5 U.S.C. § 553(b)(3)(A).

6. ACCORDINGLY, IT IS ORDERED, that pursuant to sections 4(i), 4(j), 5(c), 303(r), 47 U.S.C. §§ 154(i), 154(j), 155(c), 303(r) of the Communications Act of 1934, as amended, 47 C.F.R. Part 54 IS AMENDED, as set forth below, effective upon publication in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX

Part 54 of Title 47 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for Part 54 continues to read as follows:

AUTHORITY: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 54.709 is amended by revising subsection (a)(3) by replacing “Wireline Competition Bureau” with “Office of the Managing Director.”

3. Section 54.717 is amended by revising subsections (a), (b), (c), (d), (e)(1), (e)(2), (f), (g), (h), and (i) by replacing “Wireline Competition Bureau” with “Office of Inspector General” and by revising subsection (k) by replacing “Chief of the Wireline Competition Bureau” with “Inspector General.”