

system is temporarily out of service for repair or replacement, the station may be operated, pending completion of repairs or replacement, for a period not exceeding 120 days without further authority from the FCC if all other operating parameters and the field monitoring point values are within the limits specified on the station authorization.

47 CFR 73.68(e)(1) Special Temporary Authority (see Sec. 73.1635) shall be requested and obtained from the Commission's Audio Division, Media Bureau in Washington to operate with parameters at variance with licensed values pending issuance of a modified license specifying parameters subsequent to modification or replacement of components.

47 CFR 73.68(e)(4) states request for modification of license shall be submitted to the FCC in Washington, DC, within 30 days of the date of sampling system modification or replacement. Such request shall specify the transmitter plate voltage and plate current, common point current, base currents and their ratios, antenna monitor phase and current indications, and all other data obtained pursuant to this paragraph.

47 CFR 73.68(f) states if an existing sampling system is found to be patently of marginal construction, or where the performance of a directional antenna is found to be unsatisfactory, and this deficiency reasonably may be attributed, in whole or in part, to inadequacies in the antenna monitoring system, the FCC may require the reconstruction of the sampling system in accordance with requirements specified above.

47 CFR 73.151(c)(1)(ix) states the orientation and distances among the individual antenna towers in the array shall be confirmed by a post-construction certification by a land surveyor (or, where permitted by local regulation, by an engineer) licensed or registered in the state or territory where the antenna system is located.

47 CFR 73.151(c)(2)(i) describes techniques for moment method modeling, sampling system construction, and measurements that must be taken as part of a moment method proof. A description of the sampling system and the specified measurements must be filed with the license application.

47 CFR 73.151(c)(3) states reference field strength measurement locations shall be established in directions of pattern minima and maxima. On each radial corresponding to a pattern minimum or maximum, there shall be at least three measurement locations. The field strength shall be measured at each

reference location at the time of the proof of performance. The license application shall include the measured field strength values at each reference point, along with a description of each measurement location, including GPS coordinates and datum reference.

47 CFR 73.155 states a station licensed with a directional antenna pattern pursuant to a proof of performance using moment method modeling and internal array parameters as described in § 73.151(c) shall recertify the performance of that directional antenna pattern at least once within every 24 month period.

47 CFR 73.155(c) states the results of the periodic directional antenna performance recertification measurements shall be retained in the station's public inspection file. The existing information collection requirements for this information collection are as follows:

47 CFR Section 73.54(c) requires that AM licensees file a letter notification with the FCC when determining power by the direct method. In addition, Section 73.54(c) requires that background information regarding antenna resistance measurement data for AM stations must be kept on file at the station.

47 CFR Section 73.54(d) requires AM stations using direct reading power meters to either submit the information required by (c) or submit a statement indicating that such a meter is being used.

47 CFR Section 73.61(c) requires a station may be directed to make a partial proof of performance by the FCC whenever there is an indication that the antenna is not operating as authorized.

47 CFR Section 73.62(b) requires an AM station with a directional antenna system to measure and log every monitoring point at least once for each mode of directional operation within 24 hours of detection of variance of operating parameters from allowed tolerances.

47 CFR Section 73.69(c) requires AM station licensees with directional antennas to file an informal request to operate without required monitors with the Media Bureau in Washington, D.C., when conditions beyond the control of the licensee prevent the restoration of an antenna monitor to service within a 120 day period. This request is filed in conjunction with Section 73.3549.

47 CFR Section 73.69(d)(1) requires that AM licensees with directional antennas request to obtain temporary authority to operate with parameters at variance with licensed values when an authorized antenna monitor is replaced

pending issuance of a modified license specifying new parameters.

47 CFR Section 73.69(d)(5) requires AM licensees with directional antennas to submit an informal request for modification of license to the FCC within 30 days of the date of antenna monitor replacement.

47 CFR Section 73.154 requires the result of the most recent partial proof of performance measurements and analysis to be retained in the station records and made available to the FCC upon request. Maps showing new measurement points shall be associated with the partial proof in the station's records and shall be made available to the FCC upon request.

47 CFR Section 73.158(b) requires a licensee of an AM station using a directional antenna system to file a request for a corrected station license when the description of monitoring point in relation to nearby landmarks as shown on the station license is no longer correct due to road or building construction or other changes. A copy of the monitoring point description must be posted with the existing station license.

47 CFR Section 73.3538(b) requires a broadcast station to file an informal application to modify or discontinue the obstruction marking or lighting of an antenna supporting structure.

47 CFR Section 73.3549 requires licensees to file with the FCC requests for extensions of authority to operate without required monitors, transmission system indicating instruments, or encoders and decoders for monitoring and generating the Emergency Alert System codes. Such requests must contain information as to when and what steps were taken to repair or replace the defective equipment and a brief description of the alternative procedures being used while the equipment is out of service.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 05-195; FCC 08-189]

Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight

AGENCY: Federal Communication Commission.

ACTION: Notice of Inquiry.

SUMMARY: In this document, we seek comment on ways to further strengthen

management, administration, and oversight of the Universal Service Fund ("USF" or "Fund"), how to define more clearly the goals of the USF, and to identify any additional quantifiable performance measures that may be necessary or desirable. We also seek comment on whether and, if so, to what extent the Commission's oversight of the USF can be improved. In conducting this inquiry, we plan to build upon the comprehensive audit oversight conducted by the Commission's Inspector General in 2007.

DATES: Submit comments on or before November 13, 2008; reply comments on or before December 15, 2008.

ADDRESSES: You may submit comments, identified by WC Docket No. 05–195, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow instructions for submitting comments.

- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow instructions for submitting comments.

- U.S. Postal Service first class, Express, and priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments, see the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Inquiry, WC Docket No. 05–195, adopted August 15, 2008 and released September 12, 2008. The complete text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. In addition, the complete text of this document is available at <http://www.fcc.gov/headlines.html>. The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 488–5300 or (800) 378–3160, facsimile (202) 488–5563, or via e-mail <http://www.bcpweb.com>.

I. Introduction

1. In this Notice of Inquiry ("NOI"), we seek comment on ways to further

strengthen management, administration, and oversight of the Universal Service Fund ("USF" or "Fund"), how to define more clearly the goals of the USF, and to identify any additional quantifiable performance measures that may be necessary or desirable. We also seek comment on whether and, if so, to what extent the Commission's oversight of the USF can be improved. In conducting this inquiry, we plan to build upon the comprehensive audit oversight conducted by the Commission's Inspector General in 2007.

2. Our primary goal in initiating this NOI is to ensure sufficient safeguards are in place for the USF to operate as Congress intended. In recent years, the Commission has undertaken a series of steps to improve and strengthen oversight, including support of the Inspector General's audit program. Still, we are concerned about the error rates the Inspector General identified. The Commission has already taken a number of steps to address the problems identified by the Inspector General and others, for example, implementing program-wide debarment measures in 2007, initiating recovery of any improperly disbursed funds, and executing a Memorandum of Understanding ("MOU") with the USF Administrator. These recent steps have provided tangible benefits. For example, an independent auditor audited the Commission's finance and accounting activities and issued a positive opinion that identified no material weaknesses in these activities in fiscal years 2006 or 2007. The independent auditor's opinion expressly covers the Commission's financial controls over the USF and represents a marked improvement over the period covering fiscal years 1999 through 2005. The importance and size of the USF demands constant scrutiny and assessment of the Commission's oversight efforts. We are initiating this NOI to continue our assessment, solicit input from the public, and develop additional rules and safeguards to protect the Fund.

II. Background

3. As set forth in section 254 of the Communications Act of 1934, as amended (the "Act"), universal service policy is intended to ensure the availability of affordable telecommunications services to consumers living in high-cost areas, low-income consumers, eligible schools and libraries, and rural health care providers. Section 254 also required explicit federal universal service mechanisms and enlarged the scope of the universal service program. The

universal service programs are funded by contributions remitted by telecommunications carriers providing interstate and international telecommunications services and from certain other providers of interstate telecommunications. The Universal Service Administrative Company ("USAC" or "USF Administrator"), a subsidiary of the National Exchange Carrier Association ("NECA") and a private not-for-profit corporation, was created to serve as the Administrator of the USF. The USF consists of four programs: (1) High-cost, providing financial support to eligible telecommunications carriers ("ETCs") serving high-cost areas; (2) schools and libraries ("E-Rate"), providing discounted telecommunications services, Internet access, and internal connections to eligible schools and libraries; (3) low-income, assisting low-income customers with discounted installation and monthly telephone services; and (4) rural health care, providing discounted telecommunications and information services to rural health care providers.

4. Many observers, including the Government Accountability Office ("GAO"), have recommended that the Commission take steps to improve oversight of the USF. In response, the Commission has taken action in previous proceedings to detect and deter waste, fraud, and abuse of the Fund. In addition, schools and libraries participating in the E-rate program have been subject to audits to determine compliance with program rules and requirements. Audits and investigations have uncovered issues ranging from poor program design to improper use of funds, including intentional efforts to defraud the program by unscrupulous actors. In many instances these audits and investigations have resulted in the referral of fraud cases to the Department of Justice ("DOJ"), and in settlements favorable to the Government and/or criminal convictions or civil judgments against the wrongdoers. In addition, where wrongdoers have been convicted or subject to civil judgments, the Commission has debarred or proposed debarment of the wrongdoers consistent with our rules.

5. More recently, the Commission has taken a series of steps to further bolster oversight of the USF. First, the Inspector General initiated 459 audits of beneficiaries and contributors. Based on the results of those audits, the Inspector General is now overseeing a second round of 650 audits (beneficiaries of Schools and Libraries and High Cost Fund programs only) that build upon experience from the first round. The

results of the Inspector General's audits have resulted in both recoveries of USF monies and enforcement action against entities that apparently violated Commission rules.

6. Second, the Commission has strengthened its oversight and management of the USF Administrator. In June 2007, the Commission established an MOU with the USF Administrator to ensure greater clarity in administrative and management functions. The MOU established reporting requirements of key performance measurement data to the Commission, instructed the Administrator to take corrective action on all audit findings including recovery of all funds identified as improperly disbursed, and directed the Administrator to maintain effective internal controls over its operations. Specifically, the MOU directs the Administrator to implement an internal controls structure consistent with the requirements of Office of Management and Budget ("OMB") Circular A-123. The Administrator is in the process of re-assessing its internal controls framework. The results of this effort should enable the Administrator to develop and implement corrective action plans for any identified internal control weaknesses, which will help to prevent and reduce improper payments across all USF programs. As noted above, the improved internal control structure over the USF has helped the Commission receive unprecedented high marks from the outside independent auditor over the Commission's finance and accounting activities, including those governing the USF. More recently, the Commission directed the USF Administrator to establish an incentive-based system for its executives to reduce and prevent improper payments. Specifically, any bonuses the USF Administrator pays to its executives must be based at least in part on the USF Administrators' success at reducing and preventing improper payments.

7. Third, the Commission established performance measures and goals for the USF and the USF Administrator. These performance measures and goals will be reported at least annually by the USF Administrator and will be summarized in the Commission's budget and financial submissions to Congress. In addition, the Commission required the USF Administrator to develop customer service standards and to prepare, review, and report data concerning the quality of service the USF Administrator provides to USF stakeholders. Like the USF Administrator's efforts to reduce and prevent improper payments, the

quality of service it provides its stakeholders will also help form the basis for executive compensation.

8. Fourth, in August 2007, the Commission adopted rules that address many of the problems previously identified with the USF program. The Commission's new rules establish rigorous document retention requirements for program participants and establish performance measurements to better manage the Administrator and the USF. These measurements, among other things, require the Administrator to provide specific performance metrics such as the number of program beneficiaries, rates of telephone subscribership in urban versus rural areas, and the average dollar amount of support. The Commission's new rules also create additional penalties for bad actors—specifically, the Commission can now debar from continued participation in the program, any party that defrauds any of the four disbursement programs.

9. Fifth, the Commission has followed up on investigations by taking strong enforcement action against bad actors. Since January 2007, the Commission has suspended or debarred 14 individuals or companies and proposed or issued 19 forfeitures or consent decrees against violators and other targets of our investigations. We expect that strong enforcement action and the deterrent effect of the Inspector General's comprehensive audit program will encourage compliance among program participants.

10. Finally, although not the subject of this *Notice of Inquiry*, the Commission has taken steps toward more fundamental reform of the USF. For example, the Commission recently took action to rein in the explosive growth in high-cost universal service support disbursements by adopting an interim, emergency cap on the amount of high-cost support that competitive ETCs may receive. Further, on January 29, 2008, the Commission released three notices of proposed rulemaking addressing proposals for comprehensive reform of the high-cost program. In the *Identical Support Rule NPRM*, the Commission tentatively concludes that it should eliminate the Commission's current "identical support" rule, which provides competitive ETCs with the same per-line high-cost support amounts that incumbent LECs receive. In the *Reverse Auctions NPRM*, the Commission tentatively concludes that reverse auctions offer several potential advantages over the current high-cost support distribution mechanisms. In the *Joint Board Comprehensive Reform NPRM*, the Commission is considering

the recommendations of the Joint Board to establish three separate funds with distinct budgets and purposes: A broadband fund; a mobility fund; and a provider of last resort fund, and to adopt an overall cap on high-cost funding. The Commission is also considering all the principles in section 254(b) of the Act, including reasonable comparability, in the *Tenth Circuit Remand* proceeding. Further, building on the progress made by the Commission in the *Comprehensive Review Order*, the Commission is continuing to consider comprehensive USF reform proposals raised in, or in response to, the *Comprehensive Review NPRM*, including ways to simplify the E-Rate program.

11. These oversight improvements have built upon the earlier measures taken by the Commission. In 1999, in the *Commitment Adjustment Order*, the Commission directed the USF Administrator to recover E-Rate funds committed in violation of the Act. In 2003, the Commission adopted a debarment rule and other measures for the E-Rate program to safeguard the Fund. In addition, as mentioned above, the Commission has taken other actions to detect and deter waste, fraud, and abuse of the Fund.

Summary of Audit Findings

12. In the *Comprehensive Review NPRM*, we asked whether we should require audits of program participants. In the *Comprehensive Review Order*, we concluded that the Inspector General's compliance audits of contributions to the USF and distributions from the USF would provide appropriate audit oversight of the USF programs and that an additional annual audit requirement was unnecessary. Working under the Inspector General's supervision, independent auditors audited distributions from and contributions to the USF that occurred during the 2005 funding year. The auditors tested compliance with the Commission's rules and provided the basis for the Inspector General's statistical estimates of erroneous payments as defined in the Improper Payments Information Act of 2002 ("IPIA"). Under the IPIA, a program is at risk if the erroneous payment rate exceeds 2.5 percent and the total amount of erroneous payment is greater than \$10 million. Under those criteria, the low-income, schools and libraries, and high-cost fund distributions were determined to be at risk. These audits represent the most rigorous review of USF beneficiaries and contributors since the Fund's inception. The auditors performed a random sample of 459 audits of

beneficiaries from all USF programs, as well as contributors, from 2005. The Inspector General released a preliminary analysis on October 3, 2007. The Office of Managing Director ("OMD") subsequently directed the USF Administrator to propose steps it could take to reduce future improper payments based on the information gained from the Inspector General's audits. The USF Administrator submitted a report on December 31, 2007, and a follow-up report on February 28, 2008. In its reports, the USF Administrator proposes additional steps that it could take to enhance oversight.

13. *Contributors.* Section 254 of the Act and the Commission's rules require all telecommunications carriers providing interstate and international telecommunications services and certain other providers of interstate telecommunications to contribute to the USF. Ninety contributors were randomly selected for the audits. The contribution improper payment rate was 5.50 percent. The independent auditors found noncompliance with the following rules: Rules associated with contributor ID; regulatory contact information; agent for service of process; Commission registration number; company's reported interstate revenues; company's reported interstate estimate; certification, and records maintained to support data.

14. *Low-income program.* The low-income program provides discounts to qualified consumers by reducing installation fees and monthly charges for basic telephone service. Additional discounts are available to qualified consumers living on tribal lands. The estimated improper payment rate was 9.5 percent. Areas of noncompliance included violations of the following: Advertising supported services; rates; link up discount; support of toll election; no deposit for lifeline; determination of consumer qualification; eligibility verification; officer certification; procedures for qualification; accurate submission of Form 497; record keeping; and certification from resellers.

15. *Schools and libraries program.* The E-Rate program provides discounts to schools and libraries for telecommunications services, Internet access, and internal connections. The auditors estimated the improper payment rate at 12.9 percent. The auditors found non-compliance in several areas, such as recordkeeping; eligible services; using the correct discount; and entering into a contract too early in the application process.

16. *High-cost program.* The high-cost program provides support for ETCs to ensure that consumers in all rural, insular, and high-cost areas have access to telecommunications services at rates that are reasonably comparable to those paid in urban areas. The estimated improper payment rate was 16.6 percent. The auditors found noncompliance with various rules, *e.g.*, failure to accurately report historical revenue; failure to report the number of working loops; failure to submit forms; and failure to submit data.

17. *Rural health care program.* The rural health care program provides discounts to rural health care providers to ensure they pay no more than their urban counterparts for their telecommunications needs in the provision of health care services. In addition, the program provides support to rural health care providers for access to the Internet. The estimated improper payment rate was 20.64 percent which was mainly due to record keeping and record production problems.

18. In the *Comprehensive Review Order*, the Commission adopted rules that addressed many of the audit findings. For example, the audits disclosed widespread failure of beneficiaries to retain appropriate documentation to justify USF support. The document retention requirements adopted in the *Comprehensive Review Order* should remedy these problems. Other concerns raised by the audits, such as rule violations, may be prevented by better outreach by the USF Administrator, or other methods of educating program beneficiaries.

III. Discussion

19. At the outset, we seek comment broadly on ways to further strengthen the administration, management, and oversight of the Fund. For example, we seek comment on what additional measures the Commission can implement to prevent improper USF payments, to safeguard the USF from waste, fraud, and abuse, to ensure that all providers are properly contributing the amounts they have collected from their subscribers to the USF, and to help operate the program in a more efficient, effective manner. Commenters should propose measures that the USF Administrator could take to prevent improper payments and collect all sums that should be paid to the fund and address the error rates identified in the Inspector General's audit results. Commenters should also propose measures that the Commission could take to prevent improper payments and address error rates, as well as measures that program participants can take to

prevent improper payments and address error rates. We seek comment on whether the Commission should adopt an independent audit requirement for program beneficiaries and contributors. Commenters should address whether safeguards should be adopted uniquely for certain USF programs and contributions or if the safeguards should remain more or less uniform, and if so, why. Commenters should discuss the costs versus benefits of their proposals in specific, rather than general, terms. We recognize that the four USF disbursement programs and the contribution mechanism have many differences and perhaps need different, more closely tailored requirements to prevent waste, fraud, and abuse efficiently and effectively. In summary, we seek comment on whether different safeguards are necessary for the different aspects of the universal service program. We also use this as an opportunity to request that parties refresh the record on these issues in response to the Commission's 2005 *Comprehensive Review NPRM*.

20. We expect to continue to rely on the expert oversight of the Commission's Inspector General to conduct and maintain a sufficient audit program. As noted above, the Commission's Inspector General completed the most comprehensive round of audits of the USF ever conducted. Based on these initial results, the Inspector General has initiated plans to significantly expand the audit program going-forward in order to provide more precise estimates of the error rates and more detailed information on the underlying causes of any high error rates. In Fiscal Year 2008, the Commission requested and received from Congress \$21.48 million for the Inspector General's USF oversight efforts. The Commission has requested an additional \$25.48 million in USF oversight funding for the Inspector General in Fiscal Year 2009. As the Inspector General completes audits of the program, we will continue to recover any improperly disbursed monies and work to implement appropriate corrective action in light of the audit results.

21. We seek comment on whether the Commission should establish additional rules pertaining to document retention and enforcement. We note that most problems identified in the audit results were related to lack of documentation by program participants. In August 2007, the Commission adopted specific document retention rules for each USF mechanism. We seek comment on whether the audit results suggest that the Commission should take additional

steps related to document retention in order to help verify that USF monies are used for their intended purposes. If so, what steps should be taken? Should recipients of universal service funding be required to retain documents that they are currently not required to retain? Currently, the rules require that records be retained for five years for all aspects of the USF, except for the low-income program for which documents must be retained for as long as the recipient continues to receive supported service plus three additional years. Should applicants and service providers be required to retain records for a longer period? Should the Commission embrace additional enforcement methods, or adopt additional enforcement rules, to address these issues and, if so, what should they be?

22. As part of our examination into enhancing our oversight and management of the USF, we seek comment on whether the Commission should take steps to more clearly define the goals of the federal universal service programs. We seek comment on whether we should adopt specific qualitative or quantitative goals beyond those policy objectives enumerated in section 254 of the Act. We ask parties that advocate additional goals to identify with specificity the goals they recommend we apply.

23. In 2005 we sought comment on the utility of a permanent administrator of the USF. We specifically solicited comment from stakeholders on the option of eliminating USAC as the permanent administrator of the USF and thereby using a contractor (obtained using the FAR) to perform the administration of the USF. As a general matter, commenters either did not address this proposal or filed comments in support of retaining the status quo. We use this opportunity to refresh the record in this regard. Should the Commission continue to use a permanent administrator of the USF? Alternatively, the Commission could obtain the services of a contractor or contractors to perform the USF Administrator's functions. We seek comment on this option.

24. Earlier this year, the Commission required the USF Administrator to establish customer service standards and to report regularly on the quality of service provided to USF stakeholders. At this time, the USF Administrator collects and reports the number and type of complaints received, the number of inquiries, the average number of business days to resolve complaints, and the percentage of complaints resolved within 20 business days. These specific data elements are currently

under review and may change. We note that the USF Administrator is now required to base its executive compensation in part on the quality of service it provides stakeholders. In the meantime, we seek comment from USF stakeholders on additional metrics the USF Administrator should collect and report to illustrate the quality of service it provides stakeholders.

25. We seek comment on what additional performance management techniques the Commission could adopt to improve the administration and operation of the USF. In August 2007, the Commission took initial steps to improve the performance management of the USF by adopting performance measures to help ensure the program operates in an efficient, effective manner. Most of these performance measures were "output measures." OMB and GAO have written extensively on the use of performance management techniques and the use of performance goals and measures in Federal programs. OMB and GAO have recommended greater reliance on other types of performance goals and measures, including "outcome" and "efficiency" measures. Because we are committed to ensuring the USF operates in the manner intended by Congress, we seek comment on whether the Commission should establish additional performance goals and measures, or delete or revise any previously established performance goals and measures, and, more fundamentally, if the Commission has the authority to set long-term goals for the USF programs. If so, what additional performance goals and measures should be established, deleted, or modified, and, if so, why? Should performance measures be oriented toward the implicit social welfare objectives of the USF programs or tied only to accomplishment of the explicit requirements of the Act? If and when long-term program goals are met, does the Commission have the authority to terminate or significantly modify a USF program, without explicit Congressional direction?

26. The GAO recently concluded that the internal control mechanisms over the High Cost program, including the use of audits, have "weaknesses." However, the GAO declined to make any specific recommendations for strengthening or improving the internal control structure over the program beyond recommending that the Commission "should identify areas of risk in its internal control environment and implement mechanisms that will help ensure compliance with program rules and produce cost-effective use of program funds." Nor did the GAO

identify any specific internal control weaknesses beyond concluding that the existing internal controls "may not fully address" the concerns the GAO identified about cost-effectiveness, accuracy of cost and line count data, and the appropriateness of high cost support. We invite program stakeholders to identify areas of risk in the program's internal control environment and to propose mechanisms that will help ensure compliance with program rules and produce cost-effective use of program funds. We seek comment on additional measures we can take to enhance the internal control structure of the entire USF, including all four beneficiary support mechanisms and the contributions program. We seek comment on whether we should establish an independent audit requirement such as the one discussed in the 2005 NPRM. We note that the Commission's OIG may exercise its discretion to evaluate the accuracy of cost and line count data, which the GAO identified as a concern. We seek comment on whether the Commission should establish any additional measures to provide better guarantees in this area.

27. Commenters should describe the costs and benefits of any such proposals, including the costs associated with any information collection effort. Commenters should address how the Commission should gather, process, and report on performance measures. Should the funds for such data collection and processing come from the USF? If so, how much USF money should be spent on an information collection effort for performance measurements?

28. Commenters should also discuss whether short-term goals should flow from explicitly stated long-term goals and if the Commission has the responsibility to set short-term operational goals based upon the requirements in the Act. Should performance measurements of accomplishment of the long and short-term goals be at least in part the responsibility of the USF Administrator?

29. We seek comment on any specific long-term and short-term goals of the USF programs. With respect to the high-cost program, we seek comment on any quantifiable measures that can be used in determining the program's success in meeting its goals. Commenters should discuss whether the Commission has the authority to adopt goals that are not specifically part of section 254 of the Act. Commenters should address whether high-cost program goals should

focus exclusively on broadband connections or develop a defined mix of support for broadband and traditional voice telecom. Commenters should discuss appropriate long-term goals for the schools and libraries program and what the Commission should do with respect to the schools and libraries program after such goals have been met. For example, if an appropriate long-term goal is a certain level of connectivity in the Nation's schools and libraries, what should the Commission do, and what authority does the Commission have, with respect to the program after that level of connectivity is met? With respect to the high-cost program, should the Commission create a low, mid, and high range set of options regarding services that could be provided by the program under current rules with less, the same, or more funding?

30. We recognize that a specific rule may never be specific enough to adequately address all situations. In addition, a specific rule may not remain perfectly up-to-date, especially in such a dynamic industry as telecommunications, *e.g.*, changes in technology, corporate structures, etc. We recognize the need of an administrator to be able to effectively implement our rules in such a fast-changing environment. Under Part 54 of our rules, USAC, as the administrator, is not permitted to make policy decisions without bureau guidance. Any party, including USAC and NECA, can file for such guidance at any time. Timely guidance would be important to the efficient and effective administration of the USF programs. We seek comment on the efficiency and effectiveness of this process for obtaining timely guidance with interpretation of our rules, especially with regard to the administration of the USF programs. Commenters are encouraged to provide specifics to the extent possible. For example, comments on actual experience(s) in receiving timely guidance on the interpretation of our rules would be most helpful. Commenters are also asked to state how any identified problem area can be improved.

31. We seek comment on whether the Commission should establish additional rules pertaining to internal control requirements for program participants. For example, OMB Circular A-123 describes the internal control requirements applicable to Federal agencies. In this circular, OMB describes internal control, consisting of organization, policies, and procedures, as a method to help program and financial managers achieve results and safeguard the integrity of their

programs. We seek comment on what steps, if any, the Commission should take with respect to the establishment of internal control measures for program participants. We also seek comment on whether the Commission's internal control measures should be improved with respect to the Universal Service Fund. Commenters should describe any internal control recommendations in detail, as well as the estimated costs and benefits of any such requirements. Commenters should discuss whether the Commission needs to have more direct oversight of the USF Administrator, with respect to the internal controls of the USF.

32. We note that, under the Commission's rules, NECA performs certain activities and functions related to the USF. For example, NECA is the sole shareholder of the current USF Administrator, USAC. In addition, NECA collects certain data used to administer the high cost program. On a related note, NECA performs comparable administrative functions over the TRS fund. We seek comment on whether we should take additional measures concerning NECA's relationship to the current USF Administrator and its activities in the program. For example, should the Commission adopt any specific conflict of interest or other requirements pertaining to NECA (or its successors or assigns) and its relations with the USF Administrator? Should the Commission establish any requirements specifically designed to create greater transparency in the relationship between NECA and the USF Administrator? We seek comment on whether we should establish any rules governing the NECA board with respect to its relations with the USF Administrator, such as the sharing of information or the possibility of shared board members. USAC has proposed that the Commission consider whether USAC should be divested from NECA ownership. We seek comment on USAC's proposal.

33. Since 2005, the Commission has required USAC to conduct its procurements consistent with the Federal Acquisition Regulation ("FAR"). We seek comment on ways that we can improve our oversight of the Administrator's procurement function. For example, should the Commission adopt rules that apply fully the socioeconomic goals incorporated into the FAR, such as veteran's preferences and small business set-asides? We note that the USF Administrator is currently subject to an annual audit as specified in Part 54 of the Commission's rules and that, while this audit may cover the USF Administrator's procurement activities,

such reviews and evaluations are not guaranteed. We therefore seek comment on the extent to which we should establish additional oversight of the USF Administrator's compliance with the FAR. We note that the MOU requires the USF Administrator to take greater steps to use performance-based contracting in its procurements. We seek comment on whether we should mandate a percentage of the USF Administrator's procurements to be performance-based. We also seek comment on other ways to ensure fairness and transparency in the USF Administrator beyond those provided for in the FAR. Alternatively, the Commission could handle certain or all procurements on behalf of the USF Administrator. We seek comment on whether the Commission should take a more active role in the USF Administrator's procurements, such as by handling all aspects of the procurement process for contracts exceeding \$250,000. Commenters should discuss whether the Commission should impose additional substantive or reporting requirements on the Administrator.

34. We seek comment on what additional measures, if any, the Commission should undertake with respect to the application process for each of the USF programs. For example, should the Commission revise any of the existing procedures or forms to help safeguard the process for obtaining program benefits? In particular, should additional information be required of program participants in the application process that would improve the detection of waste, fraud, or abuse, or that would enable the Commission to evaluate whether or how universal service goals are being met? We seek comment on these issues for each of the universal service mechanisms.

35. We seek comment on ways in which we could ensure better accuracy in the certification and verification requirements in the low-income program. In 2004, the Commission adopted federal verification and certification procedures and required states, under certain circumstances, to establish verification and certification procedures to minimize potential abuse in the low-income program. Each year, ETCs are required to verify the continued eligibility of a statistically valid sample of their Lifeline subscribers. ETCs in states that do not have state-based low-income programs must follow the certification and verification procedures set out in the *Lifeline Order*. ETCs in states with their own state-based low-income programs must follow the state-established

verification procedures. We are concerned about the possibility of waste, fraud, and abuse in this program by consumers and telecommunications carriers, in federal default states as well as in other states. We therefore seek comment on how to improve the certification and verification requirements. Commenters should suggest ways in which the USF Administrator can better ensure that Lifeline and Link-Up low-income consumers are eligible for such programs after their initial enrollment. Commenters should also discuss whether different methods should be used to prevent waste, fraud, and abuse in federal default states and in states that are not federal default states.

IV. Procedural Matters

A. Initial Paperwork Reduction Act Analysis

36. This NOI does not contain proposed or modified information collections subject to the Paperwork Reduction Act of 1995 ("PRA"), Public Law 104-13. This NOI does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.

B. Ex Parte Rules

37. This is as a "permit-but-disclose" proceeding subject to the requirements under section 1.1206(b) of the Commission's rules. *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required. Additional rules pertaining to oral and written presentations are set forth in section 1.1206(b).

C. Filing Requirements

38. *Comments and Replies.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before the

dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System ("ECFS"), (2) the Federal Government's eRulemaking Portal, or (3) procedures for filing paper copies.

39. *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

40. *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail

and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

41. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the Commission Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available free online, via ECFS. Documents will be available electronically in ASCII, Word, and/or Adobe Acrobat.

42. *Accessibility Information.* To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to fcc504@fcc.gov or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document can also be downloaded in Word and Portable Document Format ("PDF") at: <http://www.fcc.gov>.

V. Ordering Clauses

43. Accordingly, it is ordered that, pursuant to sections 1, 4(i) and (j), 9, 205, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 159, 205, and 303(r), this Notice of Inquiry is hereby adopted.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; FCC To Hold Open Commission Meeting Wednesday, October 15, 2008 in Nashville, TN

October 8, 2008.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, October 15, 2008, which is scheduled to commence at 9:30 a.m. in Nashville, Tennessee.