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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 54

[CC Docket 96-45; FCC 12-131]

Commission's Rules Regarding the Office of Managing Director and the Office of Inspector General

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) amends its rules to reassign to the Office of Managing Director (OMD) certain audit activities formerly assigned to the Office of Inspector General (OIG). The activities concern oversight of the annual audit of the Universal Service Administrative Corporation (USAC) required by the Commission's rules. In addition, the Commission delegates of authority to OMD, in consultation with the Office of General Counsel, to issue subpoenas concerning matters within its jurisdiction.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]

FOR FURTHER INFORMATION CONTACT: Office of Managing Director, Financial Operations: call Thomas Buckley at (202) 418-0725.

SUPPLEMENTARY INFORMATION: This is a summary of the Part 54 Audit Authority Transition Order released on October 19, 2012. The Part 54 Audit Authority Transition Order and related Commission documents may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY-B402, Washington, DC 20554, telephone 202-488-5300, fax 202-488-5563, or you may contact BCPI at its Web site: <http://www.BCPIWEB.com>. When

ordering documents from BCPI, please provide the appropriate FCC document number, for example FCC 12-131. The Part 54 Audit Authority Transition Order is also available on the Internet at the Commission's Electronic Filing System Web Page at: http://fjallfoss.fcc.gov/edocs_public/.

1. Section 54.717 of the Commission's rules requires the 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." Since 2006, OIG has been the staff unit responsible for overseeing the conduct of the part 54 audit. The purpose of this annual audit has been to oversee the operations of the Universal Service Administrator and to safeguard the Universal Service Fund from potential waste, fraud, and abuse.

2. The Commission amends section 54.717 of its rules to substitute OMD as the staff unit responsible for overseeing the part 54 USAC audit. In 2010, OMD instructed USAC that OIG would no longer directly conduct or oversee the universal service fund beneficiary and contributor audit plan (BCAP), an audit separate from the part 54 USAC audit. This change was in furtherance of OIG's understanding of its responsibilities consistent with the Inspector General Act of 1978, as amended (IG Act). As a result, OMD assumed from OIG the responsibility for directing and overseeing USAC's implementation of the BCAP program. Consistent with OIG's request that the part 54 audit function be transferred back to an appropriate Bureau or Office, and because the Commission finds that OMD now oversees the universal service fund BCAP audits and has in place the resources and expertise needed to oversee the part 54 audit as well, the Commission transfers part 54 oversight authority to OMD.

3. Given this augmentation of OMD's role in audit oversight, the Commission also finds it appropriate to delegate limited authority to OMD, upon receiving approval from the Office of General Counsel, to issue subpoenas that directly relate to OMD'S oversight of audits of the USF programs and OMD's review and evaluation of the interstate telecommunications relay services fund, the North American numbering plan,

regulatory fee collection, FCC operating expenses, and debt collection. By granting OMD with this specific, limited and discreet subpoena authority, the Commission will ensure that OMD has the necessary tools to obtain all relevant documentation in a timely manner to complete audit findings and implement corrective actions for all of these programs. Absent this delegation, there is the potential that an audited entity in a particular FCC program may resist providing essential data to OMD to confirm that entity is operating consistent with program rules. Providing OMD with this specific, limited and discreet subpoena authority, therefore strengthens OMD's ability to effectively review and evaluate the aforementioned FCC programs in a timely manner and further protect these programs against waste, fraud, and abuse.

4. 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.

5. 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 CFR part 54 is amended, as set forth below, effective upon publication in the Federal Register.

List of Subjects

47 CFR Part 0

Classified information, Freedom of information, Government publications, Reporting and recordkeeping requirements

47 CFR Part 54

Communications common carriers, Health facilities, Reporting and recordkeeping requirements

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch,

Secretary

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0 and 54 as follows:

PART 0 – COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Amend § 0.231 by adding paragraph (l) to read as follows:

§ 0.231 Authority delegated

* * * * *

(l) Subpoena authority. The Managing Director is delegated authority to issue subpoenas for the Office of Managing Director's oversight of audits of the USF programs and the Office of Managing Director's review and evaluation of the interstate telecommunications relay services fund, the North American numbering plan, regulatory fee collection, FCC operating expenses, and debt collection. Before issuing a subpoena, the Office of Managing Director shall obtain the approval of the Office of General Counsel.

PART 54—UNIVERSAL SERVICE

3. The authority citation for part 54 is revised to read as follows:

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

§ 54.717 [Amended]

4. In § 54.717 remove the words “Office of Inspector General” and add in their place, the words “Office of Managing Director” and remove the words “Inspector General” and add in their place, the words “Managing Director” each place it appears.

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