

Written Statement of
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On
THE BUDGET AND SPENDING OF THE FEDERAL COMMUNICATIONS COMMISSION

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SUMMARY

Over the years, the Commission has taken on what, in effect, are significant grant making responsibilities, including the USF and TRS programs. I have been asked to ferret out waste, fraud and abuse in programs involving annual disbursements of over \$9.3 billion (\$8.73 billion for USF and over \$ 600 million for TRS). With very limited staff, OIG has demonstrated that it can make significant strides in protecting the USF and TRS Funds and those who fund them. The VRS investigation is, perhaps, the best example of OIG's capabilities. Using no more than two full-time attorney investigators, and with significant assistance from the FBI and Department of Justice, we were able to bring indictments against 26 individuals and one corporate entity and caused VRS claims against the interstate TRS Fund to fall 18% (over \$130 million) in the 2009-2010 rate year alone and the exponential growth the Funds experienced from 2003 to 2009 was stemmed. Those savings were repeated in the 2010-2011 rate year and should continue as long as the Commission and OIG remain vigilant.

While I don't want to over promise and while I acknowledge that in High Cost USF it's more difficult to establish a false claim or fraud, with the right people and the right tools, I believe OIG can apply the lessons learned from VRS to the Commission's USF programs and greatly improve the effort to detect and deter waste fraud and abuse in the USF programs. Indeed, with the temporary employees Congress has authorized us to hire, we have already begun to do so. We are working today with the DOJ and with AUSAs across the country on both civil and criminal false claims cases involving the all USF programs. Most of these investigations are highly confidential and cannot be discussed publicly. All take time to develop and require boots on the ground.

We (the Commission, USAC and OIG) need auditors and investigators in the field doing on site work, at schools, libraries, and service provider locations across the country and abroad. This is particularly the case in E-rate, Low Income and the TRS programs. Some TRS providers have operations outside the continental United States. Thus, we need travel money to do site work, for example, in the Philippines.

We also need improved data mining and computer forensic computer capabilities. We are dealing with hundreds of thousands, if not millions of transactions and massive amounts of data. As the Commission has done in its Low Income fraud prevention program, we all need to improve our ability to develop computer programs to examine the data associated with myriad transactions and USF and TRS payments associated with them to identify outliers and potential fraud.

Finally, we believe the Commission needs to develop a more robust suspension and debarment regime that allows it to stop waste, fraud and abuse as quickly as possible. We need a process that extends beyond E-rate and includes all USF programs and TRS. We need a program that does not, as the E-rate suspension and debarment regime currently does, rely on criminal convictions to debar those who defraud Commission programs.

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to come before you today to discuss the activities and budget of the Office of Inspector General for the Federal Communications Commission (FCC, or Commission). I have been the Inspector General at the FCC since June 2009, first in an acting capacity and in a permanent role since January 2011. I will discuss our oversight and investigative activities for the FCC's major program areas, and then I will discuss the budget for OIG and some of the challenges we face in providing efficient and effective oversight of the Commission.

Video Relay Services

Background

Title IV of the Americans with Disabilities Act of 1990 (ADA), codified as Section 225 of the Telecommunications Act, requires the FCC to ensure that interstate and intrastate telecommunications relay service (TRS) are available, to the extent possible and in the most efficient manner, to persons with hearing and speech disabilities in the United States. Rules promulgated under Section 225 require all common carriers providing voice telecommunications services to provide TRS in the areas in which they provide telephone service. The rules, adopted in 1993, were designed to provide access to the telephone system as it existed at the time - that is when telephone calls were made using a 10-digit phone number, identified with a physical location, and more often than not, an identified customer. The ADA provides that - just as a wheel chair-bound individual cannot be charged the costs of a wheel chair ramp at a restaurant - deaf, hard-of-hearing or speech impaired callers cannot be charged for the costs of TRS. Rather, the costs of providing interstate TRS are to be paid by all users of interstate telecommunications

through the TRS Fund. Local TRS calls were (and are) paid for by the states, and long distance TRS calls are paid for by the FCC's Interstate TRS Fund.

With the advent of the Internet and the availability of broadband communications, the FCC approved funding for Video Relay Service (VRS) in 2001. VRS is a form of and encompassed within TRS and enables persons with hearing disabilities who use sign language to communicate with voice telephone users through video equipment, rather than through the older method of typed text. VRS receives about 75% of TRS funds disbursed because of increased costs of providing same. TRS Fund disbursement data is provided in the table below.

TRS Funding

<u>Rate Year</u>	<u>TRS Fund</u>	<u>VRS Payments</u>	<u>IP Relay Payments</u>
2007-2008	\$636.7 million	\$504.4 million	\$94.5 million
2008-2009	\$805.5 million	\$622.5 million	\$84.1 million
2009-2010	\$891 million	\$612.5 million	\$ 71.8 million
2010-2011	\$683 million	\$559 million	\$69.8 million
7/2011-12/2011	\$343.6 million	\$277.7 million	\$26.3 million

For the 2005 and 2006 TRS rates years, VRS providers were compensated \$6.64 per minute for minutes billed. Tiered VRS compensation rates were implemented in the 2007 rate year and the highest tiered rate was reduced to \$6.24 per minute. Nonetheless, the cost of an hour-long phone call is greater than \$374. Interestingly, the TRS Fund administrator completed a study in 2010 that found that TRS rates could be cut in half and not impair service.

Other types of TRS include Internet Protocol (IP) Relay Services (included in the table above), a service in which an individual with a hearing or speech disability uses the Internet or a web-enabled mobile device to type a message to a Communications Assistant (CA). The CA then calls a hearing person and relays the text message by voice and vice versa.

Criminal Investigations

Having received allegations of fraud in the provision of VRS, OIG commenced an investigation in August, 2008. An overarching tenet in the provision of TRS is the notion that in order to provide functionally equivalent service, CAs, who interpret relayed conversations for individuals with a hearing or speech disability are required to act as “transparent conduits.” Thus CAs are prohibited from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of a call.

By December, 2008, the investigation revealed evidence sufficient to justify referring the matter to the Fraud Section of the Criminal Division of the Department of Justice (DOJ). The case was formally accepted by DOJ in January, 2009, whereupon, in addition to attorneys in the Criminal Division, four special agents of the FBI and an agent of the U.S. Postal Inspection Service, were assigned to work on the investigation. OIG investigators maintained a constant and active role in the VRS investigation.

In the summer of 2009, search warrants were executed and raids were conducted at the offices of Viable Communications, Inc. (Viable) an uncertified provider of VRS billing the interstate TRS Fund through CAC, a certified VRS provider, and at the offices of several of Viable’s affiliates.

The raids were conducted by DOJ, with over 40 Federal Bureau of Investigation agents and the FCC OIG present to support same. Additional wide-ranging investigations across the country led to six indictments and the arrest of 26 individuals from nine states in November, 2009. All but one of the indictments dealt with schemes involving Viable. The other dealt with paid callers billing through an unidentified certified TRS provider based in New York City that provided VRS through home-based Video Interpreters (Vis) throughout the country.

The individuals (and one corporation) charged in connection with the operations were alleged to have participated in schemes to steal tens of millions of dollars from the TRS Fund. In one allegation, owners and employees of Viable were alleged to have paid individuals, including Viable's own employees, to make calls through Viable for no purpose *other than* to generate revenue. These calls took various forms, such as computer-generated calls in which no VI was present, nor was any communication taking place. It was, essentially one computer hooked up to another to give the impression of a connected call. These were, in actuality, "run calls" in which paid callers placed calls to podcasts, conference calls, books on tape, etc., for the sole purpose of running up fraudulent minutes. Callers often did not even pay attention to the VI interacting with the call participants. Often the VI would stop interpreting completely without receiving a complaint from the caller. Use of double privacy screens was another method whereby fraudulent calls were being made. In these calls, a deaf caller and the VI would put up privacy screens, so that neither the VI nor the caller could see each other resulting in zero communication. In other instances, callers would admit they were being paid to make calls, and in some, callers would instruct VIs not to bother interpreting their call.

In June, 2010, one defendant at trial was found guilty on all but one count. The 25 remaining defendants (with one exception of an individual who was given probation) as well as the sole indicted corporation, pleaded guilty to having defrauded the TRS Fund. While the majority of the defendants are still awaiting sentencing, the principals of Viable, John and Joseph Yeh were sentenced in late November to nine years and four years seven months of jail time, respectively. The Yeh brothers were significant individuals within the VRS world. At the sentencing, the government offered evidence establishing that the money derived from the fraudulent schemes was paid out of the \$55 million received by Viable from the TRS Fund. OIG's Assistant IG for Investigations was the sole government witness at sentencing, and presented the victim's loss statement. Both Yehs were ordered to pay, jointly and severally, \$20 million in restitution. While the Viable case is largely behind us, we know that several individuals and entities formally associated with Viable's operations remain active in the VRS industry. In fact, Viable acted as sort of a "training institute" for future wrongdoers.

On December, 14, 2011, an additional indictment was unsealed naming two defendants working with yet another certified VRS entity, alleging VRS fraud perpetrated through fraudulent marketing and outreach schemes.

The investigations into VRS fraud are continuing. The effects of these criminal enforcement efforts have been palpable. The TRS Fund increased from approximately \$64 million for the 2002-2003 Fund year (the first year VRS was widely offered), to just over \$890 million in the 2009-2010 Fund year (the year in which the initial arrests and the VRS investigation became public). The fund administrator projected TRS payments for the July 1, 2009 through June 30,

2010 rate year would be \$891 million. Implicit in this projection were estimated claims of \$712.8 million for VRS, because in recent years, claims for VRS had comprised 80% of all claims from the Fund. However, the fund administrator reported that VRS reported minutes of use fell over 18% after the initial arrests were made, and the investigation became known. This resulted in approximately \$138.3 million loss prevention/savings to the Fund in the 09-10 rate year alone. The only logical explanation for this precipitous decline is that usage slowed (dramatically over the years) because of fear that those individuals perpetrating the fraud would be prosecuted. Subsequently, based on information obtained in the course of the investigations, the Commission has adopted several declaratory orders and has implemented rules directly addressing VRS fraud. The exponential growth experienced by the Fund from 2002-2009 likely would have continued but for the deterrent effect of the criminal indictments and the ensuing Commission actions. And this at a time when deaf individuals are very much increasingly taking advantage of phone texting messaging to communicate. Rather, the size of the Fund has remained relatively stable. The actual VRS payments made in the 2010-2011 rate year were approximately \$556 million. Further, the projected savings as a result of OIG's VRS investigation are in perpetuity, saving taxpayers money year after year – in actuality and in the future potentially *hundreds* of millions of dollars every year.

Civil Investigations

In its continuing efforts to investigate VRS-related fraud, OIG referred three cases to the Civil Division of DOJ in late 2010 involving three different providers of VRS service for possible prosecution under the Civil False Claims Act. All three involve varying schemes to manufacture additional minutes for compensation from the VRS.

Lastly, OIG is assisting DOJ in resolving a pending *qui tam* case in which the relator alleges improper handling of IP Relay calls. This case could potentially result in a payback to the United States Treasury of tens of millions of dollars in damages, and result in the restructuring of the IP relay program that, to date, has paid providers approximately \$750,000,000 in TRS reimbursements. This is, of course, by the very monies alone at issue, a tremendously significant investigation for OIG.

Audits of the VRS

In 2010 the OIG initiated audits of all ten VRS providers to determine whether three years' worth of required cost information submitted to support reimbursements claimed from the fund were accurate and in compliance with regulations, memos and orders. This cost information is critical because it is used in developing the reimbursement rates. These audits were completed a month ago and determined that none of the providers were in compliance with reporting requirements.

We concluded that the cost reports certified and submitted to the TRS Fund Administrator by the VRS providers under audit did not fully comply with the instructions provided by TRS Fund Administrator, FCC Rules and Orders, and other applicable regulations. Based on our audit test results, the total dollar value of the exceptions noted is \$9.2 million. These reports have been submitted to the FCC for appropriate action.

In 2011, we initiated five more audits of VRS providers increasing the scope of the audits. Instead of auditing cost information submitted to the TRS Fund Administrator by the VRS providers, we revised the scope of our audits to address the use of VRS revenue received by the provider to determine whether funds were spent on activities and cost objectives that were related to the VRS program. The preliminary results of one of our reviews shows that at least one provider might have been overpaid by \$384 million over a two-year period for providing VRS services.

Summary

The overarching lesson learned from the criminal investigations is that the TRS program, as it exists today, remains too easy to defraud. Effective oversight is hampered by: (1) call detail records that only identify obviously suspicious calls (unusually long calls, many calls from or to the same number, calls to recorded messages) and that, because calls are susceptible to spoofing (misleading information) and caller ID blocking, may, according to the TRS Administrator, be of questionable validity; and (2) the simple fact that millions of calls are made monthly from call centers all over the country.

It clearly appears that the Commission has engaged in efforts to revise all aspects of the TRS program- both efforts to detect and reduce fraud, and efforts to restructure the program more broadly. However, much remains to be done and these activities are on-going.

The FCC has been very supportive of the OIG in their VRS reform efforts. OIG has offered many suggestions to help stop the fraudulent activity, and looks forward to continuing the effort,

to eliminate waste, fraud and abuse in the TRS program and to returning the program to that which Congress intended.

UNIVERSAL SERVICE FUND

Background

The Assistant Inspector General for Universal Service Fund Oversight (AIGUSF) has principal responsibility for providing oversight of the Universal Service Fund (USF) programs except for investigative matters, which fall under the purview of the Assistant Inspector General for Investigations.

In addition to the four USF programs (High Cost, Schools and Libraries, Low Income and Rural Health Care), OIG also has oversight responsibility for the required contributions to the fund by entities that provide telecommunications services. Under FCC rules those contributors include all telecommunications carriers providing international and interstate telecommunications services, providers of interstate telecommunications that offer interstate telecommunications for a fee on a non-common carrier basis, interconnected Voice Over Internet Protocol (VOIP) providers, and payphone providers that are aggregators.

Additional information on our oversight of the USF, by program is, described below:

High Cost Program

OIG accepted responsibility to conduct eight High Cost (HC) audits as part of the Commission's improper payments process due to conflicts with Universal Service Administrative Company's (USAC) external auditors. As a Competitive Eligible Telecommunications Carrier (CETC), each of these entities is entitled to receive USF support based on the number of eligible lines it serves in a particular service area which in turn is based on the support the Incumbent Local Exchange Carrier (ILEC) would receive for each such line. Therefore each audit focused on the method by which eligible lines were counted and reported in each ILEC service area served. Payments from the USF to the eight entities under audit for the period 7/1/07 to 6/30/08 totaled \$46,263,300. Audit findings included duplicate and non-eligible lines included in USF claims. The auditees have indicated that new procedures have been implemented to address these findings. Final reports have been issued.

We initiated a project to develop statistically based tools to review and analyze cost submissions submitted by companies for the High Cost Loop Support (HCLS) and Local Switching Support (LSS) components of the High Cost Program. We planned the model to identify high risk accounts and potential audit targets – identifying specific accounts with the highest monetary significance and risk of fraud, waste, and abuse. Disbursements to cost companies are approximately \$935 million in HCLS and \$250 million in LSS annually.

Initial testing included a visit to an ILEC identified as one of the Top 10 receivers of USF HC disbursements on a per line basis. These analytic tools were being developed and tested by the

OIG statistician and the OIG HC team and were intended to assist in mid and long term risk-based audit planning to aid in the efficient use of limited resources. This was to be the first of a series of analytical, data mining tools that could also be applied to other HC support mechanisms; an effort that, despite its strong potential for increasing the efficiency and size of recoveries, has had to be delayed.

We need to restart oversight efforts of the HC program, including analytical, data mining projects, and monitoring the significant changes to the HC programs with the addition of new staff.

Schools and Libraries Program

Beneficiary audits conducted have provided on-the-job training opportunities and familiarity with the Schools and Libraries (SL) program.

As an example, an OIG audit report (completed as part of the Commission improper payments process) found that a school district that received \$7,780,000 in Fiscal Year 2008 was materially compliant with FCC rules and regulations and orders except that: (1) the District certified receipt of cabling based on estimates instead of actual charges resulting in an improper payment of \$432,423 for cabling costs; 2) the District's service provider did not remove ineligible items from invoices and as a result an improper payment of \$31,805 was paid from USF; and 3) the District received \$6,318 of free goods and services from the service provider and did not pay their share of the cost of ineligible items.

In another example, a soon to be issued final report finds the school district did not comply with program rules regarding: (1) application matters; (2) procurement and service provider selection matters; (3) asset and inventory records; and (4) receipt of services and reimbursement matters. For the internal connections application, the District failed to submit a signed and approved contract prior to the submission of its FCC Form (Form) 471 (Services Ordered and Certification Form). We could not determine if the district evaluated the cost effectiveness of the single bid it accepted for internal connections. The district failed to maintain adequate asset and inventory records to locate E-Rate equipment and ensure it was received and installed prior to USF disbursements. We found that the district certified receipt of equipment and USF payments were made without verifying the amount of cabling received resulting in service provider overcharges for cabling costs. We intend to recommend recovery of the total disbursement to the district of approximately \$2.1 million.

Another soon to be issued draft report will find that the charter school in question did not comply with program rules related to: (1) assets and inventory records, (2) reimbursement matters, and (3) record retention. The school violated state law by failing to have E-Rate services approved by its Board as required by FCC rules that require adherence to state and local law.

The team also monitors USAC Internal Audit Division (IAD) SL audit reports; Commission activity related to appeal of SL related audit findings and recommendations; and reform efforts impacting the SL program.

Low Income Program

On July 28, 2009, OIG decided to withdraw the USF 100% erroneous payment determination for the Low Income (LI) program from a December 12, 2008 report. The basis for the original determination of a 100% erroneous payment level in the low income program was that it had been concluded that the source documentation could not be provided as needed to permit verification of the calculations of the program amounts disbursed. After reviewing USAC's response to the OIG report and additional information, and considering that OIG did not conduct an audit or other structured examination of the disbursement system, it was decided to withdraw the 100% erroneous payment level for the low income program.

We have completed fieldwork and will soon issue a report on the LI disbursement system. The purpose of the audit was to determine whether the disbursement system was in accordance with applicable law, and met the goals of eliminating fraud, waste, and abuse in the federal universal service program. The current version of our draft report contains one significant recommendation consistent with an action already initiated by FCC – revising the disbursement system from a projection based system to a system disbursing funds based on actual data. We anticipate issuing our draft report shortly.

An OIG-initiated audit of a company that received LI program support found that it materially complied with the FCC's rules, regulations and orders related to information reported by the company on the FCC Form 497. The report did note, however, three weaknesses in internal controls. The company: (1) charged each subscriber a monthly Federal USF charge but could not document or explain how it was computed; (2) did not have adequate policies and procedures

to ensure compliance with the FCC's low income program rules; and (3) did not consistently follow its own procedures for documenting proof of subscriber eligibility (however it did comply with minimum procedures required by FCC rules). Our final report included three recommendations which the company had already implemented.

The team monitored the identification of the root cause and corrective measures taken to address a serious situation; specifically USAC discovered it made an error in its entire monthly disbursement of LI program funds. As a result, USAC was required to collect overpayments from 178 participants totaling nearly \$37 million.

Currently, we are conducting audit surveys of fourteen carriers participating in the LI program. We have received the requested data and are in the process of completing survey audit steps. Following this process, a go/no go decision will be made as to whether we will expand the survey to a full performance audit.

Rural Health Care Program

We have conducted no audits in this area. Note that this program is by far the smallest of the USF funding programs.

Contributors

FCC rules require telecommunications providers of international and interstate telecommunications services to contribute to the USF. This includes providers that offer interstate telecommunications for a fee on a non-common carrier basis and interconnected VOIP providers. OIG has completed twelve contributor audits.

Typical examination findings include failing to include all appropriate revenue in the contribution calculation (thereby reducing the contribution amount) and errors and inaccurate certifications in submitting required forms and documentation. For the twelve completed audits, we identified approximately \$18 million in under-reported revenues.

Coordination with USAC IAD

In 1998, USAC was designated as the permanent Administrator to administer the four universal service programs: high cost, low income, rural health care, and schools and libraries. The USAC Internal Audit Division (IAD) provides audit services for the USF programs as well as the internal operations of the administration of the Universal Service Fund.

In February 2010, the FCC directed USAC to establish a comprehensive universal service beneficiary and contributor compliance audit program, known as the Beneficiary Compliance Audit Program (BCAP). The primary objective of BCAP is to evaluate universal service beneficiary and contributor compliance with FCC rules. The audit plan developed covers 343

audits across the support mechanisms and contributors. Consistent with the approach of the OIG universal service audit program for obtaining audit resources, USAC proposed conducting the initial round of 343 BCAP audits almost exclusively with external audit firms. In an attempt to become more cost efficient and to avoid delay in implementing the audit program, USAC management, with USAC Board of Directors approval, implemented a plan to move from a fully outsourced staffing model to a partially in-sourced staffing model.

IAD's authorized strength was increased by 23 to 51 positions to: (1) conduct targeted audits; (2) increase the capacity to conduct approximately 125 first-round BCAP audits, and (3) manage the remaining 200+ audits outsourced to the audit firms.

The AIGUSF meets on a regular basis with the IAD Vice President to share and discuss audit plans, status, and current issues.

Support to Investigations

The AIGUSF team provides assistance to OIG Investigations on an as-requested basis. Typical audit support includes providing assistance on site visits, preparation and analysis of spreadsheets and memoranda, and assisting with preparation of material for DOJ presentation.

National Exchange Carrier Association, Inc. Review

OIG prepared a report in response to a Congressional mandate directing the OIG to report whether, and to what extent, the National Exchange Carrier Association, Inc., (NECA) was acting in compliance with the Communications Act of 1934, as amended (the Act), and associated regulations, and whether, and to what extent the FCC has delegated authority to NECA consistent with the Act.

The report provided a history, membership information, and information on the various NECA activities. Briefly, OIG found no mention of NECA in the Act or in any amendment subsequent to NECA's establishment pursuant to the Commission order adopted in 1983. Also, that the Commission has not delegated final decision-making authority to NECA. There is no express Congressional intent that the FCC delegate decision-making authority to NECA, an outside entity, nor did the OIG find any evidence that the FCC has attempted to do so. The Commission has also clearly and consistently stated that it retained ultimate decision-making authority when it has assigned functions to NECA. OIG is finalizing a very brief update to the report to keep Congress as up-to-date on matters as possible.

Future USF Oversight

USF reform, including Broadband expansion, will require review and redirection of our oversight efforts. Nonetheless, we will not have adequate resources to conduct the number of beneficiary or contributor audits necessary to have an impact on the programs. Looking ahead,

we anticipate a need to reevaluate our oversight plans. With the ongoing and significant USF reform and program changes, opportunities to provide oversight must continue to be efficient and strategic.

We are currently preparing to contract for audits of all programs using available funding. A risk-based approach will be used to determine which audits are to be conducted by independent public accountants. A disadvantage to having such audits conducted by outside contract auditors is that it serves as a substitute for ensuring that the OIG has the experienced audit staff necessary to ensure an efficient ongoing expertise and institutional memory for the oversight of this complex program. We continue to search for the best way to be an agent of positive change, striving for continuous improvement in FCC's management and program operations.

USF Investigations

An increasing number of investigations related to the E-rate program arise pursuant to the False Claims Act (FCA, known as “qui tam” lawsuits). The FCA provides for liability for anyone who knowingly submits or causes the submission of a false or fraudulent claim to the United States. A provision of the FCA allows a private party (known as the relator) with evidence of fraud is able to sue the person(s) engaged in the fraud, on behalf of the government. The FCC OIG assists DOJ in investigating qui tam allegations that relate to FCC programs or operations, including the E-rate program.

In the past three years there have been five settlements of civil lawsuits arising from such qui tams that included payments of \$19.6 million to the government and parties agreeing to relinquish more than \$185 million in requests for federal funds in connection with the E-Rate program.

In June 2009, the Dallas Independent School District (DISD) agreed to settle claims that the school district violated the False Claims Act in connection with the E-Rate program. Under the terms of the settlement, DISD relinquished more than \$150 million in requests for federal funds, and paid the United States \$750,000. In addition to allegations that DISD provided false information to the government by engaging in non-competitive bidding practices, the government contended that school district officials improperly received gratuities from technology vendors, including trips, meals, golfing and the free use of a yacht. The school district's former chief technology officer, Ruben B. Bohuchot, was convicted in July 2008 on bribery charges stemming from his role in these allegations, and was sentenced to 132 months in prison and ordered to pay \$979,221 in restitution.

In July 2009, Computer Assets Inc. and its principals, Abraham Salazar and Damon Salazar, agreed to pay \$350,000 and surrender up to \$35 million in pending funding applications to settle allegations the company violated the FCA in connection with the E-Rate program. The government contended the company violated the competitive bidding rules of the E-Rate program in its dealings with the Kayenta Unified School District in Kayenta, Arizona. Additionally, the United States alleged that Computer Assets billed for installing excess and unnecessary networking cable, and in some instances billed twice for the same work.

In October 2009, a unit of AT&T, AT&T Missouri (formerly known as Southwestern Bell Telephone L.P.), agreed to pay the United States \$1.4 million as part of a civil settlement alleging that the company violated the FCA in connection with the E-Rate program. The United States contended that AT&T Missouri provided false information to E-Rate administrators and otherwise violated the program's requirements by engaging in non-competitive bidding practices for E-Rate contracts. The United States further alleged that AT&T Missouri employees colluded with officials in the Kansas City, Missouri School District to award contracts to the company, extended contracts in violation of E-Rate rules, and provided meals and other inducements to school district employees. The United States previously filed suit against and settled with the school district.

In March 2010, the Houston Independent School District (HISD) agreed to relinquish over \$100 million in requests for E-Rate funds and paid \$850,000 to settle a civil suit alleging the school district filed false claims in connection with the E-Rate program. Resolution of this case resulted from a collaborative federal investigation involving DOJ's Civil Division and the U.S. Attorney's Office for the Northern District of Texas. The United States contended that HISD provided false information in order to obtain E-Rate funds and otherwise engaged in non-competitive bidding practices for contracts to be funded with E-Rate money. The government further alleged that school district officials received gratuities from technology vendors, including trips, meals, and loans.

In November 2010, the United States settled two qui tam whistleblower lawsuits with the Hewlett-Packard Company (HP). The suits alleged HP violated the competitive bidding rules of the E-Rate program and the company agreed to pay the government \$16.25 million, most of which is to be returned to the E-Rate program. Following tips from the whistleblowers, the FCC OIG and DOJ investigated allegations that contractors working with HP and other companies lavished gifts on the DISD and HISD personnel in order to obtain contracts that included some \$17 million in HP equipment. The United States also intervened in those same lawsuits against HP's former business partners, Micro Systems Engineering and Analytical Computer Services, as well as against Ruben Bohuchot, DISD's former chief technology officer and Frankie Wong, the former chief executive officer of Micro Systems Engineering. Like Bohuchot, Wong was convicted in July 2008 on bribery charges stemming from his role in these allegations and was sentenced to 120 months in prison.

Criminal prosecutions have also increased over the past three years and reflect the FCC OIG's continuing joint and coordinated investigation and prosecution efforts with the DOJ Antitrust Division and its field offices and with various U.S. Attorney Offices across the country. In eight separate criminal cases since June 2009, 13 individuals have entered guilty pleas and have been sentenced to 264 months in prison, fined \$22,000, and ordered to pay restitution of almost \$1 million.

One of the convicted individuals worked as an E-Rate consultant who acted on behalf of various school districts across the country. Signed letter of agency agreements by school officials gave permission to Jonathan M. Slaughter and his company, E-Rate Consulting Services, LLC (ERC),

to act on their behalf in all dealings with the E-Rate program. Slaughter admitted he violated the trust of the school district officials when he converted money intended for the school districts for his personal use. In September 2011, Slaughter pleaded guilty in United States District Court for the Middle District of Alabama to one count of mail fraud stemming from his theft of nearly \$900,000 from the E-rate program, money intended for 20 school districts or private schools in 13 states through the program's Billed Entity Reimbursement (BEAR) process. The process permits a school or library to pay the full amount for eligible services and then receive reimbursement from its telecommunications service provider once the related universal service discount subsidies are approved and paid to the provider. Slaughter's company would receive checks from the E-Rate program that were payable to ERC's clients. ERC was obligated to forward the checks to its clients, but Slaughter deposited the checks into an ERC bank account and kept the money, which he used largely for personal expenses. In January 2012 he was sentenced to 51 months in prison; an order for restitution to the victims is pending.

The most recent criminal action took place last week when Gloria Harper was sentenced in United States District Court in New Orleans to 30 months in prison for her role in a conspiracy to defraud the E-Rate program by providing bribes and kickbacks to school officials across the nation. In addition to Harper, Tyrone Pipkin and Barrett White have pleaded guilty to participating in the conspiracy and each was sentenced to one year in prison in March 2011. According to the Pipkin and Harper plea agreements, the co-owners of Global Networking Technologies (GNT), along with White and Harper's company, Computer Training and Associates (CTA), obtained contracts funded by the E-Rate program by obstructing the competitive bid processes at schools and school districts located in Arkansas, Illinois, Louisiana,

Texas, Florida and North Dakota. In return for bribes and kickbacks, school employees gave the co-conspirators control of their competitive bidding process and ensured that their companies obtained E-Rate funded contracts at those schools. As a result of their fraudulent actions, CTA and GNT unlawfully obtained approximately \$4.16 million from the E-Rate program.

There have been 51 individuals and 23 companies involved in 31 different investigations and prosecutions of alleged fraud involving the E-Rate funds since the beginning of the program. Disposition of those include 10 charges dismissed, one individual arrested in Pakistan, 13 civil settlements, 45 guilty pleas and five guilty verdicts in four separate courtroom trials. Sentences for 50 individuals total 192 months of probation, 22 months of home confinement, and 1,186 months of incarceration in prison. In addition, almost \$100 million has been ordered by the courts or agreed to by the parties in fines, settlements, and restitution to the E-Rate program, and almost \$300 million in claims have been relinquished by the parties.

A common element of these prosecutions is the alleged violation of the E-Rate programs competitive bidding processes, procedures, rules and regulations. As such, the OIG is continuing its oversight in this area to deter individuals and companies who may be engaging in activities that defraud the E-Rate program.

OIG has investigations involving other USF programs, including the High Cost and the Low Income programs, which exceed well in excess of \$150 million in at-risk dollars. The investigations involved allegations of criminal wrong doing and civil false claims; most involve DOJ attorneys or Assistant U.S. Attorneys; and most cannot be discussed in public. Suffice it to

say that OIG is working diligently, albeit with limited resources, with law enforcement and others, including USAC, to eliminate waste, fraud and abuse in all the USF programs.

Conclusion

Our oversight of the USF has evolved from conducting audits of the E-rate program in 2002 to a wide-ranging and varied program of audits and investigations. Given the amount of money this fund represents to the public and the vital services being provided by the fund, it is critical that we continue to provide this oversight, and expand our activities.

In 2008, OIG was provided \$21.48 million from the universal service fund to fund oversight of the fund. With these funds we hired 19 limited term employees, and funded training and travel related to their roles. Thirteen of these limited term employees remain with the Office, and we have \$11.3 million remaining of the original allocation from the USF at the beginning of FY 2012. However, despite this seemingly sufficiency of funds, we have concerns about our ability to continue to provide the kind of oversight we believe that Congress wants for this program.

Other Oversight Areas

The Assistant Inspector General for Audit (AIGA) has principal responsibility for providing oversight of FCC programs and operations to include VRS (discussed previously in this statement) and except for the USF and investigative matters which fall under the purview of the Assistant Inspector General for Investigations.

Financial Statement Audits

Financial statement audits are mandatory and provide reasonable assurance as to whether the agency's financial statements are presented fairly in all material respects. Other objectives of financial statement audits are to provide an assessment of the internal controls over transaction processing for accurate financial reporting and an assessment of compliance with applicable laws and regulations. We have audited FCC's financial statements since FY 1999, and the agency has attained "clean" opinions (the highest rating available) on its statements since FY 2006.

Information Technology and Security

Our information technology (IT) and security program includes annual reviews required by the Federal Information Security Management Act (FISMA). Additionally, in recent years we have conducted policy compliance reviews and assisted the agency in mitigating data breaches and access issues.

Performance Audits

Performance audits are systematic examinations that are conducted to assess the performance of a government program, activity, or function so that corrective action can be taken, if appropriate. Performance audits include audits of government contracts and grants with private sector organizations, as well as government and non-profit organizations that determine compliance with contractual terms, Federal Acquisition Regulations (FAR), and internal contractual administration. In the past two years, OIG has completed audits and inspections of such functions as travel and purchase cards, financial management and property systems, and American Recovery and Reinvestment Act activities.

Recommendations made in audit reports have generally been accepted and implemented by the FCC on a consistent basis.

Mandatory Review of FCC Improper Payments Requirements

We have contracted with an independent public accounting firm for the first mandatory review of FCC compliance with the Improper Payments Information Act of 2002 (IPIA)/ Improper Payments Elimination and Recovery Act of 2010 (IPERA) requirements. In order to assess its agency's compliance, each agency IG is required to review the method and results of its agency's improper payment reporting in the agency's annual Performance Accountability Reports or Annual Financial Reports, and accompanying materials. IG's are to begin reviewing these materials for FY 2011 annual reporting and continue to do so in subsequent years. An IG must complete its review and compliance determination within 120 days of their publication. Each fiscal year, the agency IG should determine whether the agency is in compliance with IPIA.

Internal Investigations

OIG has a team of three investigators that deals with allegations involving internal Commission operations. The group also handles the initial intake of allegations received via the OIG telephone and e-mail Hotlines. The team looks into allegations of waste, fraud and abuse, including, but not limited to, into allegations of (1) ethical violations; (2) improper hiring practices – the subject of a report in a recent OIG Semiannual Report to Congress; (3) time and attendance abuse; (4) misuse of computer property, including misuse of Commission computers; and (5) failures in the contracting process. Matters requiring additional attention can be referred to OIG's audit group or to DOJ or the Office of Government Ethics. More often than not,

personnel-related and management-related findings are referred to management for appropriate action.

The IG Reform Act of 2008 and IG Independence

The Inspector General Reform Act of 2008 (IG Reform Act of 2008) was enacted to enhance the independence of the Inspectors General throughout the government. To that end, the Act strengthened the independence of Inspectors General through changes in Inspectors General compensation, access to independent legal counsel, and other measures. In addition, the Dodd-Frank Wall Street Reform and Consumer Protection Act sought to add another measure of independence by changing the definition of to whom certain Inspectors General report - from the individual head of an agency to the full commission or board of that agency - and by requiring concurrence of two-thirds majority of a commission or board to remove such commission or board's Inspector General from office. I believe that these statutory provisions have improved my office's independence and ability to effectively carry out our mission to help prevent and detect fraud, waste, abuse, and mismanagement and promote economy, efficiency, and effectiveness.

The IG Reform Act of 2008 also mandated that Inspectors General have or obtain independent legal advice from their own counsel, the counsel of another Inspector General office or the Council of the Inspectors General on Integrity and Efficiency. I have appointed my own legal counsel and have within my office several highly-skilled attorneys who provide support to Jay in his role as legal counsel.

Consistent with the IG Reform Act of 2008, I transmitted my budget request to the FCC on July 6, 2011 for Fiscal Year 2013, and the FCC included that request in its proposed budget. I will discuss my budget further later in this statement, however I will state that we have found the Commission to be very responsive to our budgetary needs and has freely provided assistance to our Office. I would note that the Congress could ensure additional independence if it provided for me and other Inspectors General to request budgets separate and apart from our respective agencies and departments.

Finally, I note that, although the primary focus of the IG Reform Act of 2008 was strengthening the independence of Inspectors General, it also sought to provide greater public access to Inspectors General. Consistent with these requirements, the public may access information about the FCC's Office of Inspector General by way of a direct link on the FCC's website. In addition, any individual may report fraud, waste, and abuse by way of a direct link to our hotline email address or by calling our toll-free hotline number listed on my office's page on the FCC's website.

Budget Concerns and Future OIG Plans

The budgetary process within the FCC works satisfactorily for our Office. OIG has funding concerns that I believe impedes the Office's ability to provide more effective oversight of the many programs and functions of the FCC.

In our FY 2012 budget request, OIG requested additional positions to replace the limited term employees acquired with the transfer of \$21.48 million for the USF in FY 2008. The limited terms were to expire in FY 2012; however, the Office of Personnel Management recently granted a one year extension for these terms, extending most of them to early FY 2013. Our capabilities would be improved if we had permanent employees in lieu of temporary ones. The continuing lack of permanence impacts both the Office's ability to effectively plan and execute work for the long term. Since we hired the original 19 term employees, six of them have left the Office for permanent positions inside and outside the FCC.

Our requested FY 2012 budget included an increase of \$2.3 million for additional contract funds and \$3.2 million for 19 new permanent employees. In response to our FY 2012 budget request, Congress provided us with an authorized budget of \$9.75 million. This amount, while a substantial increase over our FY 2011 budget, does not provide for the \$3.2 million we would need to replace the term employees with permanent ones. OIG repeated its request for the funding of 19 permanent employees in our FY 2013 budget request.

Currently, the AIGUSF team includes two Audit Directors, one permanent auditor and three temporary staff auditors. On an as-needed basis, the team is assisted by the USF Special Counsel and staff investigative attorneys assigned to the Assistant Inspector for Investigations. However, we have been authorized to hire two auditors and we are currently interviewing candidates. These new auditors are to replace the complete loss of staff on the HC team, who left OIG for permanent positions within the FCC.

On the AIGA's team, we have one Audit Director, who performs all oversight and management of contracted auditors performing our VRS audits and one Audit Director performing and overseeing the FISMA evaluations and other IT projects. We currently have only one auditor who oversees the financial statement audits that are performed by contract auditors. The one additional Audit Director on the AIGA team covers all remaining audit activities of FCC operations, such as compliance and reporting requirements.

Additional permanent staff would enable OIG to expand our efforts to combat fraud and to enhance our oversight of such areas as agency operations and programmatic areas such as improper payments and VRS. In particular, OIG needs more auditors and both criminal and noncriminal investigators. We would expand our forensic and data-mining capabilities for use in investigations and USF oversight. Further, additional administrative staff would better equip us to effectively manage our budget, procurement activities and external reporting requirements.

We have the ability to contract for audit resources and we could request authority to obtain additional term limited employees, but it would be more effective and efficient if OIG had permanent staff so that we can develop the skill sets needed to ensure the funds entrusted to and on behalf of the FCC are spent wisely and protected from waste, fraud and abuse.

CONCLUSION

The real and potential savings noted herein are well in excess of \$1 billion. These amounts do not include the total magnitude of dollars we have examined or where the money cannot yet be estimated. FCC OIG is dedicated to the principles of the IG Act and to ensuring that we perform the work necessary to meet the goals of our mission. We are determined to meet the needs of

Congress; and we believe we have done so to date. We believe we have accomplished a lot with our current staff, but think that there is much left to do and we could do much more if provided the resources. Your mandates, and the taxpayers' need for efficient and cost-effective government, require nothing less than the very best effort we can make.

Thank you for the opportunity to address these important matters with the Subcommittee. I will be happy to answer any of your questions.