

Semiannual Report to Congress

October 1, 2010 through March 31, 2011

# The Federal Communications Commission



(left to right)

Commissioner Clyburn, Commissioner Copps,

Chairman Genachowski, Commissioner McDowell,

**Commissioner Baker** 

## **Cover Letter**

Date: March 31, 2011

To: Chairman, Federal Communications Commission

Reply to

the attention of : Inspector General

SUBJECT: Semiannual Report to Congress

In accordance with Section 5 of the Inspector General Act, as amended, 5 U.S.C. App. 3 § 5, I have attached my report summarizing the activities and accomplishments of the Office of the Inspector General ("OIG") during the six-month period ending March 31, 2011. In accordance with Section 5(b) of that Act, it would be appreciated if this report, along with any associated report that you prepare as Chairman of the Federal Communications Commission ("FCC"), were forwarded to the appropriate Congressional oversight committees within 30 days of your receipt of this report.

This report describes audits that are in process, as well as those that have been completed during the preceding six months. OIG investigative personnel continued to address issues referred to, or initiated by, this office. Where appropriate, investigative and audit reports have been forwarded to the Commission's management for action.

This office remains committed to maintaining the highest possible standards of professionalism and quality in its audits, investigations, inspections and consultations and we welcome any comments or suggestions that you might have. Please let me know if you have any questions or comments.

David L. Hunt

Inspector General

**Enclosure** 

cc FCC Chief of Staff FCC Managing Director

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# INTRODUCTION

The Federal Communications Commission ("FCC" or "the Commission") is an independent regulatory agency, established by Congress to regulate interstate and foreign communications by radio, television, wire, satellite and cable. The FCC's jurisdiction covers the fifty states, the District of Columbia, the Commonwealth of Puerto Rico and all U.S. territories.

The FCC consists of a Chairman and four Commissioners, who are appointed by the President and confirmed by the United States Senate. Julius Genachowski serves as Chairman. Michel J. Copps, Robert M. McDowell, Mignon Clyburn, Meredith Atwell Baker serve as Commissioners. Most of the FCC's employees are located in Washington, D.C. at the Portals II building, which is located at 445 12th St., S.W., Washington, D.C. Field offices and resident agents are located throughout the United States.

The Office of Inspector General ("OIG" or "Office") is dedicated to ensuring compliance with the requirements of the Inspectors' General Act and assisting the Chairman in his continuing efforts to improve the effectiveness and efficiency of the Federal Communications Commission. The Inspector General ("IG"), David L. Hunt reports directly to the Chairman. The IG's staff consists of attorneys, auditors, economists, investigators, management specialists and support personnel. Principal assistants to the IG are: William K. Garay, Assistant Inspector General ("AIG") for Audits; Gerald T. Grahe, AIG for Universal Service Fund Oversight; Thomas C. Cline, AIG for Policy and Planning; Harold Shrewsberry, AIG for Management, Carla Conover, AIG for Investigations and Counsel to the IG, Kathleen O'Reilly, Special Counsel on the Universal Service Fund and Jon R. Stover, Senior Legal Advisor.

This semiannual report includes the major accomplishments and activities of the OIG from October 1, 2010 through March 31, 2011, as well as information on the IG's goals and future plans.

# **OIG MANAGEMENT ACTIVITIES**

OFFICE STAFFING

**INTERNSHIP PROGRAM** 

LEGISLATIVE AND POLICY MATTERS

## OIG MANAGEMENT ACTIVITES

#### **OFFICE STAFFING**

OIG is comprised of 23 Full Time Equivalent ("FTE") and 12 Not To Exceed ("NTE") four year term appointed professionals, and three FTE, two NTE support personnel and one intern. The staffing needs of this office have been described in the last several Semiannual Reports. At one point this Office had 21 NTE employees. These positions are funded through monies transferred from USAC pursuant to the Consolidated Appropriations Act, 2008 (P.L. 110-161) that specifies that "...\$21,480,000 may be transferred from the Universal Service Fund in fiscal year 2008 to remain available until expended, to monitor the Universal Service Fund program to prevent and remedy waste, fraud and abuse, and to conduct audits and investigations by the Office of Inspector General..." These employees allow this Office to more aggressively pursue fraud and waste in the USF program. All monies transferred via the above-mentioned appropriations act not being used to pay NTE employee salaries and benefits are used to further support USF oversight.

Currently, only a dozen of the original NTEs remain in OIG. The remainder have all accepted permanent positions elsewhere in the Federal Government. This personnel loss has reduced our capacity to audit and investigate the USF program. Because of this OIG's 2012 budget request includes 19 FTE positions. These FTE positions will greatly enhance our audit and investigatory capabilities.

Our professional staff consists of well-trained, experienced professionals, most of whom have one or more professional certifications. In our continuing efforts to increase the expertise of our auditors, attorneys and investigators, members of this office have attended classes at the Federal Law Enforcement Training Center (also known as "FLETC"), the Inspector General Criminal Investigative Academy, other Inspectors General training programs and other relevant venues.

#### INTERNSHIP PROGRAM

OIG welcomes college interns during the fall, spring and summer semesters. Most of these students take their internships for credit. Our interns have come from schools

## OIG MANAGEMENT ACTIVITIES

across the country including American University, Arizona State University, DePauw University, Georgetown University, Hamilton College, James Madison University, Marymount College, Long Island University, North Carolina State University, Purdue University, the University of California at Berkeley, the University of California at Davis, the University of Maryland Law School, the University of North Carolina, Xavier University, Liberty College, George Mason, George Washington, and Northern Virginia Community College.

These internships have proven to be rewarding experiences for all participants. Students leave with a good understanding of how a government agency operates, and they have the opportunity to encounter challenges while enjoying the rewards that can come from public service. In turn, the Office has benefited from the students' excellent work performance.

#### LEGISLATIVE AND POLICY MATTERS

Pursuant to section 4(a)(2) of the Inspector General Act of 1978, 5 U.S.C.A. App. as amended, our Office monitors and reviews existing and proposed legislation and regulatory proposals for their potential impact on the OIG and the FCC's programs and operations. Specifically, we perform this activity to evaluate legislative potential for encouraging economy and efficiency while helping to reduce fraud, waste, abuse, and mismanagement.

Throughout the reporting period, we have reviewed various proposals for legislation affecting Inspector General responsibilities, such as proposals for testimonial subpoena authority and proposed waivers on the restrictions on government employees serving in an official capacity for non-profit organizations in 18 USC 208.

We have reviewed final draft guidance from the Office of Management and Budget for the implementation of Public Law 111-204, the Improper Payments Elimination Improvement Act, to ensure our compliance with the requirements therein and related Executive Orders.

# **OIG MANAGEMENT ACTIVITES**

In addition to legislative developments, OIG continuously monitors FCC policy development and provides input as appropriate. We have also participated in many surveys and data calls sponsored by the Council of Inspectors General for Integrity and Efficiency and the Recovery Accountability and Transparency Board.

Please see the Appendix to this report for information regarding peer reviews as required by Public Law 111-203.

FINANCIAL AUDITS

PERFORMANCE AUDITS

UNIVERSAL SERVICE FUND OVERSIGHT

Under the authority of the Inspector General Act of 1978, as amended, the OIG conducts independent and objective audits and inspections designed to prevent and detect waste, fraud and abuse and to promote economy, effectiveness and efficiency in FCC programs and operations. These audits and inspections are conducted in accordance with professional standards. The following sections are highlights of the work conducted by the audit teams during the current fiscal period.

#### FINANCIAL 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.

Audit of the FCC's Fiscal Year 2010 Consolidated Financial Statements

In accordance with the Accountability of Tax Dollars Act of 2002, the FCC prepared consolidated financial statements for the 2009 fiscal year in accordance with Office of Management and Budget ("OMB") Circular A-136, Financial Reporting Requirements, and subjected them to audit. The Chief Financial Officers Act of 1990 ("CFO Act"), as amended, requires the FCC IG, or an independent external auditor selected by the Inspector General, to audit the FCC financial statements in accordance with government auditing standards issued by the Comptroller General of the United States ("GAGAS"). Under the direction of the Office, KPMG LLP ("KPMG"), an independent certified public accounting firm, performed the audit of FCC's FY 2010 consolidated financial statements. The audit was conducted in accordance with GAGAS, OMB Bulletin 07-04, as amended, and applicable sections of the U.S. Government Accountability Office ("GAO")/President's Council on Integrity & Efficiency ("PCIE") Financial Audit Manual.

As a result of the 2010 financial statement audit, KPMG issued an independent

Auditors' report with an unqualified opinion on FCC's financial statements, a report on internal controls over financial reporting, and a report on compliance and other matters dated November 12<sup>th</sup> 2010. KPMG reported that FCC's financial statements were fairly presented in all material respects in conformity with U.S. generally accepted accounting principles.

The report on internal controls over financial reporting identified two control weaknesses that were considered significant deficiencies<sup>1</sup>. The first significant deficiency was over FCC's financial reporting process as a result of inadequate financial system integration and manual reporting processes. The second significant deficiency was over the FCC information technology controls. The auditors identified deficiencies in the FCC's control environment, control activities, risk assessment process, and monitoring activities as it relates to securing FCC 's information technology infrastructure. They also noted that the information technology weaknesses may impact the FCC's ability to comply with OMB's internal control objectives for financial reporting. KPMG did not consider any of the deficiencies identified during the audit to be material weaknesses<sup>2</sup>.

The Commission is responsible for complying with laws, regulations, and provisions of contracts applicable to the FCC. To obtain reasonable assurance as to whether the Commission's financial statements are free of material misstatement, KPMG performed tests of the Commission's compliance with provisions of laws, regulations, and contracts that could have a direct and material effect on the determination of financial statement amounts. The results of this testing identified that FCC was not in compliance with the Federal Managers Financial Integrity Act because the current financial systems and processes do not achieve the financial system integration standards set within GAO Standards for Internal Control in the Federal Government.

 Significant deficiency is defined as a deficiency or combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.
 A material weakness is defined as a significant deficiency or combination of deficiencies in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

As required by Chapter 4700 of the U.S. Department of the Treasury's Treasury Financial Manual (TFM), the FCC prepared special-purpose financial statements for the purpose of providing financial information to the U.S. Department of the Treasury and the U.S. Government Accountability Office (GAO) to use in preparing and auditing the Financial Report of the U.S. Government. Under the oversight of the OIG, KPMG performed an audit of the special purpose financial statements in accordance with GAGAS and OMB Bulletin 07-04 as amended. KPMG issued an unqualified opinion on Commissions Special Purpose Financial Statements. The auditor's report disclosed no significant deficiencies in the internal controls over the financial reporting process for the special purpose statements and no instances of noncompliance.

#### 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.

Oversight of USAC's 2010 Financial Statement Audit and Agreed-Upon Procedures Examination

The OIG is performing oversight of the Universal Service Administration Company's (USAC) 2010 financial statement and agreed-upon procedures audits related USAC operations. This oversight is required by Section 54.717 of the Commission's rules (47 CFR 54.717).

Section 54.717 requires USAC to obtain an annual audit that examines its operations and books of account to determine whether USAC is properly administering the universal service support mechanisms to prevent fraud, waste and abuse. To fulfill this

requirement, USAC contracted with PriceWaterhouseCoopers LLC (PWC) to perform an audit of its 2010 financial statements and to perform agreed-upon procedures established by USAC and FCC.

Section 54.717 also requires that the Inspector General approve the audit requirements and scope of the engagement. The OIG will continue to monitor the engagement, as required by Section 54.717, until its completion. PWC is expected to report the results of their audit in June 2011.

Fiscal Year 2010 Federal Information Security Management Act

The Federal Information Security Management Act ("FISMA") requires federal agencies to develop, document, and implement an agency-wide program to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source. According to FISMA, "information security" means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide integrity, confidentiality and availability.

A key FISMA provision requires that each IG annually evaluate his or her agency's information security programs and practices. These evaluations must include testing of a representative subset of systems and an assessment based on that testing of the agency's compliance with FISMA and applicable requirements. To address this requirement, we contracted with KPMG to perform the 2010 FISMA evaluation.

During this semiannual period, KPMG completed its evaluation and identified several new findings. Each finding comprised multiple issues. FCC management was provided with these findings and the related recommendations. Management provided their comments and stated that they generally concurred with the recommendations. Our report on the FY 2010 evaluation was issued on March 29, 2011.

Compliance Audit of Telecommunications Relay Service Providers

The Telecommunications Relay Service (TRS) Fund compensates communications service providers for the costs of providing interstate telecommunications services that enable a person with hearing or speech disabilities to communicate with a person without hearing or speech disabilities.

The TRS Fund has grown substantially since its inception due to the increase in distributions. The increased distributions resulted in a higher risk for fraud, waste, and abuse. The fund's initial allotment in 1993 for distributions was \$31 million and increased over the next six years to \$38 million in 1999. The TRS fund has increased approximately 50-80 percent each year since then, and reached \$891 million in the fund's fiscal year July 2009 through June 2010. The Federal Communications Commission approved a fund size of \$434 million for the current fiscal year July, 2010 through June 2011.

The purpose of the audit is to determine whether funds that the providers received from the TRS Fund administered by the National Exchange Carriers Association (NECA) were expended in accordance with applicable laws and regulations, and supported by sufficient documentation. The scope of the audit includes all disbursements and related information for all funds received from the TRS fund during calendar years 2008 and 2009 for providing Video Relay Services (VRS). The audit is in progress and is expected to be completed in 2011.

#### Digital Copier and Scanner Inspection

The purpose of our inspection was to determine whether the Commission had established policies and procedures to ensure that digital copiers or scanners, when going off lease or being de-accessioned, contained no sensitive, confidential, or personal data. This inspection was conducted based on discussions with Commission staff and management. We also reviewed relevant Commission policies and procedures. This in-

spection will be completed by the end of the next reporting period.

#### Guam Realignment Project

The IG is a member of the Interagency Coordination Group ("ICG") of Inspectors General for Guam Realignment. The ICG was established by Section 2835 of the National Defense Authorization Act for FY 20I0, 111 Public Law 84, to oversee the U.S. Marine Corps realignment to the island of Guam. During the reporting period, we provided input for the draft ICG report to Congress on funds spent for the military realignment on Guam.. We await further requests for technical and/or audit assistance from DoD.

#### UNIVERSAL SERVICE FUND OVERSIGHT

FCC rules require telecommunications providers of international and interstate telecommunications services to contribute to the Universal Service Fund ("USF"). This includes providers that offer interstate telecommunications for a fee on a non-common carrier basis, interconnected Voice Over Internet Protocol providers and payphone providers that are aggregators.

The USF Audit Team currently consists of an Assistant Inspector General, three Directors, and four staff auditors. There is also a Special Counsel for USF who reports directly to the IG.

The FCC's USF has four support mechanisms:

- High Cost support ensures that consumers in all regions of the nation have access
  to and pay rates for telecommunications services that are reasonably comparable to
  those services provide and rates paid in urban areas.
- Schools and Libraries support, commonly known as "E-Rate," provides discounts
  to assist schools and libraries in the United Sates to obtain affordable telecommunications and Internet access.

- Low Income support is designed to ensure that telecommunications services are available to low-income customers at just, reasonable, and affordable rates. Similar programs have existed since at least 1985. The Telecommunications Act of 1996 reiterated their importance by including the principle that "consumers in all regions of the nation, including low income customers...should have access to telecommunications and information services..."
- Rural Health Care support provides reduced rates to rural health care providers for telecommunications services and Internet access charges related to the use of telemedicine and telehealth. The Rural Health Care pilot Program is a pilot funding program designed to facilitate the creation of a nationwide broadband network dedicated to health care, connecting public and private non-profit health care providers in rural and urban locations.

#### High Cost Program

During this reporting period, eight final audit reports were issued for our audits of the Sprint-Nextel entities listed below for USF disbursements received for the period from 7/1/07 to 6/30/08.

Entity	12 Months USF	
	High Cost	
	Disbursements	
NPCR – Georgia	\$ 1,606,306	
NPCR – Hawaii	\$ 17,329,581	
NPCR – Pennsylvania	\$ 1,439,015	
Sprint Nextel – Arizona	\$ 2,513,664	
Sprint Nextel - Georgia	\$ 2,145,948	
Sprint Nextel - Indiana	\$ 2,479,196	
Sprint Nextel – Puerto Rico	\$ 13,060,056	
Sprint Nextel - Texas	\$ 5,689,542	
Total	\$ 46,263,308	

In general, as a Competitive Eligible Telecommunications Carrier ("CETC"), each of these entities is entitled to receive USF based on the number of eligible lines it serves in a particular service area based on the support the Incumbent Local Exchange Carrier ("ILEC") would receive for each such line. Therefore the audit centered on how the eligible lines served by Sprint-Nextel were counted and reported in each ILEC service area served.

Audit findings included duplicate and non-eligible lines included in USF claims. Sprint Nextel has indicated that new procedures have been implemented to address these findings.

The High Cost team has been developing statistically based analysis tools to review data submissions by cost companies for High Cost Loop and Local Switching Support. The model is designed to measure the contribution of specific accounts to high cost payments. The model was used in conjunction with a recent field visit to an ILEC identified as a one of the Top 10 receivers of USF disbursements on a per line basis. The results of this field visit will be available for the next reporting period.

#### Schools and Libraries Program

On January 24, 2011, OIG announced a performance audit of a public charter school in the State of Maryland, Hampstead Hill Elementary School. The objective of the audit is to determine the School's compliance with the Federal Communication Commission's rules and orders governing the Universal Service Fund Schools and Libraries Support Mechanism. This audit was selected from a statistical sample of Schools and Libraries Program beneficiaries based on program risk factors. On-site fieldwork is complete and a draft report is expected to be issued in the next reporting period.

#### Low Income Program

During the period, the OIG continued work on a performance audit of USAC's administration of the USF Low Income (LI) program disbursement system. The purpose

of the audit is to determine whether the disbursement system is in accordance with applicable law, and meets the goals of eliminating fraud, waste, and abuse in the federal universal service program. Review of the draft audit report is in progress and we expect to issue the draft version of the audit report during the next semi-annual period.

The OIG monitored a situation in which USAC made an error in its November 2010 monthly disbursement of LI program funds in which the incorrect disbursement amount was paid for every one of the 1,521 companies eligible to receive LI funds (ETCs). As a result, USAC was required to collect overpayments from 178 ETCs a total of almost \$37 million. The purpose of our monitoring efforts was to identify how the error happened and whether actions taken by USAC were sufficient to correct it and ensure that it doesn't reoccur.

#### Contributors

On November 9, 2010, a final audit report was issued for our audit of Mix Networks, Inc. The major finding was that the Company reported revenues from customers that did not contribute to the USF as reseller revenues ("exempt revenues") in block 3, as opposed to end-user revenues in block 4, without demonstrating that it had a reasonable expectation that those were reseller revenues exempt from USF contributions. The net effect of the finding was that the Company overstated exempt reseller revenues in block 3 on the FCC Forms 499-A by \$1,114,876 for 2007 and \$201,602 and understated USF-related interstate and international end-user revenues in block 4 by the same amount. We also found that the Company (1) incorrectly reported USF recovery payments, and (2) overcharged USF recovery on customers' bills.

On March 22, 2011, a final audit report was issued for our audit of dPi Teleconnect, LLC. Our audit identified five findings in which the Company did not comply with FCC rules regarding its 2007, 2008, and 2009 FCC Forms 499-A. The Company (1) failed to report subscriber line charges of which \$5.7 million is subject to USF contributions; (2) failed to report mobile service revenues which are subject to USF contributions; (3) failed to report long distance toll revenues as interstate and international

(4) failed to report USF recovery revenues of more than \$100,000, which is subject to USF contributions; and, (5) failed to use an officer to certify the 2008 and 2009 FCC forms 499-A.

On March 22, 2011, a final audit report was issued on our audit of Associated Network Partners, Inc. Our audit identified two findings in which the Company did not comply with the FCC rules or instructions regarding its 2006, 2007 and 2008 FCC Forms 499-A. The major finding was that the Company reported revenues from customers that did not contribute to the USF as reseller revenues (exempt revenues) in block 3, as opposed to end-user revenues in block 4, without demonstrating that it had a reasonable expectation that those were reseller revenues exempt from USF contributions. The net effect of the finding was that the Company overstated exempt reseller revenues in block 3 on the FCC Form 499-A by \$2,067,545 and understated USF-related interstate and international end-user revenues in block 4 by the same amount. We also identified a finding in which the Company reported pre-paid calling card revenue on the wrong line of the 2008 FCC Form 499-A.

On March 24, 2011, a final audit report was issued on our audit of Affinity Network, Inc. Our audit identified three findings in which the Company did not comply with the FCC rules and Regulations and with the Telecommunications Reporting Worksheet Instructions regarding its 2008 FCC Form 499-A. The Company (1) overcharged USF recovery on customers bills; (2) did not match the international traffic report to the FCC Form 499-A; and (3) underestimated contribution base revenue projections on FCC Form 499-Q.

National Exchange Carrier Association, Inc. Review

During this reporting period, OIG provided 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") is 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.

OIG found no mention of NECA in the Act or in any amendment subsequent to NE-CA'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.

Several issues identified in the process of preparing this report will be the subject of a supplemental report.

**ACTIVITY DURING THIS REPORTING PERIOD** 

MODERNIZING FCC OIG INVESTIGATIONS

SIGNIFICANT INVESTIGATIVE CASE SUMMARIES

**OIG HOTLINE** 

FCC OIG investigations are initiated for numerous reasons. Our investigations often address allegations of fraud in FCC programs, such as the federal Universal Service and Telecommunications Relay Services Fund programs, or other criminal activity or misconduct within the FCC or its programs. Many investigations are based on allegations of employee misconduct, violations of federal law or FCC regulations or other forms of fraud, waste, abuse or criminal activity. We also receive and investigate complaints regarding the manner in which the FCC executes its programs, how the FCC handles its operations administratively, and how the FCC conducts its oversight responsibilities.

Allegations come from all sources. FCC managers, employees, contractors, and other stakeholders often contact the OIG directly with concerns about fraud, waste, abuse, or other inappropriate activities. Individuals call or e-mail the OIG Hotline, or send complaints through the United States Postal Service. The OIG's Hotline is continuously monitored, and any urgent matter is forwarded to the appropriate OIG staff member soon after it is received. The reply times for allegations that require a response is constantly evaluated. The OIG has made Hotline processing a special priority, and will continue to do so.

Allegations can be, and frequently are, made anonymously and can require substantive outreach to ensure the potential source is comfortable with the processing of providing information to the OIG. Our Office to date has agreed to every accommodation possible as we recognize what a critical source of information this provides to every OIG. We also receive valuable referrals from other government agencies, federal, state and local, including the Government Accountability Office, the Office of Special Counsel, and congressional and senatorial offices. In addition, investigations may develop from OIG audits or inspections that discover evidence or indications of fraud, waste, abuse, misconduct, corruption, or mismanagement of FCC programs or operational segments.

After receiving an allegation of fraud, waste or abuse, we conduct a preliminary review of the matter to determine if further investigation or referral to another office or

agency is warranted. Sometimes serious allegations may merit attention, but be outside the jurisdiction of the OIG. These allegations would be referred to the appropriate entity, usually another office or bureau in the FCC or another federal or law enforcement agency, for review and action as necessary or appropriate. As much as possible, the OIG continues to be involved and serve as a facilitator for matters that are outside the jurisdiction of this Office. The FCC OIG, like most government offices, has an ever-increasing volume of work and dedicated but limited resources. Therefore, allegations of matters within the jurisdiction of the OIG are reviewed for assignment and priority in a "triage" method. Matters that have the potential to significantly impact federal funds, important FCC missions or programs, or the basic integrity and working of the agency receive the highest priority for investigation and assignment of resources.

The OIG works not only on a large number of investigations, but a large variety of investigations. Among other matters, we deal with complex cyber crime investigations, large criminal conspiracies, and cases through the United States and its territories. These complex and wide-ranging cases often require substantial investigative expertise and resources that the OIG itself does not have, which include personnel on the ground across several states or high-grade forensic tools and the expertise to use them. In these cases, we have always received, and are grateful for, the assistance of other agencies, especially including OIG of other federal agencies. This cooperation within the law enforcement community has saved this office valuable time and expense on many occasions.

The AIGI and our investigators also work with other agencies, including the U.S. Department of Justice ("DOJ"), to support their criminal and civil investigations and prosecutions relating to the FCC missions and programs. Many of these investigations and prosecutions involve fraud pertaining to the federal universal service program, sometimes referred to as the Universal Service Fund or USF. One of the USF programs that benefits schools and libraries across the nation, often known as the E-Rate Program, has been a prime target for fraud but has also been the focus of joint and coordinated investigation and prosecution efforts by the DOJ and the FCC and OIG. Those efforts have now resulted in a history of successful prosecutions and indictments, and

of restitution for such fraud to the USF.

#### **ACTIVITY DURING THIS PERIOD**

At the outset of this reporting period, 97 cases were pending. Over the last six months, 21 cases have been closed and 22 opened. As a consequence, a total of 98 cases are pending. These numbers do not include preliminary reviews of allegations, from the Hotline or other sources, or related minor evidence analysis.

#### **Statistics**

Cases pending as of September 30, 2010	97
New Cases	22
Cases Closed	21
Cases pending as of April 1, 2011	98

#### MODERNIZING THE FCC OIG OFFICE OF INVESTIGATIONS

As with the FCC as a whole, improving the efficient use of scarce resources by modernizing computer-aided forensics and other technical assets in our work is an ongoing effort for OIG Investigations. During the reporting period, our first electronic case management system went on-line. We continue to work on efforts to find and utilize modern technology in ways that will leverage our resources for the most efficient and effective investigation and prosecution of fraud, waste and abuse in FCC missions and programs.

#### SIGNIGICANT CASE SUMMARIES

Several of the most recent efforts of this Office are described below. There are, however, many other matters that, due to their sensitive nature or related investigations, cannot be included. We discuss significant investigations when and if information becomes or can be made public without negative impact on law enforcement activities or prosecution.

Qui Tam Law Suits Involving FCC Programs

Many of the FCC OIG investigations arise pursuant to the False Claims Act ("FCA"), 31 U.S.C. § 3729 et seq, 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. Pursuant to the qui tam provision of the FCA, a private party with evidence of fraud (known as the relator) is able to sue the person(s) engaged in the fraud, on behalf of the government. The FCA provides that the relator's suit will remain "sealed" and not in the public record for a period of time in which the government can investigate the allegations and decide if DOJ should intervene and prosecute the case for the United States. The FCC OIG assists the DOJ in investigating such qui tam allegations that relate to FCC programs or operations. The FCC OIG investigated matters in three qui tam law suits that were unsealed during the reporting period and that are detailed below.

#### Stephen Kaffee v. Harinder Kumra, et al.

The FCC OIG assisted the DOJ in a qui tam suit that resulted in a five million dollar payment to the US Treasury and in putting broadband PCS spectrum licenses back in use as a result of a settlement of the lawsuit. The relator claimed that the defendants had violated the FCA with respect to FCC spectrum license applications after defendants applied for and received small business bidding credits and used those credits to win multiple broadband PCS licenses. The relator claimed that the defendants falsely certified certain representations as to their business size and ownership on FCC auction applications in order to obtain bidding credits for which defendants would not otherwise qualify under the FCC's auction rules and made false statements during the transfer of certain spectrum licenses. During the course of this litigation, the subject broadband PCS licenses were not transferrable despite interest from outside parties in obtaining these licenses and putting them to use.

After lengthy negotiations, the parties agreed to a settlement of all claims in this matter. Included in that settlement was a payment by the defendants to the United States

Government in the amount of five million dollars. On November 19, 2010, the United States District Court for the District of Columbia consented to the voluntary dismissal of this matter with prejudice.

#### General Communications Inc.

In April 2008, the FCC OIG and DOJ started investigating allegations of duplicative, unsubstantiated, or otherwise improper claims submitted to the low income component of the FCC's universal service program.

The relator in that qui tam lawsuit had alleged that Alaska DigiTel, which General Communications Inc. ("GCI") acquired in 2008, allowed ineligible subscribers access to Low Income Program support and then allegedly billed and received improper amounts from the low income component of the FCC's universal service program. Under the low income component of the FCC's universal service program, eligible consumers may receive free or discounted wireline or wireless services from participating carriers after the carrier confirms the customer's eligibility under FCC rules. Reimbursement of Low Income Program support is paid directly to the carriers, not the low income consumer.

CGI paid \$1,556,075 and entered into a compliance agreement regarding future participation in the program to settle allegations regarding submitting false claims to the FCC for improperly substantiated, duplicative, or otherwise ineligible subscribers during the period January 1, 2004 through August 31, 2008. Under the civil settlement agreement, the relator received \$260,274 of the settlement amount.

#### Hewlett-Packard

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 FCC's universal service program. 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, the former chief technology officer of the Dallas Independent School District ("DISD") and Frankie Wong, the former chief executive officer of Micro Systems Engineering. In related criminal proceedings in 2008, both Bohuchot and Wong were convicted of bribery for their conduct relating to the DISD and sentenced to more than 10 years in prison.

Following tips from whistleblowers, the FCC OIG and the DOJ investigated allegations that contractors working with HP and other companies lavished gifts on the DISD and the Houston Independent School District ("HISD") personnel in order to obtain contracts that included some \$17 million in HP equipment. Contractors provided meals and entertainment, including trips on a yacht and tickets to the 2004 Super Bowl, to obtain inside bidding information and win contracts that were supposed to be awarded through a competitive bidding process.

As part of the settlement, HP agreed to pay the government \$16.25 million, most of which will be returned to the FCC's universal service program. The whistleblowers will receive approximately \$2.2 million. Additionally, HP entered into a compliance program agreement to ensure that HP follows FCC universal service program rules in the future.

Investigations into Fraud in the Federal Universal Service Program

The bulk of the work of FCC OIG Investigations involves investigating and supporting the civil and criminal prosecution of fraud in the FCC's federal universal service program. The AIGI and Investigations staff work with other state, local and federal agencies in these matters. These joint and coordinated investigation and prosecution efforts, especially those of the DOJ and the FCC and its OIG, have resulted in many successes, including civil settlements and criminal convictions.

Most of our on-going universal service investigations are not known to the public and even some closed investigations cannot be disclosed because of sensitivities that could

impact related ongoing matters, but below we highlight a few matters that had public developments during the reporting period.

#### Jeremy R. Sheets

In December 2010, Jeremy R. Sheets pleaded guilty to one count of wire fraud in violation of 18 U.S.C. §1343 for his activities related to two Michigan school district's FCC funding applications. Sheets engaged in the wire fraud from approximately December 2001 through December 2007.

Sheets, the president and part owner of an Internet and technology services company, violated FCC rules by compensating two school districts for their share of E-Rate expenses. The FCC's universal service program requires that all applicant schools pay a portion of eligible expenses in order to qualify for funding under the program. Sheets attempted to circumvent this requirement by promising prospective customers that they would not have to pay anything to obtain goods and services under the program. For example, Sheets made a "donation" of approximately \$20,500 in 2004, intending to cover that school district's required share of FCC funded project expenses. Sheets also exchanged checks with another school district in order to create the false appearance that the school district had paid its portion of expenses under the FCC's program. Sheets conspired with an employee of that school district to order goods and services which were not otherwise eligible for funding and/or not disclosed to the FCC, but which were paid for out of overcharges to the FCC's program.

Sheets faces a maximum penalty of 20 years imprisonment and a \$250,000 fine, as well as approximately \$115,500 in restitution. The FCC OIG assisted in the investigation of this case with the FBI, the DOJ Antitrust Division's Chicago Field Office and the U.S. Attorney's Office in Grand Rapids, Michigan.

#### Tyrone D. Pipkin and Barrett C. White

On March 28, 2011, in United States District Court in New Orleans, Tyrone Pipkin

pleaded guilty to participating in a conspiracy to defraud the FCC universal service program. Pipkin, a former co-owner of Global Networking Technologies, Inc. (GNT), pleaded guilty to participating in a conspiracy to provide bribes and kickbacks to school officials and employees responsible for the procurement at schools in Arkansas, Illinois and Louisiana thereby defrauding the FCC. According to Pipkin's plea agreements, he and coconspirators obtained contracts funded by the FCC's universal service program for GNT and Computer Training and Associates (CTA) by undermining and 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 Pipkin and his co-conspirator control of their competitive bidding processes and ensured that their companies obtained FCC funded contracts at those schools. In a related case, on March 3, 2011, Barrett ("Barry") White also pleaded guilty to one count of conspiracy to defraud the FCC universal service program. As a result of Pipkin and his coconspirator's fraudulent actions, CTA and GNT unlawfully obtained approximately \$4.16 million from the FCC's universal service program.

Pipkin and White both face a potential maximum penalty of five years imprisonment, restitution, and \$250,000 fines, which might be increased to twice the gain derived from their crime or twice the loss suffered by the victims of the crime if either amount is greater than the statutory maximum fine. The FCC OIG assisted in this investigation with the FBI, the DOJ Antitrust Division's Dallas Field Office and the U.S. Attorney's Office in the Eastern District of Louisiana

GNT and CTA had pleaded guilty in 2008 to defrauding the E-Rate program following a federal investigation which revealed that GNT and CTA over-billed a North Dakota school district for technology services funded by the FCC's universal service program. The companies were ordered to pay \$241,000 in restitution and GNT, CTA, Pipkin and partner Gloria Harper were debarred from contracting with the federal government or directly or indirectly receiving benefits under federal nonprocurement programs for a period of three years.

#### Gregory Paul Styles and Marvin Mitchell Freeman

In October 2010, Gregory Paul Styles, 45, of Lemoore, California and Marvin Mitchell Freeman, 58, of Selma, California, pleaded guilty to one count each of conspiracy to commit mail fraud. Styles was employed as a Management System Information Director for Chowchilla Elementary School District ("CESD") in Chowchilla, California in 1998and thus was ineligible to bid for or receive school district projects funded by the FCC's universal service program. Styles devised a program to receive FCC universal service funds while at the same time receiving his CESD salary. Styles recruited Freeman and his company, Twisted Head Design, to submit a bid during the competitive bidding process to provide equipment and services to CESD that would be paid for under the FCC's program. Twisted Head Design was in the exclusive business of silk screening products and not in the business of installing or providing computer equipment.

Styles and Freeman were sentenced on March 11, 2011. Styles was ordered to reside and participate in a residential community correction center for a period of 30 days. Both were sentenced to supervised probation, community service and ordered to pay restitution to the FCC's universal service program.

The FBI and the Chowchilla Police Department investigated this case with assistance from the FCC OIG, and it was prosecuted by Assistant United States Attorney Mark J. McKeon.

#### Donna English and Project Managers, Inc.

In December 2010, Donna P. English, d/b/a/ Project Managers, Inc. ("PMI"), of Michigan City, Indiana, pleaded guilty to two counts of wire fraud in violation of 18 U.S.C. § 1343, one count of mail fraud in violation of 18 U.S.C. § 1341 and one count of theft of government funds in excess of \$100,000 in violation of 18 U.S.C. § 641. According to the plea agreement, English knowingly devised and participated in a scheme to defraud the FCC and River Forest Community School Corporation/District ("RFCSC"),

located in Hobart, Indiana by submitting false invoices and information to the FCC's universal service program, resulting in RFCSC submitting false information to the program. Among other acts, English submitted requests to the FCC for payment based upon false invoicing, submitted false invoices for technical services, and misrepresented to the FCC that RFCSC had an active Internet security program compliant with requirements of the Children's Internet Protection Act. English was also charged with felony theft of public funds which were paid to her for technology products and services that English and PMI failed to provide to the Michigan City Housing Authority.

English will be sentenced by the United States District Court for the Northern District of Indiana and faces up to 70 years imprisonment, a fine of up to \$1,000,000, a mandatory assessment and up to 12 years of supervised release. English has also agreed to make full restitution to the FCC's universal service program.

This case was investigated by the FCC OIG, DOJ Antitrust Division, the United States Department of Education OIG, the United States Postal Inspection Service, the Indiana State Police, and the Housing and Urban Development OIG. This case was prosecuted by Assistant United States Attorney Toi Houston, and Jennifer Dixton, Trial Attorney, Anti-Trust Division.

Investigation into Fraud in the Federal Communications Commission Telecommunications Relay Service

The FCC OIG is continuing its work with the Criminal Division of DOJ, the FBI and the United States Postal Inspection Service on several fraud investigations involving fraud on the FCC's Telecommunications Relay Service ("TRS") Fund program.

The FCC established the TRS program pursuant to section 225 of the Communications Act of 1934, as amended. Section 225 requires the FCC to ensure that TRS is "available to the extent possible and in the most efficient manner to hearing-impaired and speech-impaired individuals in the United States." 47 U.S.C. § 225. TRS permits hearing- or speech-impaired individuals to communicate with a hearing individual over

the telephone or other telecommunications transmissions by using a trained interpreter called a communications assistant. Private sector entities that are either part of certified state programs or certified by the FCC provide TRS for telecommunications calls to or from hearing or speech impaired individuals and are then compensated through the FCC's TRS program at a rate, set by the FCC, per minute of use as reported monthly by the entity to the FCC's TRS Fund Administrator. The TRS program is funded by assessments on interstate telecommunications carriers, which are passed on to consumers through the rates that they pay for telecommunications services.

Video Relay Service ("VRS") is a form of TRS that allows individuals with hearing disabilities to use sign language to communicate with voice telephone users through video equipment, a broadband connection, and use of a communications assistant who is a trained video interpreter ("VI"). Over the last few years, VRS-related claims on the FCC's TRS Fund increased significantly until just recently, when approximately 80% of TRS Fund payments were made to VRS providers.

Prosecutions of those indicted in November 2009 on allegations of submitting false or fraudulent claims for reimbursement for Video Relay Service (VRS) continued apace during this reporting period. As of this date, DOJ has obtained guilty pleas from or convictions of 23 of those indicted. Four cases, three against individual defendants and one again a corporate defendant, remain pending.

On October 28, 2010, before U.S. District Court Judge Joel A. Pisano, in Trenton, NJ, John T.C. Yeh and Joseph Yeh, the owner and vice president for corporate policy, respectively, of Viable Communications, Inc. (Viable) pleaded guilty to engaging in a conspiracy the defraud the FCC's TRS program. According to the pleas, John and Joseph Yeh paid co-defendants Anthony Mowl and Donald Tropp, managers at Viable, who then paid others to make fraudulent phone calls using Viable's VRS service. At sentencing John and Joseph Yeh each face a maximum sentence of 20 years in prison, a fine of \$250,000 and mandatory restitution and forfeiture.

Also on October 28th before Judge Pisano, Jessica Bacallao, a former manager at

Innovative Communications Services for the Deaf, Corp. (ICSD), a business registered and doing business in Florida, pleaded guilty to one count of conspiracy to commit mail fraud. ICSD was a subcontractor of Viable, which billed fraudulent VRS calls processed by ICSD through a certified VRS provider based in Flint, MI.

On November 1, 2010, David Simmons, Marketing and Advertising Director at Mascom Communications LLC, a Nevada company that processed VRS calls for Viable, pleaded guilty to one count of conspiracy to commit mail fraud.

On January 6, 2011, Marc Velasquez, the owner of Deaf Studio 29, Inc., Verson Studio, Inc., and Deaf News Network, Inc., all California corporations, pleaded guilty before Judge Pisano, to engaging in a conspiracy to defraud the FCC's TRS program. Mr. Velasquez admitted that, beginning in October, 2008, he conspired with others to pay individuals to make fraudulent VRS calls. Mr. Velasquez billed fraudulent calls processed in California through a certified VRS provider based in New York, New York. At his sentencing, Mr. Velasquez faces a maximum sentence of 20 years in prison, a \$250,000 fine, and mandatory restitution and forfeiture.

On January 24, 2011, before Judge Pisano, Ellen Thompson and Wanda Hutchinson pleaded guilty for their participation in a conspiracy to defraud the FCC's TRS program. Ms. Thompson, a co-defendant with Marc Velasquez, was the chief operating officer at Deaf Studio 29, Verson Studio, and Deaf News Network. Ms. Hutchinson was a call center manager for ICSD. Each pleaded guilty to one count of conspiracy to commit mail fraud, and each face a maximum sentence of 20 years in prison, a \$250,000 fine, and mandatory restitution and forfeiture.

The FCC OIG continues to receive and investigate allegations of fraud on the TRS Fund through use of VRS. The allegations of fraud often involve schemes to defraud the TRS Fund through fake marketing or outreach calls or other methods of "pumping" the minutes of use for which specific TRS or VRS providers are compensated. Such allegations include, among others, that VRS subcontractors hire deaf callers to make purported outreach calls to various public (schools, libraries, hospitals,

departments of motor vehicles) and private (airlines, coffee shops, movies) institutions, but whose real purpose is simply to generate VRS minutes. The FCC OIG and the DOJ continue to and will continue to investigate and prosecute those who would defraud the FCC's TRS Fund and the United States.

Investigations into Fraud in Recovery Act Funded FCC Contracts

The American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act) specified two programs under which the FCC had responsibilities: the Digital-To-Analog Converter Box Program ("DTV") and a program to develop a national broadband plan. As of March 31, 2011 the Commission had obligated over \$99 million of the Recovery Act funds and had paid out over \$86 million in furtherance of these programs. Of the \$99 million in obligations, \$64 million was obligated for DTV-related contract awards and \$35 million was obligated for contract awards related to development of a national broadband plan.

The DTV program is complete. This program provided consumer education and outreach related to the transition to digital television (DTV) broadcasts in order to aid a smooth transition to digital broadcasts by increasing awareness, particularly among groups most at risk for losing television service such as senior citizens, minority communities, people with disabilities, low-income individuals, and people living in rural areas, and providing one-on-one assistance to vulnerable populations. Contracts were awarded to over 40 vendors to help the FCC outreach and assistance initiatives including: media buys, community walk-in assistance centers, in-home converter box assistance, call center support services, web site upgrades to improve the Commission's DTV website (www.dtv.gov), printing DTV publications and translating those publications to benefit non-English speaking communities, and for travel expenditures for Commission staff who served as the "boots on the ground" during the weeks leading up to the transition. Staff members provided local support and information to communities across the country, particularly in markets where there was a significant percentage of the population receiving television signals over-the-air. The nation-wide DTV transition occurred on June 12, 2009. Recovery Act funded DTV activities have ceased

as of September 30, 2010. The FCC Call Center remains a resource for consumers seeking help with DTV Transition issues.

The FCC OIG has received and continues to receive allegations of fraud, waste, abuse and misconduct in the Recovery Act programs from a variety of sources, including the OIG Hotline, news reports, and the FCC's Office of Managing Director. Presently, the FCC OIG has 28 active investigations. OIG investigations have revealed indications of fraud, as well as a number of contractual problems including invoice issues and verification of performance.

#### **OIG HOTLINE**

During this reporting period, the OIG Hotline technician received numerous calls to the published hotline numbers of (202) 418-0473 and 1-888-863-2244 (toll free). The OIG Hotline continues to be a vehicle by which Commission employees and parties external to the FCC can contact OIG to speak with a trained Hotline technician. Callers who have general questions or concerns not specifically related to the missions or functions of the OIG office are referred to the FCC Consumer Center at 1-888-225-5322. In addition, OIG also refers calls that do not fall within its jurisdiction to other entities, such as other FCC offices, federal agencies and local or state governments. Examples of calls referred to the Consumer Center or other FCC offices include complaints pertaining to customers' phone service and local cable providers, long-distance carrier slamming, interference, or similar matters within the program responsibility of other FCC bureaus and offices.

During this reporting period, we received 2,237 Hotline contacts, which resulted in OIG taking action on 39 of these. The remaining calls were forwarded to the other FCC bureaus and offices, primarily the FCC Consumer Center (1,390 calls) and other federal agencies, primarily the Federal Trade Commission (808 calls).

## REPORTING REQUIREMENTS

The following are the Office of Inspector General response to the 12 specific reporting requirements set forth in Section 5(a) of the Inspector General Act of 1978, as amended.

1. A description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of such establishment disclosed by such activities during the reporting period.

Please refer to the sections of this report titled "Universal Service Fund Oversight" and "Investigations."

2. A description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abused, or deficiencies identified pursuant to paragraph (1).

Please refer to the section of this report titled "Universal Service Fund Oversight" and "Investigations."

3. An identification of each significant recommendation described in previous semiannual reports on which corrective action has not yet been completed.

No significant recommendations remain outstanding.

4. A summary of matters referred to authorities, and the prosecutions and convictions which have resulted.

Please refer to the section of this report titled "Investigations."

5. A summary of each report made to the head of the establishment under section (6) (b) (2) during the reporting period.

No report was made to the Chairman of the FCC under section (6) (b) (2) during this reporting period.

6. A listing, subdivided according to subject matter, of each audit report issued by the Office during the reporting period, and for each audit report, where applicable, the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs) and the dollar value of recommendations that funds be put to better use.

Each audit report issued during the reporting period is listed according to subject matter and described in the "Audit Areas" section. We issued no reports with questioned costs or recommendations that funds be put to better use during the reporting period.

# REPORTING REQUIREMENTS

7. A summary of each particularly significant report.

Each significant audit and investigative report issued during the reporting period is summarized within the audits and investigations sections and in Tables I and II of this report.

8. Statistical tables showing the total number of audit reports with questioned costs and the total dollar value of questioned costs.

We issued no reports with questioned costs during the reporting period.

9. Statistical tables showing the total number of audit reports with recommendations that funds be put to better use and the total dollar value of such recommendations.

We issued no reports with recommendations that funds be put to better use during the reporting period.

10. A summary of each audit report issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons why such a management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report.

No audit reports fall within this category.

11. A description and explanation of the reasons for any significant revised management decision made during the reporting period.

No management decisions fall within this category.

12. Information concerning any significant management decision with which the Inspector General is in disagreement.

No management decisions fall within this category.

13. Information described under section 05(b) of the Federal Financial Management Improvement Act of 1996.

No reports with this information have been issued during this reporting period.

## **APPENDIX**

#### Results of Peer Reviews

As required by Public Law 111-203, we are pleased to report that the OIG of the Equal Employment Opportunity Commission conducted a peer review of this office during the reporting period and its review disclosed no recommendations for any corrective actions. The peer review report, dated August 3, 2010, concluded the system of quality control for the FCC OIG provides reasonable assurance of performing and reporting audits in conformity with applicable professional standards in all material respects and FCC OIG has received a peer review rating of *pass*.

# Report fraud, waste or abuse to:

Email: Hotline@FCC.gov

Call Hotline: 202-418-0473

or

888-863-2244



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