QUESTIONS FOR THE RECORD
JON WILKINS
MANAGING DIRECTOR
FEDERAL COMMUNICATIONS COMMISSION

The Honorable Greg Walden

Question One: The FCC makes a "one time request" of $51 million for move or restacking in the FY2016 Budget Request. Are a move and restacking equivalent? If not, explain how they differ and which would be less costly? Have contracts already been awarded for work related to the move/restacking? If so, provide a list of the awardees including the amount of the contract, the services to be performed, the date the contract was awarded, and whether it was sole source or competitively bid. For each contract identified as awarded through competitive bidding identify whether it was the lowest bid received.

Answer: The move and the restacking are not equivalent. GSA will issue a Request for Lease Proposal (RLP) in a full and open competition. The basic reasons for cost differentials are as follows:

1) Restacking – If the incumbent is awarded a contract from the RLP the Commission will go through a restacking process in the current Portals building that will reduce the amount of lease space under the new lease. This process will require the Commission to lease temporary space offsite to perform the restacking process at the Portals building.

2) Move – If a lessor other than the Portals owner is awarded a contract under the RLP, the Commission will move to the new location. Under this process, no temporary office space is required because no restacking process is required at the Portals building. In addition, the RLP will contain green requirements.

GSA has informed the FCC that it is more likely that the restacking process will be more costly because that process requires the lease of a temporary space to perform the restacking process. We will not know which process is the best value until the RLP offers are submitted because the incumbent may offer a bid that is of best value and that bid includes costs for leasing a temporary space and performing the necessary upgrades/construction for Portals II.

The FCC awarded a contract to Federal Acquisition Strategies, LLC for Acquisition Support Services which covers multiple acquisition projects. The FCC funded $534,000.00 for the period of March 1, 2015 through February 28, 2017 for project management support services specifically for the relocation effort. This procurement was posted on GSA E-buy as a competitive action and received one proposal.

Question Two: According to the Fiscal Year 2016 Budget Request the Office of Chairman and Commissioners accounts for 23 FTEs. Please identity the number of FTEs assigned to each office.

Answer: The number of FTEs assigned to the Chairman and Commissioners offices for Fiscal Year 2016 is listed below.

Chairman Wheeler: Seven

Commissioner Clyburn: Four

Commissioner Pai: Four

Commissioner Rosenworcel: Four

Commissioner O'Reilly: Four

<u>Question Three</u>: The FY 2016 Budget Request includes $2.4 million to engage an administrator to manage the Broadcast Relocation Fund. Is that engagement going to be awarded through competitive bidding? If not explain why? How did the Commission reach this figure? Is this a one-time request or do you think additional funding will be necessary? If additional funding will be necessary, how much more will be required? Where exactly are these funds going to come from? The Commission has engaged clearinghouses before to manage cost sharing in the clearing of spectrum bands, how much did it cost those entities to manage a spectrum clearinghouse?

<u>Answer</u>: The Commission will conduct a full and open procurement to select an administrator to manage the Broadcast Relocation Fund. We expect to complete the procurement later this year, with the goal of having the contractor engaged prior to the start of the incentive auction. To clarify, $2.4 million is the amount budgeted for the Fund's administrative contractor's expenses and compliance assessments for FY 2016. Because we will engage the reimbursement contractor for the duration of the statutory three-year reimbursement period, and we do not yet know the total cost of the contract, we cannot yet determine whether the Commission will request additional funds for the contract in the future.

Regarding other clearinghouses, the 800 MHz Transition Administrator received more than $300 million over 9 years, or slightly under $30 million per year to manage the relocation of public safety licensees in the 800 MHz band. Those expenses were paid by Sprint, however; they were not public funds.

<u>Question Four</u>: According to the proposed Fiscal Year 2016 Budget Request for the Office of Managing Director, Other Contractual Services will increase $76,756,480 from $34,180,808 million for Fiscal Year 2014 to $110,937,288 for Fiscal Year 2016. Under the Fiscal Year 2016 Budget Request Auction Cost Reimbursable Authority for contract services will increase $18,605,000 from $10,971,000 to $29,576,000. Combined this reflects an increase in contractual services of $106,332,480. Identify how much of this increase is associated with the proposed move/restacking. For any remaining balance explain what the funds will be used for.

<u>Answer</u>: The amounts associated with the move/restacking project for FY 2016 is $51,358,497 ($44,168,497 Salaries and Expenses and $7,190,000 Auctions). A complete list of items that make up the increase is shown in the table below.

Other Contractual Services - Regulatory Fees		
	FY 2014 Actuals	**$34,180,808**
	Increases & Adjustments:	
	Additional Cost for Administrative Service Contracts	$789,865
	Additional Cost for IT Contract Services for continuing development & ongoing maintenance	$2,693,433
	IT support for moving to Cloud-based platform - from decrease in C&B	$7,000,000
	Inflationary Increases	$649,905
	IT Rewriting of FCC Legacy Applications to Cloud Based Platform	$9,569,493
	IT Replacing FCC Legacy Infrastructure with Managed IT Ser. Provider	$5,790,107
	IT Improving the Resiliency of the FCC Enterprise	$2,245,180
	Broadband Map	$3,000,000
	Public Safety Answering Point - Do Not Call Registry	$850,000
	FCC Headquarters Move	$44,168,497
	FY 2016 Request	**$110,937,288**
Other Contractual Services - Auction Cost Reimbursable		
	FY 2014 Actuals	**$10,971,000**
	Increases & Adjustments:	
	Adjustment to the base from FY14 to FY15	
	WTB Contracts - Auction Design & Implementation	$7,748,278
	Preliminary work on Broadcaster Television Spectrum Incentive Auction Repacking	$497,893
	Increase to Library, AO, HRM, and FOD contract cost	$210,070
	Increase in Training cost	$60,623
	Increase to Call Center contract	$22,245
	OIG Contract Services	$264,460
	Inflationary Increases	$154,431
	Broadcasting Relocation Fund Admin. & Related Government Compliance Work	$2,457,000
	FCC Headquarters Move	$7,190,000
	FY 2016 Request	**$29,576,000**

The Honorable Bob Latta

Question One: The Commission has requested $10 million to create a Joint USF Anti-Fraud Task Force. Compared to previous years, does the FCC project this Task Force to recover more or less money? Please provide specific and/or estimated dollar amounts.

Answer: The Commission requested a transfer of $25 million from the Universal Service Fund for the Commission's oversight costs of USF programs and administration in its FY 2016 Budget request. As noted in the budget request, approximately $10 million of the request will be used for anti-fraud efforts – many of which are currently being developed by the Commission. Specifically, the Commission is continuing its efforts to develop a Joint USF Anti-Fraud Task Force (Task Force) to combine resources agency-wide. The Task Force is developing and implementing a strategic, targeted approach to identifying, preventing, eliminating, and prosecuting activities that undermine the integrity of the USF programs, in addition to recovering of funds that should not have been disbursed due to those fraudulent activities. In time, it is expected that these additional investments will return substantially more than they cost in the form of reduced and recovered improper payments, as well as improved improper payment identification and mitigation.

The Enforcement Bureau has been active in the area of USF related enforcement actions; below please find a list of recent actions:

- **Lifeline Rule Violations.** In April 2015, the Bureau negotiated Consent Decrees with AT&T and Southern New England Telephone Company that collectively required the payment of $10.9 million in civil penalties for failing to timely de-enroll Lifeline subscribers who had not responded to the companies' annual eligibility recertification requests and for failing to maintain proper records relating to Lifeline subscribers.
    - ♦ Between September 2013 and February 2014, the Bureau released 12 Commission-level NALs, proposing over $90 million in proposed forfeitures for apparent violations of the FCC's Lifeline rules. In each case, the carrier knew or should have known, based on internal data, that subscribers it claimed were ineligible because they were already receiving service from that carrier. The proposed penalties were in addition to full recovery of the universal service funds paid to the carriers for the duplicative Lifeline service.
    - ♦ In February 2012, the Bureau negotiated Consent Decrees with two affiliated Lifeline service providers resulting in $600,000 in voluntary contributions to the U.S. Treasury and over $400,000 in repayments to the USF for overpayments resulting from duplicative Lifeline support claims.
    - ♦ The Bureau continues to investigate potential violations of the Commission's Lifeline rules based on audit data provided by USAC, tips submitted to the Bureau's dedicated Lifeline Fraud voicemail and email tip lines, and other sources identifying possible waste, fraud and abuse in the Lifeline program.
- **Lifeline Citations.** In 2013, the Bureau served more than 300 Citations on individual consumers who received duplicative Lifeline service in violation of FCC rules.
- **Contribution Cases.** On February 3, 2015, the Commission issued a Policy Statement proposing a new methodology for imposing forfeitures for violations of the USF contribution rules. The new methodology would apply a treble damages approach in an effort to streamline the process of assessing forfeitures and thereby promote increased compliance with the rules. On January 24, 2015, the Commission released a Notice of Apparent Liability for Forfeiture (NAL) and proposed a penalty of $1,588,988 against Advanced Tel, Inc. for the Company's apparent failures to timely and fully pay required payments to federal regulatory programs and to timely file required revenue information. During FY 2014, the Bureau negotiated three Consent Decrees that produced payments of over $1.1 million to the U.S. Treasury. During FY 2013, the Bureau settled two USF contribution cases resulting in payments of over $1.7 million to the U.S. Treasury. In 2012, the Bureau's USF contribution enforcement actions included three NALs assessing $2,433,775 in proposed forfeitures for failure to contribute to the USF. The Bureau also negotiated three Consent Decrees

totaling $574,000 in voluntary contributions to the U.S. Treasury for USF underfunding. The investigations associated with these enforcement actions also resulted in significant payments to the universal service fund.

- ♦ The Commission has also acted to ensure that companies providing interstate telecommunication provide the Universal Service Administrative Company (USAC) with the information it needs to calculate the companies' USF contribution obligations. These actions include a May 2015 NAL proposing a $100,000 forfeiture against Simple Network, Inc. for failing to register with USAC; a May 2014 Forfeiture Order imposing a $100,000 forfeiture against RB Communications, Inc. d/b/a Starfone for a similar violation; a September 2014 NAL proposing $150,000 in forfeitures against PTT Phone Cards, Inc. for failing to file annual telecommunications reporting worksheets with USAC; and an April 2014 Consent Decree requiring the payment of $90,000 to the U.S. Treasury for USF-related filing violations.

- **E-Rate Suspensions and Debarments.** Since the beginning of 2008, the Commission has debarred 30 individuals convicted of federal crimes relating to defrauding the government or engaging in similar acts through activities associated with or related to the schools and libraries E-Rate support mechanism.

  - ♦ During 2013, the Bureau released two Debarment Letters against individuals prosecuted for fraud in connection with the E-Rate program. In 2014, the Bureau issued three Suspension Notices and one Debarment Letter against individuals convicted of fraudulent activities associated with or related to the E-Rate program. In January 2015, the Bureau issued three Debarment Letters against individuals prosecuted for fraud in connection with the E-Rate program.

<u>Question Two</u>: The Commission has requested over $44 million to move or restack the FCC Headquarters. Can you provide a breakdown of this cost and explain how that money would be spent?

<u>Answer</u>: The Commission included in the FY 2016 Congressional budget request a total of $51 million for the move/restacking project, not $44 million. The $51 million increase includes $44 million from Salaries and Expenses and $7 million from Auctions. In the FY 2017 Congressional budget we plan to request the remainder of the funds to complete the move/restacking project or approximately $20M. The estimated number for the move/restacking project provided by GSA was $71 million and the detailed breakdown of the GSA numbers follows.

Real Property Cost – $40M

- Construction cost – $40M
- Design cost – $2M
- Lessors fee – $3M
- Contingency – $3M
- Escalation – $4M
- Financed by lessor – ($14M)

- GSA Management Fee – $2M

Personal Property Cost – $31M

- Move – $2M
- AV/Cabling/IT/Telecom – $7M
- Security – $3M
- Furniture – $9M
- IT costs – $2M
- Contingency – $2M
- Escalation – $2M
- GSA Management Fee – $1M
- Wayfinding & Culture Change Consulting – $2M
- Other – $1M

Question Three: The Inspector General is required to conduct audits of the Commission's financial statements. You confirmed that the IG audited the Commission's FY2014 financial statements and the audit report identified material weakness with regard to the Universal Service Fund. You testified that there was "no impact" and that "no money was lost." You also stated that the issue related to changes in USAC's financial system. Describe in detail the material weakness identified by the auditor. Explain how the accounting failure identified by the auditor as "material" can be "material" but have no impact on the Universal Service Fund. Describe how the material weakness affected the collection of universal service funds. Describe how the material weakness affected the disbursement of universal service funds.

Answer: KPMG, the independent auditors hired by the Office of Inspector General to perform the audit, identified three issues related to the internal controls at the Universal Service Company (USAC) that contributed to the identification of the material weakness. Specifically, KPMG noted the following:

1) USAC did not initially follow an FCC approved administrative change issued in February 2013 extending the invoice deadline and obligation expiration date for $581 million in SLD obligations. As a result, the obligations were incorrectly de-obligated in November 2013. USAC management subsequently identified its error and corrected the error in February 2014, three months later by re-obligating the funds. KPMG noted that the related controls, as well as the compensating controls, were not adequate to detect and correct the error in a timely manner. This error did not have a cash effect on the Universal Service Fund (USF) because no cash was collected or expended in November 2013 when the funds were de-obligated and no cash was collected or expended when the funds were re-obligated in February 2014, as a result the error had no impact on collections or disbursements. This error only impacted budgetary accounts of the USF for a three month period, and those accounts do not have any impact on cash.

2) An unusual transaction of $62 million existed in the population of new commitments provided by USAC for the High Cost Connect America Fund (CAF). This transaction was related to the de-obligation of unclaimed CAF Phase 1 amounts. This transaction

was the result of USAC incorrectly debiting the Exempt Delivered Orders – Obligations, Unpaid (account 4801) instead of Downward Adjustments of Prior-Year Unpaid Undelivered Orders – Obligations, Recoveries (account 4871). This error was subsequently corrected as of September 30, 2014. This error did not have a cash effect on the USF because no cash was collected or expended when the funds were de-obligated and no cash was collected or expended when the correction took place prior to September 30, 2014, as a result the error had no impact on collections or disbursements. This error only impacted budgetary accounts of the USF and those accounts do not have an impact on cash.

3) USAC incorrectly recorded an obligation for the full amount of a High Cost Mobility fund winning bid, for which a portion in the amount of $48,400 was in default as of September 30, 2013. The error was discovered during an informal review of transactions by USAC in September 2014 and reversed. This error did not have a cash effect on the USF because no cash was collected or expended when the funds were de-obligated and no cash was collected or expended when the correction took place in September 2014, as a result the error had no impact on collections or disbursements. This error only impacted budgetary accounts of the USF and those accounts do not have an impact on cash.

Question Four: In the FCC's e-rate Modernization Order of December 19, 2014, the FCC increased the annual cap on the Schools and Libraries Fund from $2.4 billion to $3.9 billion for a total increase of $1.5 billion. In the FCC's budget request for FY2016, the size of the USF for FY2014 was shown to be $10.34 billion, approximately $1.5 billion higher than USAC projections for the same period.

A. Is this $1.5 billion increase in the USF for FY2014 caused by the increase in the Schools and Libraries Fund approved last December?

Answer: The USF projected number for FY 2014 that was provided in the Commission's FY 2015 Congressional Budget request on page 86, row 0900 identified $11.760 billion in total new estimated obligations. The actual number for FY 2014 as reported in the Commission's FY 2016 Congressional Budget on page 109, row 0900 identified $10.343 billion or a $1.417 billion decrease in FY 2014 total new obligations. This $1.417 billion decrease is not related to the increase in the Schools and Libraries Fund cap that the FCC approved last December.

B. If not, what is the cause of the $1.5 billion increase in the USF during FY2014?

Answer: As mentioned above, please note that there was a decrease of $1.417 billion in FY 2014 actuals in comparison to FY 2014 projected numbers.

Question Five: In the FCC's budget request for FY2016, the total size of the overall fund is projected to increase from $10.34 for FY2014 to $12.1 billion in FY2016 for an additional increase of$1.7 billion. On December 23, 2014, USAC estimated that $2.0 billion of unused funds for Schools and Libraries would be available to carry forward to the Schools and

Libraries Fund from prior fiscal years for use in FY2016 and beyond. Also, USAC projects the CAF Reserve for the High Cost Fund that remains unused is projected to be to $2.36 billion by second quarter of 2015.

A. What is the cause of the $1.7 billion increase in the overall fund in FY2016?

Answer: The projected increase in the overall fund in FY 2016 incorporates the following projections:

Increase in High Cost	$1.02 billion
Decrease in Lifeline	$(0.04) billion
Increase in Schools & Libraries	$ 0.74 billion
Increase in Rural Health Care	$ 0.06 billion
Decrease in TRS	$(0.07) billion
Total	$ 1.710 billion

E-Rate:
The projected increase in Schools and Libraries is from an increase in the rollover number and inflationary adjustment to the cap. The Schools and Libraries cap funding and rollover funding is listed below for funding years 2013 through 2016. The Funding Year for the Schools and Libraries program runs from July 1 through June 30 of each year. This is different from the Federal government's Fiscal Year, which runs from October 1 through September 30. The amounts listed below by Funding Year provide some insight into the increases that are projected for the Schools and Libraries program by Fiscal Year.

The Commission's budget projections for USF were developed before the funding cap was raised for the Schools and Libraries program, thus the USF budget projections in the FCC's FY 2016 Budget submission do not include any increases for the adjustment to the cap.

1) Funding Year 2013 cap funding - $2.380 billion; rollover funding - $450 million
2) Funding Year 2014 cap funding - $2.413 billion; rollover funding - $200 million
3) Funding Year 2015 cap funding - $2.457 billion; rollover funding - $1.2 billion
4) Funding Year 2016 cap funding - $2.501 billion; rollover funding - $1.2 billion

High-Cost:
In the *2011 USF/ICC Transformation Order*, the Commission adopted an annual budget for the high-cost portion of USF of no more than $4.5 billion. Further, the Commission adopted a framework to permit the Fund to accumulate reserves in the near term to be used to facilitate the transition to the CAF and to fund one-time universal service expenses without causing swings in the contribution factor.

Specifically, the Commission instructed USAC, in its quarterly demand filing, to forecast total high-cost universal service demand as no less than $1.125 billion (i.e., one quarter of the annual $4.5 billion budget). In quarters in which actual demand is less than $1.125 billion, excess contributions are to be credited to the CAF Reserve account. In any quarter in which actual demand exceeds $1.125 billion – which has not happened since the Commission adopted the budget – the Commission instructed USAC to use the balances accrued in the CAF Reserve account to reduce demand to $1.125 billion.

Accordingly, while the Commission's budget request shows an increase in high-cost outlays during FY 2016, this increase is consistent with the budget adopted in the USF/ICC Transformation Order and will not create any increase in the contribution factor. To the extent forecasted outlays exceed $1.125 billion in any quarter of FY 2016 or a subsequent year, the CAF reserve funds will be used to limit requirements from contributions to $1.125 billion.

The sources of the forecasted increase in the high-cost outlays are the Mobility Fund Phase II and the Remote Areas Fund, which the Commission anticipated would be implemented no earlier than FY2016, and the transition from Connect America Phase I to Connect America Phase II, which the Commission began in Calendar Year 2015.

B. How are the carry forwards of unused e-rate funds of $2.0 billion and reserved High Cost Funds of $2.36 billion accounted for in this $1.7 billion increase in the total size of the fund projected for FY2016?

Answer: We projected unused E-rate funds of $1.2 billion in each of Funding Years 2015 and 2016, and they are shown as rollover funding above. Projected unused High Cost funds of $1.2 billion are accounted for in FY 2016; other projected unused High Cost funds will be used in future years.

C. Will the FCC through USAC still collect those projected budgeted amounts for the fund from ratepayers through the contribution mechanism in FY 2016 even though the fund has unused reserves that could be used to pay for the disbursements in FY 2016?

Answer: In Funding Year 2015 and Fiscal Year 2015, the Commission has no plans to collect additional funds for the increase to the E-rate cap. In Funding Year 2016 and Fiscal Year 2016, the Commission plans to use E-rate carryover funds before evaluating whether it needs to collect funds for the increased cap. The Commission has no plans to increase collections for the High Cost fund and plans to use unused funds in coming years.

D. Will any of the reserve funds be used to offset increases in the overall USF? If so, when?

Answer: The Commission is using over $1.5 billion in unused E-rate funds to meet demand for Funding Year 2015 and plans to use any remaining unused funds in Funding Year 2016 as well. As described above, the Commission plans to use the CAF Reserve to stabilize the effect of fluctuations in high-cost demand on the contribution factor. In any quarter in which high-cost demand exceeds $1.125 billion – which has not happened since the Commission adopted the budget – the CAF Reserve will be used to reduce demand to $1.125 billion. In addition, the CAF Reserve may be used to support one-time or limited-term universal service projects, such as the recently completed Connect America Phase I incremental support and the Connect America rural broadband experiments. The Commission will also commit some of the reserves to the Connect America Phase II competitive bidding process.

The Honorable Marsha Blackburn

Question One: After your last appearance before the Committee we asked you about the Memorandum of Understanding between the FCC and USAC which outlined the responsibility of the FCC's Wireline Competition Bureau, the Enforcement Bureau, your office, the General Counsel's Office, USAC, and the FCC's Office of Inspector General with regard to oversight and administration of the fund.

A. You informed us in follow-up that it was still effective although it was modified in November 2014. Has the allocation of responsibilities between bureaus been changed since it was first executed? If so describe any changes?

Answer: In order to facilitate the efficient management and oversight of the USF program, the FCC entered into a Memorandum of Understanding (MOU) with USAC in 2008. In November 2014, the FCC and USAC amended sections I, II, III.A, IV.B, and VI and Attachment E of the 2008 MOU were amended by the FCC and USAC. Amendments were made primarily to the portion of the MOU addressing USAC procurement process, which now include: (1) providing the FCC with a procurement plan on an annual basis; (2) providing the FCC on a quarterly basis, a report showing status of USAC procurement activity and advance notice of any upcoming procurement activity; (3) Managing Director approval of competitive procurements and procurement activities greater than $500,000; (4) posting by USAC of all competitive solicitations in excess of $25,000 on the USAC and FedBizOpps websites; (5) provision of an annual fiscal year-end procurement report by USAC for procurements in excess of $100,000; and (6) implementation and adherence by USAC to the procurement standards and procedures set forth in 2 C.F.R. §§ 200.318-.321, 200.323, and 200.325-.326, & App. II to 2 C.F.R. Part 200 (including any amendments to these sections during the term of the MOU).

The FCC and USAC continue to collaborate on ways to further improve the MOU. In particular, Commission staff are currently coordinating with USAC on updating the portions of the MOU that require submission of reports to the FCC, performance measurements, responsibilities of the FCC and USAC, and the operational relationship between the FCC and USAC.

B. Are any of the Commission Bureaus and Offices not named in the MOU intended to be funded with any of the $25 million in universal service funds requested in the FCC's FY2016 Budget Request? If so which ones? For any identified how much of the $25 million is proposed to be allocated?

Answer: The $25 million number was reached by calculating hours attributable to USF activities. The hours were not assessed on a per bureau basis.

Question Two: The MOU describes the responsibilities of the Enforcement Bureau as "administrative enforcement action." It appears that the IG is responsible for Universal Service Fund fraud work-the criminal activity. However, it appears that the Enforcement

Bureau will be taking on those responsibilities. What plans does the Managing Director's Office have to ensure that given the Enforcement Bureau's assumption of the IG's activities there will be no duplication in effort? How will this new work impact the Enforcement Bureau's existing obligations to address other rule violations, including consumer complaints filed under the TCPA?

Answer: The FCC's Office of Inspector General (OIG) and Enforcement Bureau (EB) both have the legal authority and responsibility to combat fraud and other types of misconduct in Universal Service Fund (USF) programs.

Under the Inspector General Act of 1978 (the IG Act), the OIG has the authority "to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations" of the FCC. 5 U.S.C. App. 4(a)(1)). In the course of exercising this authority, the OIG may uncover conduct suggesting the violation of criminal law. The IG Act requires the OIG to expeditiously refer such evidence to the Attorney General. 5 U.S.C. 4(d).

Under the Communications Act of 1934, the FCC has the authority to "execute and enforce" the provisions of the Act (the Act). 47 U.S.C. 151. The Act gives the Commission the authority – exercised through the EB – to investigate, sanction and assess forfeiture penalties against parties that violate the Act or the Commission's rules. 47 U.S.C. 503(b). By contrast, the Inspector General does not have the authority to enforce the Act and rules, and in fact, section 8G(a)(2) of the Inspector General Act prohibits the IG from taking on such "program operating responsibilities." The EB's USF Strike Force operates pursuant to this enforcement authority. In the course of exercising this authority, if EB uncovers conduct suggesting a violation of criminal law in connection with USF programs, it will coordinate with OIG on the referral to the Department of Justice.

The EB and OIG offices avoid duplication of efforts by sharing information about their anti-fraud activities. In addition to this informal information sharing, EB and OIG are currently developing a Memorandum of Understanding to coordinate their activities and make sure that they are using the agency's finite resources most efficiently.

EB is committed to sustained and vigorous enforcement of the Act and the Commission's rules, including the consumer protection rules promulgated under the Telephone Consumer Protection Act (TCPA). For example, last May, the FCC entered into a settlement requiring Sprint Corporation to pay a $7.5 million fine to resolve an EB investigation of the mobile wireless company's failure to honor consumers' do-not-call and do-not-text preferences in violation of the TCPA. That same month, the FCC proposed a penalty of almost $3 million against Dialing Services, LLC for delivering illegal robocalls to consumers in violation of the TCPA. More recently, the FCC cited three call service companies for making illegal robocalls in violation of the TCPA. The important work of the Strike Force has not and will not detract from EB's ongoing non-USF enforcement activities.

The Honorable Brett Guthrie

Question One: Regarding funds raised through spectrum auctions, how long does OMB keep these funds in an account for the FCC to cover future auction costs before the funds revert to the general Treasury?

<u>Answer</u>: The FCC is required to maintain auction funds to cover future auction costs. The FCC works closely with OMB to determine the amount of auction funds to maintain from auctions and the amount to revert to the general Treasury. The amount of funds that the Commission is required to keep depends to a large degree upon the level of auction activity that is planned in the future.

<u>Question Two</u>: As we discussed in the hearing, could you elaborate on the potential for future auctions? Given that there are no significant tranches of spectrum in the auction queue-beyond the broadcast incentive auction scheduled for next year-and considering at the same time the FCC's request in the FY20 16 Budget for an increase in the cap on retention and spending of auction proceeds, should we expect the FCC to substantially scale back the amount of support it requests for auctions in the next couple of years due to an absence of scheduled activity?

<u>Answer</u>: Spectrum auctions work at the Commission is continually ongoing and will continue to be an essential part of our effort to make additional spectrum available to meet the ever-expanding consumer and business needs for mobile broadband services.

The Commission's costs of designing, developing, and holding spectrum auctions are not necessarily dependent upon the size and number of auctions. For instance, while the Commission did not hold large scale auctions for several years prior to the H Block auction, the auctions staff and equipment was utilized to handle the auction of 16,000 smaller licenses, and the staff was involved in providing essential technical assistance to Congress to develop the Incentive Auction concept. Additionally, even though the incentive auction is planned to be completed in FY 2016, the Broadcaster Relocation efforts that are an integral part of that auction will continue at least until well into 2019.

Moreover, the broadcast incentive auction is by no means the only significant spectrum auction in the Commission's auction queue. In April 2015, the Commission adopted the 3.5 GHz Report and Order that establishes an innovative three-tiered sharing framework to create a 150-MHz band of spectrum that, among other innovative spectrum sharing concepts, envisions periodic auctions occurring every three years (3.5 GHz Auctions) and possibly more often. In the recurring 3.5 GHz Auctions, up to 70 megahertz will be available on a licensed basis. These licenses are for terms of only three years (with the ability to acquire two three-year terms in the first auction). After the first auction, the Commission will hold an auction at least every three years on a going forward basis, and could hold auctions on off years as necessary to meet requests for licenses. The rules were just adopted, and the Commission has several steps before beginning the auctions for this spectrum.

Our next scheduled auction is an auction of certain FM radio allotments that is scheduled to commence on July 23, 2015. There are also a number of other spectrum auctions already on the drawing boards that, while not yet assigned a definitive date, will be held prior to the expiration of our auction authority in 2022, and we expect that there will likely be others as spectrum becomes available. For example, we have an open proceeding to make 500 megahertz of spectrum available through three licenses that will be auctioned in the 14.0-14.5 GHz band, which will be used to improve wireless broadband backhaul to and from airborne aircraft. There are also a number of FM and FM translator auctions that we are on track to hold before 2022. Additionally, the Commission recently initiated a proceeding to identify spectrum in a number of bands above 24 GHz that could be harnessed for mobile services. The Commission sought comment on how these bands could be made available for mobile broadband and other uses, including through auction. Finally, the Commission occasionally holds auctions for spectrum that is in our inventory, including spectrum for which there was not a winning bidder in previous auctions.

The Commission therefore expects to incur costs to develop and conduct spectrum auctions throughout the foreseeable future. The Commission will request the level of funding that is required to run the Spectrum Auction Program. Standard practices have been established and followed at the FCC to ensure compliance with the auction expenditure provisions of Section 309(j) of the Communications Act of 1934, as amended and the Middle Class Tax Relief and Job Creation Act of 2012. In accordance with these Acts, spectrum auction and incentive auction proceeds may be retained by the FCC as an offsetting collection to defray Commission expenses associated with the development and implementation of the auction program. If the level of funds needed to run the Spectrum Auction Program declines in the future the Commission will request less from Congress.

The Honorable Mike Pompeo

Question One: You testified that the FCC hired a contractor to support your internal staff review that underlies the workforce restructuring that includes closing field offices.

A. Was the contract competitively bid?

Answer: The contract was a directed source contract under the SBA 8(a) Small Business Development Program.

B. When was it awarded?

Answer: The contract was awarded on October 9, 2014.

C. What was the value of the contract?

Answer: The total value of the contract when it was awarded on October 9, 2014 was $745,603.07. The value of the contract was increased on March 10, 2015 for additional work in the amount of $99,916.48.

Question Two: According to the Fiscal Year 2016 Budget Request the number of FTEs in the Enforcement Bureau will drop from 259 in FY2014 to an estimated 246 in FY 2016. Explain all the assumptions underlying the decrease in FTEs. How will the Commission's plans to close field offices impact this analysis and the final numbers reflected in the budget?

Answer: The Commission's assumptions are as follows: 1) The Commission's top priority is to invest in IT modernization to become more efficient. These IT efficiencies will allow the Commission to maintain lower levels of FTEs. 2) The Commission prepared the FY 2016 Congressional budget using the assumption that IT efficiencies would result in 45 fewer FTEs (the budget reflects a net of 37 fewer FTEs calculated by reducing the FCC non-OIG by 45 and increasing the OIG by 8.). The reduction of 45 FTEs was distributed across Bureaus and Offices using a proration methodology tied to the size of each Bureau and Office. 3) The Commission is currently pursuing a number of strategies that may impact FTE specific calculations for Bureaus and Offices, including the potential closure of field offices. As we pursue those strategies and implement them, the actual number of FTEs for Bureaus and Offices will change.

The Honorable Renee Ellmers

Question One: Mr. Wilkins, you were involved in the recent effort to "reform" the E-rate program. In that order, the FCC increased the spending by $5 billion and denied that there was any increase in what Americans would have to pay. And then a few months later, right after the election, the Commission passed an order increasing the amount that is collected from consumers each month in order to pay for the spending increase.

A. Will the same thing happen with the upcoming push to expand the Lifeline program?

Answer: The Commission is considering additional ways to reform and modernize the Lifeline program as part of its continuing review of all the universal service programs. At this time, staff is considering various options consistent with the Lifeline program's goal of minimizing the financial burden on consumers and businesses. We are also continuing to examine and improve our ongoing efforts to ensure that Lifeline funds are always used for their intended purposes.

B. How can we trust the same thing won't happen with the Title II order that forbears from imposing USF fees on broadband? Can you commit that the FCC will not turn around and remove that restriction in the future?

Answer: The Open Internet Order does not impose mandatory contribution assessments, but simply allows a current, separate proceeding on how to reform universal service contributions to proceed. On August 7, 2014, the Commission referred the issue of universal service contributions to the Joint Board on Universal Service, pursuant to section 254(a) of the Communications Act. The Commission asked the Joint Board to examine the record developed in response to the Commission's 2012 Further Notice of Proposed Rulemaking on universal service contributions and provide recommendations. That proceeding is ongoing.

Question Two: In recent years the FCC has found hidden buckets of money that it then proposes to spend through reprogramming on special projects. I don't believe the Commission provides the public and Congress all the information it used to about these funds.

A. How much money do you have in the pipeline for reprogramming requests?

Answer: The Commission has an obligation to continually review core mission needs and costs throughout the fiscal year. Sometimes we experience emergencies – such as the near breakdown of the Columbia Lab HVAC system, computer resiliency issues and critical IT upgrades. These are examples of reprogramming requests for essential projects in recent years. The Commission continually reviews unliquidated obligations and de-obligates any amounts that will not be expended, thus the amount changes throughout the year. Currently the Commission estimates that $2 million in Salaries and Expense funds are available for reprogramming requests and $2 million in Spectrum Auction funds are available for reprogramming requests. More funds are in the pipeline and are expected to be de-obligated, thus the number will change throughout the remainder of this fiscal year.

B. How do you decide how to spend this money?

Answer: The Commission maintains an open working relationship with its Appropriations' Subcommittees throughout the year. When we seek a reprogramming, which is actually quite rare compared to other agencies, we do so only with the explicit consent of the Chairs of our Appropriations' Subcommittees. Prior to requesting reprogramming permission from Congress, the Commission conducts an internal review to ensure that we are funding the most mission-critical work. We also request and wait for permission from OMB prior to making the reprogramming request to Congress.

C. Why can't you use these funds to reduce your budget request instead of spending it on new projects?

Answer: The Commission does not make requests to fund new projects that require out year funding. Instead, we have utilized de-obligated funds to support essential programmatic activities related to basic operations that represent current year needs.