



March 2, 2015

TO: Members, Subcommittee on Communications and Technology

FROM: Committee Majority Staff

RE: Hearing entitled “Reauthorization of the Federal Communications Commission: The FCC’s FY 2016 Budget Request”

I. INTRODUCTION

On Wednesday, March 4, 2015, at 10:30 a.m. in 2322 Rayburn House Office Building, the Subcommittee on Communications and Technology will hold a hearing entitled “Reauthorization of the Federal Communications Commission: The FCC’s FY 2016 Budget Request.” The purpose of the hearing is to discuss and evaluate the Federal Communications Commission’s fiscal year 2016 budget request.

II. WITNESSES

Jon Wilkins, Managing Director, Federal Communications Commission (FCC or Commission) will be the sole witness. Mr. Wilkins heads the Office of the Managing Director (OMD), which is responsible for the administration and management of the Commission. Specifically, OMD manages the Commission's budget and financial programs, human resources, contracts and purchasing, communications and computer services, physical space, security, the Commission meeting schedule, and distribution of official FCC documents.

III. BACKGROUND

The budget of the Federal Communications Commission historically has come from three primary sources: appropriations, regulatory fees, and spectrum auction revenues. Congress granted the Commission authority to collect regulatory fees covering the costs of its enforcement activities, policy and rulemaking activities, user information services, and international activities to offset appropriations made to the Commission in 1993.¹ The FCC implemented the regulatory fee collection program by rulemaking in July 1994. The most recent fee schedule became effective on September 12, 2014, pursuant to an order adopted by the Commission on August 29, 2014. In recent years, Congress has included language in the FCC’s annual appropriation setting

¹ Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, 07 Stat. 397. The FCC also collects application fees from companies for activities such as license applications, renewals or requests for modification. These fees are deposited in the General Fund of the Treasury and cannot be used by the agency. 47 U.S.C. § 158(e).

specific percentages of the appropriation the FCC must offset with collected regulatory fees. This percentage reached 100 percent beginning in 2009.²

In 1993 Congress also required the FCC to auction portions of the electromagnetic spectrum for certain services, replacing the use of comparative hearings and lotteries to award licenses.³ This authority has been extended multiple times. Most recently, Congress extended auction authority through September 30, 2022, in the Middle Class Tax Relief and Job Creation Act of 2012, P.L. 112-96. As part of its auction authority, the FCC is authorized to retain a portion of the revenues raised from these auctions to offset the cost of conducting auctions. Section 309(j) of the Communications Act permits the Commission to utilize auctions revenues to fund auction expenses, including contracts for services, and personnel performing work in support of auctions authorized under that section.⁴

The Commission also uses spectrum auction funds to cover the share of the FCC's operating expenses attributable to the auction program. The share of these costs is based on a percentage of actual hours that FCC employees worked to support the auction program plus the same proportional share of the employee's leave hours. Costs recovered through this mechanism include such things as Commission-wide IT systems, administrative facility services, and human resource training activities. According to the FCC, it has maintained an average of 14 percent of the FCC's operating expenses attributable to auctions. Beginning in FY 2004, Congress capped the level of funds the Commission can withhold from spectrum auction revenues for these purposes. From FY 2004 through FY 2012, the cap was set at \$85 million per year.

IV. FISCAL YEAR 2016 FCC BUDGET REQUEST DETAILS

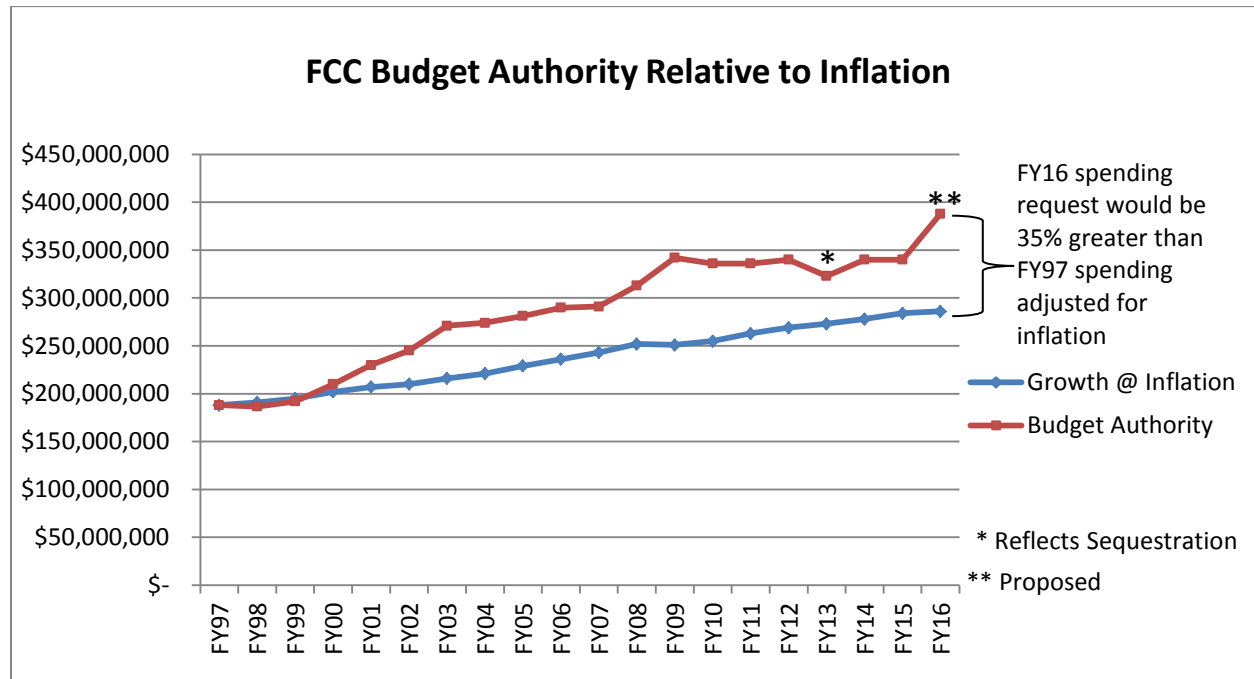
For FY 2016, the FCC requests an increase in its budget to \$505 million, including \$388 million in budget authority from regulatory fee collection and \$117 million from auctions receipts.⁵ In addition, the FCC requests the transfer of \$25 million from the Universal Service Fund (USF or "the Fund") to cover FCC costs related to the administration of the Fund. In total, the FCC requests a funding level of \$530 million, an increase of \$84 million above the FY 2015 appropriation. The proposed budget, if approved, would fund the agency at the highest level in its history – breaking the half a billion dollar threshold – and would transfer funds from the USF to reimburse the FCC for the costs associated with oversight and administration of the USF.

² Omnibus Appropriations Act, 2009, Pub. L. No. 111-8, 123 Stat. 524, 657 (2009).

³ As part of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 6002, 107 Stat. 312, 387-392, Congress added Section 309(j) to the Communications Act of 1934, as amended, authorizing the Commission to award certain spectrum licenses through competitive bidding.

⁴ *Id.*

⁵ *See generally*, "Fiscal Year 2016 Budget Estimates Submitted to Congress", Federal Communications Commission (February 2015).



Personnel Costs. The Commission’s 2016 budget request includes \$7.35 million in additional authority for FCC and FCC Inspector General personnel, including \$4.8 million for pay raises and \$1.5 million for “non-salary increases.” The request also includes a \$940,000 increase in personnel costs for the FCC’s Office of Inspector General. The Commission estimates that it will have 1,671 employees for FY 2016 a reduction from 1,708 estimated for FY 2015 and 1,716 for FY 2014. 230 of these employees are allocated to spectrum auctions.

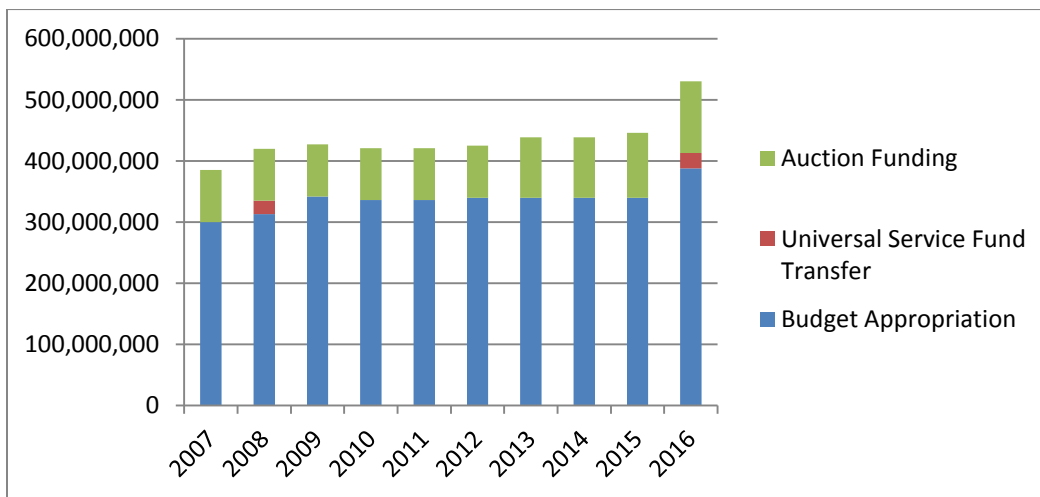
New or Consolidated FCC Offices. The Commission makes a one-time request of \$51 million (\$44 million in budget authority and an additional \$7.2 million in auction budget expenditures) to either move the agency to a new facility or restack the existing facility as required by the expiration of the Commission’s current lease for its offices, Portals I and Portals II, which will expire in October 2017. The FCC estimates that the real and personal property cost for the move or restacking is \$71 million over FY 2016 and FY 2017.

Information Technology Expenses. The Commission’s 2016 budget requests an additional \$17.5 million for information technology expenses to replace legacy IT infrastructure with a managed IT service provider and to “improv[e] the Resiliency of the FCC Enterprise.” The request includes an increase to base, recurring costs of \$5.8 million, \$9.5 million in one-time costs, and \$2.25 million to improve the resiliency of the FCC enterprise.

PSAP Do-Not-Call Registry. The Commission’s 2016 budget request seeks \$600,000 in ongoing funding for implementation of a do-not-call registry for non-emergency phone numbers at public safety answering points (PSAPs). The request also seeks \$250,000 in one-time funding for start-up costs. Congress required the Commission to begin a rulemaking to establish a PSAP do-not-call registry in the Middle Class Tax Relief and Job Creation Act of 2012.

Auction Expenditures. The proposed budget also reflects an increase in the cap on retention and spending of auctions proceeds to fund ongoing auction activities. If approved, the Commission’s proposed increase to \$117 million reflects an increase of \$11 million over FY2015, including an increase to base of \$1.3 million and one-time requests of \$2.4 million to engage an administrator to manage the Broadcast Relocation Fund that will be used to reimburse TV Broadcasters in the upcoming Incentive Auction and the \$7.2 million for relocation of auction-related personnel and systems associated with the FCC Headquarters move or restacking discussed above.

Combined FCC Funding FY2007-2016



V. OFFICE OF INSPECTOR GENERAL

The budget of the Commission’s Office of the Inspector General is incorporated into the Commission’s budget request each year. Congress’s FY 2015 appropriation to the Commission set a budget for the Inspector General’s Office of \$11 million. The FCC’s FY 2016 budget request includes a \$1.16 million increase for the Office of Inspector General to hire six additional auditors and two additional investigators. The Inspector General’s Office performs these oversight functions through its Universal Service Fund Oversight Division and Office of Investigations. The Inspector General’s Office also coordinates with federal, state, and local law enforcement in the execution of these functions. This additional staff brings the total number of FTEs in OIG to 56.

VI. UNIVERSAL SERVICE FUND ADMINISTRATION

The FY 2016 FCC budget estimates that the USF will grow from \$10.34 billion in FY 2014 to \$12.1 billion in FY 2016. The growth of the Fund has been a subject of continued congressional interest as the Fund has grown more than 45 percent from \$7.2 billion in 2008. That’s a compound annual growth rate of 5.52 percent – nearly 3.5 times the rate of inflation

over the same period. In light of this rapid growth many have called on the FCC to impose a cap on spending.

The proposed FY 2016 budget requests a \$25 million transfer from the USF for the Commission's oversight costs of USF programs and administration and to modernize USF IT systems. The FCC explains that approximately \$10 million will be used for anti-fraud efforts primarily to fund the "Joint USF Anti-Fraud Task Force" which will include staff resources from three agency bureaus: Enforcement Bureau (EB); Office of the Managing Director; and Wireline Competition Bureau (WCB). \$12.7 million or approximately 51 percent of the request is targeted to offset costs in the WCB and would fund 42 percent or \$12 million of WCB's \$30 million proposed budget. According to the FCC's website, the Telecommunications Access Policy Division of the WCB is "responsible for developing policies for administration and oversight" of the USF.⁶

There is a Memorandum of Understanding (MOU) in effect between the FCC and USAC the purpose of which is to facilitate the efficient management and oversight of the universal service program.⁷ The MOU, among other things, identifies the oversight responsibilities of the key Commission bureaus and offices, including the Office of Inspector General's role in administering the MOU. However, the transfer would represent the first time Congress authorized a transfer of USF funds for general Commission expenses. While Congress has previously authorized the use of USF funds by OIG for the express purpose of expanding OIG audit activities, it appears that more than half of the request is intended to support FCC policy work, not oversight. In 2008 Congress authorized the use of \$21.5 million of USF funds by OIG for support of the Fund, but limited the use of those funds to audits and investigations, not ongoing expenses for Commission policy personnel.⁸

VII. STAFF CONTACTS

If you have any questions regarding this hearing, please contact David Redl or Gene Fullano of the Committee staff at (202) 225-2927.

⁶ <http://www.fcc.gov/encyclopedia/telecommunications-access-policy-division>.

⁷ <http://www.fcc.gov/encyclopedia/universal-service-fund-general-management-and-oversight>.

⁸ Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 1844, 1998 (2007).