OFFICE OF INSPECTOR GENERAL

MEMORANDUM

DATE: January 25, 2013

TO: Chairman Julius Genachowski
Commissioner Robert McDowell
Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai

CC: General Counsel Sean Lev
Kris Monteith, Acting Bureau Chief, CGB

FROM: David Hunt, Inspector General

SUBJECT: Report on the Audit of the Use of Funds Disbursed to and Received by Telecommunications Relay Service Providers – CSDVRS, LLC

The Office of Inspector General is providing the audit report for CSDVRS's use of Telecommunications Relay Service (TRS) funds. This audit report is for one in a series of audits to determine if TRS funds were used in accordance with TRS program requirements.

We engaged Clifton Larson Allen LLP to conduct the audit. The scope of the audit was limited to the use of TRS funds received by five TRS providers offering Video Relay Service (VRS) in calendar year 2011. The audit objectives were to:

1. Determine if federal funds disbursed to and received by Telecommunications Relay Service (TRS) providers were applied in accordance with TRS program requirements and supported by adequate documentation.

2. Follow-up on the audit findings of prior year audits of Relay Service Data Requests (RSDR) (TRS provider annual cost data submissions to the FCC).

The audit concluded that:

1. TRS funds received by CSDVRS for VRS compensated the provider for only the reasonable costs of providing access to VRS.

2. CSDVRS' costs that were, as well as those that were not included in the RSDR for the year ending December 31, 2011 were supported by adequate documentation.

3. CSDVRS had not fully addressed all of the prior year audit findings.

CSDVRS management provided comments on the conclusions discussed in the audit report. In those comments CSDVRS disagreed with the prior year audit finding that costs for on-site installation of VRS user equipment were unallowable.

Clifton Larson Allen LLP is wholly responsible for the audit, the attached report and the conclusions expressed therein. The FCC-OIG's extent of reliance on this report is "No association with report" as described in the FCC-OIG Audit Manual.

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If you have any questions, please contact Thomas Cline at (202) 418-7890.

Attachment

PERFORMANCE AUDIT REPORT
OF
CSDVRS, LLC'S
VIDEO RELAY SERVICE
OF THE
TELECOMMUNICATIONS RELAY SERVICE FUND

Conducted for the
Federal Communications Commission
Office of Inspector General

For The Year Ending December 31, 2011

CliftonLarsonAllen

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PERFORMANCE AUDIT REPORT

EXECUTIVE SUMMARY

CliftonLarsonAllen LLP (formerly Clifton Gunderson, LLP) was engaged by the Federal Communications Commission (FCC or the Commission) Office of Inspector General (OIG) to conduct a performance audit of the application of funds received from the Telecommunications Relay Service (TRS) Fund by CSDVRS, LLC (CSDVRS). CSDVRS is a service provider, for the Video Relay Service (VRS) program.

VRS is a form of TRS provided to persons with hearing and speech disabilities in the United States. The TRS Fund is financed by interstate telecommunications providers on the basis of their interstate end-user telecommunication revenues. TRS providers are compensated by the TRS Fund at a rate determined by the FCC. Commission rules provide that rates for the provision of TRS should reflect the "reasonable costs of providing interstate" VRS service, including a reasonable rate of return for capital investment. *See 47 C.F.R. §§ 64.604(c)(5)(iii) (C), (E).* In recent rate orders, the FCC has found "a 'substantial disparity' between the providers' actual cost of providing VRS and the projected costs which had been used to calculate compensation rates." See Telecommunications Relay Services & Speech-to-Speech Services for individuals with Hearing & Speech Disabilities, 25 FCC Rcd. 8689 at 8694 (2010). The Commission also determined that there exists "substantial evidence that [VRS] providers are receiving far more in compensation than it costs them to provide service." *Id.* ¶12 at 8695.

The objectives of this performance audit were:

1. To determine if VRS-related federal funds disbursed to, and received by, CSDVRS in calendar year 2011, were applied in accordance with TRS program requirements and supported by adequate documentation. The specific TRS program requirements we audited relate to FCC rules and orders, and other policies that require that:

    a. TRS payments be designed to compensate TRS providers for the reasonable costs of providing VRS. The Commission defines "reasonable costs" to be those direct and indirect costs necessary to provide the service consistent with TRS mandatory minimum standards.

    b. Costs on the Relay Services Data Request (RSDR) data collection report, submitted to the TRS Fund Administrator are supported by adequate documentation. Other costs not reported on the RSDR but deemed by the service provider to be incurred in providing VRS were also supported by adequate documentation.

2. To follow up on the audit findings of the recent FCC OIG audit of CSDVRS's costs on the RSDR Schedule I forms submitted to the TRS Fund Administrator.

Our audit concluded that:

1. TRS funds received by CSDVRS for VRS were for the reasonable costs of providing VRS.

2. CSDVRS costs that were and were not included in the RSDR data collection report for the year ending December 31, 2011 were supported by adequate documentation.

3. CSDVRS has not adequately addressed all the prior year FCC audt findings.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objectives. Because of inherent limitations, a study and evaluation made for the limited purposes of our review would not necessarily disclose all weaknesses related to the application of VRS program funds received by CSDVRS.

BACKGROUND

FCC and the TRS Program

Section 225 of the Communications Act, 47 U.S.C. Section 225, requires the FCC to ensure that interstate and intrastate TRS is available, to the extent possible and in the most efficient manner, to persons with hearing and speech disabilities in the United States.

VRS is a form of TRS that allows a person with a hearing or speech disability to communicate with voice telephone users through video equipment. The person with a hearing or speech disability communicates with a communications assistant (CA) using American Sign Language. The CA then conveys that communication to the voice telephone user, thereby serving as an interpreter.

The TRS program is implemented through Title 47, Code of Federal Regulations (C.F.R.), Part 64, Subpart F – Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities and through orders adopted by the Commission. Specifically, 47 C.F.R. Section 64.604 addresses Mandatory Minimum Standards for TRS providers, including their processes for collecting and reporting minutes of service to the TRS Fund Administrator. The Mandatory Minimum Standards specifies three standards – operational standard, technical standard and functional standard.

Through its rules and orders, the Commission established a shared-funding mechanism that compensates TRS providers for their reasonable costs of providing interstate TRS. The TRS Fund Administrator receives TRS fund contributions from providers of interstate telecommunications services and makes disbursements to TRS providers from the fund. Over the last two funding years approved by FCC, the funding (revenue) requirements specific for VRS program contributed by about 2,800 telecommunication providers were $523 million for funding year 2010-2011, and $563 million for funding year 2011-2012. The TRS funding year is from July through June.

TRS providers receive compensation for providing interstate TRS based on FCC established formulas that are designed to ensure that TRS is provided "in the most efficient manner, which... necessitates adopting reasonable compensation rates that do not overcompensate entities that provide TRS." See Telecommunications Relay Services & Speech-to-Speech Services for Indviduals with Hearing & Speech Disabilities, 25 FCC Rcd. 8689 at 8698 (2010).

The Commission has defined "reasonable costs" to mean "those direct and indirect costs necessary to provide the service consistent with all applicable regulations governing the provision of the service, *i.e.*, the TRS mandatory minimum standards." See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 12475, 12543-544 at para. 181.

By Commission rule, TRS providers seeking compensation from the TRS fund must provide the Fund Administrator with true and adequate data, and other historical, projected and state related information reasonably requested to determine the TRS Fund revenue requirements and payments. See 47 C.F.R. § 64.604(c)(5)(iii)(C). In a series of prior FCC orders, the FCC designated which categories of costs incurred by VRS providers are allowed and which categories of costs are disallowed from compensation. The cost data collected by the Fund Administrator are reported by TRS providers in the RSDR.

The RSDR form, submitted annually, is designed to ensure that TRS providers comply with the TRS rules requiring providers to "provide the administrator with true and adequate data, and other historical, projected and state rate related information reasonably requested by the administrator, necessary to determine TRS Fund revenue requirements and payments." See 47 C.F.R. § 64.604(c)(5)(iii)(C). The Commission noted in FCC 07-186, paragraph 13, that the data collection form (RSDR) sets forth the categories of costs related to the provision of TRS for which providers may seek compensation, and the United States Court of Appeals for the 10th Circuit acknowledged this in its opinion denying Sorenson's challenge to the FCC's 2010 interim TRS rates. See *Sorenson v. FCC*, 659 F.3d 1035, 1040 (10th Cir. 2011).

Under 47 C.F.R §§ 64.604,(c)(5)(iii)(D)(6), the FCC OIG has the authority to examine and verify TRS provider data as necessary to assure the accuracy and integrity of TRS Fund payments.

FCC, as the steward of the TRS Fund, has a fiduciary duty to ensure that the TRS Fund operates efficiently and to guard against waste, fraud, and abuse.

CSDVRS, LLC

CSDVRS was formed in 2006 as a result of two private equity firms, Providence Equity and MC Venture Partners buying the VRS line of business from CSD Communication Services for the Deaf. CSDVRS Management Services, Inc. (MSC) is 100% owned by CSDVRS, LLC. The MSC has an "Employee Service Agreement" with the LLC whereby the MSC provides employees to the LLC on an ongoing basis, as requested. In consideration for these services, the LLC pays the MSC a monthly fee equal to the aggregate direct costs related to the employees of the MSC for each monthly period plus 0.2%.

CSDVRS has related party transactions with CSD Communication Services for the Deaf for contracted interpreter services. CSDVRS also pays a management fee to MSC for employee services as well as reimbursement for the aggregate direct costs related to the employees.

AUDIT OBJECTIVES

The objectives of this performance audit were:

1. To determine if VRS-related federal funds disbursed to, and received by, CSDVRS in calendar year 2011, were applied in accordance with TRS program requirements and supported by adequate documentation. The specific TRS program requirements we audited relate to FCC rules and orders, and other policies that require that:

   a. TRS payments are designed to compensate TRS providers for the reasonable costs of providing VRS. The Commission defines "reasonable costs" to be those direct and indirect costs necessary to provide the service consistent with... TRS mandatory minimum standards.

   b. Costs on the RSDR, submitted to the TRS Fund Administrator are supported by adequate documentation. Other costs not reported on the RSDR but deemed by the service provider to be incurred in providing VRS are also supported by adequate documentation.

2. To follow up on the audit findings of the recent FCC OIG audit of CSDVRS's costs on the RSDR Schedule I forms submitted to the TRS Fund Administrator.

SCOPE AND METHODOLOGY

We audited the VRS funds earned (used interchangeably with received) by CSDVRS from January 1, 2011 through December 31, 2011 (calendar year 2011) in relation to the cost incurred for VRS.

Table A below shows an analysis of the total VRS funds received by CSDVRS and costs related to VRS that were reported in the RSDR forms.

Table A – Analysis of VRS Funds Received and Cost Reported by CSDVRS in Calendar Year 2011

VRS Funds	Amount	Percentage
VRS funds received (based on FCC approved minute-of-use rates)	[redacted]	[redacted]
Costs reported on the RSDR form to VRS funds received	[redacted]	[redacted]
Total cost for all services to VRS funds received	[redacted]	[redacted]
Excess of VRS funds received over costs reported on the RSDR form to VRS funds received	[redacted]	[redacted]

A high level summary of our audit methodology is set forth in Appendix A.

AUDIT RESULTS

Our audit concluded that:

1. TRS funds received by CSDVRS for VRS were for the reasonable costs of providing VRS.

2. CSDVRS costs that were included in the RSDR, as well as those not included in the RSDR, for the year ending December 31, 2011 were supported by adequate documentation.

3. CSDVRS has not adequately addressed all the prior year audit findings.

Conclusion 1: TRS Funds Received by CSDVRS were for the Reasonable Costs of Providing VRS

VRS payments are based on FCC approved rates per minute of service provided. FCC established these rates per minute of service provided based on a variety of, largely unaudited, information including the consideration of costs identified by service providers. Accordingly, FCC rules require service providers to submit annual cost data to assist the FCC in the rate setting process. The RSDR requests cost data by categories that the FCC determines to be reasonable, and allowable or "compensable" costs. The RSDR instructions include descriptions of allowable costs and unallowable costs as explained in the FCC rules and orders. FCC rules and orders also consider an 11.25 percent rate of return on capital investments as "reasonable" compensation for providing VRS.

Our audit found that TRS payments to CSDVRS for providing VRS were for the reasonable costs of providing VRS in calendar year 2011. The VRS payments to CSDVRS were [redacted] more than the costs it reported on the RSDR as shown in Table A above.

Conclusion 2: CSDVRS costs that were and were not included in the RSDR for the year ending December 31, 2011 were supported by adequate documentation.

We tested samples of all costs incurred by CSDVRS for CY 2011 – both those included and not included in the data collection report (the RSDR) – to determine if the costs were supported by adequate documentation. We found no exception in the results of our tests.

Conclusion 3: CSDVRS has not adequately addressed all the prior year audit findings.

CSDVRS has not adequately addressed all the prior RSDR audit findings as noted in the prior year RSDR findings and recommendations shown in Table B below and continue to submit questionable cost in its RSDR submission.

Table B - Prior Year Audit of RSDR Findings

PY Finding No.	Topic	Years Reported	Finding	Corrected Measures Implemented or Comments by CSDVRS
Finding 1	Outreach Activities	2008 to 2010	Non – allowable Installation costs were included in the RSDR submission	CSDVRS strongly feels that costs for in-house visits are appropriately included in the Data Request Forms
Finding 2	Telecommunications Equipment	2008 to 2010	Assets were obsolete, missing or unallowable	The two items are not currently in use; however, they are not obsolete.
Finding 3	Depreciation Expense	2008 to 2010	Internal controls over depreciation calculations not operating properly.	CSDVRS believes that the accounting system properly calculated depreciation expense based on the in-service data and depreciation expense was not understated.
Finding 4	RSDR Data	2008 to 2010	Inaccurate data submitted	CSDVRS concurs with the condition and acknowledges the need for a diligent review which currently takes place.

****

We provided a draft of our report to the FCC OIG and the CSDVRS. We considered comments received from them prior to finalizing this report.

CLA performed its work between January 11, 2012 and April 30, 2012.

CLIFTONLARSONALLEN LLP

CliftonLarsonAllen LLP

Arlington, Virginia
May 31, 2012

Appendix A
High Level Summary of the Audit Methodology

Our audit methodology included the following:

- Assessing audit risk and significance within the context of the audit objectives.
- Obtaining an understanding of internal control that is significant to the administration of the TRS/VRS funds through review of prior year's audit reports and management inquiries.
- Understanding relevant information systems controls as applicable.
- Identifying sources of evidence and the amount and type of evidence required.

To implement our audit methodology, below are some of the audit procedures we performed:

- Inquired from CSDVRS's management, through the use of a management questionnaire and interviews, about the organization and operations of the TRS/VRS program.
- Reviewed policies, procedures and regulations for the CSDVRS's management and accounting systems as they relate to the administration of TRS/VRS programs.
- Reviewed the operations of CSDVRS in relation to the corporate structure and governance.
- Reviewed the TRS/VRS funds received in 2011 and related supporting documentation.
- Tested randomly selected expense items such as payroll, interest expenses and other expenses and related supporting documentation.
- Evaluated expenses against FCC rules for allowable and unallowable costs.
- Reviewed relevant contracts and agreements.
- Reviewed fixed assets schedule.
- Performed analytical reviews such as financial ratios analyses relevant to the audit objectives.
- Inquired with CSDVRS concerning the status of the findings reported in the latest FCC audit of costs reported in RSDR.

APPENDIX B
Auditor's Comments on CSDVRS' Response to the Draft Performance Audit Report

CliftonLarsonAllen's (CLA) Response

CLA reviewed CSDVRS, LLC (CSDVRS) response, attached as Appendix C, to our draft performance audit report. CLA disagreed with CSDVRS' opinion that the findings were adequately addressed in great detail. As a result, CLA stands by the findings and conclusions reached in our report.

Summary of CSDVRS' Response

CSDVRS stated that they have adequately addressed all the 4 findings noted in the 2008 to 2010 audit report and have provided timely responses to Williams Adley and Company, LLP (the auditor for that report); the FCC Office of Inspector General; and Rolka Loube Saltzer Associates (RLSA). CSDVRS also stated that they did not receive additional comments or guidance from the Office of Inspector General or further communication from RLSA.

CSDVRS further clarified that the contracted interpreter services it has with CSD Communication Services for the Deaf ended on November 14, 2011 as required by the FCC regulation.

Brief Discussion of CLA's Response

As per Table B in the report above, CSDVRS disagrees with finding 1 and believes outreach activities such as installation costs are appropriately included in the RSDR forms. CLA believes the inclusion of such installation costs in the data collection (RSDR) form does not adhere to FCC Order 07-186 Paragraph 82 that states: "...Costs attributable to relay hardware and software used by the consumer, including installation, maintenance costs, and testing are not compensable from the Fund..." Consequently, CLA disagree with CSDVRS' opinion.

CLA has no reason to disagree with CSDVRS that, contracted interpreter services it has with CSD Communication Services for the Deaf ended on November 14, 2011 as required by FCC regulation.

APPENDIX C
CSDVRS' Response to Draft Performance Audit Report

August 30, 2012

CliftonLarsonAllen LLP
4250 North Fairfax Drive, Suite 1020
Arlington, VA 22203

REF: Performance Audit Report of CSDVRS, LLC Video Relay Service of the Telecommunications Relay Service Fund

Dear Ms. Leswing:

I have reviewed the *"Performance Audit Report of CSDVRS, LLC Video Relay Service of the Telecommunications Relay Service Fund"*. I find the report substantially accurate and clear. However, I would like to comment on your third audit finding, *"CSDVRS has not adequately addressed all the prior year FCC audit findings."*

Table B lists four prior year audit findings and CSDVRS' response to each finding. We submitted our response in a timely manner, on April 28, 2011, for the 2008 to 2010 audit and did not receive any additional comments or guidance from the Office of Inspector General (OIG) or Williams, Adley and Company, LLP, the auditing firm selected by the OIG.

Furthermore, on May 16, 2012 we received a letter via e-mail from Rolka Loube Saltzer Associates (RLSA), informing us that they had been granted confidential and proprietary access to the 2008 to 2010 Audit. RLSA asked us to comment on the status of each finding. On May 23, 2012, via e-mail, we promptly responded, in detail, to RLSA the status of each finding. We have not received any further communication from RLSA on this subject.

In my opinion, the findings were adequately addressed in great detail in the letter dated April 28, 2011 and subsequently in the response to RLSA on May 23, 2012. If you do not believe the findings have been adequately addressed, please provide specific details for each finding listed and your reasoning for stating that the finding has not been adequately addressed. We want to be sure we fully understand any remaining issues following CSDVRS' comments in response to the findings so that we can thoroughly address them in the implementation of any needed corrective measures.

890 Cleveland St, Suite 300, Clearwater, FL 33755
CALL: 727.254.5600 | FAX: 727.443.1537 | EMAIL: info@zvrs.com
fb.com/like.zvrs @zvrs www.zvrs.com CSDVRS

With regards to another subject, on page (3) of the report, you state that *"CSDVRS has related party transactions with CSD Communication Services for the Deaf for contracted interpreter services."* To be clear, contracted interpreter services ended on November 14, 2011 as required by FCC Regulation 47 C.F. R. § 64.604(c)(5)(iii)(N)(1)(iii).

If you have any further comments or questions regarding my response, please do not hesitate to e-mail me at swagner@zvrs.com or call me at 727-254-5604.

Sincerely,

Stacy Wagner, CFO

600 Cleveland St., Suite 1000, Clearwater, FL 33755
CALL: 727.254.5600 | FAX: 727.443.1537 | EMAIL: info@zvrs.com
fb.com/like.zvrs @zvrs www.zvrs.com CSDVRS