



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 *Ag for David Hunt*

SUBJECT: Report on the Audit of the Use of Funds Disbursed to and Received by Telecommunications Relay Service Providers – Purple Communications Inc.

The Office of Inspector General is providing the reissued audit report for Purple Communications Inc.'s (Purple) 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 Purple for VRS compensated the provider for only the reasonable costs of providing access to VRS.

2. Purple's 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. Purple implemented corrective actions to address the prior year audit findings.

Purple did not provide management on the conclusions discussed in the audit report.

Clifton Larson Allen LLP is wholly responsible for the audit, the attached report and the conclusions expressed therein.

This report is being distributed with the handling instruction "Non-Public, Highly Sensitive/Restricted". This document contains proprietary commercial and financial information that is routinely withheld from public disclosure. The report is not to be copied or distributed. The FCC OIG will redact information for the publicly available version of this report.

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

Attachment

NON-PUBLIC
HIGHLY SENSITIVE RESTRICTED

PERFORMANCE AUDIT REPORT
of
Purple Communications, Inc.
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

TABLE OF CONTENTS

	PAGE
EXECUTIVE SUMMARY	1
BACKGROUND.....	2
AUDIT OBJECTIVES.....	3
SCOPE AND METHODOLOGY.....	4
AUDIT RESULTS	5
Appendix A: High Level Summary of the Audit Methodology.....	7

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 Purple Communications, Inc. (Purple). Purple 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, Purple 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 Purple's costs on the RSDR Schedule I forms submitted to the TRS Fund Administrator.

Our audit concluded that:

1. TRS funds received by Purple for VRS were for the reasonable costs of providing VRS.
2. Purple 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. Purple has instituted measures to address the prior year FCC audit 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 Purple.

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 to 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 Individuals 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.

Purple Communications, Inc

Purple is a wholly-owned subsidiary of Purple Holding Co, LLC. Purple’s VRS services are provided through its wholly-owned subsidiary, Purple Language Services Co. Purple Holding Co. LLC is 100% owned by funds controlled by the private equity firm Clearlake Capital Partners LP.

AUDIT OBJECTIVES

The objectives of this performance audit were:

1. To determine if VRS-related federal funds disbursed to, and received by, Purple 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 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 Purple'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 Purple 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 Purple and costs related to VRS that were reported in the RSDR forms.

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

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

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 Purple for VRS were for the reasonable costs of providing VRS.
2. Purple 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. Purple has instituted measures to address the prior year audit findings.

Conclusion 1: TRS Funds Received by Purple 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 Purple for providing VRS were for the reasonable costs of providing VRS in calendar year 2011. The VRS payments to Purple were [REDACTED], or [REDACTED] percent more than the costs it reported on the RSDR as shown in Table A above.

Conclusion 2: Purple 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 Purple 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: Purple has instituted measures to address prior year audit findings.

Purple had instituted measures to address prior year RSDR findings and recommendations as shown in Table B below.

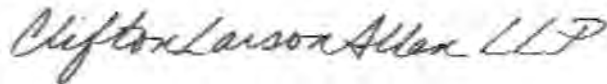
Table B - Prior Year Audit of RSDR Findings

PY Finding No.	Topic	Years Reported	Finding	Corrected Measures Implemented by Purple
Finding 1	Inconsistent RSDR data	2008 to 2010	Inaccurate actual cost on the RSDR forms	Purple concurred with this finding and now reports changes to actual costs in the RSDR to the TRS Fund Administrator immediately upon discovery of any adjustments that should be made.
Finding 2	Fixed Asset Reporting	2008 to 2010	Not reporting net book value of capital assets	Procedures in place. Purple now communicates all errors in the RSDR submission to the TRS Fund Administrator immediately upon discovery and will remit checks back for any amount that should not have been compensated for.
Finding 3	Unallowable Expenses	2008 to 2010	Non allowable employee meals expense	Purple did not concur with this finding and believed that the auditors interpreted the rules differently. However, they made some policy changes to address some of these issues.

We provided a draft of our report to the FCC OIG and Purple. We considered comments received from the OIG prior to finalizing this report. No comments were provided by Purple.

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

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 Purple'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 Purple's management and accounting systems as they relate to the administration of TRS/VRS programs.
- Reviewed the operations of Purple 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 Purple concerning the status of the findings reported in the latest FCC audit of costs reported in RSDR.