



Federal Communications Commission
Washington, D.C. 20554

April 5, 2011

DA 11-615

David Rolka
Rolka Loube Saltzer Associates
One S. Market Square, 12th Floor
Harrisburg, PA 17101

Re: Telecommunications Relay Service Fund Financial and Accounting Internal Controls

Dear Mr. Rolka:

With this letter, the Federal Communications Commission (Commission) congratulates Rolka Loube Saltzer Associates (RLSA) on its selection to administer the Telecommunications Relay Service (TRS) Fund. The Commission looks forward to working with RLSA to ensure that the TRS Fund continues to advance throughout the United States the goal of providing the benefits of communications technologies and services to individuals who are deaf-blind, or who have hearing or speech disabilities.¹ In addition, this letter provides instructions to RLSA as the new TRS administrator, to integrate specific measures into its internal controls structure over its finance and accounting operations, to ensure transparency of operations, and to provide efficient and effective operations. These steps will facilitate the integrity of the TRS fund and combat potential waste, fraud, and abuse so that the Commission and program stake holders can be assured TRS monies are being used in an efficient, effective, manner.

First, as the administrator of the TRS Fund, RLSA is directed to implement effective internal controls over its TRS operations, including the administration of the TRS Fund and compliance with applicable laws and regulations.² In particular, RLSA shall implement an internal controls structure consistent with the standards and guidance contained in the Office of Management and Budget (OMB) Circular A-123, including the methodology for assessing, documenting, and reporting on internal controls specified in Appendix A of OMB Circular A-123.³ This appendix requires, among other things, establishing a "Senior Management Council" charged with assessing the effectiveness of internal controls, preparing a risk assessment of TRS operations, and properly documenting TRS administrative procedures.⁴ An internal control structure compliant with OMB Circular A-123 is critical to ensuring

¹ 47 U.S.C. § 225(b)(1). The Twenty-First Century Communications and Video Accessibility Act (CVAA) revises the definition of TRS to include telecommunications access for individuals who are deaf-blind. Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751 (2010) (as codified at 47 U.S.C. § 715). *See also* Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. 111-265, 124 Stat. 2795 (2010), also enacted on October 8, 2010 (S. 3828, 111th Cong.) making technical corrections to the CVAA.

² TRS Fund Administration Services Agreement, CON 11000003, §§ C. 4.6 – 4.7 (March 7, 2011) (*TRS Agreement*).

³ *See* Office of Management and Budget, *Management's Responsibility for Internal Control*, Circular No. A-123, Appendix A (Dec. 21, 2004) (available at http://www.whitehouse.gov/omb/circulars_a123_rev) (*OMB Circular No. A-123*); *TRS Agreement* at §§ C. 4.0, 5.0.

⁴ *See OMB Circular No. A-123* at Appendix A, III, Assessing Internal Control Over Financial Reporting; *TRS Agreement*, § C. 4.0

that, in administering the TRS Fund, RLSA complies with all relevant and applicable federal financial management and reporting statutes, as required by Section 64.604(c)(5)(iii)(H) of the Commission's rules.⁵ The OMB Circular A-123 framework should also include internal and external controls designed to identify and protect against risks and vulnerabilities to safeguard TRS Funds and resources.⁶ Within 30 days of the date of this letter please submit a plan, subject to Commission approval, for implementing the internal control structure required by OMB Circular A-123. In addition, within 60 days of the date of this letter please submit procedures, subject to Commission approval, for administering the TRS fund on an ongoing basis, which are compliant with OMB Circular A-123.⁷

Second, Section 64.604(c)(5)(iii)(E) of the Commission's rules requires RLSA to "establish procedures to verify payment claims."⁸ Consistent with this rule, RLSA is directed to develop written policies and procedures governing its activities and functions as the current Fund administrator, including procedures to review and verify the minutes of use submitted by each provider for payment each month. The policies and procedures should ensure that RLSA reviews and verifies, on a monthly basis, all call data submitted each month by each provider, including all of the data currently required to be filed and any additional data the Commission may require in the future, to ensure that the minutes submitted are legitimate and that the correct amounts of funds are disbursed, and to detect call patterns that suggest fraud. RLSA shall ensure providers do not submit improper costs or improper minutes for the annual rate setting process. RLSA shall also ensure that providers do not submit improper minutes for monthly payments. RLSA shall further establish formal anti-fraud policies and procedures that identify proactive measures that RLSA is taking to combat potential waste, fraud, and abuse in the TRS program. Please submit these policies and procedures, subject to Commission approval, within 60 days of the date of this letter. In addition, please submit within 60 days of the date of this letter and subject to Commission approval, a proposed list of additional written policies and procedures that RLSA will implement (along with a proposed implementation timeline) to better safeguard the monies of the TRS Fund. On a going-forward basis, RLSA shall coordinate, and secure approval of, any proposed change to its policies or procedures with the Commission before making such changes.

Third, concerning the annual submission of cost and demand data used to determine the compensation rates and Fund size, RLSA is directed to establish written policies and procedures to frequently review the submissions of TRS providers seeking compensation from the TRS Fund. Section 64.604(c)(5) of the Commission's rules states that, "TRS providers shall provide the administrator with true and adequate data necessary to determine TRS fund revenue requirements and payments."⁹ The Commission's rules also require TRS providers to provide RLSA with total TRS minutes of use, total interstate TRS minutes of use, total TRS operating expenses and total TRS investment in general accordance with Part 32 of the Commission's rules.¹⁰ In addition, Section 64.604(c)(5) requires TRS providers to provide "other historical or projected information reasonably requested by the administrator

⁵ See 47 C.F.R. § 64.604(c)(5)(iii)(H); *TRS Agreement*, § C. 4.0. RLSA's obligation to follow the Commission's TRS rules, including those referenced in this letter, also extends to any subsequent Commission amendments to the substance or numbering of those rules.

⁶ These measures, for example, should protect against the Video Relay Service program participant billing of fraudulent and/or non compensable minutes.

⁷ See *TRS Agreement*, § C. 4.0, 5.0.

⁸ See 47 C.F.R. § 64.604(c)(5)(iii)(E).

⁹ See 47 C.F.R. § 64.604(c)(5).

¹⁰ See *id.*

for purposes of computing payments and revenue requirements.”¹¹ Finally, Section 64.604(c)(5) authorizes RLSA “to examine, verify and audit data received from TRS providers as necessary to assure the accuracy and integrity of fund payments.”¹² Consistent with this authority, RLSA shall verify the accuracy of the data submitted by the providers to ensure that, with respect to projected costs, the costs are reasonable and recoverable under the guidelines set forth in the Commission’s rules and orders. RLSA shall also review the providers’ submitted overhead costs to ensure that such costs are properly allocated. This review should include TRS traffic involving contractors or subcontractors of TRS providers.¹³

Fourth, RLSA should submit a report within 10 days of the end of each month to OMD, the Inspector General, and the Consumer and Governmental Affairs Bureau (CGB) that includes program data (e.g., total TRS minutes of use, total interstate TRS minutes of use, total TRS operating expenses and total TRS investment in general accordance with Part 32 of the Commission’s rules, as applicable) and financial data (e.g., administrative expenses, assets, fund balances).¹⁴ RLSA should include in this monthly report a detailed explanation of any discrepancies or errors uncovered in its regular review of TRS provider data. Discrepancies or errors include, but are not limited to, duplicate minutes, billing for test calls, and billing for calls associated with the installation of Video Relay Service telephones.¹⁵

Finally, RLSA is directed to notify the Commission in writing (including the Inspector General, OMD and CGB) of potential noncompliance or any waste, fraud, or abuse that it uncovers in its capacity as the administrator of the TRS Fund as soon as possible but not later than seven (7) days after identifying potential noncompliance. RLSA shall ensure that it notifies the Inspector General in writing of any potential fraud or fraud indicators that it uncovers in its capacity as the administrator of the TRS Fund within 24 hours of discovery. In addition, RLSA shall notify the Commission in writing (including the Inspector General, OMD, and CGB) of any failure on the part of any TRS provider to submit any information required under Commission rules or requested by RLSA.¹⁶

Thank you for your attention to implementing these steps which are critical in advancing the goals of the TRS program throughout the Nation. If you have any questions or wish to discuss this letter in greater detail, please contact Andrew Mulitz (Andrew.Mulitz@fcc.gov). In addition, please submit materials in response to the above directives to Andrew Mulitz and Thomas Buckley (Thomas.Buckley@fcc.gov).

Sincerely,

Steven VanRoekel
Managing Director

¹¹ *See id.*

¹² *See id.*

¹³ *See TRS Agreement*, § C. 5.0.

¹⁴ *See* 47 C.F.R. § 64.604(c)(5).

¹⁵ *See TRS Agreement*, § C. 4.0, 5.0.

¹⁶ *See TRS Agreement*, § C. 4.0.

Cc: Mindy Ginsburg, FCC
Mark Stephens, FCC
Thomas Buckley, FCC
Andrew Mulitz, FCC
Diane Mason, FCC