



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

December 4, 2009

The Honorable Darrell Issa
Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives
B-350A Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Issa:

Thank you for your letter regarding reporting under Section 1512 of the American Recovery and Reinvestment Act (Recovery Act) of 2009. The Federal Communications Commission (FCC) appreciates your inquiry. Below are the responses to the questions on page 2 of your letter.

Question 1: *The language used in the Terms and Conditions for each Recovery Act funded contracts, grants, and loan agreement related to failure to report or inaccurate reporting under Section 1512 of the Recovery Act.*

Answer: The FCC has entered into contracts using Recovery Act funds but does not have any grants or loan agreements. When entering into Recovery Act funded contracts, the FCC used Federal Acquisition Regulation (FAR) clause, 52.204-11, to incorporate the reporting requirements of Section 1512 of the Recovery Act into its contracts. While 52.204-11 does not contain specific terms related to failure to report or accurately report, the FCC also incorporates FAR clause 52.212-4 into its commercial item contracts. Subparagraph (m) of that clause states that:

“(m) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.”

Question 2: *A list of Recovery Act awardees that did not file or have been found to have filed inaccurately under award agreements related to Section 1512 of the Recovery Act.*

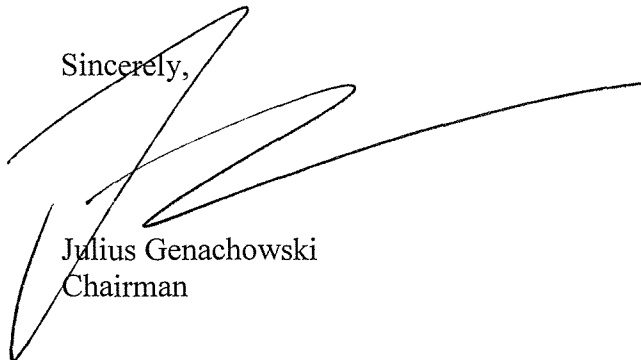
Answer: Of the FCC's eighty-six contracts that should have reported during the first cycle of Section 1512 reporting, seventy-nine contracts were entered by the FCC's awardees into the www.federalreporting.gov system. Four awardees representing seven contracts did not report. These contracts total \$2.454 million and represent less than 4% of the total value of the FCC contracts eligible for reporting in the first cycle. On November 30, 2009, the Office of Management and Budget (OMB) issued a memorandum (M-10-05), entitled Improving Compliance in Recovery Act Recipient Reporting, which requested agencies to provide a list of awardees who did not report to OMB. OMB provided a standardized template for collecting this information and requested that this information be provided no later than December 4, 2009. The FCC has provided this information to OMB, which has informed the FCC that this information will be furnished to the Recovery Accountability and Transparency Board and made public soon thereafter.

Question 3: *A list of awardees that the FCC has already contacted or plans to contact regarding a lack of filing or inaccurate filing under award agreements related to Section 1512 of the Recovery Act.*

Answer: The FCC was in contact with all of its awardees throughout the first Recovery Act reporting cycle. The FCC will continue to be in contact with any non-compliant awardees as www.federalreporting.gov becomes available for the second round of Section 1512 reporting on January 1, 2010. The non-compliant awardees were all related to the FCC's efforts surrounding the Digital Television transition, which occurred on June 12, 2009. During the summer of 2009, the FCC required its awardees with periods of performance that were expiring to provide the FCC with their Section 1512 information prior to paying their final invoices. Through this effort, the FCC gathered the Section 1512 information from these awardees outside of the www.federalreporting.gov system. The FCC has worked with the awardees through individual discussions to ensure that they enter directly into www.federalreporting.gov the information that they previously provided to the FCC. The vast majority of the DTV awardees were able to accomplish this task and accurately enter their information.

I appreciate your interest in this important matter. Please do not hesitate to contact me if I can be of any further assistance.

Sincerely,

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Julius Genachowski
Chairman