

COMMUNICATIONS ASSISTANCE FOR LAW
ENFORCEMENT ACT (CALEA)
Tenth Annual Report to Congress

Submitted to:

*Committees on the Judiciary
United States House of Representatives
and
United States Senate*

*Committee on Appropriations
Subcommittee on Science, State, Justice, Commerce, and Related Agencies
United States House of Representatives*

and

*Committee on Appropriations
Subcommittee on Commerce, Justice, and Science
United States Senate*

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United States Department of Justice

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TABLE OF CONTENTS

I. PURPOSE	1
II. BACKGROUND	1
III. STATUS OF CALEA	3
A. Joint Petition for Expedited Rulemaking CALEA	3
1. Services and entities subject to CALEA	3
2. Benchmarks and deadlines to achieve CALEA compliance	4
3. Enforcement against non-compliant carriers	4
4. CALEA implementation costs	4
B. Federal Communications Commission Notice of Proposed Rulemaking	4
C. CALEA Solution Availability	6
D. Packet-Mode Communications	6
E. Reimbursement Activity	8
F. “Dial-Out” Right to Use Software License Agreements	9
G. CALEA Solution Flexible Deployment Initiative	10
1. June 30, 2000 Compliance Date	10
2. Packet-Mode Communications Compliance Date	11
3. June 30, 2002 Compliance Date	11
4. June 30, 2004 Compliance Date	12
IV. PAYMENTS TO TELECOMMUNICATIONS CARRIERS	12
A. Telecommunications Carrier Compliance Fund Activity: Fiscal Year (FY) 1997 - FY 2004	12
B. Current Year Estimates: FY 2005	15

I. PURPOSE

Section 112 of the Communications Assistance for Law Enforcement Act (CALEA), 47 U.S.C. §§ 1001-1010 (1994), directs the Attorney General to submit an annual report to Congress by November 30th of each year on the amounts paid during the preceding fiscal year (FY) to telecommunications carriers under section 2608 of Title 18, United States Code. The annual report, which is made available to the public, shall include:

- (A) a detailed accounting of the amounts paid to each carrier and the equipment, facility or service for which the amounts were paid; and
- (B) projections of the amounts expected to be paid in the current FY, the carriers to which payment is expected to be made, and the equipment, facilities, or services for which payment is expected to be made.

Pursuant to section 112 of CALEA, this Tenth Annual Report is submitted to Congress. The report provides information regarding FY 2004 expenditures to telecommunications carriers, and projected spending levels for FY 2005.

II. BACKGROUND

CALEA was enacted to preserve law enforcement's ability to conduct lawfully authorized electronic surveillance in order to ensure national security and public safety. CALEA obligates telecommunications carriers to ensure that their equipment, facilities, and services are capable of expeditiously isolating and delivering to law enforcement agencies all communications and call-identifying information that law enforcement is authorized to acquire. CALEA embraces the fundamentals of privacy and United States' policies which encourage the provision of new technologies and services to the public. CALEA also provides for the reimbursement of certain telecommunications carriers for "reasonable costs" directly associated with implementing CALEA. Factors set forth in CALEA for determining whether a telecommunications carrier is eligible for reimbursement include: (1) the equipment, facility, or service being upgraded is a priority to law enforcement; and (2) the equipment, facility, or service was installed or deployed on or before January 1, 1995.¹

CALEA contains a number of reimbursement provisions designed to ease the transition to full compliance with the assistance capability and capacity requirements. First, to the extent that telecommunications carriers must make modifications to meet the capacity requirements,

¹ With respect to any equipment, facility, or service installed or deployed after January 1, 1995, a telecommunications carrier may petition the Federal Communications Commission (FCC) to determine whether compliance with the assistance capability requirements is reasonably achievable. In those instances where compliance with the assistance capability requirements is determined not to be reasonably achievable, the Government may, subject to the availability of appropriations, agree to pay the telecommunications carrier for the additional reasonable costs of making compliance reasonably achievable.

CALEA provides that the Attorney General may agree to reimburse eligible telecommunications carriers for certain reasonable costs under 47 U.S.C. 1003(e). Second, the Attorney General may agree to pay a telecommunications carrier for all reasonable costs directly associated with making modifications to its equipment, facilities, or services installed or deployed on or before January 1, 1995 (pre-existent equipment) under 47 U.S.C. 1008(a) & (d). Finally, if the FCC determines that compliance with the assistance capability requirements is not reasonably achievable with respect to a telecommunications carrier's equipment, facilities, or services installed or deployed after January 1, 1995 (post-equipment), the Attorney General may agree to pay the telecommunications carrier for the additional reasonable costs of making compliance with the assistance capability requirements reasonably achievable under 47 U.S.C. 1008(b). Detailed procedures and standards for the reimbursement of carriers were promulgated by the Federal Bureau of Investigation (FBI) in the Cost Recovery Regulations (28 C.F.R. Part 100). In addition, the FBI is authorized to utilize firm, fixed-price agreements and to pay or reimburse directly to manufacturers, telecommunications carriers, or telecommunications support service providers under 47 U.S.C. 1021, as amended.

To facilitate CALEA's implementation, Congress authorized \$500,000,000 to be appropriated to reimburse the telecommunications industry for certain eligible costs associated with modifications to their networks. The Omnibus Consolidated Appropriations Act of 1997 (the Act) (P.L. 104-208)² amended CALEA by adding Title IV which created the Telecommunications Carrier Compliance Fund (TCCF) to facilitate the disbursement of funds available for CALEA implementation. Additionally, the Act authorized agencies with law enforcement and intelligence responsibilities to transfer unobligated balances into the TCCF, subject to applicable Congressional reprogramming requirements. A total of \$499,557,146 has been made available in the TCCF through the end of FY 2004. Of this amount, \$456,976,876 was the result of appropriated funding; \$40,000,000 was provided through the Department of Justice (DOJ) Working Capital Fund; \$1,580,270 was provided through a transfer from the United States Customs Service; and \$1,000,000 was provided through a transfer from the United States Postal Inspection Service. As of September 30, 2004, the unobligated balance of the TCCF was \$44,485,646. Additionally, \$3,000,000 remains committed, but was not obligated during FY 2004, resulting in an available balance of \$41,485,646.

² The Omnibus Consolidated Appropriations Act of 1997; P.L. 104-208, 110 STAT 3009 (1996).

III. STATUS OF CALEA

A. Joint Petition for Expedited Rulemaking

On March 10, 2004, the United States Department of Justice (DOJ), Federal Bureau of Investigation (FBI), and Drug Enforcement Administration (DEA), on behalf of the entire law enforcement community, filed a Joint Petition for Expedited Rulemaking (Joint Petition) before the FCC for expedited rulemaking to resolve various outstanding issues associated with the implementation of the CALEA. The Joint Petition made a number of requests of the FCC:

1. Services and entities subject to CALEA

The Joint Petition requested the FCC establish rules to formally identify services and entities covered by CALEA, so both law enforcement and industry were on notice with respect to CALEA obligations and compliance. The FCC previously ruled on CALEA applicability but communications technologies and services have advanced and been adopted at such a rate so as to make previous FCC pronouncements outdated and in need of revision.

Specifically, the Joint Petition requested the FCC find “broadband access” and “broadband telephony” to be subject to CALEA. “Broadband access” subscribers have high-speed, or large bandwidth access to the public Internet through any one of a number of different methods (e.g., cable modem, digital subscriber line [DSL]). The Joint Petition requested service made available by the broadband access provider (i.e., transmission and/or switching of information, albeit at a high rate of speed) fall within the scope of services covered by CALEA. “Broadband telephony” refers to the transmission or switching of voice communications using broadband facilities. Broadband telephony, because of its similarity to traditional telecommunications and overwhelming economic benefits to the industry, is widely forecast to replace traditional local exchange services. Both kinds of broadband described are examples of services using packet-mode technology - technology in which communications are divided into packets before they are sent, transmitted individually, and recompiled into the original message once the packets arrive at their destination. For more information regarding packet-mode technology, please refer to Section III.D.

The Joint Petition also requested the FCC to reaffirm a previous declaration that “push-to-talk” dispatch service is covered by CALEA. “Push-to-talk” service, a significantly more geographically expansive version of “walkie-talkies,” was first introduced in the mid-1990s. A growing number of wireless carriers have begun offering the service without uniform, industry-wide acknowledgment of CALEA obligations.

2. Benchmarks and deadlines to achieve CALEA compliance

CALEA does not contain any specific, concrete implementation or compliance plan. Instead, it allows carriers to petition the FCC for two-year extensions of the compliance date. The Joint Petition requested the FCC create general rules providing for the establishment of benchmarks and deadlines for CALEA compliance for all future technologies and services determined to fall within CALEA's scope as well as benchmarks and deadlines for packet-mode services. The Joint Petition also presented a detailed framework for a phase-in plan by providing descriptions of benchmarks and expected carrier filings in response to benchmarks.

3. Enforcement against non-compliant carriers

The Joint Petition requested the FCC establish rules that specifically outline the types of enforcement action that it will take against carriers and/or equipment manufacturers and support service providers that fail to comply with their CALEA obligations or any phased-in CALEA implementation plan adopted by the FCC. Despite its broad authority to establish necessary rules to implement CALEA, the FCC has remained silent with respect to establishing and enforcing its rules.

4. CALEA implementation costs

CALEA places solution implementation costs for equipment, facilities, and services installed after January 1, 1995, squarely on carriers, not law enforcement. However, certain carriers have chosen to pass their CALEA-related implementation costs directly to law enforcement through higher administrative charges, while other carriers remain uncertain regarding their responsibility for CALEA implementation costs. Therefore, the Joint Petition requested the FCC specifically state carriers bear sole financial responsibility for these CALEA implementation costs. Only costs associated with the provisioning (turning-on) an intercept should be passed to law enforcement (this provisioning cost is allowed by Title III of the Omnibus Crime Control and Safe Streets Act of 1968). The Joint Petition also requested the FCC permit carriers, at carriers' discretion, to recover some or all of their CALEA implementation costs from their customers.

B. Federal Communications Commission's Notice of Proposed Rulemaking

The FCC released its Notice of Proposed Rulemaking (NPRM) and Declaratory Ruling RM-10865, ET Docket No. 04-295, FCC 04-187, on August 9, 2004. The NPRM was published in the Federal Register at 69 Fed. Reg. 56976 (2004) on September 23, 2004.

In its NPRM, the FCC stated that it was guided first by the FCC's primary policy goal to ensure that law enforcement has all of the resources that CALEA authorizes to combat crime and support Homeland Security. Second, the FCC recognized law enforcement's needs must be balanced with the competing policies of avoiding impeding the development of new communications services and technologies and protecting customer privacy. Section 103 of

CALEA explicitly precludes law enforcement from prohibiting the adoption of any equipment, facility, service, or feature by any telecommunications provider, manufacturer, or support service; and also protects the privacy and security of communications and call-identifying information not authorized to be intercepted. Third, the FCC intended to remove to the extent possible any uncertainty that is impeding CALEA compliance, particularly for packet-mode technology.

In the NPRM, the FCC tentatively concluded that CALEA applies to facilities-based providers of any type of broadband Internet access service – including wireline, cable modem, satellite, wireless, and powerline – and to managed or mediated Voice over Internet Protocol (“VoIP”) services. These tentative conclusions were based on an FCC proposal that these services fall under CALEA as “a replacement for a substantial portion of the local telephone exchange service.” Additionally, the FCC tentatively concluded that it was unnecessary to identify future services and entities subject to CALEA. The FCC recognized law enforcement’s need for certainty regarding the applicability of CALEA to new services and technologies, but anticipated that the Report and Order in the proceeding will provide substantial clarity sufficient to resolve law enforcement’s and industry’s uncertainty about future compliance obligations.

The FCC sought comment on telecommunications carriers’ obligations under section 103 of CALEA and compliance solutions as they relate to broadband Internet access and VoIP. In particular, the FCC sought comment on the feasibility of carriers relying on a trusted third party to manage their CALEA obligations and whether standards for packet-mode technologies are deficient and thus preclude carriers from relying on them as safe harbors for complying with CALEA. With respect to compliance, the FCC proposed mechanisms to ensure telecommunications carriers comply with CALEA. Specifically, the FCC proposed to restrict the availability of compliance extensions under CALEA section 107(c) and clarified the role and scope of CALEA section 109, under which carriers may be reimbursed for their CALEA compliance costs. The FCC proposed to afford all carriers with pending petitions a reasonable period of time (e.g., 90 days) in which to comply with, or seek relief from, any determinations that it eventually adopts in this proceeding.

The FCC also considered whether, in addition to the enforcement remedies through the courts available to law enforcement agencies under CALEA section 108, it may take separate enforcement action against carriers that fail to comply with CALEA and tentatively found that it has general authority under the Communications Act to promulgate and enforce CALEA rules against carriers and non-common carriers. With respect to costs, the FCC tentatively concluded that carriers are responsible for CALEA development and implementation costs for post-January 1, 1995 equipment and facilities; sought comment on cost recovery issues for wireline, wireless, and other carriers; and referred to the Federal-State Separations Joint Board cost recovery issues for carriers subject to Title II of the Communications Act.

Finally, the FCC requested comment on a reasonable amount of time for entities that heretofore have not been subject to CALEA to comply with its requirements, if the FCC ultimately decides that those entities are subject to CALEA. In the companion Declaratory

Ruling, the FCC granted in part a law enforcement request in the Joint Petition and clarified that commercial wireless “push-to-talk” services are subject to CALEA, regardless of the technologies that Commercial Mobile Radio Service providers choose to apply in offering them. With a *Federal Register* publication date of September 23, 2004, comments to the NPRM were due on November 7, 2004 and reply comments were due on December 7, 2004. The context of comments, reply comments, and any resulting FCC decision are beyond the scope of this Annual Report.

C. CALEA Solution Availability

As reported in previous CALEA Annual Reports to Congress, manufacturers of telecommunications equipment used by traditional, or circuit-mode, wireline, cellular, and broadband Personal Communications Service (PCS) carriers were expected to develop and make fully-compliant CALEA solutions available over several generic software releases. Each successive generic software release was to contain partial CALEA functionality until fully compliant CALEA solutions were available. To date, most of these manufacturers have complete CALEA solutions available for their carrier customers.

D. Packet-Mode Communications

Technical challenges to law enforcement’s conduct of electronic surveillance continue to mount as the industry develops and adopts technically-advanced and efficient methods of providing services. The current technological migration within the telecommunications industry to packet-mode communications may counteract the technical efficacy of electronic surveillance unless the industry actively incorporates the intercept needs of law enforcement into the development and deployment of packet-mode telecommunications technology into telecommunications networks.

In contrast to traditional, or circuit-mode wireline, cellular, and broadband PCS services, where a technical standard exists and solutions have been developed, the amalgam of services made available using packet-mode technology and the scarcity of sufficient technical standards has left the industry lacking electronic surveillance solutions that meet law enforcement's needs.

Section 107(a) of CALEA was intended to ensure the efficient and industry-wide implementation of the electronic surveillance assistance capability requirements by requiring consultation with appropriate associations and standard-setting organizations of the telecommunications industry. If standards are promulgated and accepted by an accredited standards-setting organization, the clear meaning of CALEA would protect carriers and manufacturers from charges of non-compliance. However, CALEA also unambiguously provides that the absence of technical requirements or standards shall not relieve a carrier, manufacturer, or telecommunications support services provider from meeting the obligations

imposed by section 103 and 106.³

In its Third Report and Order,⁴ the FCC determined that carriers could provide the capability to intercept packet-mode communications in accordance with an industry-developed technical standard known as “J-Standard” (i.e., J-STD-025). J-STD-025, developed for and by the circuit-mode segment of the industry, provides descriptions of capabilities that carriers need to make available to law enforcement regardless of the transmission mode (circuit-mode or packet-mode) utilized by carriers in providing service(s). In its Third Report and Order, the FCC mandated that the capability to intercept packet-mode communications be made available to law enforcement by September 30, 2001.⁵ In a September 21, 2001 Order, the FCC denied the industry’s request for a blanket extension of the September 30, 2001 compliance deadline for all wireline, cellular, and broadband PCS carriers to implement a packet-mode communications electronic surveillance capability mandated by its Third Report and Order. The September 21, 2001 Order deferred the packet-mode communications compliance date to November 19, 2001. With respect to the industry’s petition challenging the FCC’s Third Report and Order, the Court of Appeals declined to vacate the FCC’s determinations as to packet-mode communications.

Following the Third Report and Order, traditional and non-traditional⁶ segments of the industry initiated a number of standardization efforts to develop technical requirements for packet-mode communications. To facilitate the industry’s understanding of law enforcement’s electronic surveillance needs in a packet-mode environment, the FBI has, to date, released two technical needs documents. First, in November 2001, the FBI released a Packet Surveillance Fundamental Needs Document (PSFND) which contains high-level descriptions of the capabilities needed by law enforcement to conduct effective electronic surveillance in a packet-mode environment. Second, in January 2003, the FBI released the Carrier Grade Voice over Packet (CGVoP) which augments the PSFND with more specificity regarding law enforcement’s needs with respect to this voice-like service. Finally, in October 2003, the FBI released an additional document for non-traditional method of personal communications requiring both access to a public Internet Protocol (IP) network and accompanying network infrastructure support services. Network access may be obtained by establishing a subscription-based arrangement with a Public IP Network Access Service (PIPNAS) provider. The typical PIPNAS provider offers services that combine network processing, protocol conversion, and/or routing with transmission to enable users to access a public IP network. The necessary network support services required to enable communication may also be offered by a PIPNAS provider or may be

³ Section 107(a)(3) of CALEA, 47 U.S.C. §1006(a)(3).

⁴ Third Report and Order, *Communications Assistance for Law Enforcement Act*, CC Docket No. 97-213 (rel. August 31, 1999), FCC 99-230, (Third Report and Order).

⁵ *Ibid.*

⁶ Non-traditional segments of the industry may include carriers previously utilizing traditional circuit-mode technology but are migrating their networks to packet-mode technology or carriers with no previous traditional circuit-mode technology that have adopted packet-mode technology in the provision of services.

obtained through an Application Service Provider, a Local Exchange Carrier, a Wireless Service Provider, or any combination of these entities.

E. Reimbursement Activity

Two alternative reimbursement approaches are utilized by the FBI for the implementation of CALEA software solutions: (1) Right-to-Use (RTU) software license agreements; and (2) switch-by-switch reimbursement. Both approaches are consistent with the FBI's goal of maximizing return on TCCF dollars while responding to industry concerns about CALEA compliance costs and deployment schedules.

The reimbursement approach chosen by the FBI depends on several factors. These factors include, but are not limited to: (1) the availability of TCCF funds; (2) the per-switch commercial prices for CALEA software solutions; (3) the reimbursement cost for an RTU software license for a CALEA solution; and (4) the switching platform's priority status to law enforcement.

Under the RTU software license agreement approach, the FBI reimburses a facilitating carrier⁷ for that carrier's purchase of the CALEA RTU software license for a switch installed or deployed on or before January 1, 1995. The license fee covers the manufacturer's CALEA software development cost for the switch's platform type. Under this reimbursement approach, a manufacturer grants CALEA RTU software licenses to other carriers at no charge for all switches of the same platform type installed or deployed on or before January 1, 1995. Under a switch-by-switch reimbursement approach, the FBI reimburses carriers for CALEA software on an individual, switch-by-switch basis at solution deployment.

To date, the number of priority switching platforms for which the FBI has committed reimbursement funds totals eleven. Payment for these priority switching platforms continues as software generics are periodically released to carriers. Telecommunications carriers are expected to install the developed CALEA solutions. Carriers with pre-existent equipment are eligible for reimbursement.

⁷ The CALEA statute requires that TCCF payments be made to telecommunications carriers for the reasonable costs associated with modifications to equipment, facilities, and services installed or deployed on or before January 1, 1995. In addition, the FBI is authorized to utilize firm, fixed-price agreements and to pay or reimburse directly to manufacturers, telecommunications carriers, or telecommunications support service providers under 47 U.S.C. 1021, as amended.

F. “Dial-Out” Right to Use Software License Agreements

Existing technical electronic surveillance solutions provide a limited set of options regarding transporting intercepted information⁸ to law enforcement. Current technical electronic surveillance solutions require law enforcement to have in place necessary equipment, facilities, and services (herein referred to as facilities) to transport intercepted information from a carrier’s switching (or delivery) equipment to a collection site. The installation of those facilities is both time-consuming (if not already in place, must be ordered weeks or months in advance) and expensive (installation and monthly recurring charges can be cost-prohibitive). An enhanced capability, commonly referred to as “dial-out,” represents a dramatic departure from existing delivery mechanisms. As its name implies, a “dial-out” solution takes advantage of the public switched telephone network (PSTN) already in place between carrier equipment performing an intercept and a law enforcement collection site. The “dial-out” solution allows for the following efficiencies: (1) intercepted information is transmitted to law enforcement over the existing PSTN soon after a lawful authorization is obtained and provided to a carrier without the requisite prolonged time delay to establish specialized facilities between carrier switching (or delivery) equipment and a law enforcement collection site; and (2) there is no additional cost to use pre-existing facilities. In short, the “dial-out” solution results in long-term financial savings for law enforcement agencies conducting electronic surveillance while simultaneously reducing the time delay between lawful authorization and electronic surveillance implementation.

Based on current solution configurations, the delivery facilities between a carrier’s switch and law enforcement collection site are required to be high-capacity T1 lines. T1 (or T-1) lines are the most commonly used digital transmission line in the United States. T1 lines carry 24 individual pulse code modulation (a digital scheme for transmitting analog data) signals using time-division multiplexing at an overall rate of 1.544 million bits per second. The exact number of T1 lines between any given switch and law enforcement’s collection sites will vary according to the number of electronic surveillance orders authorized to be conducted; the timeliness of a carrier’s ability to install T1 lines; the ability of a law enforcement agency to afford the installation and ongoing monthly recurring charges associated with T1 lines; and the number of distinct law enforcement agencies conducting electronic surveillance. The installation and provisioning of T1 lines has been known to cost as much as \$1,500 and take as long as 90 days. This cost and timetable could result in some law enforcement agencies concluding that electronic surveillance is beyond their financial means and lacks the timeliness to be an effective tool in the prevention, disruption, and investigation of crime.

Each of the manufacturers of telecommunications equipment with which the FBI has held discussions regarding a “dial-out” solution was considered based on one or more of the following factors: (1) the manufacturer’s equipment represents a significant portion of the marketplace of switching equipment; (2) the switching equipment provides service in geographic areas of interest to law enforcement; (3) the technical solution currently employs a transport

⁸ The term “intercepted information” refers to either the content of intercepted communications, the call-identifying data associated with the communications, or both.

mechanism with inherent delay and costs which may be cost prohibitive for some segments of law enforcement; and/or (4) the “dial-out” solution replaces expensive adjunct equipment required by the manufacturer’s existing electronic surveillance technical solution.

G. CALEA Solution Flexible Deployment Initiative

In FY 1999, the Attorney General announced that DOJ intended to work with telecommunications carriers to establish flexible schedules for carriers’ deployment of CALEA solutions in their telecommunications networks. In an attempt to minimize the costs and operational impact of CALEA compliance on carriers, DOJ and FBI adopted a CALEA Flexible Deployment Initiative. The Flexible Deployment Initiative works within a carrier’s normal business processes and software roll-out schedules, resulting in substantial cost savings to the industry and the Government, while allowing carriers to target resources at those switches which are of highest priority to law enforcement.

This initiative has benefitted, and continues to benefit, carriers by working within their normal deployment schedules, and limiting a carrier’s legal exposure under CALEA for post-January 1, 1995 switches⁹ not made CALEA-compliant by either the June 30, 2000, November 19, 2001, or June 30, 2002 compliance date. Law enforcement benefits from the plan by ensuring that its priority switches are made CALEA-compliant in a timely manner. Specifically, those carriers wishing to participate in the Flexible Deployment Initiative were given the opportunity to provide the FBI with projected CALEA deployment schedules for all host and stand-alone switches in their networks.

1. June 30, 2000 Compliance Date

In January 2000, the FBI provided the telecommunications industry with a *Flexible Deployment Assistance Guide* (June 30, 2000 Guide) to facilitate telecommunications carriers’ submission of information. The June 30, 2000 Guide requested telecommunications carriers to voluntarily submit certain information to the FBI, and explained under what circumstances, based on a review of that information, the FBI might support a carrier’s request to the FCC for an extension under section 107(c) of CALEA. The June 30, 2000 Guide also provided some general background information regarding CALEA and discussed lawfully-authorized electronic surveillance, technical solutions being developed by the industry, and cost reimbursement provisions of CALEA. The FBI disseminated over 3,500 copies of the June 30, 2000 Guide to the telecommunications industry and other interested parties.

Upon receiving a carrier’s projected CALEA deployment schedule, the FBI and the carrier jointly developed a final CALEA deployment schedule that provided appropriate

⁹ Switches installed or deployed after January 1, 1995, (post-1/1/95 switches) must be CALEA-compliant at the carrier’s expense by the compliance date(s) established by the FCC unless the FCC has granted the carrier an extension of the compliance date under section 107(c) of CALEA or the FCC has determined that compliance is not reasonably achievable according to section 109(b) of CALEA.

consideration of Federal, state, and local law enforcement's priority switches. Telecommunications carriers also had the opportunity to submit a petition to the FCC for an extension of the June 30, 2000 compliance date. Once a carrier and the FBI agreed on a final CALEA deployment schedule, the FBI provided the carrier with a letter of support acknowledging the final, agreed-upon deployment schedule. The letter of support was to be used in conjunction with the carrier's extension petition filed before the FCC. The FBI's agreement to support a carrier's petition for extension is subject to the carrier's adhering to the agreed-upon deployment schedule. The maximum length of extension that may be granted by the FCC is two years, or in the case of the June 30, 2000 compliance date, until June 30, 2002. The FBI believes that the foregoing process provided carriers with significant cost savings and operational flexibility, while simultaneously providing law enforcement with the assurance that priority switches will be CALEA-compliant in a timely manner.

2. Packet-Mode Communications Compliance Date

In August 2001, the FBI provided the telecommunications industry with a second edition of its *Flexible Deployment Assistance Guide for Packet-Mode Communications* (Packet-Mode Communications Guide) to facilitate telecommunications carriers' submission of information. The Packet-Mode Communications Guide is similar in purpose and scope to that of the June 30, 2000 Guide in that it facilitates telecommunications carriers' submission of information. The Packet-Mode Communications Guide requests telecommunications carriers to voluntarily submit certain information to the FBI, and explains under what circumstances, based on a review of that information, the FBI might support a carrier's request to the FCC for an extension of the Packet-Mode Communications compliance date under section 107(c) of CALEA. The FBI disseminated over 3,000 copies of the Packet-Mode Communications Guide to the telecommunications industry and other interested parties. The maximum length of extension that may be granted by the FCC is two years, or in the case of the November 19, 2001 compliance date, until November 19, 2003. Finally, the FBI has discontinued its packet-mode flexible deployment program in light of the scarcity of technical standards and corresponding solutions for packet-mode services does not serve the law enforcement community and is working with the FCC on alternative, effective methods of monitoring the industry's progress.

3. June 30, 2002 Compliance Date

In May 2002, the FBI provided the telecommunications industry with a third edition of its *Flexible Deployment Assistance Guide for Extensions of the June 30, 2002 Missing Capability*

*Compliance Date and Further Extensions of June 30, 2000*¹⁰ (Third Edition Guide) to facilitate

¹⁰ A telecommunications carrier participating in the third iteration of the FBI's Flexible Deployment Initiative may have already received a two-year extension of June 30, 2000, from the FCC (extending its compliance date to June 30, 2002). A participating carrier sought the FBI's support of a petition to the FCC for either (1) a further extension of the June 30, 2000 compliance date, or (2) an extension of the June 30, 2002

telecommunications carriers' submission of information. The Third Edition Guide continued the implementation efforts of the FBI with respect to extensions of the June 30, 2002 compliance date for six technical capabilities affirmed by the FCC to be authorized by CALEA and further extensions of June 30, 2000, for certain telecommunications carriers. The maximum length of extension granted by the FCC is two years, or in the case of the June 30, 2002 compliance date, until June 30, 2004.

4. June 30, 2004 Compliance Date

In May 2004, the FBI provided the telecommunications industry with a fourth edition of its *Flexible Deployment Assistance Guide for Further Extensions of the June 30, 2004 CALEA Assistance Capability Requirements Compliance Dates*¹¹ (Fourth Edition Guide) to facilitate carriers' submission of information. As in the case with previous extensions, the maximum length of extension that may be granted by the FCC is two years, or until June 30, 2006.

IV. PAYMENTS TO TELECOMMUNICATIONS CARRIERS

As required by CALEA, the following sections provide: (1) a detailed accounting of the amounts paid to each carrier and the equipment, facility or service for which the amounts were paid; and (2) projections of the amounts expected to be paid in the current FY, the carriers to which payment is expected to be made, and the equipment, facilities, or services for which payment is expected to be made.

A. Telecommunications Carrier Compliance Fund Activity: FY 1997 - FY 2004

As of September 30, 2004, the unobligated balance of the TCCF was \$44,485,646. Additionally, \$3,000,000 remains committed, but was not obligated during FY 2004, resulting in an available balance of \$41,485,646. The following table depicts the account activity rounded to the nearest dollar:

TELECOMMUNICATIONS CARRIER COMPLIANCE FUND ACTIVITY: FY 1997 - FY 2004		
FUNDING SOURCE	FY	AMOUNT
Direct Appropriation	1997	\$60,000,000

compliance date associated with the "punch list" technical capabilities.

¹¹ A telecommunications carrier participating in the fourth iteration of the FBI's Flexible Deployment Initiative may have already received a two-year extension of the June 30, 2000 compliance date from the FCC (extending its compliance date to June 30, 2002). Additionally, the carrier may have already received a further extension of that June 30, 2002 compliance date from the FCC (extending its compliance date to June 30, 2004). A participating carrier is seeking the FBI's support of a petition to the FCC for either (1) a further extension of the June 30, 2000 compliance date, or (2) a further extension of the June 30, 2002 compliance date associated with the "punch list" technical capabilities.

Department of Justice Working Capital Fund	1997	\$40,000,000
United States Customs Service Transfer	1997	\$1,580,270
United States Postal Inspection Service Transfer	1997	\$1,000,000
Direct Appropriation	2000	\$15,000,000
Supplemental Appropriation	2000	\$181,000,000
Direct Appropriation	2001	\$200,976,876
TOTAL DEPOSITS		\$499,557,146
PAYMENTS to carriers purchasing CALEA-compliant solutions	FY	AMOUNT
Nortel Networks, Inc. (Nortel) via Ameritech Services Inc. (Ameritech) for DMS-100 Release NAO10 CALEA functionality	1999	(\$15,000,000)
Nortel via Ameritech for DMS-100 Release NAO11 CALEA functionality	2000	(\$5,000,000)
Nortel via Ameritech for DMS-100 Release NAO12 CALEA functionality	2000	(\$5,000,000)
Nortel via AirTouch Cellular (now Verizon) for Releases MTX-08 CALEA functionality	2000	(\$26,000,000)
Nortel via Nextel for DMS-MSC Release GSM 10 CALEA functionality	2001	(\$13,400,000)
Nortel via Ameritech for DMS-10 Release 501 CALEA functionality	2001	(\$18,000,000)
Motorola via Nextel for iDEN Release 9.15 CALEA functionality	2001	(\$25,000,000)
Siemens via Loretto for DCO Release 22 CALEA functionality	2001	(\$15,000,000)
AG Communications Systems (AGCS) via Verizon for GTD-5 Release SVR 4004 CALEA functionality	2001	(\$25,000,000)
Lucent Technologies, Inc. (Lucent) via Verizon for 5ESS Release 5E14 and 5E15 CALEA functionality	2001	(\$95,000,000)
Ameritech for its role as a facilitating carrier partner in testing CALEA solutions	2001	(\$19,721)
Motorola via Verizon for EMX-2500 Release 15 and 16 CALEA functionality	2001	(\$20,000,000)
SBC for its role as a facilitating carrier partner in testing CALEA solutions	2001	(\$126,850)
Late Payment Penalties	2001	(\$5,198)
Qwest for CALEA implementation in Salt Lake City for the 2002 Winter Olympics	2002	(\$2,221,241)
Motorola via Verizon for EMX-2500 Release 15 and 16 CALEA functionality	2002	(\$10,000,000)
PAYMENTS to carriers purchasing CALEA-compliant solutions (continued)	FY	AMOUNT
Siemens via Loretto for DCO Release 23 CALEA functionality	2002	(\$5,000,000)

Nextel for its role as a facilitating carrier for the Nortel DMS-MSC	2002	(\$186,901)
Lucent via Verizon for Autoplex-1000 wireless core functionality	2002	(\$54,000,000)
Verizon as Lucent's facilitating carrier partner in testing for the 5ESS Release 5E14	2002	(\$27,808)
Siemens via TDS for EWSD CALEA functionality	2002	(\$12,500,000)
Verizon for its role as a facilitating carrier partner in testing CALEA solutions for the EMX-2500	2002	(\$307,646)
Nortel via Ameritech for CALEA functionality on the DMS-10 Release 502	2002	(\$2,900,000)
Nortel via Ameritech for CALEA functionality on the DMS-100 NAO14	2002	(\$5,000,000)
Nortel via Nextel for CALEA functionality on the DMS-MSC GSM 13	2002	(\$4,500,000)
Nortel via Verizon for CALEA functionality on the DMS-MTX 10	2002	(\$7,000,000)
AGCS via Verizon for CALEA functionality on the GTD-5 SVR 4006	2002	(\$5,000,000)
Lucent via Verizon for CALEA functionality on the 5ESS	2003	(\$15,000,000)
Lucent enhanced dial-out capability via TDS on the 5ESS	2003	(\$10,200,000)
Lucent via Verizon for CALEA functionality on the Autoplex-1000 wireless punch list functionality	2003	(\$6,000,000)
Loretto for its role as facilitating carrier partner for the Siemens enhanced dial-out capability on the DCO	2003	(\$6,409)
Nortel enhanced dial-out capability via Qwest on the DMS-100 (CDC)	2003	(\$6,500,000)
Nortel enhanced dial-out capability via Qwest on the DMS-100 (CCC)	2003	(\$4,200,000)
Siemens enhanced dial-out capability via TDS on the EWSD	2003	(\$15,000,000)
Siemens via TDS for EWSD CALEA functionality	2003	(\$7,500,000)
Siemens enhanced dial-out capability via Loretto on the DCO	2003	(\$4,800,000)
Lucent enhanced dial-out capability via TDS on the 5ESS	2003	(\$2,606,000)
Lucent enhanced dial-out capability via TDS on the 5ESS	2004	(\$1,606,000)
Qwest for its role as facilitating carrier partner in testing for the Nortel enhanced dial-out capability on the DMS-100	2004	(\$3,350)
Nortel enhanced dial-out capability via Qwest on the DMS-100 (CDC)	2004	(\$1,250,000)
TOTAL PAYMENTS		(\$445,867,124)
OBLIGATIONS to carriers purchasing CALEA-compliant solutions	FY	AMOUNT
Verizon for its role as a facilitating carrier partner in testing CALEA solutions	2000	(\$69,993)

Verizon for its role as a facilitating carrier partner in testing CALEA solutions for Release MTX-10	2002	(\$6,750)
Lucent enhanced dial-out capability via TDS on the 5ESS	2002	(\$5,000,000)
Qwest for its role as facilitating carrier partner in testing for the Nortel enhanced dial-out capability on the DMS-100	2002	(\$19,249)
TDS for its role as facilitating carrier partner in testing for the Lucent enhanced dial-out capability on the 5ESS	2002	(\$182,800)
Qwest for testing related to the Lucent 5ESS punch list application	2003	(\$33,383)
Qwest for its role as facilitating carrier partner in testing for the Nortel enhanced dial-out capability on the DMS-100	2003	(\$22,200)
TDS for its role as facilitating carrier partner in testing for the Siemens enhanced dial-out capability on the EWSD	2003	(\$80,400)
Nortel enhanced dial-out capability via Qwest on the DMS-100 (CDC)	2004	(\$3,750,000)
Qwest for its role as facilitating carrier partner in testing for the Nortel enhanced dial-out capability on the DMS-100	2004	(\$39,601)
TOTAL OBLIGATIONS		(\$9,204,376)
UNOBLIGATED BALANCE AS OF SEPTEMBER 30, 2004		\$44,485,646
COMMITMENTS	FY	Amount
Verizon for network deployment of CALEA-compliant solutions	2004	(\$3,000,000)
COMMITMENTS AS OF SEPTEMBER 30, 2004		(\$3,000,000)
AVAILABLE BALANCE AS OF SEPTEMBER 30, 2004		\$41,485,646

B. Current Year Estimates: FY 2005

Carriers, after reaching a reimbursement agreement with the FBI, will incur reimbursable costs associated with (1) the deployment costs on equipment, facilities or services installed or deployed on or before January 1, 1995, and (2) the capacity costs for systems and services identified on a carrier statement pursuant to sections 104(d) and 104(e) of CALEA. In FY 2005, the FBI intends to utilize available funding of \$41,485,646 to reimburse carriers for the deployment of technical solutions through carrier-specific reimbursement arrangements. During the course of consultations between the FBI and various major telecommunications carriers, the concept of carrier-specific reimbursement arrangements has emerged as a potential method for reimbursing carriers for the costs associated with deploying CALEA-compliant software solutions and capacity into carrier networks. Carrier-specific, network-wide reimbursement arrangements may include: (1) deployment of solutions for all pre-January 1, 1995 switches; (2) related hardware necessary to comply with section 103 capability requirements; (3) costs associated with any necessary modifications to meet capacity requirements; and (4) other associated reimbursement costs.

In accordance with the provisions of section 109 of CALEA, a carrier will be deemed in compliance with the assistance capability requirements when the FBI does not agree to pay the carrier for costs associated with retrofitting equipment, facilities, and services installed or deployed on or before January 1, 1995, until the equipment is replaced, significantly upgraded, or has otherwise undergone a major modification by the carrier.