



OCTOBER 18, 2018

This is a letter of appeal for Achievement First BEN 16027027 regarding a Recovery of Improperly Disbursed Funds Letter dated 6/18/2018. This is for FY 2013 funding of application 882668, FRNs 2492442 and 2492428. The service provider is Advanced Corporate Networking, INC, SPIN 143004600.

The recovery letter states that the invoice was received after the invoice deadline.

A Form 472 was submitted properly on the USAC website however the service provider did not certify it. (they claim they did not receive an electronic notice that it was ready to be certified). As part of the FCC Decision Jefferson -Madison DA 17-526, relief was provided for timely-submitted Form 472s that weren't acknowledged by their service providers.

A new last date to invoice was allowed to Achievement First to refile for the reimbursements. The new form 472 was filed on 8/14/2017, well before the new deadline of 9/1/17 and funds were then disbursed.

We received a Recovery of Improperly Disbursed Funds Letter dated 6/18/2018 which we believe is in error. As you can see by the timeline below, process was followed and there is no waste, fraud or abuse by Achievement First.

10/14/2014	Form 472s timely submitted but not certified online by Service Provider
5/30/2017	DA-17-526 Jefferson-Madison Decision, relief provided for timely-submitted, but unacknowledged BEARs
9/1/2017	New Last Date to Invoice Deadline per USAC
8/14/2017	New Form 472 filed - Invoice ID 2661502
8/23/2017	Form 472 Notification Letter / Reimbursement received

We are requesting that you retract the Recovery of Improperly Disbursed Funds Letter.

Sincerely,

A handwritten signature in blue ink that reads "Mary Jo Sagnella".

Mary Jo Sagnella

E-RATE ONLINE

Enclosed: Copy of Form 472 timely filed 10/14/2014

FCC DA 17-526

Recovery of Improperly Disbursed Funds Letters

Need Help?

- Home
- New BEAR Form
- Track Form
- Bulk Download
- Terms and Conditions
- Deadline Extension
- Logout

View BEAR Invoice

PRINTABLE PAGE

Invoice ID: 2087878  
Created on 10/14/2014 10:43 AM  
Last updated on 10/14/2014 10:43 AM

Applicant Form Identifier 13ACMT 472 ACN

Block 1: Header Information

Need Help?

1. Billed Entity Name  
ACHIEVEMENT FIRST
2. Billed Entity Number  
16027027
3. Service Provider  
Identification Number (SPIN)  
143004600

Applicant FCC Form 498 ID

4. Contact Name  
MARY JO SAGNELLA
5. Contact Telephone Phone  
( 203 ) 445-9577 ext. 9577
- Contact Fax  
( 203 ) 445-0456
- Contact Email  
msagnella@erateportal.com

6. Total Reimbursement Amount  
(total from Block 2, Column 14)  
\$ 807719.24

Block 2: Line Item Information Per Funding Request Number

Need Help?

7. FCC Form 471 Application Number  (from Funding Commitment Decision Letter)	8. Funding Request Number (FRN)  (from Funding Commitment Decision Letter)	9. Bill Frequency	10. Customer Billed Date	11. Shipping date to Customer or Last Day of Work Performed (mm/dd/yyyy)	12. Total (Undiscounted) Amount for Service	13. Discount Rate	14. Discount Amount Billed to USAC (Column 12 multiplied by Column 13)	Approval Status
1) 882668	2492442		7/1/2013		\$ 24843.00	88	\$ 21861.84	AWAITING CERTIFICATION
2) 882668	2492428		7/1/2013		\$ 893019.77	88	\$ 785857.40	AWAITING CERTIFICATION

Block 3: Billed Entity Certification

Need Help?

Contact Information for Billed Entity Authorized Person:

By logging into your account using your PIN, checking this box, and clicking the "certify" button at the end of the form, you have electronically signed the form. You are reminded that an electronic signature is the same as a handwritten signature on the form. To see a copy of the Terms and Conditions to which you previously agreed, please click on the "Terms and Conditions" menu above.

Submission Date 10/14/2014

<b>17. Name</b>	MS. LAURIE BUSSMANN	<b>19. Phone Number</b>	( 203 ) 445-9577
<b>18. Title/Position</b>	IT DIRECTOR	<b>19a. Fax Number</b>	( 203 ) 445-0456
<b>20. Address 1</b>	856 MAIN STREET	<b>19b. Email</b>	LAURIEBUSSMANN@ACHIEVEMENTFIRST.ORG
<b>Address 2</b>		<b>19c. Name of Authorized Person's Employer</b>	Achievement First
<b>City</b>	Monroe		
<b>State</b>	CT		
<b>Zip Code</b>	06468 -		

OMB Number 3060 - 0856 Form 472

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition for Reconsideration by	)	
	)	
Jefferson-Madison Regional Library	)	File Nos. SLD-976590 et al.
Charlottesville, VA et al.	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

ORDER ON RECONSIDERATION

Adopted: May 30, 2017Released: May 30, 2017

By the Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. In this Order, we grant two petitions for reconsideration. First, we grant the petition for reconsideration filed by Jefferson-Madison Regional Library,<sup>1</sup> reversing the Universal Service Administrative Company’s (USAC) decision rejecting a timely-filed request for reimbursement for services based on a lack of timely service provider certification before the invoice filing deadline.<sup>2</sup> We simultaneously direct USAC to allow all similarly-situated applicants, including but not limited to those listed in Appendix A, to resubmit invoice filings.<sup>3</sup> As described in greater detail below, we find that these applicants were in compliance with section 54.514(a) of the E-rate program rules,<sup>4</sup> and we direct USAC to process these requests for reimbursement in the next 90 days. Second, we grant the petition for reconsideration filed by White Lake School District, finding that there are extraordinary circumstances that warrant a waiver of the program’s rules.<sup>5</sup>

2. *Background.* E-rate applicants may seek reimbursement for E-rate supported services in one of two ways.<sup>6</sup> An applicant may either pay upfront for the full cost of services and then seek reimbursement of the discounted share from USAC, or the applicant may pay the non-discounted share of the services and require the service provider to invoice USAC for reimbursement of the discounted share.

<sup>1</sup> Petition for Reconsideration by Jefferson-Madison Regional Library, CC Docket No. 02-6 (filed June 28, 2016) (Jefferson-Madison Petition for Reconsideration).

<sup>2</sup> The Bureau has the authority to act on petitions requesting reconsideration of final actions taken pursuant to delegated authority. 47 CFR § 1.106(a)(1).

<sup>3</sup> We find good cause to waive the rules governing payment for discounted services on our own motion; based on the record before us, we are persuaded that in the instant and limited circumstance, our reading of the rule is contrary to the public interest. Moreover, we find that the public interest will be served by treating all similarly situated applicants that were denied reimbursement for services on this basis in a similar manner. *See* 47 CFR § 1.108 (permitting reconsideration of a Commission action on its own motion).

<sup>4</sup> 47 CFR § 54.514(a) (specifying the deadline for invoice submissions). The E-rate program is more formally known as the schools and libraries universal service support mechanism.

<sup>5</sup> Petition for Reconsideration by White Lake School District, CC Docket No. 02-6 (filed Feb. 14, 2017) (White Lake Petition for Reconsideration).

<sup>6</sup> 47 CFR § 54.514(c).

If an applicant pays upfront, it must submit an FCC Form 472, known as the Billed Entity Application for Reimbursement (BEAR) form, to request reimbursement from USAC.<sup>7</sup> The *E-rate Modernization Order* also modified the procedure for applicants to receive reimbursement, resulting in changes to how service providers certify compliance with program rules. Prior to July 1, 2016, service providers had to approve and certify each of the applicants' BEAR forms.<sup>8</sup> As of July 1, 2016, however, service providers no longer certify each of the applicants' BEAR forms, but instead must file a single FCC Form 473, the Service Provider Annual Certification (SPAC) form, for the funding year at issue before USAC may reimburse the applicant.<sup>9</sup>

3. The deadline for filing these BEAR forms is described in section 54.514(a) of the Commission's rules, which states that invoices must be submitted 120 days after the last day of service or 120 days after the date of the FCC Form 486 Notification Letter,<sup>10</sup> whichever is later, in order to provide certainty to allow USAC to more efficiently deobligate committed funds.<sup>11</sup> Applicants may seek a one-time automatic 120-day extension of the invoice filing deadline, but such a request must be filed prior to the invoice filing deadline.<sup>12</sup> In codifying these rules in 2014, the Commission determined that waivers of the invoicing rules were generally not in the public interest and that the Wireline Competition Bureau (Bureau) should grant waivers of the invoicing rules only in extraordinary circumstances.<sup>13</sup>

4. USAC accordingly has denied requests for an extension of the invoice filing deadline that are received after the deadline itself, and the Bureau has denied similar requests for waiver of the rule. In the *Hancock County Library Order* in 2015, we denied several appeals seeking extensions to file BEAR forms more than 12 months after the filing deadline from petitioners claiming employee confusion, lack of understanding of the rules, or staff turnover.<sup>14</sup> In 2016, in the *Ada Order*, the Bureau also denied 124 requests for waiver of the section 54.514(b) rule from a group of applicants that had failed to timely request extensions.<sup>15</sup> Among those, the *Ada Order* denied a number of waiver requests where applicants filed the applicant portion of the BEAR form before the deadline, but the service provider failed to certify the BEAR form until after the invoice filing deadline.<sup>16</sup> The Bureau found no extraordinary

<sup>7</sup> USAC, Invoice Changes, <http://www.usac.org/sl/invoicing-changes.aspx> (last visited Mar. 10, 2017).

<sup>8</sup> OMB Approval No. 3060-0856 (July 2013) (requiring the service provider acknowledgment in Block 4).

<sup>9</sup> OMB Approval No. 3060-0856 (June 21, 2016); *see also* USAC, Invoice Changes, <http://www.usac.org/sl/invoicing-changes.aspx> (last visited Mar. 10, 2017).

<sup>10</sup> The Form 486 Notification Letter notifies an applicant that USAC has received and accepted an FCC Form 486, the Receipt of Service Confirmation Form, which informs USAC that services have started for the recipients of service.

<sup>11</sup> 47 CFR § 54.514(a); *see also* *See Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8965-66, paras. 238-40 (2014) (*E-rate Modernization Order*). The FCC Form 472, the BEAR form, is the form for applicants to submit reimbursement requests to USAC. USAC may request copies of vendor invoices if necessary to verify the information on the BEAR form.

<sup>12</sup> 47 CFR § 54.514(b).

<sup>13</sup> *See E-rate Modernization Order*, 29 FCC Rcd at 8965, para. 238-40.

<sup>14</sup> *Request for Waiver or Review of Decisions of the Universal Service Administrator by Hancock County Library System; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 30 FCC Rcd 4723 (WCB 2015) (*Hancock County Library Order*).

<sup>15</sup> *Requests for Waiver of Decision of the Universal Service Administrator by Ada School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 3834 (WCB 2016) (*Ada Order*).

<sup>16</sup> *Id.* at 3837, para. 9 n.24.

circumstances to merit a waiver of the invoice deadline extension request rule,<sup>17</sup> stating that “if a billed entity was uncertain about its ability to timely submit a BEAR form because of trouble coordinating the certification requirement with the service provider,” the applicant or service provider could have filed for an extension.<sup>18</sup> In subsequent decisions in the Wireline Competition Bureau’s Streamlined Request Resolution Public Notices, the Bureau denied similar requests for waiver of the invoice filing deadline, including the request for waiver from the Jefferson-Madison Regional Library, citing to the *Ada Order* for precedent.<sup>19</sup>

5. *Discussion.* In its petition for reconsideration, Jefferson-Madison Regional Library argues that its situation is distinguishable from many of the appeals decided in the *Ada Order* and the *Hancock County Library Order*<sup>20</sup> because its BEAR form was timely submitted to USAC in advance of the deadline imposed by section 54.514(a).<sup>21</sup> In contrast, the petitioners in the *Hancock County Library Order* had sought permission to file BEAR forms more than 12 months after the deadline.<sup>22</sup> In the *Ada Order*, the majority of the petitioners had failed to file their BEAR forms on time and sought a waiver of the extension-request deadline to allow for the filing of the BEAR form for the first time.<sup>23</sup> Here, the Jefferson-Madison Regional Library filed its BEAR form on August 11, 2015, well in advance of the filing deadline.<sup>24</sup> Its service provider had represented to the Library that it would certify the BEAR form.<sup>25</sup> The online system, however, did not permit applicants to see when or if that occurred. As a result, the Jefferson-Madison Regional Library was unaware that its service provider had not certified the BEAR form until after the deadline to request an extension had passed and it received the BEAR notification letter from USAC rejecting the reimbursement request.

6. Upon consideration of the record, we have determined that our finding in the *Ada Order* misconstrued the invoice filing deadline rule.<sup>26</sup> Section 54.514(a) provides the deadline for when BEAR forms must be submitted to USAC.<sup>27</sup> Unlike other sections of the E-rate program rules that require the certification of a form with submission,<sup>28</sup> section 54.514(a) does not expressly state that the submitted BEAR forms shall include the certification from the service provider. One possible reading of this rule might be that it assumes the BEAR forms will be certified prior to the deadline. We believe the better reading, however, and the one more consistent with both the plain language of the specific rule and the E-

<sup>17</sup> See 47 CFR § 54.514(b).

<sup>18</sup> *Ada Order*, 31 FCC Rcd at 3827-38, para. 10.

<sup>19</sup> See, e.g., *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, Public Notice, 31 FCC Rcd 5420, 5423-28 (WCB 2016) (denying the request for waiver of the deadline for seeking an invoicing extension for Jefferson-Madison Regional Library).

<sup>20</sup> See *Ada Order*, 31 FCC Rcd 3834; *Hancock County Library Order*, 30 FCC Rcd 4723.

<sup>21</sup> See Jefferson-Madison Petition for Reconsideration at 2; 47 CFR § 54.514(a) (stating that invoices must be submitted to USAC by the deadline).

<sup>22</sup> *Hancock County Library Order*, 30 FCC Rcd at 4726, para. 9.

<sup>23</sup> *Ada Order*, 31 FCC Rcd at 3836, para. 8.

<sup>24</sup> Jefferson-Madison Petition for Reconsideration at 2-3.

<sup>25</sup> Jefferson-Madison Petition for Reconsideration at 2-3.

<sup>26</sup> *Ada Order*, 31 FCC Rcd at 3837-38, para. 10.

<sup>27</sup> 47 CFR § 54.514(a) (“Invoices must be submitted to the Administrator: (1) 120 days after the last day to receive service, or (2) 120 days after the date of the FCC Form 486 Notification Letter, whichever is later.”).

<sup>28</sup> See, e.g., 47 CFR § 54.503(a) (requiring submission of the FCC Form 470 with certification); 47 CFR § 54.504(a)(1), (f) (requiring the FCC Form 471 to “include that person’s certification under oath” and the FCC Form 473 to be signed and “shall include that person’s certification under oath”).

rate program rules more broadly, is that BEAR forms may be considered timely submitted even if the service provider did not certify them before the deadline.

7. Our interpretation here is supported by the fact that this was a problem that occurred for a limited time only. Prior to the effective date of section 54.514 in August 2014, applicants whose timely-submitted BEAR forms were rejected for lacking a service provider certification were permitted to resubmit the BEAR forms after seeking and being granted an extension of the deadline. And as of July 1, 2016, the service provider certification was separated from the applicant's BEAR forms.<sup>29</sup> USAC will not reimburse funds to an applicant until the service provider has filed its SPAC form, but the applicant's BEAR form is considered timely based on the original submission date.<sup>30</sup> Between August 2014 and July 2016, however, service providers had to certify an applicant's BEAR form on or before the invoice filing deadline, yet the applicant had no way to confirm in the system when, or if, this occurred. Reading section 54.514(a) of the Commission rules to allow USAC to process BEAR forms that were timely filed, even when the service provider did not timely certify them, is therefore more consistent with both the past and current treatment of these certifications and impacts only a limited number of applicants. In making this determination, we also note that it was the combination of the 2014 codification of the deadline to request an extension, as established by the Commission in the *E-rate Modernization Order*, and the inability of applicants to verify from USAC that the service provider had not certified the form until *after* that deadline had already passed that created this time-limited problem for certain applicants.

8. Given these facts, we find that it is in the public interest for us to consider the arguments in Jefferson-Madison Regional Library's petition and allow applicants who timely filed their BEAR forms to be reimbursed appropriately.<sup>31</sup> We now find that under section 54.514(a) of the Commission's rules, USAC should have considered a BEAR form timely if it was submitted before the invoice filing deadline even if the service provider had not certified it before the invoice filing deadline. We therefore grant Jefferson-Madison Regional Library's Petition for Reconsideration and direct USAC to identify any BEAR forms that were rejected for lacking a service provider certification after the timely submission by the applicant, and allow for their resubmission and processing within the next 90 days.<sup>32</sup>

9. Relatedly, we also grant the requests from petitioners listed in Appendix B, who filed their BEAR forms online in June 2016, but because of the change to the service provider certification process on July 1, 2016, have been unable to receive reimbursement.<sup>33</sup> These petitioners each filed a BEAR form online in June 2016, but the service providers did not immediately certify the forms.<sup>34</sup> After July 1, 2016, the online system did not allow service providers to certify these forms and could not process them as complete without the certification. The online system did not instruct petitioners that they would need to file a new BEAR form for the funding requests that could not be processed. We now

<sup>29</sup> OMB Approval No. 3060-0856 (June 21, 2016).

<sup>30</sup> We note that USAC may still reject a BEAR form because a service provider has not filed its SPAC form, but the applicant does not need an extension in order to refile the invoice. Instead, the applicant has 60 days to work with the service provider to file the SPAC form and appeal the decision to USAC. See USAC, Schools and Libraries Program News Brief (Dec. 9, 2016), <https://usac.org/sl/tools/news-briefs/preview.aspx?id=734>.

<sup>31</sup> See 47 CFR § 1.106(c) (allowing consideration of new facts and arguments when it is in the public interest to do so).

<sup>32</sup> We waive section 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. 47 CFR § 54.514(a).

<sup>33</sup> Again, to the extent that these petitioners need to file a new BEAR form to complete the invoicing process, we waive section 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. 47 CFR § 54.514(a).

<sup>34</sup> See, e.g., Request for Waiver from Sharon Community School (filed Mar. 17, 2017) (explaining that because the BEAR form was made before July 1, the school did not think that it needed an invoice extension).

find that those BEAR forms were timely-filed and should be processed by USAC, consistent with our interpretation explained above.<sup>35</sup>

10. *Waiver.* Next, we grant a petition for reconsideration filed by White Lake School District (White Lake)<sup>36</sup> which seeks review of the Bureau's *January Streamlined Resolution Public Notice* which denied White Lake an extension of the invoice filing deadline.<sup>37</sup> On reconsideration, White Lake demonstrates in its petition that a unique combination of exigent medical circumstances arising in close proximity to the filing deadline at a small school district with limited personnel made it impossible to timely file its BEAR forms or know to seek an extension of the filing deadline.<sup>38</sup> The staff member in the school district responsible for making these invoice filings suffered from progressive debilitating headaches, but doctors were unable to identify a cause.<sup>39</sup> On October 4, 2016, the staff member collapsed at a work function, and was hospitalized.<sup>40</sup> The staff member was diagnosed with a brain tumor on October 10, and underwent surgery a week later, only two weeks before the deadline.<sup>41</sup> The staff member did not return to work after October 10, and remained hospitalized in another city recovering from brain surgery from October 17 until mid-November.<sup>42</sup> White Lake is a small school district with just two schools and 171 students. It has few support staff, each of whom fulfill multiple responsibilities. The district's system administrator position, which would have been the likely backup to the staff member, had been vacant since the mid-summer.<sup>43</sup> As a result, no additional staff resources existed to assist with these filings and the BEAR form deadline was missed.<sup>44</sup> The school district acted quickly to fill the position while the staff member was on medical leave, but was unable to hire a replacement until early November, only a few weeks after the staff member's diagnosis but after the filing deadline. White Lake quickly filed the request for waiver as soon as it was aware of the missed deadline.<sup>45</sup>

11. Generally, waiver of the Commission's rules is appropriate if (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest.<sup>46</sup> However, as noted above, in codifying the invoicing rules in 2014, the Commission determined that waivers of the invoicing rules were generally not in the public interest and that the Bureau should grant

<sup>35</sup> We also clarify, consistent with paragraph seven, that this was a time-limited issue beginning with the adoption of section 54.514(a) of the Commission's rules in August 2014. Prior to the codification of the invoice filing deadline, applicants were permitted to resubmit the BEAR forms after seeking and being granted an extension of the deadline.

<sup>36</sup> White Lake Petition for Reconsideration (seeking a waiver).

<sup>37</sup> *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket 02-6, Public Notice, 31 FCC Rcd 549, 554-55 (WCB 2017) (denying the request for a waiver of section 54.514(b) of our rules for funding year 2015 FCC Form 471 Application Numbers 1039370 and 1039490) (*January Streamlined Resolution Public Notice*).

<sup>38</sup> White Lake Petition for Reconsideration at 1-2. *See also* 47 CFR § 1.106(c)(2) (allowing consideration of facts not previously presented if consideration is required in the public interest).

<sup>39</sup> White Lake Petition for Reconsideration at 2.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 3.

<sup>45</sup> *Id.* at 2-3.

<sup>46</sup> Generally, the Commission's rules may be waived if good cause is shown. 47 CFR § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).



waivers of the invoicing rules only in extraordinary circumstances.<sup>47</sup> We now find that White Lake has demonstrated that its extraordinary circumstances warrant a waiver of our invoice rules.

12. We have held that the obligation to comply with all relevant rules and procedures applies even when employees are away from the office on medical leave or otherwise incapacitated and that applicants are responsible for the action or inaction of employees and consultants.<sup>48</sup> In the *Ada Order* and in subsequent Streamlined Resolution Public Notices, we have denied petitioners' requests for waiver.<sup>49</sup> At the same time, we have recently granted waivers to applicants that were unable to file their BEAR forms or an extension request before the filing deadline due to circumstances outside of their control.<sup>50</sup> The facts presented to us in the petition demonstrate that White Lake was unable to file timely invoices due to circumstances outside of its control and is distinguishable from past waiver requests that we have denied. In this instance, because they were unaware that the staff member had a brain tumor, White Lake and the ill employee did not know there was a reason to delegate the E-rate work to another employee. Neither White Lake nor the employee had notice until October 10, when the diagnosis was made, and, in light of the severity of the issue, the employee had to immediately go on medical leave and was in another city recovering from major surgery until after the invoice filing deadline.<sup>51</sup> In other situations, the school or employee had notice that the invoice filing responsibilities needed to be passed on to another party. Even though the scenarios involved tragic situations, petitioners who were taking care of a significant family medical issues,<sup>52</sup> dealing with months-long medical complications,<sup>53</sup> or in the midst of cancer treatment,<sup>54</sup> had knowledge that the invoicing responsibilities needed to be covered by others. White Lake also made a quick effort to seek a waiver of the invoice filing deadline, which distinguishes it from other requests where petitioners sought a waiver of the invoice filing deadline months late, including in one case, more than twelve months late.<sup>55</sup>

13. The combination of the diagnosis and immediate medical leave, the close proximity to the invoice filing deadline, the size of the district, the district's quick effort to fill the employee's position, and its rapid attempt thereafter to seek a waiver demonstrate extraordinary circumstances that are distinguishable from past denials. The Commission has a strong interest in ensuring efficient program administration,<sup>56</sup> but we find that it does not serve the public interest to withhold these funds from a small,

<sup>47</sup> See *supra* para. 3.

<sup>48</sup> *Ada Order*, 31 FCC Rcd at 3837, para. 10. See *Requests for Review of the Decision of the Universal Service Administrator by St. Lucy School; Federal-State Joint Board on Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45, 97-21, Order, 18 FCC Rcd 1792, 1793, para. 5 (WCB 2003).

<sup>49</sup> See *Ada Order*, 31 FCC Rcd at 3837, para. 10.

<sup>50</sup> See *Request for Review and/or Waiver of Decisions of the Universal Service Administrator by Ada Public Library; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 17-256 (WCB Mar. 16, 2017) (granting a waiver for applicants that were unable to file the BEAR form while waiting for USAC to provide an FCC Form 498 ID or personal identification number (PIN) at the time of the invoice filing deadline due to the one-time influx in requests in the fall of 2016).

<sup>51</sup> White Lake Petition for Reconsideration at 2.

<sup>52</sup> See, e.g., Request for Review of Edenton Chowan Schools (filed Nov. 25, 2015).

<sup>53</sup> See, e.g., Request for Review of Central Catholic High School (filed Jan. 20, 2016).

<sup>54</sup> See, e.g., Request for Waiver of RISE Academy School of Science and Technology (filed Jan. 31, 2017).

<sup>55</sup> See, e.g., Request for Review of Carr Telephone Company (filed Mar. 14, 2016); Request for Review of Stanly County School District (filed Jan. 20, 2016).

<sup>56</sup> See *E-rate Modernization Order*, 29 FCC Rcd at 8965-66, para. 238-40.

rural school district under these circumstances. We therefore waive section 54.514(b) of our rules for White Lake School District.<sup>57</sup>

14. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, 1.3, 1.106, 1.108, and 54.722(a) of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, 1.106, 1.108 and 54.722(a), the Petition for Reconsideration filed by Jefferson-Madison Regional Library is GRANTED.

15. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, 1.3, 1.106, 1.108, and 54.722(a) of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, 1.106, 1.108, and 54.722(a), that USAC SHALL IDENTIFY all similarly-situated BEAR forms that were rejected for lacking a service provider certification after the timely submission by the applicant, including those listed in Appendix A, SHALL ALLOW for resubmission of the BEAR forms, and SHALL COMPLETE its review of the BEAR forms in the next 90 days.

16. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, 1.3, 1.106, 1.108, and 54.722(a) of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, 1.106, 1.108, and 54.722(a), that USAC SHALL PROCESS the pending BEAR forms of the applicants listed in Appendix B in the next 90 days.

17. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that the requirement under section 54.514(a) and (b) that applicants timely file invoices and request an invoice deadline extension is WAIVED and USAC SHALL GRANT an extension for White Lake School District as described herein.

FEDERAL COMMUNICATIONS COMMISSION

Ryan B. Palmer  
Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

<sup>57</sup> 47 CFR § 54.514(b). We also waive section 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. 47 CFR § 54.514(a).

## APPENDIX A

## Requests for Review and/or Waiver and Petitions for Reconsideration

Petitioner	Application Number(s)	Date Request for Review/Request for Waiver/Petition for Reconsideration Filed
Andalusia School, Yonkers, NY	973979	July 11, 2016
Baxter Springs Unified School District, Baxter Springs, KS	968076	Mar. 9, 2016
Bethel School District, Bethel, VT	985888	Mar. 21, 2016
Bulloch County Rural Telephone Cooperative (Bulloch County School District), Statesboro, GA	953960, 953298	May 25, 2016
Chibardun Telephone Cooperative (Barron Area School District), Cameron, WI	987674	May 17, 2016
Columbia-Brazoria School District, West Columbia, TX	959367	June 17, 2016
Cornerstone Schools of Alabama, Birmingham, AL	990177	July 18, 2016
Eclectic Public Library, Eclectic, AL	987184	Jan. 14, 2016
Falls Church City Public Schools, Falls Church, VA	982457	June 30, 2016
Fredericksburg ISD, Fredericksburg, TX	980593	Oct. 26, 2016
Geneva School District 304, Geneva, IL	955710	June 13, 2016
Green Bay Area Public School District, Green Bay, WI	977857	May 25, 2016
Harlem Academy, New York, NY	978461	July 25, 2016
Homewood City School District, Homewood, AL	973332	May 25, 2016
Jefferson Madison Regional Library, Charlottesville, VA	976590	June 28, 2016
Kennedy Charter Public School, Inc., Charlotte, NC	986576	Feb. 25, 2016
Ludlow Public Schools, Ludlow, MA	989932	May 24, 2016
New Albany-Floyd Consol. School District, New Albany, IN	954560	May 31, 2016
North Border School District #100, Walhalla, ND	954629	May 29, 2016
Passaic Arts and Science Charter School, Passaic, NJ	980707	June 29, 2016
Paterson Arts and Science Charter School, Paterson, NJ	980715	June 29, 2016
Port Chester Public Library, Tarrytown, NY	954231	May 18, 2016
Public Prep Network, New York, NY	966560	June 30, 2016
Rutland South Supervisory Union, North Clarendon, VT	982928	June 29, 2016
Salisbury-Elk Lick School District, Salisbury, PA	942295	Mar. 18, 2016
Somerset Area School District, Somerset, PA	971961	Mar. 18, 2016
St. Charles CU School District 303, Saint Charles, IL	955868	June 23, 2016
St. Pius X School, Montville, NJ	981333	June 29, 2016
Stonebridge Community School, Minneapolis, MN	956714	Feb. 11, 2016
The Town of Eclectic Public Library	987184	Jan. 19, 2016

Petitioner	Application Number(s)	Date Request for Review/Request for Waiver/Petition for Reconsideration Filed
Treutlen County School District, Soperton, GA	900358	June 27, 2016
USD 505 Chetopa-St. Paul, Chetopa, KS	974445	June 23, 2016

APPENDIX B

Requests for Review and/or Waiver

Petitioner	Application Number(s)	Date Request for Review/Request for Waiver/Petition for Reconsideration Filed
Community of Peace Academy, MN	999842	Apr. 13, 2017
Lee Academy, Lee, ME	1029622	Nov. 14, 2016
Sharon Community School, Sharon, WI	1019536	Mar. 13, 2017
Spartanburg County School District, Chesnee, SC	1029907	Mar. 23, 2017



## Recovery of Improperly Disbursed Funds Letter

Marques Stewart  
Achievement First  
335 ADAMS STREET, SUITE 700  
BROOKLYN, NY 11201

6/18/2018

Our review of your Schools and Libraries Universal Service Support Program (or E-rate) funding request has determined funds were committed in violation of Federal Communications Commission (FCC) rules. You have 60 days from the date of this letter to appeal the following decision(s). For more detailed information see below.

**Total amount to be recovered: \$755,405.00**

<i>FCC Form 471</i>	<i>FRN</i>	<i>Commitment adjustment</i>	<i>Total amount to be recovered</i>	<i>Explanation(s)</i>	<i>Party to recover from</i>
882668	2492428	\$0.00	\$755,405.00	FCC Directive	Applicant

*See Attached Adjustment Report for more information on the specific FRNs and Explanations listed above.*

### Recovery of Improperly Disbursed Funds

Our review of your Universal Service Schools and Libraries Support Program (or E-rate) funding request(s) referenced in the Adjustment Report has determined funds were improperly disbursed in violation of Federal Communications Commission (FCC) rules. A copy of that Adjustment Report is also attached to this letter.



FCC rules require the Universal Service Administrative Company (USAC) to rescind commitments and recover funding when it is determined that funding was committed and disbursed in violation of the rules. This letter notifies you that USAC will be adjusting your funding commitment(s) and provides information on how to appeal this decision.

This is NOT a bill. If disbursed funds need to be recovered, USAC will issue a Demand Payment Letter. The debt referenced in the Demand Payment Letter will be due within 30 days of that letter's date. Failure to pay the debt may result in interest, late payment fees, and administrative charges and will invoke the FCC's "Red Light Rule."

### FCC's Red Light Rule

The FCC Red Light Rule requires USAC to dismiss pending FCC Form 471 applications, appeals, and invoices or to net disbursements offsetting the debt if the entity responsible for paying the outstanding debt owed to the FCC has not paid the debt or made satisfactory arrangements to pay the debt within 30 days of the Demand Payment Letter. For information on the Red Light Rule, see

<https://www.fcc.gov/licensing-databases/fees/debt-collection-improvement-act-implementation>

### To Appeal This Decision

If you wish to contest any part of this letter, you must first file an appeal with USAC to seek review of the decision. Parties that have filed an appeal with USAC and received an adverse decision may, if they choose, appeal USAC's decision to the FCC. Parties seeking a waiver of a codified FCC rule should file a request for waiver directly with the FCC because USAC cannot waive FCC rules. Your appeal to USAC or waiver request to the FCC must be filed within 60 days of the date of this letter.

All appeals filed with USAC must be filed in EPC by selecting "Appeal" from the menu in the top right hand corner of your landing page and providing the requested information.

Your appeal should include the following information. (Because you file the appeal through your EPC account, the system will automatically fill in some of these components for you).

- 1) Name, address, telephone number, and email address for the contact person for this appeal.
- 2) Indicate specifically that your letter is an appeal. Include the following to identify the USAC decision letter (e.g., Recovery of Improperly Disbursed Funds) and the decision you are appealing:



**Universal Service  
Administrative Co.**

- a. Appellant name;
- b. Applicant name and service provider name, if different from appellant;
- c. Applicant BEN and Service Provider Identification Number (SPIN);
- d. FCC Form 471 Application Number and the Funding Request Number (FRN) or Numbers as assigned by USAC;
- e. "Recovery of Improperly Disbursed Funds," AND the exact text or the decision that you are appealing.

3) Identify the problem and the reason for the appeal and explain precisely the relief sought. Please keep your appeal to the point, and provide supporting documentation. Be sure to keep a copy of your entire appeal, including any correspondence and documentation. A copy will automatically be saved for you in EPC. USAC will reply to your appeal submission to confirm receipt.

For more information on submitting an appeal to USAC including step by step instructions on how to file the appeal through EPC, please see "Appeals" in the Schools and Libraries section of the USAC website.

As mentioned, parties seeking a waiver of FCC rules or that have filed an appeal with USAC and received a decision may file a request for waiver or appeal USAC's decision to the FCC. Waiver requests or appeals to the FCC must be made within 60 days of the issuance of USAC's decision and include all of the information referenced above for appeals to USAC.

The FCC recommends filing appeals or waiver requests with the Electronic Comment Filing System (ECFS) to ensure timely filing. Electronic waiver requests or appeals will be considered filed on a business day if they are received at any time before 11:59 PM ET. If you have questions or comments about using the ECFS, please contact the FCC directly at (202) 418-0193.

For more information about submitting waiver requests or appeals to the FCC, including options to submit the waiver request or appeal via U.S. mail or hand delivery, visit the FCC's website.

Schools and Libraries Division

cc: Catherine Gunther  
Advanced Corporate Networking, Inc.





**Universal Service  
Administrative Co.**

**Adjustment Report**

FCC Form 471 Application Number:	882668
Funding Request Number:	2492428
Commitment Adjustment:	\$0.00
Total Amount to Be Recovered:	\$755,405.00
Explanation(s):	FCC Directive
Party to Recover From:	Applicant
Funding Year:	2013
Billed Entity Number:	16027027
Services Ordered:	INTERNET ACCESS
Service Provider Name:	Advanced Corporate Networking, Inc.
SPIN:	143004600
Original Funding Commitment:	\$879,933.65
Adjusted Funding Commitment:	\$879,933.65
Funds Disbursed to Date:	\$755,405.00

**Funding Commitment Adjustment Explanation**

You received disbursements after your invoice deadline. For recurring services, invoices must be submitted no later than 120 days after the last day to receive service or 120 days after the FCC Form 486 Notification Letter date, whichever is later. Services must be delivered within the fund year. Your invoice was received after the invoice deadline. Therefore, USAC must seek recovery of improperly disbursed funds in the amount of \$755,405.00.



# Recovery of Improperly Disbursed Funds Letter

Marques Stewart  
Achievement First  
335 ADAMS STREET, SUITE 700  
BROOKLYN, NY 11201

6/18/2018

Our review of your Schools and Libraries Universal Service Support Program (or E-rate) funding request has determined funds were committed in violation of Federal Communications Commission (FCC) rules. You have 60 days from the date of this letter to appeal the following decision(s). For more detailed information see below.

**Total amount to be recovered: \$21,861.84**

<i>FCC Form 471</i>	<i>FRN</i>	<i>Commitment adjustment</i>	<i>Total amount to be recovered</i>	<i>Explanation(s)</i>	<i>Party to recover from</i>
882668	2492442	\$0.00	\$21,861.84	FCC Directive	Applicant

*See Attached Adjustment Report for more information on the specific FRNs and Explanations listed above.*

## Recovery of Improperly Disbursed Funds

Our review of your Universal Service Schools and Libraries Support Program (or E-rate) funding request(s) referenced in the Adjustment Report has determined funds were improperly disbursed in violation of Federal Communications Commission (FCC) rules. A copy of that Adjustment Report is also attached to this letter.



FCC rules require the Universal Service Administrative Company (USAC) to rescind commitments and recover funding when it is determined that funding was committed and disbursed in violation of the rules. This letter notifies you that USAC will be adjusting your funding commitment(s) and provides information on how to appeal this decision.

This is NOT a bill. If disbursed funds need to be recovered, USAC will issue a Demand Payment Letter. The debt referenced in the Demand Payment Letter will be due within 30 days of that letter's date. Failure to pay the debt may result in interest, late payment fees, and administrative charges and will invoke the FCC's "Red Light Rule."

### FCC's Red Light Rule

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<https://www.fcc.gov/licensing-databases/fees/debt-collection-improvement-act-implementation>

### To Appeal This Decision

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- a. Appellant name;
- b. Applicant name and service provider name, if different from appellant;
- c. Applicant BEN and Service Provider Identification Number (SPIN);
- d. FCC Form 471 Application Number and the Funding Request Number (FRN) or Numbers as assigned by USAC;
- e. "Recovery of Improperly Disbursed Funds," AND the exact text or the decision that you are appealing.

3) Identify the problem and the reason for the appeal and explain precisely the relief sought. Please keep your appeal to the point, and provide supporting documentation. Be sure to keep a copy of your entire appeal, including any correspondence and documentation. A copy will automatically be saved for you in EPC. USAC will reply to your appeal submission to confirm receipt.

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The FCC recommends filing appeals or waiver requests with the Electronic Comment Filing System (ECFS) to ensure timely filing. Electronic waiver requests or appeals will be considered filed on a business day if they are received at any time before 11:59 PM ET. If you have questions or comments about using the ECFS, please contact the FCC directly at (202) 418-0193.

For more information about submitting waiver requests or appeals to the FCC, including options to submit the waiver request or appeal via U.S. mail or hand delivery, visit the FCC's website.

Schools and Libraries Division

cc: Catherine Gunther  
Advanced Corporate Networking, Inc.



## Adjustment Report

FCC Form 471 Application Number:	882668
Funding Request Number:	2492442
Commitment Adjustment:	\$0.00
Total Amount to Be Recovered:	\$21,861.84
Explanation(s):	FCC Directive

Party to Recover From:	Applicant
Funding Year:	2013
Billed Entity Number:	16027027
Services Ordered:	INTERNET ACCESS
Service Provider Name:	Advanced Corporate Networking, Inc.
SPIN:	143004600
Original Funding Commitment:	\$21,964.80
Adjusted Funding Commitment:	\$21,964.80
Funds Disbursed to Date:	\$21,861.84

## Funding Commitment Adjustment Explanation

You received disbursements after your invoice deadline. For recurring services, invoices must be submitted no later than 120 days after the last day to receive service or 120 days after the FCC Form 486 Notification Letter date, whichever is later. Services must be delivered within the fund year. Your invoice was received after the invoice deadline. Therefore, USAC must seek recovery of improperly disbursed funds in the amount of \$21,861.84.

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