

Attachments

Attachment 1

Paul Stankus
SAN BERNARDINO CITY UNIF S D
324 E. 11th St., Suite E-3
Tracy, CA 95376



Notification of Commitment Adjustment Letter

Funding Year 2008: July 1, 2008 - June 30, 2009

April 21, 2015

Dilip Patel
SAN BERNARDINO CITY UNIF S D
793 N E Street
San Bernardino, CA 92410

Re: Form 471 Application Number: 603185
Funding Year: 2008
Applicant's Form Identifier: SBCUSD471Y11P2
Billed Entity Number: 143740
FCC Registration Number: 0004119814
SPIN: 143006793
Service Provider Name: Checkpoint Communications Inc.
Service Provider Contact Person: James Shoaff

Our routine review of Schools and Libraries Program (Program) funding commitments has revealed certain applications where funds were committed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the required adjustments to your funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html.

TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter to USAC, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Number(s) (FRNs) you are appealing. Your letter of appeal must include the
 - Billed Entity Name,
 - Form 471 Application Number,
 - Billed Entity Number, and
 - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

We strongly recommend that you use one of the electronic filing options. To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org or submit your appeal electronically by using the "Submit a Question" feature on the USAC website. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

For more information on submitting an appeal to USAC, please see "Appeals" in the "Schools and Libraries" section of the USAC website.

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/sl/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on the FRN(s), a separate letter will be sent to the service provider detailing the necessary service provider action.

Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or your service provider(s) submits to USAC are consistent with Program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: James Shoaff
Checkpoint Communications Inc.

Funding Commitment Adjustment Report for
Form 471 Application Number: 603185

Funding Request Number: 1756315
Services Ordered: INTERNAL CONNECTIONS
SPIN: 143006793
Service Provider Name: Checkpoint Communications Inc.
Contract Number: 32-05
Billing Account Number:
Site Identifier: 143740
Original Funding Commitment: \$176,000.00
Commitment Adjustment Amount: \$176,000.00
Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date \$56,241.77
Funds to be Recovered from Applicant: \$56,241.77
Funding Commitment Adjustment Explanation:

After multiple requests for documentation and application review, it has been determined that this funding commitment must be rescinded in full. The applicant failed to comply with the FCCs competitive bidding requirements. E-rate program rules require a competitive bidding process where an applicant chooses a service provider only after defining all of the specific services eligible for support at each eligible entity. Only by doing so can applicants ensure that they are receiving the most cost-effective services because bidders have sufficient information to determine exact bid prices. Applicants are required to provide bona fide requests for service, so that potential providers can provide accurate bids. The FCC elaborated on the meaning of bona fide in the Universal Service Order, where it stated that Congress intended to require accountability on the part of schools and libraries, which should therefore be required to (1) conduct internal assessments of the components necessary to use effectively the discounted services they order; (2) submit complete description of services they seek so that it may be posted for competing providers to evaluate. In this instance, you defined the scope of the services in the RFP using four sample sites as a representation of the remaining 77 sites at the district. You stated that those four sites represented the worst case scenarios for an elementary, middle, high school and administrative building. You also stated that these sample sites represented the largest diversity of installation services, and that the district did not have the resources to determine their exact needs up front. Because you used these sample locations, you did not specify the actual quantities of products/services needed for each site. Further, because the models were worst case scenarios, an extrapolation of these sites would lead to overstatement of the needs of the district and does not meet the requirement for a complete and accurate description of the services sought. Because you failed to provide a bona fide request for services, service providers could not provide accurate bids and you violated the FCCs requirements for fair and open competitive bidding process. Your funding commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant.

Paul Stankus
SAN BERNARDINO CITY UNIF S D
324 E. 11th St., Suite E-3
Tracy, CA 95376



Notification of Commitment Adjustment Letter

Funding Year 2008: July 1, 2008 - June 30, 2009

April 21, 2015

Dilip Patel
SAN BERNARDINO CITY UNIF S D
793 N E Street
San Bernardino, CA 92410

Re: Form 471 Application Number: 603185
Funding Year: 2008
Applicant's Form Identifier: SBCUSD471Y11P2
Billed Entity Number: 143740
FCC Registration Number: 0004119814
SPIN: 143020726
Service Provider Name: Vector Resources, Inc.
Service Provider Contact Person: Robert Messinger

Our routine review of Schools and Libraries Program (Program) funding commitments has revealed certain applications where funds were committed in violation of Program rules.

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1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.
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 - Billed Entity Name,
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Parsippany, NJ 07054-0685

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Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or your service provider(s) submits to USAC are consistent with Program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: Robert Messinger
Vector Resources, Inc.

Funding Commitment Adjustment Report for
Form 471 Application Number: 603185

Funding Request Number: 2083681
Services Ordered: INTERNAL CONNECTIONS
SPIN: 143020726
Service Provider Name: Vector Resources, Inc.
Contract Number: N/A
Billing Account Number:
Site Identifier: 143740
Original Funding Commitment: \$2884,789.48
Commitment Adjustment Amount: \$2884,789.48
Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date \$2084,616.99
Funds to be Recovered from Applicant: \$2084,616.99
Funding Commitment Adjustment Explanation:

After multiple requests for documentation and application review, it has been determined that this funding commitment must be rescinded in full. The applicant failed to comply with the FCCs competitive bidding requirements. E-rate program rules require a competitive bidding process where an applicant chooses a service provider only after defining all of the specific services eligible for support at each eligible entity. Only by doing so can applicants ensure that they are receiving the most cost-effective services because bidders have sufficient information to determine exact bid prices. Applicants are required to provide bona fide requests for service, so that potential providers can provide accurate bids. The FCC elaborated on the meaning of bona fide in the Universal Service Order, where it stated that Congress intended to require accountability on the part of schools and libraries, which should therefore be required to (1) conduct internal assessments of the components necessary to use effectively the discounted services they order; (2) submit complete description of services they seek so that it may be posted for competing providers to evaluate. In this instance, you defined the scope of the services in the RFP using four sample sites as a representation of the remaining 77 sites at the district. You stated that those four sites represented the worst case scenarios for an elementary, middle, high school and administrative building. You also stated that these sample sites represented the largest diversity of installation services, and that the district did not have the resources to determine their exact needs up front. Because you used these sample locations, you did not specify the actual quantities of products/services needed for each site. Further, because the models were worst case scenarios, an extrapolation of these sites would lead to overstatement of the needs of the district and does not meet the requirement for a complete and accurate description of the services sought. Because you failed to provide a bona fide request for services, service providers could not provide accurate bids and you violated the FCCs requirements for fair and open competitive bidding process. Your funding commitment will be rescinded in full and USAC will seek recovery of any disbursed funds from the applicant.

Attachment 2



Administrator's Decision on Appeal – Funding Year 2008-2009

June 14, 2016

Paul Stankus
E-Rate Compliance Services
3130-C Inland Empire Blvd.
Ontario, CA 91764

Re: Applicant Name: SAN BERNARDINO CITY UNIF S D
Billed Entity Number: 143740
Form 471 Application Number: 603185
Funding Request Number(s): 1756315, 2083681
Your Correspondence Dated: June 19, 2015

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2008 Notification of Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1756315, 2083681
Decision on Appeal: **Denied**
Explanation:

- USAC's reviewed your appeal and determined that competitive bidding violations did occur. The applicant failed to comply with the FCC's competitive bidding requirements. E-rate program rules require a competitive bidding process where an applicant chooses a service provider only after defining all of the specific services eligible for support at each eligible entity. Only by doing so can applicants ensure that they are receiving the most cost-effective services because bidders have sufficient information to determine exact bid prices. Applicants are required to provide bona fide requests for service, so that potential providers can provide accurate bids. The FCC elaborated on the meaning of bona fide in the Universal Service Order, where it stated that Congress intended to require accountability on the part of schools and libraries, which should therefore be required to (1) conduct internal assessments of the components necessary to use

effectively the discounted services they order; (2) submit complete description of services they seek so that it may be posted for competing providers to evaluate. In this instance, you defined the scope of the services in the RFP using four sample sites as a representation of the remaining 77 sites at the district. You stated that those four sites represented the worst case scenarios for an elementary, middle, high school and administrative building. You also stated that these sample sites represented the largest diversity of installation services, and that the district did not have the resources to determine their exact needs up front. Because you used these sample locations, you did not specify the actual quantities of products/services needed for each site. Further, because the models were worst case scenarios, an extrapolation of these sites would lead to overstatement of the needs of the district and does not meet the requirement for a complete and accurate description of the services sought. Because you failed to provide a bona fide request for services, service providers could not provide accurate bids and you violated the FCC's requirements for fair and open competitive bidding process. Therefore your appeal is denied. Your funding commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant.

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

Attachment 3



Paul Stankus
CSM
3130-C Inland Empire Blvd
Ontario, CA, 91764

Letter of Appeal

Schools and Libraries --Correspondence Unit
30 Lanidex Plaza
PO Box 685
Parsippany, NJ 07054-0685

June 19, 2015

**COMAD APPEAL of San Bernardino City Unified School District (BEN 143740)
2008 application 603185, FRN 1756315 (Checkpoint) and FRN 2083681 (Vector)**

San Bernardino City Unified School District (BEN 143740) wishes to appeal the COMAD of 2008 Form 471 application 603185, FRN 1756315 for Checkpoint Communication and FRN 2083681 for Vector Communications in the letter dated April 21, 2015 (Attachment A). USAC erred in their most recent review that resulted in this COMAD for the following reasons.

1. **FCC OIG Audit Report reviewed and passed the competitive bidding:** The FCC Office of Inspector General (OIG) has already reviewed the competitive bidding in this case and in the letter from the FCC OIG dated 9/30/2010, (page 4) determined that "SBCUSD complied in all material aspects, with the aforementioned requirements." If the FCC OIG has already reviewed the competitive bidding for 2006, which is the same competitive bidding for 2007 and 2008, and found no problems with the competitive bidding process, then clearly the 2008 funding requests were also competitively bid correctly.
2. **Federal and State Law do not prohibit "Worst Case Scenario"** Neither the Universal Service Order (USO), the Federal Code of Federal Regulations (47 CFR 503), nor State of California law prohibit the use of Worst Case Scenario samples, as indicated by San Bernardino City USD's attorney legal opinion (attached). USAC is overly broadly interpreting regulations that were not written nor contemplated in the program rules. As such, USAC's overreach is unwarranted and improper.
3. **Competitive bidding on these FRNs have been reviewed multiple times:** Competitive Bidding review on these Funding requests was done in 2005 for the Funding Years 2006, 2007 and 2008 and has been reviewed by USAC Selective Review, KPMG Audit and the FCC OIG Audit on four separate occasions—and passed each time without any objection to the bidding process used by San Bernardino City USD.
4. **The COMAD is for 2008 Funding Requests, yet the competitive bidding was done in 2005 for Funding Year 2006:** The crux of USAC's argument, that the competitive bidding was done incorrectly, is invalid, because the competitive bidding for these funding requests were completed in 2005. Funding requests, using the same competitive bidding process, were funded in 2006



and 2007. As noted above, the FCC OIG Audit Report reviewed San Bernardino City USD's competitive bidding process for 2006 and did not object to the bidding process. The 2008 applications were a continuing contract to 2006 and 2007—and they are not subject to this COMAD proceeding. USAC's approval of the 2006 and 2007 funding year applications, while deciding to rescind funding for 2008 which is a continuation of the contract signed for 2006 and 2007, is internally inconsistent. USAC's acceptance of the bidding process through the FCC OIG Audit Report applies to 2008 because it is a continuance of the process started in 2005.

5. **Sample Schools bid processes are the most cost-effective procurement for large districts.** Sample Schools are the most cost effective method of doing competitive bidding—for a district the size of San Bernardino City USD with 77 schools. From the time they start the assessment of each school until the end of the list, it takes well over a year—in this case, three years-- by which time the first assessments are obsolete.
6. **Average sample schools shortchange large districts:** The Sample Site procedure referred to as "Worst Case scenario" sample schools is a standard competitive bidding practice for very large school districts – including multiple districts in California-- because using an "average" sample school undercounts need, resulting in contracts authorizing insufficient funding.

In short, because the types of bidding and contracts are permissible under State of California and Federal law, and that these funding requests have been extensively reviewed multiple times including the FCC OIG and found to have been done correctly, we ask that the appeals of both funding requests be granted.

I. FCC OIG Audit—Competitive Bidding Passed in 2006 and 2007

On February 24, 2009 the FCC OIG conducted a thorough review of several funding requests from 2006 and 2007, including FRN 1484692 from 2006, the initial FRN of the multi- year contract that established the competitive bidding for 2008 FRNs 1756315 and 2083681. On September 30, 2010 the FCC OIG released their findings. While some issues were found regarding invoice discrepancies (mostly for ineligible items invoiced, or free services received), no issues were found regarding the competitive bidding review. The full document is attached as Attachment B: [FCC_OIG_audit_report](#), but relevant sections are excerpted below.



Exhibit 1: Text from FCC OIG Audit Report dated 9/30/2010 that documents compliance with program rules.

Attestation Examination Report

We have examined management's assertions that San Bernardino City Unified School District's ("SBCUSD"), Beneficiary Number 143740, complied with applicable requirements of 47 C.F.R Section 54 of the Federal Communications Commission's ("FCC") rules and related orders as provided in Attachment I, relative to disbursements of \$7,780,214.59 made from the Universal Service Fund ("USF") during the fiscal year ended June 30, 2008 ("Fiscal Year 2008") and relative to its Funding Year ("FY") 2006 and 2007 applications. Management is responsible for SBCUSD's compliance with those requirements. Our responsibility is to express an opinion on SBCUSD's compliance based on our examination.

In our opinion, except for the material noncompliance described in the third paragraph, SBCUSD complied, in all material respects, with the aforementioned requirements relative to disbursements of \$7,780,214.59 made from the USF during Fiscal Year 2008 and relative to its FY 2006 and 2007 applications for funding and service provider selections related to the FRN for which such disbursements were made.

FCC OIG Audit report p4

On Page 6 of the FCC OIG Audit report, Attachment I, it contains a list of all of the Code of Federal Register (CFR) citations that they reviewed as part of the Audit process. Included in that list of CFR were several sections relating to the selection of Service Providers. It is clear from the Audit report, that the competitive bidding process for 2006 – the same process that established the multi-year contract for the 2008 FRNs was reviewed by the FCC OIG, and as the citation above states,

SBCUSD complied in all material respects, with the aforementioned requirements relative to the disbursements of \$7,780,214.59 made from the USF during Fiscal Year 2008 and relative to its FY2006 and 2007 application.

Exhibit 2 FCC OIG Audit Report indicates that it reviewed Service Provider Selection as part of its review

Attachment I

Federal Communications Commission's 47 C.F.R. Part 54 Rules and Related Orders with which Compliance was Examined

Service Provider Selection Matters:

- Section 54.504 (a), which was effective as of February 12, 1998
- Section 54.504 (b) (4), which was effective as of January 1, 1999
- Section 54.511 (a), as revised, which was originally effective as of July 17, 1997
- FCC Order 03-313, paragraphs 39 and 56, which was issued on December 8, 2003
- FCC Order 00-167, paragraph 10, which was issued on May 23, 2000



II. Federal and State Law do not prohibit “Worst Case Scenario”

As outlined in San Bernardino City USD’s legal opinion rendered by ATKINSON, ANDELSON, LOYA, RUUD & ROMO attorneys Hugh Lee and Stephen McLaughlin (Attachment C.; Attachment C [Letter to Debra Love Re Bidding Process for E-Rate Projects 6-18-15](#)), neither Federal CFR nor applicable California law prohibit the use of sample sites. Prior to San Bernardino City USD releasing their RFP #32-05, they sought clearance from county counsel for their use of sample sites and county counsel affirmed their decision to use the sample site as the basis for the procurement. From the opinion on page 3 Section 54.503 of the CFR does not prohibit the Sample Site procedure used by San Bernardino.

Exhibit 3: Discussion of Code of Federal Regulations regarding competitive bidding requirements

II. Applicable Federal Law Does Not Prohibit the Sample Site Procedure and Allows Wide Discretion in Developing Bid Procedure that Meet the Fair and Open Requirement and Complies With State Law

The federal regulations applicable to the E-rate process are set forth in Title 47 of the Code of Federal Regulations, Section 54.500 et seq. With respect to the bidding requirements, 47 CFR 503 addresses the competitive bidding requirements and requires school districts to “conduct a fair and open competitive bidding process, consistent with all requirements set forth in this subpart.” Section 54.503 does not prohibit the Sample Site procedure nor does it specify the specific bidding procedure that must be used. Instead, Section 54.503 states school districts can develop a procedure that meets the general “open and fair” requirement as long as the process complies with state law. Indeed, Section 54.503 explicitly states that the federal requirements are not meant to supersede state law: “These competitive bid requirements apply in addition to state and local competitive bid requirements and are not intended to preempt such state or local requirements.”

USAC claims the District violated the open and fair bidding process because it “does not meet the requirement for a complete and accurate description of the services sought.” The only legal source cited by USAC for this claim is a Universal Service Order (“USO”) issued by the Federal Communications Commission (“FCC”) which USAC claims requires school districts to “specify the actual quantities of products/services needed for each site.” However, the USO does not include this requirement and does not prohibit the Sample Site procedure used by the District. USAC’s Compliance Letter seems to be making policy assertions that are not part of the current regulations in either state or federal law because it contradicts the federal rules granting school districts flexibility in designing a bid process to comply with state law.

Additionally, the legal opinion clarifies on page 4 that through the use of the sample site procurement process, the bidders will know what products and services they are bidding on, which is the foundation of the fair and open competitive bidding process required by applicable Federal law. We note that the CFR states “a complete description of services”—such that a bidder can accurately bid on the project. ‘Description’ is not the same as itemized list.



Exhibit 4: Citations of the CFR Discussed in San Bernardino’s Legal Opinion:

The language in the USO cited by USAC in the Compliance Letter is as follows:

Section 254(h)(1)(B) limits discounts to services provided in response to bona fide requests made for services to be used for educational purposes. We concur with the Joint Board’s finding that Congress intended to require accountability on the part of schools and libraries and, therefore, we concur with the Joint Board’s recommendation and the position of most commenters that eligible schools and libraries be required to: (1) conduct internal assessments of the components necessary to use effectively the discounted services they order; **(2) submit a complete description of services they seek so that it may be posted for competing providers to evaluate;** and (3) certify to certain criteria under penalty of perjury. [Emphasis Added.]

The USO only requires a complete “description” sufficient enough to allow service providers to bid based on the needs of the District. As summarized above, the District’s Sample Site process provides a sufficient description by establishing all of the products/services the bidders will be required to provide at the District’s sites along with their individual prices. Thus, bidders know what products and services they will be required to provide and list prices for each of the required services and products that will be applied to all District sites.

Thus, based on Federal CFR and State law, we conclude that worst case scenario sample sites are indeed permitted, and that the contracts were correctly awarded.

III. Multiple Selective Reviews. KPMG and FCC OIG Audits

FRNs 1756315 and FRN 2083681 have been the subject of four separate heightened scrutiny reviews, (USAC Selective Review 7/18/2008, KPMG Audit 12/17/2008, FCC OIG Audit 2/24/2009 and USAC Selective Review on 10/14/2011). In each case, the competitive bidding was reviewed as part of the heightened scrutiny review and in spite of all of the reviews, the funding requests were funded. Please see the attached spreadsheet (Attachment D: [San Bernardino High Level Review Tracker_1013](#)) that documents the nine separate heightened scrutiny reviews that have targeted San Bernardino City USD since 2006.

This most recent review creates new policy regarding sample sites which does not exist in the Code of Federal Regulations (CFR)—nor existed ten years ago when the competitive bidding was completed. As is discussed in the legal opinion (Attachment B) provided to San Bernardino City USD, the Sample site procedure utilized is both “fair” and “open” – fair because all vendors are using the same document to establish the bid process and open because it provides greater access to vendors wishing to bid. Using sample sites increases competition, not decreases it. As stated in our 9/19/2014 response (Attachment E: [San Bernardino - USAC information request due 09 19 14](#)), “If San Bernardino listed out the individual specifications of every school and included that in the RFP, the RFP would grow



to nearly 400 pages and artificially limit the number of vendors—many of whom would not bother to respond to the bid request because of the size [and length] of the RFP.” Using Sample Sites increases competition and is more cost effective. Applicable state and federal law require a bidding process that promotes competition and therefore, USAC’s unsubstantiated claim that the Sample Site procedure is improper runs contrary to the intent and plain language of applicable law.

IV. Sample Schools bid processes are more cost effective for large districts

Large districts operate differently than smaller districts. While it may make sense for a district of less than 10 schools to define the requirements for every single school, with a reasonable degree of accuracy such that a bidder knows exactly what the requirements are for each school, it is not logistically possible for a districts like San Bernardino City USD, the 8th largest in the State of California, which contains 77 school buildings and a host of other non-instructional facilities. IT staff in large districts have more schools to cover, are stretched thinner, and are often subject to much stricter procurement policies than smaller districts.

Last year (in 2014), San Bernardino City USD completed an IT assessment of all of its schools. It took 3 years to fully catalog the needs of each of the schools, and by the time it was completed, they had to start the process over again for the schools that they assessed in 2011, as the equipment was now out of date. Without Sample Schools to base competitive bids on, procurement in large districts would grind to a halt. Many large school districts – both within the State of California and outside, use Sample Schools. Assuming that the same timeframe of site evaluation was used for the 2005 competitive bidding process, San Bernardino City USD would have needed to start their comprehensive review of all school sites in 2002 to have it ready for the bid documents released in 2005.

Indeed, in the Universal Service Order (FCC 97-157) states the following:

Thus, although we do not impose bidding requirements, neither do we exempt eligible schools or libraries from compliance with any state or local procurement rules, such as competitive bidding specifications, with which they must otherwise comply.

The FCC did not issue any guidelines or impose the bidding requirements regarding the use of Sample Schools that USAC is attempting to shoehorn into the review of the competitive bidding in this case. Moreover, as noted in the legal opinion for San Bernardino City USD, attached, California State law affords the applicant some flexibility to design their competitive bidding process as long as it complies with the applicable regulations as cited in the Legal Opinion, which the Sample Site procedure does. State law does not explicitly prohibit the use of a Sample Site procedure—thus, sample schools, in particular “worst case scenario sample schools” is a common and established procurement practice among many large districts.



V. Worst Case Scenario School Sample Site:

Large districts use “worst case scenario sample sites” in their procurements for a number of reasons. First, it is much more efficient to determine the schools with the greatest needs and develop a full scale evaluation of those sites for use in the bidding process. Bidders had confidence that there would be no schools requiring more work than the schools identified as worst case scenario samples. If these schools are the high water mark, then they know that the needs of the rest of the schools may be the same or lower when the project is implemented.

Second, worst case scenario school sites produce lesser per-unit costs from the vendors in the bids. If a district requests bids on 2000 widgets, but ultimately only orders 1750 based on actual need at implementation, they have the lower per-unit cost than they would have if they had ordered 1750 widgets. This saves the San Bernardino City USD, and ultimately the Universal Service Fund, money. For any funds that remained after the implementation, San Bernardino City USD files form 500s to refund the money to the USF. Therefore, funds are not wasted. Only what ends up being purchased is invoiced—which does not disadvantage the actual disbursements from the USF. Actual disbursements end up meeting actual needs far more cost-effectively using the worst case scenario sample schools than a much more complex, cumbersome, involved, lengthy process detailing every component in a bid proposal.

Third, San Bernardino City USD’s contracts, as well as most districts in California, include a “not to exceed” clause. Using an average sample site is not cost-effective, because it undercounts total demand and results in signing contracts for less money than actually needed. Further, the “not-to-exceed” amount demonstrates that the E-rate funding contracts meet the requirements for indefinite quantity contracts, which are permitted under California law as discussed in the Legal Opinion. School sites at the end of the implementation are often shortchanged and disadvantaged, resulting in the need to conduct further contract modifications and board approval. In short, the only cost-effective option available to large districts is to use the worst case scenario sample site model.



In Conclusion, given that USAC has reviewed these funding requests four separate times, that the FCC OIG has already reviewed and found compliant the competitive bidding on the 2006 and 2007 Funding Requests that preceded the 2008 FRNs being COMADed, that neither the Federal CFR, the Universal Service Order cited in the COMAD letter, nor the applicable State of California laws prohibit the use of Sample Sites in the competitive bidding process, USAC has erred in COMADing these funding requests. USAC has overstepped its authority by creating policy in wording that is not present in the program rules in place presently or at the time of the competitive bidding process, which was ten years ago. Consequently, the COMAD appeal of these funding requests, Funding Year 2008 Form 471 application 603185, FRN 1756315 (Checkpoint) and FRN 2083681 (Vector) should be approved.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Stankus", written over a light blue horizontal line.

Paul Stankus
Consultant for San Bernardino City Unified School District

Attachment 4



OFFICE OF INSPECTOR GENERAL

Washington, D.C. 20554

September 30, 2010

San Bernardino City Unified School District
Dr. Arturo Delgado
Mr. Mohammad Islam
777 North F Street
San Bernardino, CA 92410

Dear Dr. Delgado and Mr. Islam:

The Federal Communications Commission ("FCC") Office of Inspector General ("OIG") performed an Attestation Examination of San Bernardino City Unified School District's compliance with the applicable requirements of the FCC's rules and orders governing Universal Service support for the Schools and Libraries Support Mechanism relative to disbursements of \$ 7,780,214.59 made from the Universal Service Fund during the fiscal year ended June 30, 2008 ("Fiscal Year 2008").

This examination is 1 of the 346 statistically selected schools and libraries program beneficiary examinations conducted pursuant to the Improper Payments Information Act of 2002 ("IPIA") for Fiscal Year 2008. Attached is the final report of the examination conducted by our office. It incorporates your written response to the draft report and the response received from the Universal Service Administrative Company.

The OIG performed this examination consistent with its authority under the Inspector General Act of 1978, as amended, including, but not limited to sections 2(1) and 4(a)(1). It is not intended as a substitute for any agency regulatory compliance review or regulatory compliance audit.

If you have questions, or need additional information, please contact Beth Engelmann, Director, USF Program Audits at 202-418-1448 or me at 202-418-0474, or Gerald.grahe@fcc.gov.

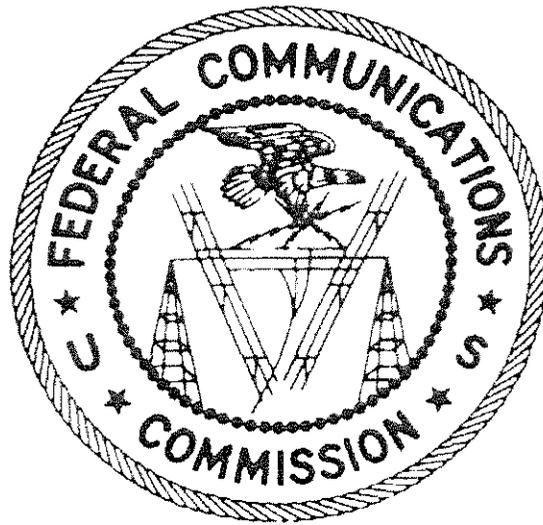
Sincerely,

A handwritten signature in black ink, appearing to read "Gerald T. Grahe". The signature is stylized and cursive.

Gerald T. Grahe
Assistant Inspector General
for USF Oversight

Attachment – Final Attestation Examination Report
OIG No. 09-AUD-07-11
IPIA No. SL-2008-238

FEDERAL COMMUNICATIONS COMMISSION



OFFICE OF INSPECTOR GENERAL

Final Report
Attestation Examination of
San Bernardino City Unified School District
Beneficiary Number 143740

Report No. 09-AUD-07-11
IPIA Report No. SL-2008-238
September 30, 2010

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Attestation Examination Report

We have examined management's assertions that San Bernardino City Unified School District's ("SBCUSD"), Beneficiary Number 143740, complied with applicable requirements of 47 C.F.R Section 54 of the Federal Communications Commission's ("FCC") rules and related orders as provided in Attachment I, relative to disbursements of \$7,780,214.59 made from the Universal Service Fund ("USF") during the fiscal year ended June 30, 2008 ("Fiscal Year 2008") and relative to its Funding Year ("FY") 2006 and 2007 applications. Management is responsible for SBCUSD's compliance with those requirements. Our responsibility is to express an opinion on SBCUSD's compliance based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and accordingly, included examining, on a test basis, evidence about SBCUSD's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on SBCUSD's compliance with specified rules.

Our examination disclosed material noncompliance with 47 C.F.R. Section 54 and related orders regarding (i) discounts for ineligible products and services, and (ii) receipt of services by SBCUSD and reimbursement matters attributable to service provider overcharges relating to disbursements and corresponding Funding Request Numbers ("FRNs") made from the USF during Fiscal Year 2008. Detailed information relative to the material noncompliance is described in Findings 1, 2 and 3 in Attachment II.

In our opinion, except for the material noncompliance described in the third paragraph, SBCUSD complied, in all material respects, with the aforementioned requirements relative to disbursements of \$7,780,214.59 made from the USF during Fiscal Year 2008 and relative to its FY 2006 and 2007 applications for funding and service provider selections related to the FRN for which such disbursements were made.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies and material weaknesses that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether SBCUSD complied with the aforementioned requirements and not for the purpose of expressing an opinion on the internal control over compliance; accordingly, we express no such opinion. Our examination disclosed certain findings, as discussed below that are required to be reported under *Government Auditing Standards*.

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A control deficiency in an entity's internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing its assigned functions, to prevent or detect noncompliance with a type of compliance requirement of a federal program on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to comply with federal program requirements, such that there is more than a remote likelihood that noncompliance with a type of compliance requirement of a federal program that is more than inconsequential will not be prevented or detected by the entity's internal control. We consider the deficiencies in internal control over compliance described in findings 1, 2 and 3 in Attachment II to be significant deficiencies.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that material noncompliance with a type of compliance requirement of a federal program will not be prevented or detected by the entity's internal control. We consider the significant deficiencies described in Attachment II to be material weaknesses.

Responses to the findings identified in our examination are attached as Appendix A, "SBCUSD's Response" and Appendix B, "Universal Service Administrative Company Management's (USAC) Response." We have also summarized SBCUSD's responses in Attachment II, "Schedule of Findings." We considered SBCUSD's and USAC Management's responses but did not perform an examination of them, and accordingly, we express no opinion on them.

In addition, and in accordance with *Government Auditing Standards*, we also noted other matters that we reported to the management of SBCUSD in a separate letter dated September 30, 2010.

This report is intended solely for the information and use of SBCUSD, USAC and the FCC, and it is not intended to be and should not be used by anyone other than these specified parties.



Gerald T. Grahe
Assistant Inspector General
for USF Oversight

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Attachment I
Federal Communications Commission's 47 C.F.R. Part 54 Rules and Related
Orders with which Compliance was Examined

Document Retention Matters:

Section 54.504 (c) (1) (x), which was effective as of October 13, 2004
Section 54.516 (a), which was effective from July 17, 1997 through October 12, 2004
Section 54.516 (a), which was effective from March 11, 2004 through October 12, 2004
Section 54.516 (a) (1), which was effective as of October 13, 2004

Application Matters:

Section 54.501 (b), as revised, which was originally effective as of July 17, 1997
Section 54.504 (b) (1), as revised, which was originally effective as of July 17, 1997
Section 54.504 (b) (2), as revised, which was originally effective as of July 17, 1997
Section 54.504 (b) (2) (i), as revised, which was originally effective as of February 12, 1998
Section 54.504 (b) (2) (iii), which was effective as of October 13, 2004
Section 54.504 (b) (2) (iv), which was effective as of October 13, 2004
Section 54.504 (b) (2) (v), which was effective from July 17, 1997 to October 12, 2004
Section 54.504 (b) (2) (vi), which was effective as of October 13, 2004
Section 54.504 (b) (2) (vii), which was effective from July 17, 1997 to October 12, 2004
Section 54.504 (c), which was effective as of February 12, 1998
Section 54.505 (b), which was effective as of July 17, 1997
Section 54.505 (c), as revised, which was originally effective as of July 17, 1997
Section 54.508 (a), which was effective as of October 13, 2004
Section 54.508 (c), which was effective as of October 13, 2004
Section 54.520 (c), which was effective as of April 20, 2001
Section 54.520 (c) (1) (i), which was effective as of April 20, 2001
Section 54.520 (c) (1) (ii), which was effective as of April 20, 2001

Service Provider Selection Matters:

Section 54.504 (a), which was effective as of February 12, 1998

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Section 54.504 (b) (4), which was effective as of January 1, 1999

Section 54.511 (a), as revised, which was originally effective as of July 17, 1997

FCC Order 03-313, paragraphs 39 and 56, which was issued on December 8, 2003

FCC Order 00-167, paragraph 10, which was issued on May 23, 2000

Receipt of Services and Reimbursement Matters:

Section 54.500 (b), which was effective as of July 21, 2003

Section 54.504, which was effective as of July 17, 1997

Section 54.504 (b) (2) (ii), which was effective from February 12, 1998 through October 12, 2004

Section 54.504 (b) (2) (iii), which was effective from July 17, 1997 through October 12, 2004

Section 54.504 (b) (2) (v), which was effective from July 17, 1997 through March 10, 2004

Section 54.504 (b) (2) (v), which was effective as of October 13, 2004

Section 54.504 (c) (1) (vii), which was effective as of October 13, 2004

Section 54.504 (f), which was effective as of March 11, 2004

Section 54.505 (a), which was effective as of July 17, 1997

Section 54.513 (c), which was effective as of March 11, 2004

Section 54.514 (b), as revised, which was originally effective as of July 21, 2003

Section 54.523, which was effective as of March 11, 2004

FCC Order 03-313, paragraph 60, which was issued on December 8, 2003

FCC Order 04-190, paragraph 24, which was issued on August 13, 2004

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Attachment II
Schedule of Findings

Finding: SL2008BE238_F01 Ineligible Services/Goods

Criteria: Per 47 C.F.R. § 54.504(c), the School/District requested, and funds were disbursed by the Universal Service Fund (“USF”) for only eligible goods and services. The Universal Service Administrative Company (“USAC”) posts an annual Eligible Service List (“ESL”) by funding year (“FY”) on the USAC web site for use by the schools and libraries to determine eligible products and services.

Condition: SBCUSD received and was reimbursed for ineligible items related to internal connections Funding Request Number (“FRN”) 1484692. The ineligible equipment and services included pull boxes, junction boxes, vertical power strips, and asbestos removal services. The vertical power strips and asbestos removal services were listed as ineligible items on the ESL SLSM for FY 2007. The pull boxes and junction boxes were not listed as eligible on the ESL for FY 2007. Moreover, pull boxes and junction boxes fall under wiring and components that provide electrical service which were listed as ineligible in the ESL SLSM for FY 2007, page 14, “Ineligible Internal Connection Components.”

We reviewed all service provider invoices (“SPI”) for FRN 1484692. Our review of SPIs disclosed that some ineligible goods and services were not removed prior to requests for reimbursement which resulted in SBCUSD’s service provider receiving reimbursement from USF for ineligible items. Table 1 below details the ineligible goods and services identified during our review:

Table 1 - Ineligible Goods/Services			
FRN Number	Service Provider Invoice No.	Amount of Ineligible Equipment and Services	Type of Ineligible Goods/Service
1484692	10164	\$ 2,643.30	Asbestos abatement
1484692	10165	\$ 7,048.80	Asbestos abatement
1484692	10091	\$ 1,400.52	Pull boxes & Junction boxes
1484692	10093	\$ 700.26	Pull boxes & Junction boxes
1484692	10094	\$ 700.26	Pull boxes & Junction boxes
1484692	10095	\$ 700.26	Pull boxes & Junction boxes
1484692	10096	\$ 700.26	Pull boxes & Junction boxes
1484692	10097	\$ 700.26	Pull boxes & Junction boxes
1484692	10098	\$ 700.26	Pull boxes & Junction boxes
1484692	10099	\$ 700.26	Pull boxes & Junction boxes
1484692	10105	\$ 1,176.43	Pull boxes & Junction boxes
1484692	10109	\$ 1,176.43	Pull boxes & Junction boxes
1484692	10189	\$ 281.53	Vertical Power Strip
1484692	10191	\$ 281.53	Vertical Power Strip

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Table I Continued			
FRN Number	Service Provider Invoice No.	Amount of Ineligible Equipment and Services	Type of Ineligible Goods/Service
1484692	10209 R	\$ 700.26	Pull boxes & Junction boxes
1484692	10234	\$ 281.53	Vertical Power Strip
1484692	10236	\$ 281.53	Vertical Power Strip
1484692	10237	\$ 281.53	Vertical Power Strip
1484692	10270	\$ 12,783.96	Building prep for Asbestos Abatement
1484692	10299	\$ 1,420.43	Building prep for Asbestos Abatement
1484692	10300	\$ 783.20	Building prep for Asbestos Abatement
1484692	10301	\$ 293.70	Building prep for Asbestos Abatement
TOTAL		\$ 35,736.50	

In other cases, USAC reviewed and removed ineligible items prior to reimbursement. USAC in accordance with current policy did not expand its review to include all SPIs for the FRN after learning that the service provider did not remove ineligible items. USAC current procedures require a watch (review of all invoices) in an FRN, beneficiary number (BEN) or service provider identification number (SPIN) only when a pattern or intentional behavior is identified.

Cause: SBCUSD did not remove some of the ineligible items from the FCC Form 471. The service provider did not remove ineligible items from SPIs before submitting to USAC. USAC did not remove all of the ineligible items before disbursing funds for FRN 1484692.

Effect: USF were disbursed for ineligible items in the amount of \$31,805.48 (89% discount of \$35,736.50).

Recommendation: SBCUSD needs to review its FCC Form 471 to ensure ineligible items are removed. We recommend USAC seek recovery of \$31,805.48 disbursed from the USF for ineligible equipment and services.

Recommendation: USAC should review its policy to review internal connections invoices in an FRN where invoices contain ineligible goods and services to determine if this would prevent improper payment of USF.

Beneficiary Response¹: SBCUSD agrees that at the time many of the invoices being submitted for payment by the service provider to both the District and USAC were not reviewed in as much detail as perhaps they should have been and subsequently, the District took extreme measures to ensure a thorough review of all line items on the invoices that were submitted by the service provider. The SPI process dictates that the

¹ Beneficiary response is summarized. See Appendix A for the complete SBCUSD response.

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Beneficiary rely on the service provider to remove ineligible items from the SPIs before submitting to USAC as there is no requirement that the invoices be submitted to the applicant prior to submission to USAC. Rarely (if ever) does the Beneficiary have access to the content of the SPIs prior to submittal to USAC for payment. SBCUSD would contend that all invoices submitted for payment to USAC on behalf of a Beneficiary be reviewed and approved by the Beneficiary prior to issuance of any payment.

SBCUSD does concur with the auditors' findings regarding the ineligibility of the power strips and asbestos abatement activities though it questions the determination of ineligibility of the pull boxes and junction boxes on a low voltage cabling project. SBCUSD is very aware of the ineligibility of high voltage/electrical work with regard to receipt of SLSM discounts. SBCUSD requests that the dollars (\$9,355.46 pre-discount - \$8,326.36 at 89% discount) be tabled until it is able to determine in what capacity these items were used. There is every possibility that the terminology is wrong and the items were used in an eligible fashion, and therefore not subject to recovery.

As acknowledged in further discussion within this report, SBCUSD is currently cooperating with USAC concerning erroneous invoicing from this service provider. SBCUSD notified the FCC of the questionable invoices prior to the arrival of the FCC/OIG audit team and discrepancies were discovered as a direct result of the fastidious review of invoices that the District performs. SBCUSD feels that the status of this ongoing review should be considered prior to the issuance of any COMAD and Demand for Payment. Additionally, the District is in litigious proceedings with this particular service provider and any and all payments and/or adjustments must take this into consideration.

Upon receipt of a Commitment Adjustment and Demand for Payment, SBCUSD will act in accordance with SLSM guidelines, USAC investigation guidelines and litigation settlement(s) guidelines for remittance of the funds subject to recovery.

OIG Response: Within the FCC Form 474 or SPI process, there is no requirement that the invoices be submitted to the applicant for review prior to submission to USAC. Prior to the filing of FCC Form 474, however, applicants are required to submit FCC Form 471, which must include a description of the products and services for which discounts are sought. This description is known as an "Item 21 Attachment." Applicants may not seek support for ineligible services and are required to deduct ineligible costs from their total cost of services on the FCC Form 471.

Our review of FCC Form 471 and Item 21 Attachment for SBCUSD disclosed ineligible items for which services had been requested. It is the applicant/beneficiary's responsibility to remove these ineligible items before submitting the FCC Form 471. In this instance, ineligible items were not removed by the applicant/beneficiary, the service provider, and/or USAC.

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SBCUSD concurs with the ineligibility of the power strips and asbestos abatement activities. SBCUSD did question the ineligibility of pull boxes and junction boxes. The 2007 ESL "Internal Connections," states that components are eligible if they are necessary to transport information to classrooms and eligible administrative areas or buildings. Also, the ESL states, "wiring and components providing electrical services" are ineligible. Junction boxes are containers for electrical connection usually intended to conceal wiring and protect wiring interface at junction points. A pull box provides an access point in long runs of cable to make it easier to pull the conductors from one end of the run to the other. Therefore, OIG's recommendations remain the same and we still recommend USAC seek recovery of \$31,805.38.

Finding: SL2008BE238_F02 Free Products or Services

Criteria: Per 47 C.F.R. § 54.523, the School/District deducted from the pre-discount cost of services contained in funding requests the value of all price reductions, promotional offers and "free" products or services.

Condition: SBCUSD received "free goods/services" related to FRN 1484692 from the service provider. We reviewed all of the SPIs for FRN 1484692. Our review determined that SBCUSD has not paid 100% of the cost for ineligible items that were included in SPIs submitted under that FRN. Rather, SBCUSD paid only 10% of the cost as required by the service provider.

In some invoices under FRN 1484692, USAC reviewed, identified and removed ineligible items totaling \$7,019.99 prior to disbursement of support. After USAC removed the ineligible items, however, the service provider did not re-issue invoices to SBCUSD for the remaining 90% or \$6,317.99 associated with the ineligible items that USAC removed.

Cause: Under the SPI process, USAC does not notify the applicant that ineligibles were removed. The service provider did not invoice SBCUSD for the ineligible items identified by USAC, and SBCUSD did not pay for the remaining 90% of the ineligible items.

Effect: SBCUSD received free goods and services in the amount of \$6,317.99

Recommendation: We recommend SBCUSD pay the service provider for 100% (less the 10% already paid to the service provider) of the ineligible goods and services.

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Beneficiary Response²: SBCUSD contends that this finding is not in line with the “Criteria” that states that the District deducted from the pre-discount cost of services contained in the funding requests the value of all price reductions, promotional offers and “free products or services. SBCUSD was not offered nor did they apply for discounts on “free services” at any time during the funding and/or disbursement process. SBCUSD contends that this rule is related to an inability of the applicant to demonstrate compliance with their responsibility to pay the non-discounted share. There was never a time at which SBCUSD intended to receive free goods or services and they were unaware that USAC had directed the service provider to submit an invoice for 100% (or remaining 89%) identified as ineligible and not paid by USAC. If there were a notification sent to the Beneficiary, they could be expecting an invoice from the service provider and follow up with the service provider to ensure compliance. Had the Beneficiary been invoiced by the service provider for the remaining portion of the \$7,019.99 (\$6,247.79 at 89%), the invoices would have been paid.

OIG Response: The intent of the criteria is to prevent the Beneficiary from receiving free goods and services from service providers. As a result of the ineligible goods/services, SBCUSD would have to remit payment to the service provider for the remaining amount of the ineligible goods/services, or it is the equivalent of SBCUSD receiving “free products or services,” per criteria 47 CFR 54.523. OIG agrees that the E-Rate process in this situation does not notify the Beneficiary, which would give the Beneficiary the opportunity to follow up with the service provider to ensure compliance. Nevertheless, the goods/services received were ineligible and 90%³ of the cost of the ineligible items was not remitted by SBCUSD to the service provider.

We have removed the \$35,736 ineligible items from this finding due to SBCUSD’s comment and because the items were disclosed during our audit. USAC has not yet informed the service provider that the items are ineligible. When USAC informs the service provider that the items are ineligible, SBCUSD will then be responsible to pay the service provider or be in violation of 47 CFR 54.523. Our recommendation has been changed to reflect the removal of the \$35,736 and recommend recovery of \$6,317.99.

Finding: SL2008BE238_F03 Service Provider Over-charges

Criteria: Per 47 C.F. R. § 54.505(a), the School/District applied its discount percentage to the appropriate pre-discount price.

Condition: An SBCUSD service provider over-billed USAC for \$432,423 for cabling on SBCUSD invoices related to FRN 1578852. The service provider billed USAC for

² Beneficiary response is summarized. See Appendix A for SBCUSD’s complete response.

³ SBCUSD did have an 89% discount rate on eligible items, but in this case, the items are ineligible. SBCUSD is required to pay the service provider 100% of ineligible goods and services and therefore needs to pay 90% (100% less their deposit of 10%) of the cost of the items).

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costs based on estimates that were higher than the actual costs. Before SBCUSD realized the bills were based on estimates, SBCUSD certified some of the invoices and USAC disbursed funds for FRN 1578852. SBCUSD requested additional details regarding the invoices submitted by the service provider due to noted discrepancies in the cabling quantities and number of drops as part of its normal review process. SBCUSD requested accurate invoices for actual equipment, materials or other services provided by the service provider. Subsequently, the service provider provided actual measurements of the cabling and corresponding drops for the questioned invoices which suggested overcharges. We reviewed all the SPIs under FRN 1578852, along with the proposed revised invoices submitted to SBCUSD. The results of our review displays a comparison of invoiced and actual cabling and drops, along with the over-charges, is shown in Table 2 below:

Table 2 - USF Over-payment									
1 School /Site	2 Original Invoice Cabling (in feet)	3 Original Invoice No. of Drops	4 Actual Cabling (in feet)	5 Actual Drops	6 Excess Cabling Footage Charged (Column 2-4)	7 Excess Drops Charged (Column 3-5)	8 Amount Over- charged @ \$.85/foot (Column 6 x \$.85)	9 Amount Over/Under Charged @ \$18.74/drop (Column 7 x \$18.74)	10 USF Over- payment (Column 8 + 9 - 11% Discount)
Anton Elementary School	50,150	230	15,837	231	34,313	-1	29,166	-19	25,941
Cole Elementary School	31,450	206	27,228	204	4,222	2	3,589	37	3,227
Inghram Elementary School	32,300	181	24,658	188	7,642	-7	6,496	-131	5,665
Jones Elementary School	32,300	138	7,873	119	24,427	19	20,763	356	18,796
Arrowview Middle School	95,000	385	47,776	269	47,224	116	40,140	2,174	37,659
Arroyo Valley High School	58,000	245	24,398	210	33,602	35	28,562	656	26,004
Curtis Middle School	84,800	338	25,772	260	59,028	78	50,174	1,462	45,956
Cesar Chavez Middle School	35,000	139	19,858	142	15,142	-3	12,871	-56	11,405

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Table 2 Continued

1 School /Site	2 Original Invoice Cabling (in feet)	3 Original Invoice No. of Drops	4 Actual Cabling (in feet)	5 Actual Drops	6 Excess Cabling Footage Charged (Column 2-4)	7 Excess Drops Charged (Column 3-5)	8 Amount Over- charged @ \$85/foot (Column 6 x \$85)	9 Amount Over/Under Charged @ \$18.74/drop (Column 7 x \$18.74)	10 USF Over- payment (Column 8 + 9 - 11% Discount)
Del Vallejo Middle School	43,000	245	32,238	178	10,762	67	9,148	1,256	9,260
Golden Valley Middle School	60,000	225	10,553	89	49,447	136	42,030	2,549	39,675
King Middle School	35,000	135	12,540	128	22,460	7	19,091	131	17,108
Richardson Middle School	70,000	303	31,095	303	38,905	0	33,069	0	29,431
Pacific High School	84,000	335	52,334	360	31,666	-25	26,916	-469	23,538
San Andreas High School	62,500	202	21,462	216	41,038	-14	34,882	-262	30,812
San Bernardino High School	57,000	267	22,446	229	34,554	38	29,371	712	26,774
Serrano Middle School	64,000	303	32,669	276	31,331	27	26,631	506	24,152
Shandin Hills Middle School	97,000	427	53,244	438	43,756	-11	37,193	-206	32,918
Sierra High School	56,000	244	24,448	230	31,552	14	26,819	262	24,102
TOTAL	1,047,500	4,548	486,429	4,070	561,071	478	\$476,911	\$8,958	\$432,423

After SBCUSD questioned the accuracy of the invoices that had already been submitted to USAC and reimbursed by USAC, the service provider provided SBCUSD proposed revised invoices with adjusted cable amounts to reflect actual footage. The revised invoices added equipment and services charges without decreasing total amounts billed on initial invoices. SBCUSD questioned the addition of equipment and services in the revised invoices and the service provider responded with a second set of revised bills.

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The second set of revised invoices had the actual cable footage charges without additional equipment and services, but added charges for bonding to arrive at the same total charges as the initial invoices. SBCUSD questioned the additional charges for bonding that were not listed in the contract as a cost of installing cable.

Because of questions regarding the revised bills, SBCUSD stopped verifying invoices for payment. A number of additional invoices have not been certified and the service provider has not submitted them for payment.

Cause: The service provider billed SBCUSD based upon bid estimates, rather than actual amounts.

Effect: USF overpaid the service provider resulting from the service provider overcharging for cable footage and drop amounts. The amount of the overpayment is shown in Table 3 below:

Funding Year	Cabling Excess Charged	Drops Excess Charged	Total Excess Charged	Less Discount Percentage	Total Over-payment by USAC
FY 2006	\$416,897	\$8,714	\$425,611	11%	\$378,794
FY 2007	\$60,013	\$244	\$60,257	11%	\$53,629
Totals	\$476,910	\$8,958	\$485,868		\$432,423

Recommendation: SBCUSD needs to validate the cabling received before submitting certification of equipment received. We recommend that USAC seek recovery of \$432,423 of USF funds resulting from the service provider invoicing for estimates that exceeded the actual cable footage installed.

Beneficiary Response⁴: SBCUSD requested additional details regarding the invoices submitted by the service provider due to the noted discrepancies in the cabling quantities and number of drops as part of its due diligence and normal invoice review process. The request for additional details was not performed in anticipation of, or as a result of the audit as stated.

SBCUSD did not request the service provider revise its invoices. SBCUSD only requested the service provider provide accurate invoices for actual equipment, materials or other services provided by the service provider

Due to the ongoing investigation and potential litigation with the service provider, SBCUSD feels it would be inappropriate to comment further on the issues surrounding

⁴ Beneficiary's response is summarized. See Appendix A for SBCUSD's complete response

this finding at this time. SBCUSD feels the auditors have presented the facts as best they are able.

Notwithstanding the above, it is SBCUSD's intention to fully cooperate with USAC in its investigation and to comply with its findings and recommendations.

OIG Response: We have revised the final report in response to the Beneficiary's additional information that their review of invoices was due to their regular review process and was not a response to the notification of our audit. We have clarified the language that SBCUSD did not request that the service provider revise the invoices, but that SBCUSD requested the service provider provide accurate invoices. Our recommendations have not changed and we recommend USAC seek recovery of \$432,423.

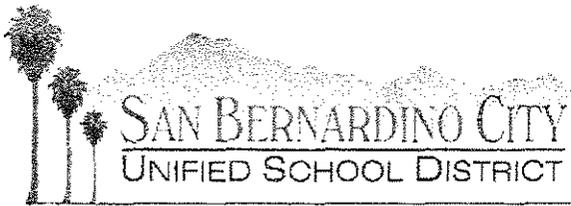
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Appendix A

San Bernardino City Unified School District's Responses⁵

⁵ Responses do not include attachments. Attachments were a SBCUSD appeal to FCC (Number SLD 143740) and a SBCUSD letter forwarding responses to FCC OIG management letter.

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Arturo Delgado, Ed.D.
Superintendent

Mohammad Z. Islam, Chief Business and Financial Officer

April 15, 2010

Beth Engelmann, Auditor
Federal Communications Commission / Office of Inspector General
445 12th Street, SW
Washington, DC 20554

Re: District Response To FCC Audit Report - Findings

Dear Ms. Engelmann:

The following information is presented for consideration and in response to the report resulting from the Attestation Examination of San Bernardino City Unified School District's compliance with the applicable requirements of the FCC's rules and orders governing Universal Service support for the Schools and Libraries Support Mechanism ("SLSM" or "E-Rate Program") relative to disbursements of \$7,780,214.59 made from the Universal Service Fund ("USF") during fiscal year ended June 30, 2008.

The following information is submitted in response to the identified issues regarding material noncompliance with 47 C.F.R. Section 54 and related order as described in Findings 1, 2 and 3 in Attachment II of the report dated March 31, 2010.

Finding #1 Ineligible Services/Goods

Beneficiary Response: As stated in the "Condition", the ineligible items were not identified and removed by USAC prior to issuance of the payment to the service provider. SBCUSD agrees that at the time many of the invoices being submitted for payment by the service provider to both the District and USAC were not reviewed in as much detail as perhaps they should have been and subsequently, the District took extreme measures to ensure a thorough review of all line items on the invoices that were submitted by the service provider. SBCUSD takes exception to the statement in the "Cause" section of the finding stating that "SBCUSD relied on the service provider to remove ineligible items from SPIs before submitting to USAC." With all due respect, the SPI process dictates that the Beneficiary rely on the service provider to remove ineligible items from the SPIs before submitting to USAC as there is no requirement that the invoices be submitted to the applicant prior to submission to USAC. Rarely (if ever) does the Beneficiary have access to the content of the SPIs prior to submittal to USAC for payment of the discounted portion and this is a common problem across the entire program. It is stated in the auditors' report that a "Recommendation" to rectify this situation would be for **USAC** to modify their review of invoices for a particular FRN when ineligible charges are identified even once. SBCUSD would respectfully contend that all invoices submitted for payment to USAC on behalf of a Beneficiary be reviewed and approved by the Beneficiary prior to issuance of any payment. This is precisely what occurs when a Beneficiary utilizes a BEAR process (Form 472) and if there is an issue with discounts provided for ineligible goods or services, it is very clear with whom the responsibility lays. When the invoicing method is Form 474 (SPI), the responsibility for submission of an invoice for only eligible goods

1

BUSINESS SERVICES DIVISION

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mohammad.islam@sbcusd.com

and services must lie with the service provider that is submitting the invoice as the Beneficiary is not responsible for preparing that invoice. This is a core deficiency in the process that has been identified time and time again (throughout most of the Attestation Examinations performed in all rounds) and as always, the beneficiary community at large would welcome clarification and/or codification of the roles and responsibilities regarding the various invoicing processes allowed under the program.

In general, this finding and the "Recommendation" is somewhat disconcerting in narrative form because it seems that the auditors have indicated a measure of responsibility for both the Beneficiary *and* USAC. The responsibility for the "Cause" seems to be misstated in that it indicates that the Beneficiary should have reviewed the invoices prior to submission to USAC. As stated numerous times throughout the course of the Examination, the Beneficiary of SLSM support has zero visibility into the processes behind a SPI submission and rarely (if ever) does an applicant even see a SPI prior to submission. On occasion, a SPI is reviewed post submission if and/or when the invoice is selected for a subsequent invoice review and Service Certification. Even then, a Service Certification is asking a Beneficiary to certify they have paid the undiscounted portion of the invoice. There is nothing on the Service Certification requiring the applicant to certify that the invoice subject to payment is for only eligible goods and services. Again, there is no opportunity for an applicant to review the invoice for the discounted portion of the goods and/or services delivered.

SBCUSD respectfully requests that the narrative(s) associated with this finding be re-evaluated and addressed accordingly to proportionately state the "Cause" and the "Recommendation" in accordance with Attestation Examination guidelines.

SBCUSD does concur with the auditors' findings regarding the ineligibility of the power strips and asbestos abatement activities though we do question the determination of ineligibility of the pull boxes and junction boxes on a low voltage cabling project. We are very aware of the ineligibility of high voltage/electrical work with regard to receipt of SLSM discounts. We request that the dollars recommended for recovery associated with the pull boxes and junction boxes (\$9,355.46 pre-discount - \$8,326.36 at 89% discount) be tabled until we are able to determine in what capacity these items were used. There is every possibility that the terminology is wrong and that the items were used in an eligible fashion, therefore not subject to recovery.

As acknowledged in further discussion within this report, SBCUSD is currently in an active complaint investigation in conjunction with USAC's task force on Waste, Fraud and Abuse that is the DIRECT result of a Whistleblower call that was made by District staff once erroneous invoicing from this service provider was discovered. This call was made in early calendar year 2009, prior to the arrival of the FCC/OIG audit team and was discovered as a direct result of the fastidious review of invoices that the District performs. SBCUSD feels that the status of this ongoing investigation should be considered prior to the issuance of any COMAD and Demand for Payment. Additionally, the District is in litigious proceedings with this particular service provider and any and all payments and/or adjustments must take this into consideration.

Upon receipt of a Commitment Adjustment and Demand for Payment, San Bernardino City Unified School District will act in accordance with SLSM guidelines, USAC investigation guidelines and litigation settlement(s) guidelines for remittance of the funds subject to recovery.

Finding #2 Free Products or Services

Beneficiary Response: SBCUSD respectfully contends that this finding's "Condition", "Cause" and "Effect" are not in line with the "Criteria" as stated in the report. The "Criteria" clearly states that "Per 47 CFR 54.523, the School/District deducted from the pre-discount cost of services contained in the funding requests the value of all price reductions, promotional offers and 'free' products or services." This statement indicates compliance with the rule and is an accurate statement in that SBCUSD was not offered nor did they apply for discounts on "free services" at any time during the funding and/or disbursement process. SBCUSD contends that this finding be related to an inability of the applicant to demonstrate compliance with their responsibility to pay the non-discounted share per CFR 54.523(a), school districts must pay all "non-discount" portions of requested goods and/or services. There was never a time at which SBCUSD intended to receive free goods or services and frankly, they were unaware that USAC had directed the service provider to submit an invoice for 100% (or remaining 89%) [correction]¹ of the items identified as ineligible and not paid by USAC. Here again is where the 'system' fails the Beneficiary because there is no notification from USAC to the Beneficiary that the items were not paid because they were deemed ineligible. If there were a notification sent to the Beneficiary, they could be expecting an invoice from the service provider. If that invoice is not received in a timely manner, the Beneficiary would be able to follow up with the service provider to ensure compliance. Had the Beneficiary been invoiced by the service provider for the remaining portion of the \$7,019.99 (\$6,247.79 at 89%) [correction]², the invoices would have been paid.

At the outset, SBCUSD contends that the additional discussion in Finding #2 regarding the other goods and services identified as ineligible by the on-site FCC/OIG audit team, (\$35,736.50) should be removed from this finding as they are addressed/discussed in Finding #1 with recommended disposition and since the circumstances are not the same as those of the \$7,019.99, this issue should stand alone under the "Criteria" noted in finding #1. Our reasoning is supported further in that to date, there has been no direction given to SBCUSD as to next steps. Our notification consists of this report, nothing more. The auditors' report clearly states that these items were identified as ineligible *during the on-site examination*, not by USAC during any potential review of the invoices at the time of submission and payment.³ When the service provider DOES invoice SBCUSD for the remaining 89% (\$31,805.49) [correction]⁴; as stated in the Beneficiary response for Finding #1, SBCUSD has every intention of complying with any Demand for Payment that is submitted by USAC with all considerations given to the situation(s) surrounding the service provider.

¹ Page 8, para 1 Auditors' report states "...however, the service provider did not re-issue invoices to SBCUSD for the remaining 90% or \$6,317.99..." *SBCUSD was approved for an 89% discount on this FRN.*

² Page 8, para 1 Auditors' report states "...however, the service provider did not re-issue invoices to SBCUSD for the remaining 90% or \$6,317.99..." *SBCUSD was approved for an 89% discount on this FRN.*

³ Page 8, para 2 Auditors' report states "In other invoices under FRN 1484692 that USAC did not review..."

⁴ Page 8, para 2 Auditors' report states "By not paying the remaining 90% or \$32,162.85 of the total cost..." *SBCUSD was approved for an 89% discount on this FRN.*

Additionally, the discussion in the "Condition" section as to the fact that "SBCUSD paid only 10% of the cost as required...although the non-discount portion for this FRN is 11%"...is misleading. Per California Public Contract Code 9203, the District is required to withhold a minimum of 5% (*retention*) of any progress payments on projects considered to be Public Works. Notwithstanding the statute, the contract documents with the service provider, and as is customary in the industry, required 10% retention be withheld on all progress payments. Since the project is one in which there is a supplemental funding source (SLSM) that is responsible for a large portion of the payment to the service provider and we have no control over the payment processes from the other funding source, the retention can only be held from the District's portion (11%). 10% of 11% is 1.1% (or 1%) and all payments to the service provider withhold the 1% as required by law. The 1% differential will be paid to the service provider upon the acceptance and filing of the Notice of Completion. Again, there is no intention to receive free goods/services but SBCUSD must comply with local and State procurement guidelines whether the project involves the SLSM or not.

SBCUSD would also request that the language in the report in the "Cause" section of Finding 2 be clarified. We are confused as to who the auditors are referring to on lines 4-5 of the Cause paragraph (page 9 of 18). Who is it that "...again relied on the service provider to reissue invoices to SBCUSD for the ineligible items"? Is it USF or USAC? The acronym used on line 4 of the paragraph is SBCUSF and we are unaware as to who this is. Please clarify. If the clarification states that it was USAC who again relied on the service provider to reissue the invoices (as we suspect), SBCUSD contends that as stated previously, there is zero visibility to these processes between USAC and the service provider as to preparation, submission and payment of the invoices and we are perplexed as to how a Beneficiary can be held responsible when they are essentially kept out of the loop. This is not to imply that SBCUSD is not fully committed to payment of the complete undiscounted share, including identified ineligible goods or services, but the question of responsibility for identification of the deficiency remains unanswered.

Finding #3 Service Provider Over Charges

Beneficiary Response: SBCUSD would like to clarify some of the statements in the "Condition" for Finding #3. Specifically, the statement "When preparing for our examination, SBCUSD questioned the service provider's invoices because the amount of cable installed for the corresponding number of drops and the size of the school appeared unreasonable for particular schools." SBCUSD requested additional details regarding the invoices submitted by the service provider due to the noted discrepancies in the cabling quantities and number of drops as part of its due diligence and normal invoice review process. The request for additional details was not performed in anticipation of, or as a result of the audit as stated.

The other statement SBCUSD would like to clarify in the "Condition" for Finding #3 is, "Upon request from SBCUSD to review the invoices already submitted to USAC and reimbursed, the service provider provided proposed revised invoices to SBCUSD with adjusted cable amounts to reflect actual footage." SBCUSD did not request the service provider revise its invoices. SBCUSD only requested the service provider provide accurate invoices for actual equipment, materials or other services provided by the service provider. The service provider submitted various inconsistent invoices that had different quantities that SBCUSD requested additional information and clarification based on the documents received from the service provider. The service provider kept revising its invoices on its own and not at

the direction or request of SBCUSD. With the clarifications noted above, the following is SBCUSD's additional response to Finding #3:

Due to the ongoing investigation and potential litigation with the service provider, SBCUSD feels it would be inappropriate to comment further on the issues surrounding this finding at this time. SBCUSD feels the auditors have presented the facts as best as they are able under the circumstances and would like to defer further discussion until such time as USAC's Whistleblower complaint department moves forward with their investigation.

Notwithstanding the above, it is SBCUSD's intention to fully cooperate with USAC in its investigation and to comply with its findings and recommendations. SBCUSD is continuing to work with the service provider to obtain more information on the actual quantities and equipment installed, as well as any other costs invoiced by the service provider. SBCUSD will await further direction from USAC.

If you have any questions, please do not hesitate to contact me (909) 381-1164.

Sincerely,

A handwritten signature in black ink, appearing to read "Mohammad Z. Islam". The signature is fluid and cursive, with the first name being the most prominent.

Mohammad Z. Islam

Chief Business and Financial Officer

MZI:ra

Attachments:

1. Letter –Management Comments
2. Request For Waiver

cc: Dr. Arturo Delgado, Superintendent
Dr. Paul Shirk, Assistant Superintendent, Research / Systems Analysis
Mr. Dilip Patel, Director, Information Technology

Appendix B

USAC's Responses

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USAC Management Response

Date: September 21, 2010

Re: Federal Communications Commission, Office of Inspector General,
Universal Service Fund (FCC OIG USF) Audit of the Schools & Libraries
Program at San Bernardino City Unified School District

USAC management has reviewed the FCC OIG USF Audit of the San Bernardino City Unified School District. Our response to the audit is as follows:

Finding ID: SL2008BE238_F01

Finding/Comment Narrative:

SBCUSD received and was reimbursed for ineligible items related to internal connections Funding Request Number ("FRN") 1484692. The ineligible equipment and services included pull boxes, junction boxes, vertical power strips, and asbestos removal services. The vertical power strips and asbestos removal services were listed as ineligible items on the ESL for FY 2007. The pull boxes and junction boxes were not listed as eligible on the ESL for FY 2007. Moreover, pull boxes and junction boxes fall under wiring and components that provide electrical service which were listed as ineligible Internal Connection Components (page 14, Schools and Libraries Eligible Services List for FY 07). We reviewed all service provider invoices ("SPI") for FRN 1484692. Our review of SPIs disclosed that some ineligible goods and services were not removed prior to requests for reimbursement which resulted in SBCUSD receiving reimbursement from USF for ineligible items. In other cases, USAC reviewed and removed ineligible items prior to reimbursement. USAC did not expand its review to include all SPIs for the FRN after learning that the service provider did not remove ineligible items.

Management Comment:

USAC will reach out to the service provider, affording it the opportunity to substantiate its Form 474 submission. If the Form 474 submission cannot be substantiated, USAC will seek recovery of \$31,805.48. Going forward, USAC will review invoices if it is deemed appropriate. USAC management concurs with the finding and recommendation.

Finding ID: SL2008BE238_F02

Finding/Comment Narrative:

SBCUSD received "free goods/services" related to FRN 1484692 from the service provider. We reviewed all of the SPIs for FRN 1484692. Our review determined that SBCUSD has not paid 100% of the cost for ineligible items that were included in SPIs submitted under that FRN. Rather, SBCUSD paid only 10% of the cost as required by the

service provider, although the non-discount portion for this FRN is 11%. In some invoices under FRN 1484692, USAC reviewed, identified and removed ineligible items totaling \$7,019.99 prior to disbursement of support. After USAC removed the ineligible items, however, the service provider did not re-issue invoices to SBCUSD for the remaining 90% or \$6,317.99 associated with the ineligible items that USAC removed.

In other invoices under FRN 1484692 that USAC did not review, USAC disbursed support for ineligible items totaling \$35,736.50. By not paying the remaining 90% or \$32,162.85 of the total cost, SBCUSD has, in effect, received free goods and services in that amount. (In addition, as stated in Finding 1, we recommend that USAC recover the 89% discount).

Management Comment:

The Beneficiary should refer to USAC's website for guidance on receiving free services. USAC management concurs with the finding, effect, and recommendation and will seek recovery of the free services valued at \$6,317.99

Finding ID: SL2008BE238_F03

Finding/Comment Narrative:

An SBCUSD service provider over-billed USAC for \$432,423 for cabling on SBCUSD invoices related to FRN 1578852. The service provider billed USAC for costs based on estimates that were higher than the actual costs. Before SBCUSD realized the bills were based on estimates, however, SBCUSD certified some of the invoices and USAC disbursed funds for FRN 1578852. When preparing for our examination, SBCUSD questioned the service provider's invoices because the amount of cable installed for the corresponding number of drops and the size of the school appeared unreasonable for particular schools. Subsequently, the service provider provided actual measurements of the cabling and corresponding drops for the questioned invoices which confirmed the overcharges. After the actual measurements were determined, the service provider proposed revised invoices based on actual measurements. We reviewed all the SPIs under FRN 1578852, along with the proposed revised invoices submitted to SBCUSD.

Upon request from SBCUSD to revise the invoices already submitted to USAC and reimbursed, the service provider provided proposed revised invoices to SBCUSD with adjusted cable amounts to reflect actual footage. The revised invoices added equipment and services charges without decreasing total amounts billed on initial invoices. SBCUSD questioned the addition of equipment and services in the revised invoices and the service provider responded with a second set of revised bills. The second set of revised invoices had the actual cable footage charges without additional equipment and services, but added charges for bonding to ensure the same total charges as the initial invoices. SBCUSD questioned the additional charges for bonding that were not listed in the contract as a cost of installing cable. Because of questions regarding the revised bills, SBCUSD stopped verifying invoices for payment. A number of additional invoices have not been certified and the service provider has not submitted them for payment.

Management Comment:

On FCC Form 473, Service Provider Annual Certification Form, Block 2, Item 10, the service provider certifies that the SPIs they submit, “contain requests for universal service support for services which have been billed to the service provider’s customers on behalf of schools, libraries, and consortia of those entities, as deemed eligible for universal service support by the fund administrator.” USAC management concurs with the finding and recommendation and will seek recovery of \$432,423.

This concludes the USAC management response to the audit.