

## Attachments

## Attachment 1

Jayne Christakos

SAN BERNARDINO CITY UNIF S D

777 North F. Street

SAN BERNARDINO, CA 92410 3014



**Notification of Commitment Adjustment Letter**

**Funding Year 2006: July 1, 2006 - June 30, 2007**

June 07, 2017

**Jayne Christakos**  
**SAN BERNARDINO CITY UNIF S D**  
**777 N F ST**  
**SAN BERNARDINO, CA 92410 3014**

<b>Re: Form 471 Application Number:</b>	<b>536567</b>
<b>Funding Year:</b>	<b>2006</b>
<b>Applicant's Form Identifier:</b>	<b>SBCityCableY9</b>
<b>Billed Entity Number:</b>	<b>143740</b>
<b>FCC Registration Number:</b>	<b>0004119814</b>
<b>SPIN:</b>	<b>143006793</b>
<b>Service Provider Name:</b>	<b>Checkpoint Communications Inc.</b>
<b>Service Provider Contact Person:</b>	<b>James Shoaff</b>

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

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Schools and Libraries Program  
Universal Services Administrative Company

cc: James Shoaff  
Checkpoint Communications Inc.

**Funding Commitment Adjustment Report for  
Form 471 Application Number: 536567**

Funding Request Number:	1484692
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:	\$3048,619.34
Commitment Adjustment Amount:	\$3048,619.34
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date	\$2002,606.70
Funds to be Recovered from Applicant:	\$2002,606.70
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multiple requests for documentation and application review, it has been determined that this funding commitment must be rescinded in full.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 improperly disbursed funds from the applicant.

James Shoaff  
Checkpoint Communications Inc.  
15412 Electronic Lane Ste 102  
Huntington Beach, CA 92649





**Notification of Commitment Adjustment Letter**

**Funding Year 2006: July 1, 2006 - June 30, 2007**

June 07, 2017

Jayne Christakos  
SAN BERNARDINO CITY UNIF S D  
777 N F ST  
SAN BERNARDINO, CA 92410 3014

Re: Form 471 Application Number: 536567  
Funding Year: 2006  
Applicant's Form Identifier: SBCityCableY9  
Billed Entity Number: 143740  
FCC Registration Number: 0004119814  
SPIN: 143006793  
Service Provider Name: Checkpoint Communications Inc.  
Service Provider Contact Person: James Shoaff

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Schools and Libraries Program  
Universal Services Administrative Company

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Form 471 Application Number: 536567**

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Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143006793
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Contract Number:	32-05
Billing Account Number:	
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Original Funding Commitment:	\$3048,619.34
Commitment Adjustment Amount:	\$3048,619.34
Adjusted Funding Commitment:	\$0.00
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Funding Commitment Adjustment Explanation:	

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**Notification of Commitment Adjustment Letter**

**Funding Year 2007: July 1, 2007 - June 30, 2008**

June 07, 2017

**Jayne Christakos**  
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<b>Funding Year:</b>	<b>2007</b>
<b>Applicant's Form Identifier:</b>	<b>SBCUSDY10P2</b>
<b>Billed Entity Number:</b>	<b>143740</b>
<b>FCC Registration Number:</b>	<b>0004119814</b>
<b>SPIN:</b>	<b>143006793</b>
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Form 471 Application Number: 562895**

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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:	\$2813,647.87
Commitment Adjustment Amount:	\$2813,647.87
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date	\$2813,647.87
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Funds to be Recovered from Applicant:	\$2813,647.87
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.

## Attachment 2



**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on Appeal – Funding Year 2006-2007**

July 14, 2017

Paul Stankus  
CSM  
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: 536567  
Funding Request Number(s): 1484692  
Your Correspondence Dated: June 30, 2017

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 2006 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): 1484692  
Decision on Appeal: **Denied**  
Explanation:

- After multiple requests for documentation and application review, USAC determined to rescind in full the commitment approved on the above listed Funding Request Number. 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, applicant defined the scope of the services in the RFP using four sample sites as a representation of the remaining 77 sites at the district. Applicant stated that those four sites represented the worst case scenarios for an elementary, middle, high school and administrative building. Applicant 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 applicant used these sample locations, applicant 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 applicant failed to provide a bona fide request for services, service providers could not provide accurate bids and applicant violated the FCCs requirements for fair and open competitive bidding process. Applicant's funding commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant. In your appeal, you did not demonstrate that USAC's decision was incorrect. Consequently, your appeal is denied.

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

cc: Dr. Dale Marsden



**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on Appeal – Funding Year 2007-2008**

July 14, 2017

Paul Stankus  
CSM  
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: 562895  
Funding Request Number(s): 1578852  
Your Correspondence Dated: June 30, 2017

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 2007 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): 1578852  
Decision on Appeal: **Denied**  
Explanation:

- After multiple requests for documentation and application review, USAC determined to rescind in full the commitment approved on the above listed Funding Request Number. 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, applicant defined the scope of the services in the RFP using four sample sites as a representation of the remaining 77 sites at the district. Applicant stated that those four sites represented the worst case scenarios for an elementary, middle, high school and administrative building. Applicant 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 applicant used these sample locations, applicant 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 applicant failed to provide a bona fide request for services, service providers could not provide accurate bids and applicant violated the FCC's requirements for fair and open competitive bidding process. Applicant's funding commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant. In your appeal, you did not demonstrate that USAC's decision was incorrect. Consequently, your appeal is denied.

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

cc: Dr. Dale Marsden

## Attachment 3



Paul Stankus  
CSM  
3130-C Inland Empire Blvd  
Ontario, CA, 91764  
(888) 944-7798 x149  
[pstankus@csmcentral.com](mailto:pstankus@csmcentral.com)

June 30, 2017

**COMAD Appeal of San Bernardino City USD (BEN 143740)  
2006 and 2007 Internal Connections FRNs**

2006 Form 471: 536567 FRN: **1484692**

2007 Form 471: 562895 FRN: **1578852**

On behalf of San Bernardino City Unified School District (SBCUSD BEN 143740), we wish to appeal the COMAD of 2006 and 2007 Funding Requests on the COMAD letters dated June 7, 2017, more than a full decade since the competitive bidding on these funding requests were conducted. In that time, these funding requests have been the subject to the following reviews outside of the normal PIA reviews:

1. A 2008 Selective Review (7/18/2008)
2. A 2008 KPMG Audit (12/17/2008)
3. A 2009 FCC OIG Audit (2/24/2009)
4. A 2014 'Look Back' Cost Effectiveness Review (9/12/2014)
5. A 2017 COMAD (6/07/2017)

Additionally the 2008 Funding Request from the same competitive bidding process – FRN 1756315 (currently under appeal with the FCC. Please see attached FCC Appeal filed August 12, 2016 ECFS Confirmation number 20160812223978371 ) have been the focus of

6. A 2011 Selective Review (10/14/2011)
7. A 2015 COMAD (4/21/2015)

For a total of seven heightened scrutiny reviews. Please see the Attachment, "San Bernardino High Level Review Tracker 06282017" for the full list of heightened scrutiny reviews USAC has subjected San Bernardino to. USAC has wasted hundreds of hours continuing to pursue this case over the course of a decade after previous reviews have reviewed the same documentation and approved the funding.

The most in-depth and definitive review on this competitive bidding process, the FCC OIG Audit, (attached, FCC\_OIG audit\_report.pdf dated September 30, 2010) reviewed the entire application process in 2009—from start to finish, including competitive bidding, invoicing, and record keeping. They determined that the only findings relating to these funding requests were related to the Invoicing portion of the process. There were NO findings related to competitive bidding. Consequently, if the most stringent review of all seven separate reviews conducted by USAC, KPMG, or the FCC indicated no problems with the competitive bidding, then the competitive bidding was done correctly. This new interpretation from USAC regarding worst case scenarios has only arisen in the last few years and is being applied retroactively as part of cost effectiveness evaluations. As we know, the FCC has never properly defined cost effectiveness – specifically in either the Ysletta or Net56 Orders, except to say that



it considers something 2-3x as much as comparable equipment or services as not cost effective. The FCC also stated at that time that it declines to adopt bright line standards. USAC has consistently substituted its own interpretation on cost effectiveness in lieu of actual programmatic guidance.

USAC contends in the 2006 and 2007 COMAD letters, that SBCUSD did not submit “bona fide requests for service, so that potential providers can provide accurate bids” and instead used a worst case scenario sample of four schools to determine school’s needs. Each of the sample schools chosen was indicated to be the most complicated of the schools of that type to establish an “outer limit” of what the district expected to encounter during the installation process—and then to tailor back the individual site installations. That allowed the district to budget adequately and for vendors to all bid on an even playing field. With 77 schools and non-instructional facilities, it is logistically impossible to survey every school for a competitive bidding process. In 2015, SBCUSD completed a needs audit of the entire district—a process that took three years to evaluate every single building. By the time it was complete, the first schools assessed were out of date and the process needed to start over again creating a never-completing loop. Holding the 8<sup>th</sup> largest school district in the State of California to the same standard as a 6 school district is absurd. Procurement would grind to a halt. It is logistically impossible for a large district the size of SBCUSD to adhere to the arbitrary standard USAC has created out of thin air with no basis in FCC rules or procurement best practices. USAC has exceeded its authority and is creating policy instead of administering the program with this improbable and impractical standard.

Worst case scenario modeling is a legitimate procurement technique used by large districts around the country. It is cost efficient for district personnel to develop requests for proposal and is fair and open across all vendors as all vendors are bidding on the same shared set of criteria. Worst-case scenario modeling actually saves the district money as per-unit costs are lower for the larger quantities of equipment—and that ultimately brings down the total cost of the project when the specific per-site installations are completed. It is far better for a large district to provide worst case scenario “not to exceed” budget requests and to come in (in this case, significantly) under budget, than to calculate average costs and have to come back to the Board of Education for additional funding when they did not budget high enough. After the invoicing process was complete, San Bernardino returned all extra funding via Form 500s to USAC that had not been used to be used as rollover for future funding years.

SBCUSD engaged a legal opinion to review the 2006, 2007 and 2008 Funding requests and their competitive bidding process. Legal review of the State of California Procurement laws in place at the time of the release of the RFP in 2005 concluded that SBCUSD complied with Federal, State, and Local Procurement rules during the competitive bidding process to conduct a fair and open competitive bidding process. Please see the letter from attorneys Atkinson, Andelson, Loya, Rudd, & Romo “Letter to Debra Love Re Bidding Process for E-rate Projects 6-18-15.pdf.” Under the Universal Service Order, districts are granted maximum flexibility to devise a bidding procedure that allows them to select the party who best meets their individual needs. Worst case scenario modeling is the option SBCUSD chose to operate this bid process. There is no one size fits all approach to competitive bidding. The FCC recognizes that a large district will not have the same competitive bidding process as a smaller district, as should USAC. Therefore, it is impractical to hold a large district to the same made-up criteria USAC developed for a smaller district.



Furthermore, based on the FCC order released yesterday (6/29/2017) DA 17-618, which dismissed a request for review from Checkpoint Communications for these 2006, 2007, and 2008 funding requests as moot because Footnote 3 indicates "dismissing as moot requests for review where USAC had taken the action the petitioner requested," it is clearly evident that the 2008 COMAD, and subsequently, the 2006 and 2007 COMADs contained within this appeal, were at the direction of outside actors with a long-standing dispute with SBCUSD which resulted in the district taking legal action against said actor. The denial of the "worst case scenario modeling" (the basis of this COMAD) is a made-up reason to justify the denial of the entire application competitively bid out a decade earlier. Consequently, the entire COMAD should be overturned and funding restored.

Sincerely,

Paul Stankus

**List of Attachments**

1. CAL for FRN 1484692—APPCOMAD
2. CAL for FRN 1578852--APP COMAD
3. Letter of Agency – CSM
4. San Bernardino High Level Review Tracker\_06282017
5. SBCUSD 2008 COMAD Appeal to FCC Final
6. Confirmation -- Appeal Filed to FCC (08.12.2016)
7. FCC\_OIG\_audit\_report
8. Letter to Debra Love Re Bidding Process for E-Rate Projects 6-18-15
9. DA-17-618A1

:

## Attachment 4





Dale Marsden, Ed. D.  
Superintendent

## Affidavit

I, Jayne Christakos declare the following:

I am the Chief Business Officer for San Bernardino City Unified School District ("SBCUSD" or "District") and have held that position since July 1, 2015.

I submit this affidavit in connection with the request to the Federal Communications Commission ("FCC") for review of a decision by the Administrator of the Universal Service Administrative Company ("USAC") adjusting E-Rate funding commitments to SBCUSD for 2006 and 2007.

The District prepared the requests for proposals provided to potential bidders for network equipment and cabling for SBCUSD E-Rate eligible projects in 2006 and 2007 ("RFPs"). The District prepared applications for E-Rate funding expressed in Funding Request Numbers 1484692 and 1578852 ("FRNs"). The District participated in repeated audits and information requests from the FCC and USAC related to SBCUSD E-Rate participation.

The FRNs relate to E-Rate discounts for network equipment and cabling for 77 SBCUSD sites divided into four categories: elementary schools, middle schools, high schools, and administrative buildings.

SBCUSD discussed the process set forth in the RFPs with its E-rate Consultant and obtained approval of the process from legal counsel from the County of San Bernardino. In reliance on prior satisfactory audits of SBCUSD contracting practices by USAC and the FCC, and in accordance with what it understood to be normal practice among school districts, the District prepared the RFPs using an indefinite quantity contract ("IQC") method based on sample sites. As the basis for bids for the RFPs, SBCUSD selected one example of each of the four categories of buildings.

The selected sample for each category was chosen because it was the largest facility in the category and thus represented the facility that would require the largest amount of network equipment and cabling. For internal purposes, sites needing the most equipment were referred to as the "worst-case scenarios." Because the entire contract was for network equipment and cabling, the equipment required was identical from site to site, the only variation being the quantities of equipment needed.

In the RFPs, bidders were provided a list of required equipment and were notified that they would be required to provide the quantities of such equipment that would be needed at every site. Bidders were directed to provide unit prices for each item, which price would be the contract price for all such items regardless of quantity ultimately purchased by SBCUSD. The bidders were required to identify particular equipment and configuration of equipment for each sample site and to provide a bid for the total cost for each sample site. SBCUSD awarded contracts for all the buildings based on the prices bid for the sample sites.

All bidders received the same information, including identification of sites, invitations to inspect sites, and detailed information about the sample sites.

## BUSINESS SERVICES



Dale Marsden. Ed. D.  
Superintendent

No bidder complained to SBCUSD about the RFPs, the bidding process, the use of sample sites, or the evaluation of bids.

SBCUSD requested \$3,081,111.91 in FRN 1484692 and received funding of \$2,002,606.70. SBCUSD requested \$5,374,710 in FRN 1578852 and received \$2,813,647.87. The amounts requested reflected the winning bids in each case. The amount ultimately received reflects the net funding to SBCUSD after return of unused funds via FCC Form 500.

The RFPs were approximately 180 pages long. Based on my experience with RFPs for E-Rate-eligible projects at SBCUSD, any RFP detailing network equipment or cabling needs at every SBCUSD site is estimated to exceed 1000 pages. Preparation costs for SBCUSD and bidding costs for contractors would have been unreasonably high.

SBCUSD has recently had experience preparing IQC RFPs on a site-by-site basis. It is my professional opinion that the increased cost and administrative burden has not improved the quality of the information provided to bidders and has not resulted in cost savings or project efficiency to SBCUSD. The sample site methodology has fairly, efficiently, and effectively served the network equipment and cabling needs of SBCUSD and its students and has met the goals of providing fair and open contracting for E-Rate projects at SBCUSD.

I declare that, to the best of my knowledge and belief, the foregoing is true and correct.

Executed on August 29, 2017

Jayne Christakos  
[signature]

\_\_\_\_\_  
Jayne Christakos

*JJC*

BUSINESS SERVICES

## Attachment 5



**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.

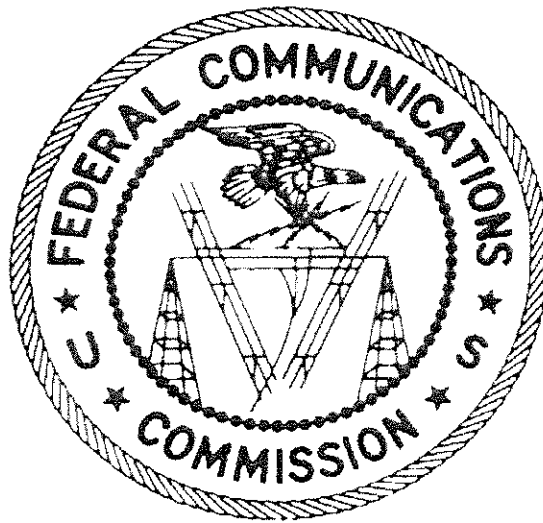
If you have questions, or need additional information, please contact Beth Engelmann, Director, USF Program Audits at 202-418-1448 or me at 202-418-0474, or [Gerald.grahe@fcc.gov](mailto:Gerald.grahe@fcc.gov).

Sincerely,

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

This document may contain confidential and proprietary information of the auditee protected from disclosure under the Trade Secrets Act and other laws and regulations. This document must be returned to the FCC's Office of Inspector General for review and removal of protected information before disclosure of any portion of it by any unit, representative, employee, or agent of the United States Government.

## 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*.

This document may contain confidential and proprietary information of the auditee protected from disclosure under the Trade Secrets Act and other laws and regulations. This document must be returned to the FCC's Office of Inspector General for review and removal of protected information before disclosure of any portion of it by any unit, representative, employee, or agent of the United States Government.



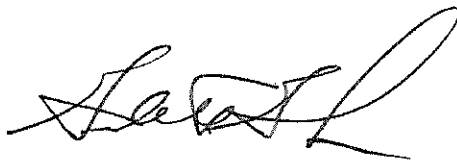
A control deficiency in an entity's internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing its assigned functions, to prevent or detect noncompliance with a type of compliance requirement of a federal 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

This document may contain confidential and proprietary information of the auditee protected from disclosure under the Trade Secrets Act and other laws and regulations. This document must be returned to the FCC's Office of Inspector General for review and removal of protected information before disclosure of any portion of it by any unit, representative, employee, or agent of the United States Government.



**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:

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
<b>TOTAL</b>		<b>\$ 35,736.50</b>	

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 Response<sup>1</sup>:** 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

<sup>1</sup> Beneficiary response is summarized. See Appendix A for the complete SBCUSD response.

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 Response<sup>2</sup>:** 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%<sup>3</sup> 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

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<sup>2</sup> Beneficiary response is summarized. See Appendix A for SBCUSD’s complete response.

<sup>3</sup> 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 @ \$8.85/foot (Column 6 x \$8.85)	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
<b>TOTAL</b>	<b>1,047,500</b>	<b>4,548</b>	<b>486,429</b>	<b>4,070</b>	<b>561,071</b>	<b>478</b>	<b>\$476,911</b>	<b>\$8,958</b>	<b>\$432,423</b>

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:

Table 3 – Total Over-payment by USAC					
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 Response<sup>4</sup>:** 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

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<sup>4</sup> 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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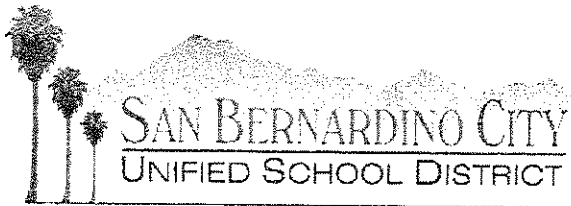
# Appendix A

## San Bernardino City Unified School District's Responses<sup>5</sup>

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<sup>5</sup> 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 12<sup>th</sup> 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

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]<sup>1</sup> 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]<sup>2</sup>, 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.<sup>3</sup> When the service provider DOES invoice SBCUSD for the remaining 89% (\$31,805.49) [correction]<sup>4</sup>; 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.

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<sup>1</sup> 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.*

<sup>2</sup> 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.*

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

<sup>4</sup> 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,



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

This document may contain confidential and proprietary information of the auditee protected from disclosure under the Trade Secrets Act and other laws and regulations. This document must be returned to the FCC's Office of Inspector General for review and removal of protected information before disclosure of any portion of it by any unit, representative, employee, or agent of the United States Government.



Universal Service Administrative Company

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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

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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.