

To: Mel Blackwell, Vice President, Schools and Libraries Division

From: Wayne Scott, Vice President, Internal Audit Division

Date: November 28, 2011

Re: Independent Auditor's Report on Durant Public School District's Compliance with Schools and Libraries Support Mechanism Rules (USAC Audit No. SL2008BE095)

Introduction

The Universal Service Administrative Company (USAC), at the direction of the Federal Communications Commission (FCC) Office of Inspector General (OIG), previously engaged Grant Thornton LLP (Grant Thornton) to render an opinion concerning Durant Public School District's (Beneficiary) compliance with the regulations and orders governing the Schools and Libraries Support Mechanism, set forth in 47 C.F.R. Part 54, as well as other program requirements (collectively, the Rules) and to assist in fulfilling FCC requirements related to the Improper Payments Information Act (IPIA)¹ for Schools and Libraries Program support disbursements. Grant Thornton withdrew from the engagement after completing all audit procedures. The withdrawal required the initial reporting of 100% of the Schools and Libraries Program support disbursements received for the initial audit period as improper for purposes of the IPIA.

The FCC OIG directed USAC Internal Audit Division (IAD) to complete the examination of Durant Public School District, Billed Entity Number (BEN) 128614, to assess whether the Beneficiary was compliant with the Rules. The period under audit was for disbursements made by USAC during the period July 1, 2007 through June 30, 2008 (initial audit period). Grant Thornton conducted the audit in accordance with Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States (2007 Revision, as amended).² Because Grant Thornton substantially completed the audit, we were able to review the audit work performed, including the work papers, which allowed us to place reliance on the work performed by Grant Thornton.

¹ See 31 U.S.C. § 3122; Public Law 107-300, Stat. 2350, November 26, 2002.

² See Government Accountability Office, "Government Auditing Standards: July 2007 Revision," GAO-07-731G, § 7.42 (July 2007).

The Beneficiary is a public school district located in Durant, Mississippi that serves over 500 students.

Purpose and Scope

The purpose of the audit was to determine whether the Beneficiary complied with the Rules. The audit was performed to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the objectives. The audit included examining Grant Thornton's audit work papers and supporting documentation (including the audit findings). The audit also included examining, on a test basis, evidence supporting the competitive bidding process undertaken to select a service provider; data used to calculate the discount percentage; the type and amount of services received; physical inventory of equipment purchased and maintained; and performing other procedures we considered necessary to form a conclusion. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

The following chart summarizes the Schools and Libraries Program support amounts committed and disbursed to the Beneficiary for Funding Year 2006 (revised audit period³):

Service Type	Amount Committed	Amount Disbursed
Internal Connections	\$670,896	\$421,185
Basic Maintenance of Internal Connections	\$14,818	\$14,818
Total	\$699,145	\$439,145

The committed total represents three FCC Form 471 applications with nine Funding Request Numbers (FRNs). Grant Thornton selected one of the FRNs and we selected three additional FRNs, which represent \$339,524 of the funds disbursed during the revised audit period, to perform the procedures enumerated below with respect to the Funding Year 2006 applications submitted by the Beneficiary.⁴

Our procedures were performed to determine whether the Beneficiary complied with the Rules. For the purposes of this report, a finding is a condition that shows evidence of noncompliance with the Rules. An "other matter" is a condition that does not necessarily constitute a rule violation but warrants the Beneficiary and USAC management's attention.

³ As a result of Grant Thornton's withdraw, USAC IAD expanded the scope of the audit to include all FRNs committed and disbursed for Funding Year 2006 utilizing the same service provider identified in the FRN selected for audit by Grant Thornton.

⁴ The sample selected by the FCC OIG was comprised of disbursements made by USAC from July 1, 2007 through June 30, 2008, which included disbursements for funding requests submitted by the Beneficiary for Funding Year 2006.

Conclusion

USAC IAD concludes that the Beneficiary was not compliant with the Rules for the period examined. Our examination disclosed nine audit findings and one other matter. A summary of the results and procedures are included below.

Findings

- Failure to comply with competitive bidding requirements.
- Lack of documentation – untimely implementation of non-recurring services.
- Lack of necessary resources to make effective use of services.
- Lack of competitive bidding documentation.
- Untimely submission of FCC Form 471.
- Violation of the 28-day waiting period.
- Lack of documentation – equipment not identified in contract.
- Service provider failure to perform basic maintenance services.
- Untimely payment to service provider.

Other Matter

- Failure to segregate service types.

Exceptions Taken and Recovery Action

Findings	Monetary Effect of Finding	USAC Management Recovery Action
#1 - Failure to comply with competitive bidding requirements.	\$339,524	\$TBD
#2 - Lack of documentation – untimely implementation of non-recurring services.	\$324,707	\$TBD
#3 - Lack of necessary resources to make effective use of services.	\$155,404	\$TBD
#4 - Lack of competitive bidding documentation.	\$44,188	\$44,188
#5 - Untimely submission of FCC Form 471.	\$44,188	\$44,188
#6 - Violation of the 28-day waiting period.	\$14,818	\$14,818
#7 - Lack of documentation – equipment not identified in contract.	\$14,818	\$14,818
#8 - Service provider failure to perform basic maintenance services.	\$14,818	\$14,818
#9 - Untimely payment to service provider.	\$0	\$0

Total Net Monetary Effect	\$952,465	\$TBD
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Note: The monetary effect and the recovery amounts noted above include exceptions that overlap. To prevent double counting, the maximum recommended recovery is \$339,524 of the \$439,145 disbursed to the Beneficiary.

Audit Procedures, Findings, and Responses

A. Application Process

We obtained an understanding of the Beneficiary's processes relating to the Schools and Libraries Program. Specifically, we examined documentation to support its effective use of funding and that adequate controls exist to ensure funds were or will be used in accordance with the Rules. We used inquiry and direct observation to ensure the Beneficiary was eligible to receive funds and had the necessary infrastructure to support the services for which funding was requested.

We obtained and examined documentation to determine that the Beneficiary complied with the Schools and Libraries Program Children's Internet Protection Act (CIPA) requirements. Specifically, we obtained and evaluated the Beneficiary's Internet Safety Policy. We obtained an understanding of the process by which the Beneficiary communicated and administered the policy. We also used inquiry to obtain an understanding of the process the Beneficiary used to calculate its discount percentage and validated its accuracy.

B. Competitive Bid Process

We obtained and examined documentation to ensure that all bids received were properly evaluated and price was the primary factor considered. We also obtained and examined evidence that the Beneficiary waited the required 28 days from the date the FCC Form 470 was posted on USAC's website before signing contracts or executing month-to-month agreements with service providers. We reviewed the service provider contracts to determine whether they were properly executed. We evaluated the equipment and services requested and purchased for cost effectiveness as well.

C. Invoicing Process

We reviewed invoices for which payment was disbursed by USAC to determine that the equipment and services claimed on the FCC Form 474 Service Provider Invoices (SPIs) and corresponding service provider bills were consistent with the terms and specifications of the service provider contracts or agreements for month-to-month services. We also examined documentation to ensure the Beneficiary paid its non-discounted share in a timely manner.

D. Site Visits

We performed a physical inventory to evaluate the location and use of equipment and services to ensure it was located in eligible facilities and utilized in accordance with

the Rules. We evaluated whether the Beneficiary had the necessary infrastructure to support the equipment and services for which funds was requested. We also evaluated the services and equipment purchased by the Beneficiary for cost effectiveness to ensure funding is used in an effective manner.

E. Technology Plan

We obtained an understanding of the Beneficiary's technology planning process and examined the applicable technology plan to ensure it met the criteria set forth in the Rules and reviewed documentation to ensure it was approved by an independent entity certified by USAC.

F. Reimbursement Process

We obtained and examined invoices submitted for reimbursement for equipment and services delivered to the Beneficiary and performed procedures to ensure that USAC was invoiced properly. Specifically, we reviewed invoices associated with the SPI forms for services and equipment provided to the Beneficiary. We verified that the equipment and services claimed on the SPI forms and corresponding service provider bills were consistent with the terms and specifications of the service provider agreements and eligible in accordance with the Schools and Libraries Program Eligible Services List.

Our audit findings, including the other matter, as well as the responses to the findings and the other matter are provided below. We have evaluated the validity of the Beneficiary's and service provider's (where applicable) responses to our findings and the other matter, and our position on the issues remains unchanged.

Finding #1
Failure to Comply with Competitive Bidding Requirements

Criteria

“[A]n eligible school, library, or consortium that includes an eligible school or library shall seek competitive bids, pursuant to the requirements established in this subpart, for all services eligible for support under §§54.502 and 54.503. 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.” 47 C.F.R. § 54.504(a) (2006).

“[The] FCC Form 471 shall be signed by the person authorized to order telecommunications and other supported services for the eligible school, library or consortium and shall include that person’s certification under oath that: The entities listed on the FCC Form 471 application have complied with all applicable state and local laws regarding procurement of services for which support is being sought.” 47 C.F.R. § 54.504(c)(1)(iii) (2006).

“All agencies and governing authorities shall purchase their commodities . . . as herein provided Purchases which involve an expenditure of more than Fifty Thousand Dollars (\$50,000.00), exclusive of freight and shipping charges, may be made from the lowest and best bidder after advertising for competitive bids once each week for two (2) consecutive weeks in a regular newspaper published in the county or municipality in which such agency or governing authority is located.... The date as published for the bid opening shall not be less than seven (7) working days after the last published notice. . . The notice of intention to let contracts or purchase equipment shall state the time and place at which bids shall be received, list the contracts to be made or types of equipment or supplies to be purchased, and, if all plans and/or specifications are not published, refer to the plans and/or specifications on file.” Miss. Code Ann. § 31-7-13(c)(i)(1) & (3).

The Mississippi Department of Education’s Purchasing Guidelines further provide that:

1. Applicant must file a Form 470. (Remember: you must wait 28 days after the posting of the 470 before the contract can be signed.)

Non-State Contract Purchases are as follows:

\$0 to \$3,500 - Purchase from any vendor

\$3,500 to \$15,000 - Obtain two (2) or more written quotes.

Over \$15,000 - Sealed bids are required for purchases in excess of \$15,000.

a. Invitation for bids - sent to potential bidders.

b. Public Notice - advertise once per week for two consecutive weeks in

newspaper.

c. Bid Opening - opened publicly at designated location on the eighth (8th) working day after last notice of advertisement.

*d. Award - after evaluation, award is made by written notice.*⁵

“Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of service delivered in a particular Funding Year. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well.” 47 C.F.R. § 54.516(a)(1) (2006).

“Schools, libraries, and service providers shall produce such records at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the FCC, or any local, state or federal agency with jurisdiction over the entity.” 47 C.F.R. § 54.516(b) (2006).

“Auditors must obtain sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions.” *Government Auditing Standards*, GAO-07-162G, ¶ 7.55 (2007 Revision, as amended).

Condition

We requested documentation to evaluate whether the competitive bidding process undertaken to select service providers for FRNs 1488538, 1488511, 1488561, and 1488740 satisfied the Rules and any applicable Mississippi state and local procurement and competitive bidding requirements. The Beneficiary did not provide documentation to support that the Request for Proposal (*e.g.*, invitation for bids) was advertised once per week for two consecutive weeks in the newspaper, that the bids received were opened publicly at a designated location on the eighth working day after the last notice of advertisement, and that the winning bidder was notified of the award by written notice as required by Mississippi state and local procurement rules.

We are required to conduct our audits in accordance with GAGAS, which require auditors to obtain sufficient, appropriate evidence to substantiate audit findings and conclusions. We do not have reasonable confidence that the Beneficiary adhered to the applicable Mississippi state and local procurement and competitive bidding requirements because adequate documentation was not provided for the above FRNs to demonstrate compliance with these requirements.

⁵ See Resources on Mississippi E-Rate Website, available at, http://www.mde.k12.ms.us/mis_new_site/mis_home7n_erate_resources.htm.

Cause

The Beneficiary did not have adequate documentation or data retention procedures to demonstrate compliance with the applicable Mississippi state and local procurement and competitive bidding requirements. In addition, the applicant did not demonstrate sufficient knowledge of the Rules regarding the retention of documents relating to the application, receipt, and delivery of funded services.

Effect

The monetary effect of this finding is \$339,524. This amount represents the total amount disbursed for FRNs 1488538, 1488511, 1488561, and 1488740.

Recommendation

We recommend USAC management seek recovery of \$339,524. We further recommend the Beneficiary implement policies and procedures to ensure it complies with the applicable purchasing and competitive bidding requirements set forth by the State of Mississippi and the Mississippi Board of Education. We also recommend the Beneficiary implement policies and procedures to ensure it retains adequate records "related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of service delivered in a particular Funding Year," as required by the Rules.

Beneficiary Response

Durant did follow state and local procurement law and policy when securing services from CameraWatch. In its finding the auditor quoted Mississippi Code and an E-Rate "Guideline" page from the Mississippi Department of Education.

First, Durant absolutely rejects the auditor reference to a guideline Web site that generalizes procurement requirements for state school districts as the guideline site does not carry weight or authority of law. Audit findings of this magnitude and financial consequence require precise legal cites rather than opinion presented on a secondary guidance document.

The auditor failed to recognize exceptions to the Mississippi Procurement Code Durant utilized when awarding this contract. Specifically, Miss. Code Ann. § 31-7-13(m)(xi) states:

Information technology products. Purchases of information technology products made by governing authorities under the provisions of purchase schedules, or contracts executed or approved by the Mississippi Department of Information Technology Services and designated for use by governing authorities.

The Mississippi Department of Information Technology Services provides guidance for technology purchases utilizing state approved contracts and vendors using the Mississippi EPL (Express Products List). For purchases over \$50,000 agencies are required to obtain two (2) or more quotes from EPL sellers. Durant utilized the RFP mechanism to allow qualified vendors to respond with specific solutions and Durant to equally compare responses.

Two qualified vendors responded -Camera Watch and Synergetics, both based in Mississippi and both listed on the EPL. Durant reviewed the responses and selected CameraWatch for the contract. The installation would span two fiscal years from July through September the following year and was in complete compliance with Mississippi procurement law. The Conditions in the auditor's findings were not required for this contract and the finding is moot.

USAC IAD Response

The Beneficiary's response does not support the position taken by the Beneficiary during the performance of the audit. The Beneficiary provided us with the Mississippi Department of Education's Purchasing Guidelines (the Guidelines) during the audit and informed us that the Guidelines were the authoritative language for procurement when the EPL had not been utilized. The Beneficiary never indicated during the audit that they had utilized the EPL nor is there any evidence in the RFP or other bid documentation provided by the Beneficiary indicating that the EPL was utilized. Furthermore, the Beneficiary's Form 470 and RFP were made publicly available on USAC's website and on the Beneficiary's website. The Beneficiary did not select vendors solely from the EPL to solicit bids. As indicated in the Criteria section above, in accordance with GAGAS, without sufficient, appropriate evidence, we cannot reasonably conclude that the Beneficiary was eligible for exceptions to the Mississippi Procurement Code. Therefore, our position on this finding remains unchanged.

USAC Management Response

Program rules require beneficiaries to follow state and local competitive bidding requirements as well as the E-rate rules on competitive bidding. Here the Beneficiary states that it did comply with their state and local competitive bidding requirements; therefore, USAC will conduct outreach to review the information the Beneficiary references. USAC will then determine if recovery is warranted consistent with FCC rules and orders. USAC management concurs with the recommendation that the Beneficiary implement policies and procedures to ensure compliance with state and local requirements.

Finding #2

Lack of Documentation - Untimely Implementation of Non-recurring Services

Criteria

“The deadline for implementation of non-recurring services will be September 30 following the close of the funding year. An applicant may request and receive from the Administrator an extension of the implementation deadline for non-recurring services if it satisfies one of the following criteria:

- (1) The applicant’s funding commitment decision letter is issued by the Administrator on or after March 1 of the funding year for which discounts are authorized;
- (2) The applicant receives a service provider change authorization or service substitution authorization from the Administrator on or after March 1 of the funding year for which discounts are authorized;
- (3) The applicant’s service provider is unable to complete implementation for reasons beyond the service provider’s control; or
- (4) The applicant’s service provider is unwilling to complete installation because funding disbursements are delayed while the Administrator investigates their application for program compliance.”

47 C.F.R. § 54.507(d) (2006).

Pursuant to FCC guidance, recovery for equipment not utilized or not installed before the deadline for implementation of non-recurring services is determined on the individual situation.⁶

“Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of service delivered in a particular Funding Year. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well.” 47 C.F.R. § 54.516(a)(1) (2006).

“Schools, libraries, and service providers shall produce such records at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the FCC, or any local, state or federal agency with jurisdiction over the entity.” 47 C.F.R. § 54.516(b) (2006).

“Auditors must obtain sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions.” *Government Auditing Standards*, GAO-07-162G, ¶ 7.55 (2007 Revision, as amended).

⁶ See Letter from Dana Shaffer, Chief, Wireline Competition Bureau, FCC, to Scott Barash, Acting CEO, USAC, WC Docket No. 02-61R, DA 09-86, 24 FCC Rcd 417 (Jan. 16, 2009).

Condition

We requested service provider bills and proof of installation to verify whether the service provider timely delivered and installed equipment that was purchased with funds for FRNs 1488511, 1488538, and 1488561 (*i.e.*, by September 30 following the close of the funding year unless an extension was granted). The Beneficiary did not provide evidence that the non-recurring services were delivered and installed by the September 30, 2007 deadline, following the close of Funding Year 2006. In addition, the Beneficiary did not file a request with USAC seeking an extension of the implementation deadline for these non-recurring services.

We are required to conduct our audits in accordance with GAGAS, which require auditors to obtain sufficient, appropriate evidence to substantiate audit findings and conclusions. We were unable to conclude with reasonable confidence that the non-recurring funded services were implemented before the required deadline because adequate documentation was not provided by the Beneficiary.

Cause

The Beneficiary did not demonstrate sufficient knowledge of the Rules governing the implementation deadline for non-recurring services or regarding the retention of documents relating to the application, receipt and delivery of funded services.

Effect

The monetary effect of this finding is \$324,707. This amount represents the total amount of funds disbursed for FRNs 1488511, 1488538, and 1488561.

Recommendation

We recommend USAC management seek recovery of \$324,707. We further recommend the Beneficiary ensure non-recurring services are implemented by September 30 following the close of the funding year or that a request for an extension of the implementation deadline is filed (provided that one of the criteria set forth in 47 C.F.R. § 54.507(d) is met). We also recommend the Beneficiary implement policies and procedures to ensure it retains adequate records “related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of service delivered in a particular Funding Year,” as required by the Rules.

Beneficiary Response

I acknowledge that as the chief officer of our school district, I was unaware of all rules regarding E-rate. I was unaware of the implementation deadline for non-recurring services. The primary reason for this is the person that initiated our E-rate application left our employ and the person that was hired to replace him did not realize that a request for an extension was required. It would have been a simple matter to ask for an extension. However, we believe that the installation was substantially completed by September 30.

USAC IAD response

The Beneficiary did not provide evidence to support equipment installation was substantially completed by September 30, 2007 during the audit. The Beneficiary is required to maintain sufficient, appropriate evidence to support the installation of SLP funded equipment for at least five years after the last day of service delivered in a particular funding year. Without sufficient evidence to support when the equipment was installed, we cannot conclude that the Beneficiary was compliant with the Rules. Therefore, our position on this matter remains unchanged.

USAC Management Response

USAC management concurs with the recommendation that the Beneficiary ensure non-recurring services are implemented by September 30 following the close of the funding year or that a request for an extension of the implementation deadline is filed (provided that one of the criteria set forth in 47 C.F.R. § 54.507(d) is met). USAC will conduct outreach to review the information the Beneficiary references to demonstrate the requirements of the rule were met. USAC will then determine if recovery is warranted consistent with FCC rules and orders.

Going forward, the Beneficiary should familiarize itself with the FCC's *Fifth Report and Order*, which clarified record keeping requirements.⁷ For further guidance, the Beneficiary should refer to the USAC website, "Schools and Libraries," "Reference Area," under "Demonstrating Compliance with Program Rules," Item #6.

⁷ *In the Matter of Schools & Libraries Universal Service Support Mechanism*, Fifth Report and Order and Order, CC Docket No. 02-6, FCC 04-190 (2004) (*Fifth Report and Order*).

Finding #3

Lack of Necessary Resources to Make Effective Use of Services

Criteria

“[The] FCC Form 471 shall be signed by the person authorized to order telecommunications services and other supported service for the eligible school, library, or consortium and shall include that person’s certification under oath that: ... The entities listed on the FCC Form 471 application have secured access to all of the resources, including computers, training, software, maintenance, internal connections, and electrical connections, necessary to make effective use of the services purchased, as well as to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year.” 47 C.F.R § 54.504 (c)(1)(iii) (2006).

“We [FCC] conclude that a lack of necessary resources to use the supported services warrants full recovery of funds disbursed for all relevant funding requests. The requirements that beneficiaries have sufficient computer equipment, software, staff training, internal connections, maintenance and electrical capacity to make use of the supported services are integral to ensuring that these monies are used for their intended purposes, without waste, fraud or abuse.” *In the Matter of Schools & Libraries Universal Service Support Mechanism*, Fifth Report and Order and Order, CC Docket No. 02-6, FCC 04-190, ¶ 22 (2004) (*Fifth Report & Order*).

Condition

We used inquiry and direct observation to verify whether the Beneficiary had the necessary resources to support the services for which funds were requested. During a physical inventory of the Internal Connections equipment received for FRN 1488538, we noted that 23 out of 27 pieces of videoconferencing equipment and components were not in use. In addition, the Beneficiary requested and received SLP funding for 414 network drops for FRN 1488561. However, the Beneficiary informed us that only approximately 100 drops are currently in use. The Beneficiary also informed us that they were uncertain of the total number of drops used during the audit period. The Beneficiary explained that it did not have sufficient resources to use the SLP supported equipment and services due to high staff turnover, lack of training, and inadequate electrical connections resulting from the failure of power supplies that are connected to the videoconferencing equipment.

Cause

The Beneficiary did not have an adequate process in place to ensure it had the necessary resources to make effective use of the funded services as required by the Rules..

Effect

The monetary effect of this finding is \$155,404. This amount represents the amount disbursed for FRN 1488538 for the 23 pieces of videoconferencing equipment that was

not being used due to lack of resources. We are unable to determine a monetary effect of the network drops for FRN 1488561 for the following reasons: a) we cannot determine the exact amount of drops that were in use during the audit period; b) we are unable to quantify the amount of SLP funding that was attributed to 100 of the 414 drops that were purchased; and c) we are unable to establish a basis to determine effective use and whether changes in technology may have resulted in a reduction in the number of drops needed since the audit period.

Recommendation

We recommend USAC management seek recovery of \$155,404. We also recommend the Beneficiary implement policies and procedures to ensure it has the necessary resources to make effective use of SLP supported equipment and services as required by the Rules. The Beneficiary should ensure that its staff receives timely and appropriate training on the use of technology in the classroom and take appropriate measures to ensure the funded equipment is being used.

Beneficiary Response

The District disputes that adequate resources were unavailable. At the time of the application, 42 classrooms were in use in the district. The plan was to place at least five computers per classroom. At the time that would require one computer per drop. It was also planned to purchase security cameras. In excess of 50 cameras were installed the next year. In both libraries fifteen drops each are utilized. We do not consider the number of drops excessive considering the plans.

Changes in technology occur rapidly and the district moved to workstations requiring one drop for 4 to 6 stations.

Because of difficulties with the vendor and changes in staff we had problems in the implementation of our plans.

USAC IAD Response

We do not dispute that there are rapid changes in technology that may alter the needs and utilization of services and equipment. However, we are unable to conclude that the Beneficiary was able to make effective use of the services during Funding Year 2006. As stated in the Criteria section above, the Beneficiary is required to have the necessary resources, such as “staff training” and “maintenance,” in order to ensure the services are being used for their intended purposes without waste, fraud, or abuse. The Beneficiary stated in its response that difficulties with the vendor and changes in staff caused problems with implementation of its plans. Therefore, our position on this finding remains unchanged.

USAC Management Response

Applicants must be able to demonstrate that they have secured access to all of the resources necessary (e.g., budget, hardware, staff training, etc.,) to make effective use of

the products and services for which they receive discounts. The beneficiary requested and received E-rate funding for equipment. All of the equipment was not utilized as required by Program rules because the necessary resources were not in place. Applicants are required to have the necessary resources at the time E-rate services are received to make effective use of services and equipment. If adequate resources are not available, the beneficiary should modify its funding requests. USAC will conduct outreach to further educate the beneficiary regarding the effective use of equipment and necessary resources. USAC concurs with the finding, effect and recommendation.

Finding #4

Lack of Competitive Bidding Documentation

Criteria

“[The] FCC Form 470 shall be signed by the person authorized to order telecommunications and other supported services for the eligible school, library, or consortium and shall include that person’s certification under oath that: All bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment, with price being the primary factor , and will be the most cost-effective means of meeting educational needs and technology plan goals.” 47 C.F.R. § 54.504(b)(2)(vii) (2006).

“[The] FCC Form 471 shall be signed by the person authorized to order telecommunications and other supported services for the eligible school, library, or consortium and shall include that person’s certification under oath that: All bids were carefully considered and the most cost-effective bid for services or equipment was selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals.” 47 C.F.R. § 54.504(c)(1)(xi) (2006).

“In selecting a provider of eligible services, schools, libraries, library consortia, and consortia including any of those entities shall carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers but price should be the primary factor considered.” 47 C.F.R. § 54.511(a) (2006).

“The Form 470 applicant is responsible for ensuring an open, fair competitive process and selecting the most cost-effective provider of the desired services, with price as the most heavily weighted factor in the evaluation.” *FCC Form 470 Instructions*, October 2004 (OMB 3060-0806), at 1.

“Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of service delivered in a particular Funding Year. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well.” 47 C.F.R. § 54.516(a)(1) (2006).

“Schools, libraries, and service providers shall produce such records at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the FCC, or any local, state or

federal agency with jurisdiction over the entity.” 47 C.F.R. § 54.516 (b) (2006).

“Auditors must obtain sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions.” *Government Auditing Standards*, GAO-07-162G, ¶ 7.55 (2007 Revision, as amended).

Condition

We requested documentation to evaluate whether the competitive bidding process undertaken to select a service provider for FRN 1488511 complied with the Rules. The Beneficiary did not provide documentation to support the evaluation of the bids received. The Beneficiary received two responses to its Request for Proposal (RFP) for wireless equipment. We reviewed the bids received and determined that the lowest bid was not selected as the vendor. The Beneficiary informed us that the lowest price bid was not selected because the equipment could not achieve 54Mbps as requested by the RFP. However, the Beneficiary did not provide documentation (*e.g.*, bid evaluation worksheets, etc.) to substantiate that price was the primary factor considered during the evaluation process.

We are required to conduct our audits in accordance with GAGAS, which require auditors to obtain sufficient, appropriate evidence to substantiate audit findings and conclusions. We were unable to conclude with reasonable confidence that the Beneficiary selected the most cost-effective service offering, with price as the primary factor considered, because the Beneficiary failed to provide documentation regarding its bid evaluation process and results.

Cause

The Beneficiary did not have adequate documentation or data retention procedures to ensure competitive bidding documentation was properly retained as required by the Rules.

Effect

The monetary effect of this finding is \$44,188. This amount represents the total amount disbursed for FRN 1488511.

Recommendation

We recommend USAC management seek recovery of \$44,188. We also recommend the Beneficiary implement policies and procedures to ensure it selects the most cost effective service offering, with price as the primary factor considered. We further recommend the Beneficiary implement policies and procedures to ensure it retains adequate records “related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least five years after the last day of service delivered in a particular Funding Year,” as required by the Rules.

Beneficiary Response

As stated in the finding, the second bid did not meet the specifications of the RFP and was therefore rejected as unresponsive. Because there was only a single responsive bid, there was no need to conduct an evaluation beyond determining the bid was reasonable. Durant was not aware of a program requirement to consider rejected bids in an evaluation. If the program does indeed require cost evaluation of rejected bids, we believe it would be contrary to procurement laws and policies in most states and localities.

USAC IAD Response

In the competitive bidding documentation provided to us by the Beneficiary, there was no evidence to support that the bid was disqualified based on the service provider's inability to achieve the 54Mbps service level requested in the RFP. The Beneficiary is required to maintain sufficient, appropriate evidence to support its basis of disqualifying bids and selecting the service offering that is the most cost-effective. Without sufficient evidence to support appropriate disqualification of the bid, we cannot conclude that the Beneficiary was compliant with the Rules. Therefore, our position on this finding remains unchanged.

USAC Management Response

E-rate rules requires applicants to carefully consider all bids and select the most cost-effective offer, with price being the primary factor. Though it is not required to select the lowest priced bid, price must be the primary factor in the selection process. Because the Beneficiary was unable to substantiate its selection was the most cost-effective bid with price being the primary factor, USAC will seek recovery of all disbursed funds under FRN 1488511.

Going forward, the Beneficiary should familiarize itself with the FCC's *Fifth Report and Order*, which clarified the record keeping requirements.⁸ For further guidance, the Beneficiary should refer to the USAC website, "Schools and Libraries," "Reference Area," under "Demonstrating Compliance with Program Rules," Item #6. USAC management concurs with the finding, effect, and recommendation.

⁸ See *supra* n.7.

Finding #5

Untimely Submission of FCC Form 471

Criteria

“An eligible school, library, or consortium that includes an eligible school or library seeking to receive discounts for eligible services under this subpart, shall, upon signing a contract for eligible services, submit a completed FCC Form 471 to the Administrator. A commitment of support is contingent upon the filing of FCC Form 471.” 47 C.F.R. § 54.504(c).

“A Form 470 must be posted for at least 28 days and a contract must be signed by the applicant and service provider for all services, except non-contracted tariffed or month-to-month services, before submitting a completed Form 471 to the SLD.” *FCC Form 471 Instructions*, November 2004 (OMB 3060-0806), at 4.

Condition

We examined documentation to evaluate the appropriateness of the competitive bidding process undertaken to select a service provider for FRN 1488511. The Beneficiary did not have a valid contract and did not provide documentation that a legally binding agreement was in place with the service provider prior to the submission of the FCC Form 471 to USAC. The Beneficiary signed a contract with CameraWatch Corporation for Internal Connections on February 17, 2006. However, the completed FCC Form 471 was submitted to USAC on February 16, 2006, before the Beneficiary and CameraWatch signed a contract or entered a legally binding agreement for the requested services.

Cause

The Beneficiary did not demonstrate sufficient knowledge of the Rules regarding the requirements for having a contract or a legally binding agreement with the service provider(s) prior to submitting the FCC Form 471 to USAC.

Effect

The monetary effect of this finding is \$44,188. This amount represents the total amount disbursed for FRN 1488511.

Recommendation

We recommend USAC management seek recovery of \$44,188. We further recommend the Beneficiary implement policies and procedures to ensure that contracts or legally binding agreements are executed with service providers prior to submitting the completed FCC Form 471 to USAC, as required by the Rules.

Beneficiary Response

The form was certified on Feb 16. Our recollection of the events are that the contract was received on the correct date but signed by us the next day.

USAC Management Response

E-rate rules provide, that the entity “shall then wait at least four weeks from the date on which its description of services is posted on the Administrator’s website before making commitments with the selected providers of service.” *See* 47 C.F.R. § 54.504(b)(4) (2006); 47 C.F.R. § 54.503(c)(4) (2011). The applicant signed and dated the contract after the FCC Form 471 certification postmark date, circumventing the 28-day window for the competitive bidding process. While USAC understands the Beneficiary made an error by one day; USAC does not have authority to waive program rules. Accordingly, USAC management concurs with the finding, effect and recommendation.

Finding #6

Violation of the 28 Day Waiting Period

Criteria

“After posting on the Administrator's website an eligible school's, library's, or consortium's FCC Form 470, the Administrator shall send confirmation of the posting to the entity requesting service. That entity shall then wait at least four weeks from the date on which its description of services is posted on the Administrator's website before making commitments with the selected providers of services. The confirmation from the Administrator shall include the date after which the requestor may sign a contract with its chosen provider(s).” 47 C.F.R. § 54.503(c)(4) (2006).

“We [FCC] conclude that we should recover the full amount disbursed for any funding requests in which the beneficiary failed to comply with the Commission's competitive bidding requirements as set forth in section 54.504 and 54.511 of our rules and amplified in related Commission orders. For instance, it is appropriate to recover the full amount of funds disbursed for a funding request when the beneficiary signs a contract before the end of the 28-day posting period.”

In the Matter of Schools & Libraries Universal Service Support Mechanism, Fifth Report and Order and Order, CC Docket No. 02-6, FCC 04-190, ¶ 21 (2004) (*Fifth Report and Order*).

“Contracts for newly contracted services or the selection of service providers for tariffed or month-to-month services cannot occur earlier than 28 days after either the descriptions set forth in the relevant Form 470 posted on the SLD web site www.sl.universalservice.org or the public availability of your RFP, whichever is later. The SLD will notify the applicant of the date that the applicant's request is posted and the date on which the 28-day waiting period ends based on the date that the Form 470 was posted to the web site.” *FCC Form 470 Instructions*, October 2004 (OMB 3060-0806), at 3.

The FCC Form 470 “must be posted on the SLD section of the USAC web site for at least 28 days before the Form 471 is filed. This 28-day waiting period must occur before you may execute any contracts for contracted services, as applicable; before you select your service provider for tariffed or month-to-month services; and before you submit your completed Form 471.” *FCC Form 471 Instructions*, November 2004 (OMB 3060-0806), at 3.

Condition

We examined documentation to evaluate whether the competitive bidding process undertaken to select a service provider for FRN 1488740 complied with the Rules. We noted the Beneficiary selected its service provider prior to the close of the mandatory 28-day waiting period. The Beneficiary's Form 470 452320000581059 was posted on USAC's website on January 19, 2006. USAC notified the Beneficiary that the allowable contract date was February 16, 2006, which was 28 days after the Form 470 was posted.

However, the Beneficiary signed a contract with CameraWatch Corporation for Basic Maintenance of Internal Connections on February 15, 2006, which was prior to the allowable contract date, February 16, 2006.

Cause

The Beneficiary did not demonstrate sufficient knowledge of the Rules regarding the competitive bidding process.

Effect

The monetary effect of this finding is \$14,818. This amount represents the total amount disbursed for FRN 1488740.

Recommendation

We recommend USAC management seek recovery of \$14,818. We further recommend the Beneficiary implement policies and procedures to ensure it complies with the Commission's competitive bidding requirements, including, waiting at least 28 days from the date its FCC Form 470 is posted on USAC's website before executing contracts or legally binding agreements with service providers.

Beneficiary Response

Our recollection is that the contract was presented to us on February 16.
In error, we duplicated the provider's signature date.

USAC Management Response

E-rate rules provide that the entity "shall then wait at least four weeks from the date on which its description of services is posted on the Administrator's website before making commitments with the selected providers of service." *See* 47 C.F.R. § 54.504(b)(4) (2006); 47 C.F.R. § 54.503(c)(4) (2011). The Beneficiary selected its vendor prior to the allowable contract date, circumventing the 28 day window for the competitive bidding process. USAC recognizes the Beneficiary's response that it was an error; however, USAC cannot waive program rules. USAC management concurs with the comment, effect and recommendation.

Finding #7
Lack of Documentation – Equipment Not Identified in Contract

Criteria

“The agreement or contract must specifically identify the eligible products or services covered, including product name, model number, and location.”

Eligible Services List Schools & Libraries Universal Service Support Mechanism for Fund Year 2006, at 57, *available at*, http://www.usac.org/_res/documents/sl/pdf/ESL_archive/EligibleServicesList_041206.pdf.

“Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of service delivered in a particular Funding Year. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well.” 47 C.F.R. § 54.516(a)(1) (2006).

“Schools, libraries, and service providers shall produce such records at the request of any representative (or auditor) appointed by the state education department, the Administrator, the FCC, or any local, state or federal agency with jurisdiction over the entity.” 47 C.F.R. § 54.516(b) (2006).

“Auditors must obtain sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions.” *Government Auditing Standards*, GAO-07-162G, ¶ 7.55 (2007 Revision, as amended).

Condition

We requested documentation to evaluate the eligibility of the products and services included in the service provider agreements. The contract utilized for Basic Maintenance of Internal Connections services for FRN 1488740 did not specifically identify the equipment covered for Funding Year 2006, as required by the instructions on the Eligible Services List. During the course of our audit, the Beneficiary attempted to obtain a list from the service provider that identified the equipment that was maintained through this contract, but the attempt was unsuccessful.

We are required to conduct our audits in accordance with GAGAS, which require auditors to obtain sufficient, appropriate evidence to substantiate audit findings and conclusions. Because the Beneficiary did not provide adequate documentation to identify the equipment that was covered under the maintenance contract for FRN 1488740, we were unable to conclude with reasonable confidence that the funding provided covered only eligible equipment.

Cause

The Beneficiary did not demonstrate sufficient knowledge of the Rules regarding document retention and was not aware of the eligibility requirements for requesting basic maintenance services as explained in the instructions to the Eligible Services List.

Effect

The monetary effect of this finding is \$14,818. This amount represents the total amount disbursed for FRN 1488740.

Recommendation

We recommend USAC management seek recovery of \$14,818. We further recommend the Beneficiary implement policies and procedures to ensure it retains adequate documentation “related to the application for, receipt, and delivery of discounted telecommunications and other supported services[, including basic maintenance services,] for at least 5 years after the last day of service delivered in a particular Funding Year,” as required by the Rules.

Beneficiary Response

The equipment was listed in the RFP and included in the subsequent contracts. Durant complied with Maintenance on Internal Connections policies which were reviewed by USAC and approved for funding.

Specific issues surrounding the maintenance and billing are addressed in other finding responses.

USAC IAD Response

As stated in the criteria section above, the Eligible Services List states that basic maintenance contracts and agreements with service providers “must specifically identify the eligible products or services covered, including product name, model number, and location.” The Beneficiary states that the equipment was listed in the RFP and in subsequent contracts, however, the basic maintenance contract utilized for FRN 1488740 did not specifically identify the equipment covered. Therefore, our position on this finding remains unchanged.

USAC Management Response

E-rate rules provide that basic maintenance services are eligible if they are a component of a maintenance agreement/contract for an eligible services or products, and these maintenance services are cost effective. The agreement or contract must specifically identify the eligible products or service covered, including product name, model number, and location. Only services that are necessary to ensure that the network is capable of transmitting information to the school or library are eligible. *See* Eligible Services List Schools and Libraries Support Mechanism for Funding Year 2006. USAC management concurs with the finding, effect, and recommendation. This amount is also identified for recovery in Finding 6.

Finding #8
Service Provider Failure to Perform Basic Maintenance Services

Criteria

“Telecommunications carriers shall be eligible for universal service support under this subpart for providing supported services to eligible schools, libraries, and consortia including those entities.” 47 C.F.R. § 54.501(a) (2006).

“Basic maintenance services shall be eligible as an internal connections service if, but for the maintenance at issue, the internal connection would not function and serve its intended purpose with a reasonable degree reliability ordinarily provided in the marketplace to entities receiving such services.” 47 C.F.R. § 54.506(b) (2006).

The Form 474 Instructions provide: “The service provider may file the Service Provider Invoice Form seeking reimbursement of discounts provided pursuant to an approved FRN upon the occurrence of all of the following conditions:

- upon receipt of an acknowledgment from USAC that the billed entity applicant has filed a Form 486, Receipt of Services Confirmation Form;
- upon providing discounted, eligible services to an eligible school, school district, library, library consortium or consortium of multiple entities on or after the effective date of the discounts as set forth in USAC’s acknowledgement of receipt of Form 486;
- after billing the Form 471 recipient of an FCDL for eligible services, showing the total prediscount amount, the discounted portion and the applicant’s obligation to pay the undiscounted amount;
- after the service provider completes and submits its Annual Service Provider Certification Form, FCC Form 473, to USAC; and
- no later than 120 days after the end of the pertinent funding year service delivery period. The delivery period for recurring services is generally July 1 through June 30 of the following year; the period for non-recurring services is generally from July 1 through September 30 of the following year.” *See FCC Form 474 Instructions*, November 2006 (OMB 3060-0856), at 2.

Condition

We examined the invoices the service provider submitted for reimbursement to determine whether the services claimed on the Form 474 were delivered to the Beneficiary and whether the service provider invoices *were consistent with the terms* and specifications of the service provider agreements with the Beneficiary. On January 5, 2007, CameraWatch submitted a FCC Form 474 seeking reimbursement of discounts provided for Basic

Maintenance of Internal Connections (BMIC) services for FRN 1488740. However, we were unable to observe or obtain evidence that CameraWatch provided the BMIC services for which it requested and received reimbursement.

The service provider contract provides that: “CameraWATCH Corporation shall provide repair and upkeep of eligible hardware, basic maintenance and configuration changes to the eligible Distance Learning Equipment...” During our site visit, we noted SLP funded equipment that was not in working condition. The Beneficiary explained that although CameraWatch installed the requested equipment, the equipment stopped working properly shortly after initial use. The Beneficiary also informed us that CameraWatch failed to respond to a majority of the Beneficiary’s calls requesting maintenance for this equipment. CameraWatch, therefore, submitted invoices seeking reimbursement for BMIC services that were not delivered to the Beneficiary. The Rules require that eligible services must be provided to the Beneficiary prior to invoicing USAC for such services.

Cause

CameraWatch did not demonstrate sufficient knowledge of the Rules regarding the service provider invoicing process.

Effect

The monetary effect of this finding is \$14,818. This amount represents the total amount disbursed for FRN 1488740.

Recommendation

We recommend USAC management seek recovery of \$14,818. We further recommend the service provider implement policies and procedures to ensure it invoices USAC only for services provided to the Beneficiary.

Beneficiary Response

Durant agrees there were issues with efficient operation of the equipment after installation and the vendor was requested to provide repair and maintenance service after installation. Durant was not aware of and did not consent to E-Rate fund dispersal for the services reviewed in this audit.

As required by E-Rate program rules, any recovery of funds should be requested of the service provider in this case.

CameraWatch did not provide adequate service.

Service Provider Response

In response to the Finding for the Audit of Durant Public School District, we have reviewed the results of the Finding. As stated in the Finding, the contract between CameraWATCH Corporation and Durant Public School District provided that CameraWATCH would provide, repair and upkeep

of eligible hardware, basic maintenance, and configuration changes to the eligible items as per SLD guidelines. We are not in agreement with the statements and information reported from Durant PSD or the resulting determinations that were made based on the generalized information from Durant during the site visit.

CameraWATCH responded to all requests for service and made attempts to remedy any problems as reported by the School District with site visits and phone support. A few of the problems we encountered included units disconnected from the power source or the Local Area Network and in a few cases it was found that the monitors were missing from classrooms where the equipment was located. In addition to meeting the requests for support and service, we continued to conduct training at our cost even after the BMIC funding year. Multiple training sessions were conducted to help the users and administrators of the system understand and benefit from the system. This was done with intension [*sic*] [to] help ensure the system was utilized to its maximum potential as a valuable learning tool.

Although not part of this Finding, we entered in to other contractual agreements for additional installations. If Durant became dissatisfied with our level of support, it would not seem likely that CameraWATCH would continue to enjoy additional business. Also, during the following installations, we had personnel onsite that could have helped resolve any issues pertaining to the previous installation.

It also seems that if Durant PSD felt Camerawatch failed to respond to most of their requests for service, they would not have filed form 486 or paid the applicant portion of approved funding if issues with functionality existed. Additionally, filing of form 486 represents an acknowledgement of services as does payment of the applicant's portion. This is [*sic*] again was demonstrated by Durant's 470 filings for BMIC under CameraWATCH's SPIN in subsequent years.

The Finding does not site [*sic*] any specifics demonstrating a failure in responding to requests for maintenance/service. If we could have some specific incidents or details, we would be happy to respond or acknowledge accordingly.

USAC's Finding indicates during the site visit, it was noted that SLP funded equipment that was not in working condition. However, since BMIC had not been funded for subsequent years, CameraWATCH's [*sic*] cannot be responsible for the functionality of Durant's system. We are a business and welcome opportunities for additional business. However, we cannot maintain systems indefinitely at no charge.

Declaration of CameraWATCH's failure to demonstrate sufficient knowledge of the Rules regarding the service provider invoicing process has not been properly assessed in light of the circumstances surrounding the Audit of Durant Public School District. CameraWATCH has enjoyed many successful SLP funded projects since our entry into the program in 2003. Following USAC guidelines for compliance has and is a priority for CameraWATCH. We have avidly attended USAC and State Training seminars since or [sic] introduction in the program in an effort to further our understanding of the guidelines and stay informed of program changes and enhancements. Through this diligence we are confident that we have a very good understanding of the requirements and rules for program compliance.

We strongly believe CameraWATCH followed USAC/SLD guidelines and responded to our customer's needs. It has been disappointing to learn of Durant's negative report since we enjoyed additional business. Our goal has always been to provide our customers with service that exceeds their expectations in an effort to form long-term partnerships.

USAC IAD Response

We are unable to conclude whether Basic Maintenance was performed during the funding year due to the lack of sufficient evidence. We determined that the majority of the videoconferencing equipment was not in service during our site visit. Furthermore, we cannot substantiate the service provider's response that maintenance was provided during the audit period. Without sufficient, appropriate evidence, we are unable to conclude that the Beneficiary and the service provider were in compliance with the Rules. Therefore, our position on this matter remains unchanged.

USAC Management Response

Since neither the Beneficiary nor the service provider can provide documentation to support that basic maintenance was performed, USAC will seek recovery of \$14,818 identified by the auditors. USAC management concurs with the finding and recommendation. This amount is already identified in Finding 6 and 7.

Finding #9

Untimely Payment to Service Provider

Criteria

“An eligible school, library, or consortium must pay the non-discount portion of services or products purchased with universal service discounts.” 47 C.F.R. § 54.523 (2006).

“We conclude that all funds disbursed should be recovered for any funding requests in which the beneficiary failed to pay its non-discounted share. While our [FCC] rules do not set forth a specific timeframe for determining when a beneficiary has failed to pay its non-discounted share, we conclude that a reasonable timeframe is 90 days after delivery of service. Allowing schools and libraries to delay for an extended time their payment for services would subvert the intent of our rule that the beneficiary must pay, at a minimum, ten percent of the cost of supported services.... Accordingly, we clarify prospectively that a failure to pay more than 90 days after completion of service (which is roughly equivalent to three monthly billing cycles) presumptively violates our rule that the beneficiary must pay its share. For purposes of resolving any outstanding issues relating to audits conducted prior to the issuance of this clarification, we direct USAC to determine whether full payment had been made as of the time the audit report was finalized. If any amounts remained outstanding at the conclusion of the audit work, that constitutes a rule violation warranting recovery of all amounts disbursed. Information on payment of the non-discounted share shall be sought from the beneficiary.” *In the Matter of Schools & Libraries Universal Service Support Mechanism*, Fifth Report and Order and Order, CC Docket No. 02-6, FCC 04-190, ¶ 24 (2004) (*Fifth Report and Order*).

Condition

We examined documentation to ensure the Beneficiary paid its non-discounted share of services or products purchased with SLP discounts as required by the Rules. For FRN 1488561, the Beneficiary did not pay its non-discounted share to the service provider within the timeframe that the FCC considers to be reasonable and timely (*e.g.*, within 90 days after delivery of service). The service provider billed the Beneficiary on December 6, 2006; however, the Beneficiary did not pay the invoice until March 14, 2007, which is more than 90 days after delivery of service.

Cause

The Beneficiary did not have an adequate process in place to ensure service provider bills are paid within a timely and reasonable timeframe (*e.g.*, within 90 days after delivery of service).

Effect

There is no monetary effect for this finding as the Beneficiary paid its non-discounted portion to the service provider prior to the completion of the audit. However, by not making payments in a timely manner, there is an increased risk that the Beneficiary may not pay its non-discount share as required by the Rules.

Recommendation

We recommend the Beneficiary implement policies and procedures to ensure that it pays its non-discounted share within a reasonable timeframe (*e.g.*, within 90 days after delivery of service).

Beneficiary Response

We concur with this finding. The District has implemented procedures to ensure payments are made within a reasonable timeframe.

USAC Management Response

In the FCC's *Fifth Report and Order*, the FCC clarified that, "failure to pay more than 90 days after completion of service (which is roughly equivalent to three monthly billing cycles), presumptively violates rule that the beneficiary must pay its share."⁹ Ultimately, the applicant paid its non-discounted portion, so recovery is not warranted. USAC management concurs with the finding, effect, and recommendation.

⁹ *Fifth Report and Order*, ¶ 54.

Other Matter #1

Failure to Segregate Service Types

Criteria

“You [the Beneficiary] will complete one Block 5 for **each** Funding Request. In general, you [the Beneficiary] should complete a separate Funding Request page for: Each service provider that will be providing you with service. Each separate contract (but not necessarily the individual service within that contract, as long as they are in the same category of service, e.g., Internal Connections Other than Basic Maintenance). Each different category of service provided by the same provider ... check the “Eligible Services List” and any updates on the SLD section of USAC’s web site to identify the category where each service belongs....” *FCC Form 471 Instructions*, November 2004 (OMB 3060-0806) at 22.

The FCC Form 471 at Block 5, Item 11, requires that “only ONE category of service should be checked” for each funding request. Internal Connections Other than Basic Maintenance is a separate category from Basic Maintenance of Internal Connections. *See FCC Form 471*, November 2004 (OMB 3060-0806).

FCC Form 471, Block 5 instructs applicants to “Use one Block 5 page for EACH service (funding requests) for which you are requesting discounts.” *FCC Form 471*, November 2004 (OMB 3060-0806).

Condition

We examined documentation to evaluate the accuracy of the information on the application forms submitted by the Beneficiary. The Beneficiary failed to segregate Internal Connections Other than Basic Maintenance services from Basic Maintenance of Internal Connections services for FRNs 1488538 and 1488511. The Beneficiary incorrectly categorized all the requested services as Internal Connections Other than Basic Maintenance on its FCC Form 471, Application No. 537591, even though a portion of the requested services was for Basic Maintenance of Internal Connections and should have been segregated. Additionally, the service provider invoiced USAC for the Basic Maintenance of Internal Connections services for both of these FRNs.

Cause

The Beneficiary did not demonstrate sufficient knowledge of the Rules regarding the completion of the FCC Form 471.

Effect

There is no monetary effect associated with this other matter because all of the requested services, Internal Connections Other than Basic Maintenance services and Basic Maintenance of Internal Connections services, were eligible for funding per the 2006 Eligible Services List.

Recommendation

We recommend the Beneficiary implement policies and procedures to ensure the preparation and filing of the FCC Form 471 is accurate. E-Rate Program forms containing incorrect information could result in denial of funding or recovery of funding commitments.

Beneficiary Response

Durant agrees with this finding and has implemented steps to ensure proper segregation of services is applied in future applications.

USAC Management Response

USAC concurs with this other matter, effect and recommendation.

This concludes the results of our audit. Certain information may have been omitted from this report concerning communications with USAC management or other officials and/or details about internal operating processes or investigations. This report is intended solely for the use of USAC, the Beneficiary, and the FCC and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of those procedures for their purposes. This report is not confidential and may be released to a requesting third party without restriction.

cc: Mr. D. Scott Barash, USAC Acting Chief Executive Officer
Mr. David Capozzi, USAC Acting General Counsel