



Orleans Parish School Board

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January 10, 2011

Request for Review

Appellant Name: Orleans Parish School Board

Decision being addressed: Demand Payment Letters for multiple funding requests

Form 471 Application Number: 139084

Billed Entity Number: 139223

Funding Year: 1999

FRNs: See chart below

214629	214749	214800	214831	214930	214972	215022	216022	216047
214654	214753	214801	214849	214939	214975	215025	216025	216048
214655	214756	214803	214860	214944	214982	215026	216026	274783
214657	214761	214804	214873	214948	214985	215030	216027	274798
214660	214764	214805	214890	214953	214989	215032	216030	274805
214665	214770	214812	214902	214957	214993	215033	216037	274807
214668	214787	214815	214907	214960	214996	215035	216038	274809
214695	214792	214817	214909	214962	215005	215036	216039	278561
214715	214796	214820	214911	214966	215008	216020	216044	278567
214724	214799	214828	214913	214969	215014	216021	216046	

Dear Ms. Dortch:

On November 18, 2010 Orleans Parish School Board received, through its consultant, letters demanding payment (Demand Letters) of \$96,165.81 on 89 Funding Year 1999 Funding Requests¹. Apparently over nine years ago, Arthur Andersen LLP conducted an audit of Orleans Parish’s participation during the second year of the E-rate program at the direction of USAC.

According to the Demand Letters the audit determined that funds were disbursed in excess of the actual services delivered on the FRNs in question. After some research, OPSB discovered this application was remanded to USAC on January 18, 2005 in Order DA 05-108. We are appealing the decision to recover funds from OPSB for the following reasons:

- The funds at issue are from FY 1999 over ten years ago and before the FCC set out document retention requirements.
- The FCC waived document retention requirements for those entities directly affected by Hurricane Katrina, which included OPSB.

¹ See Attachment A for a copy of the Demand Payment Letters

- USAC delayed nearly six years from the date the FCC remanded these issues to USAC before it issued DPLs to OPSB.
- OPSB no longer has documents to support or refute the audit findings from so long ago, which is not a violation of FCC rules, and OPSB should not be punished for that.

According to the recent demand letter, USAC issued the original Notification of Improperly Disbursed Funds Letters on June 30, 2003 and the original letters indicated recovery would be directed towards the service provider. Current OPSB staff is unsure if the original Demand Letters were ever received and has no way of determining if they were received. It is likely a previous administration received these letters from USAC, but likely took no action on the letters given that recovery was not being directed towards OPSB.

According to the public record², BellSouth Telecommunications, Inc. appealed USAC's decision to the FCC on the grounds that recovery should be directed towards Orleans Parish. On January 18, 2005, the FCC remanded BellSouth's appeal to USAC and directed USAC to revisit the situation to determine the party or parties responsible for the rule violations identified in the audit.³

It is unclear to OPSB why there has been a nearly six-year gap between when the FCC remanded the decision to USAC and when USAC finally notified OPSB. The OPSB staff in place during early 2005 is not the staff that was in place in 1999 and 2000 and has been gone from OPSB for over five years. Therefore, they are unavailable for any discovery conversations with current staff.

It is possible the previous staff was aware of the remand and was prepared to assist USAC in determining the responsible party or perhaps the previous staff had documentation to support that recovery was not warranted. Unfortunately, any documents relating to the action of the previous staff were destroyed during Hurricane Katrina. Therefore, OPSB is not in a position to accept or refute the audit findings or USAC's determination that OPSB was the cause of the violation.

The fact OPSB does not have any records to refute a finding ten years ago does not constitute a violation of program rules. Rather this funding request is covered by the documentation retention requirements in place prior to the 5th Report and Order. Prior to the 5th Report and Order, the only record keeping requirement was found in 47 C.F.R. §54.516 (a) which stated:

“Recordkeeping requirements. Schools and libraries shall be required to maintain for their purchases of telecommunications and other supported services at

² See

http://fjallfoss.fcc.gov/ecfs/comment_search/execute?proceeding=&applicant=Bell&lawfirm=&author=&disseminated.minDate=5%2F10%2F04&disseminated.maxDate=5%2F10%2F04&received.minDate=&received.maxDate=&address.city=&address.state.stateCd=&address.zip=&daNumber=&fileNumber=&submissionTypeId=&checkbox_exParte=true

³ See DA 05-108 (COMAD Remand Order)

discounted rates the kind of procurement records that they maintain for other purchases.”⁴

Without considering the devastating impacts of Hurricane Katrina OPSB, therefore, had no obligation to retain the records that form the basis of this recovery. Even if OPSB did have an obligation under the rules to retain these documents, the FCC specifically waived the record keeping requirements for applicants, like OPSB, that were directly affected by Hurricane Katrina⁵. OPSB does not believe it should be forced to repay funds disbursed ten years ago, when OPSB was first given notice of the obligation more than five years after the application was remanded to USAC for reconsideration.

OPSB takes E-rate compliance very seriously and appreciates the actions the FCC has taken to help the City of New Orleans rebuild after Hurricane Katrina. While we cannot definitively state that funds were not disbursed in error in Year Two of the program, we do not feel we should be forced to repay the funds so many years after the fact given the events described above.

We, therefore, humbly request that the FCC remand this application back to USAC and direct USAC to halt any recovery actions against Orleans Parish stemming from the audit in question. Please feel free to contact us if you need any additional information.

Sincerely,

Peggy Villars Abadie
Executive Director-IT

⁴ See 62 FR 32948, June 17, 1997, as amended at 62 FR 41304, Aug. 1, 1997; 63 FR 70572, Dec. 21, 1998

⁵ See DA- 05-2484 at paragraph 3, which states “we waive the recordkeeping requirements pertaining to those entities and such missing records will not be considered a violation of our recordkeeping requirements.”