

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Comprehensive Review of Universal Service Fund Management, Administration, and Oversight)	WC Docket No. 05-195
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Schools and Libraries Universal Service Support Mechanism)	CC Docket No. 02-6
)	
Rural Health Care Support Mechanism)	WC Docket No. 02-60
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Changes to the Board of Directors of the National Exchange Carrier Association, Inc.)	CC Docket No. 97-21
)	

**COMMENTS OF UNIVERSAL
SERVICE ADMINISTRATIVE COMPANY**

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APPENDIX A

USAC OPERATIONS AND SCOPE OF ADMINISTRATIVE ACTIVITIES

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I. INTRODUCTION

In this Appendix, the Universal Service Administrative Company (USAC) provides detailed information on Universal Service Fund (USF) collections and disbursements since the inception of the program. USAC also provides an overview of each of the universal service programs and a brief description of some of the many tasks USAC performs on a daily basis to administer these complex and evolving programs. The Appendix is intended to provide additional context to USAC's comments and to assist the Commission and other commenters in this proceeding.

USAC collects contributions to the USF and disburses universal service support under the four universal service support programs: the High Cost program, the Low Income program, the Rural Health Care program, and the Schools and Libraries program. USAC's functions and responsibilities set forth in Commission orders and regulations include: administering the programs; billing contributors, collecting contributions, and disbursing universal service funds; maintaining the books and records of the USF and USAC; and reporting quarterly, annually and on an as requested basis to the Commission on its administrative activities.

USAC also collects information regarding contributing entities and end-user telecommunications revenues, and submits to the Commission projections of demand for funds by program participants, administrative expenses for the support mechanisms and quarterly universal service contribution data. USAC is responsible for developing administrative procedures as needed for the programs; administering the application process to ensure compliance with Commission rules; creating and maintaining a website and related operational infrastructure to support the programs; performing outreach and

public education functions; conducting audits of telecommunications carriers, schools, libraries, and rural health care providers; providing reports to the Commission on a regular basis and when requested; and implementing other functions as required to support the programs.¹

II. DISCUSSION

A. Universal Service Fund Contributions and Collections Process

Section 254 of the Telecommunications Act of 1996 (the 1996 Act) requires “[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.”² Section 254 further requires telecommunications carriers who receive universal service support “shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”³ In the 1997 *Universal Service Order*, the Commission established the rules for making contributions to the USF.⁴

Telecommunications carriers are currently required to contribute to the USF based on their projected interstate and international end-user telecommunications revenues.⁵

¹ See generally 47 C.F.R. Part 54.

² 47 U.S.C. § 254(d). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat 56, 71-5, amended the Communications Act of 1934.

³ 47 U.S.C. § 254(e).

⁴ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997), as corrected by *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Erratum, FCC 97-157 (1997), *aff'd in part, rev'd in part, remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir., 1999), *cert. denied, Celpage, Inc. v. FCC*, 530 U.S. 1210 (2000) (*Universal Service Order*).

⁵ 47 C.F.R. § 54.706; see also 47 U.S.C. § 254(d).

Carriers report projected revenues to USAC quarterly on FCC Form 499-Q,⁶ and USAC uses the data to file with the Commission quarterly universal service funding requirements based on USF demand and USAC's administrative expenses.⁷ The Commission sets the quarterly contribution factor based on the quarterly carrier revenue and projected demand data filed by USAC.⁸ USAC then bills carriers a monthly contribution amount based on the quarterly contribution factor and disburses support to contributors and other service providers who have provided support to eligible recipients under each of the four universal service support programs.⁹

1. USF Collections Since 1998

USAC has collected a total of \$37.50 billion in universal service contributions from September 1998 through June 2005, by year as follows:¹⁰

⁶ 47 C.F.R. § 54.711; Telecommunications Reporting Worksheet, Annual Filing, OMB 3060-0855, April 2005 (FCC Form 499-A) (form for reporting annual revenue); Telecommunications Report Worksheet, Quarterly Filing for Universal Service Contributors, OMB 3060-0855, April 2003 (FCC Form 499-Q) (form for reporting quarterly revenue). Collectively, these forms are referred to as "FCC Form 499."

⁷ 47 C.F.R. § 54.709(a).

⁸ *Id.*

⁹ 47 C.F.R. §§ 54.706, 54.709.

¹⁰ Source: USAC Audited Financial Statements, 1999-2004; 2005 data derived from USAC financial systems.

YEAR	USF CONTRIBUTIONS
1998 <i>(September 1997 through December 1998)</i>	\$ 3,249,356,000
1999	\$ 3,776,884,000
2000	\$ 4,470,043,000
2001	\$ 5,238,714,000
2002	\$ 5,174,622,000
2003	\$ 5,889,298,000
2004	\$ 6,110,562,000
2005 <i>(January 2005 through June 2005)</i>	\$ 3,611,048,000
TOTAL	\$37,520,527,000

As of June 30, 2005, there are over 2,805 active contributors to the USF and more than 4,034 regular recipients of USF monies. Over the preceding 12 month period (June 2004 through June 2005), USAC issued, on average, 2,903 monthly invoices for average monthly billings of \$648,826.73. During the same period, USAC issued an average of 5,820 monthly disbursements for total average monthly disbursements of \$602,342,956.76.

2. Administration of the USF Contribution Process

The Commission has set forth the rules governing the administration of the USF contribution methodology, collections, and disbursements in a series of orders and regulations. USAC developed and continues to refine its procedures in response to directions from the Commission, Commission decisions on appeal, audits, and as a result of USAC internal reviews. The following is an overview of the contributions administrative process.

a. USF Revenue Reporting

Telecommunications carriers are required to contribute to the USF based on projected interstate and international end-user telecommunications revenues.¹¹ Carriers report revenues quarterly on FCC Form 499-Q and annually on FCC Form 499-A.¹² Contributors report projected quarterly interstate telecommunications revenue to USAC in February, May, August, and November.¹³ Carriers report prior year collected revenue in April.¹⁴ The FCC requires a corporate officer to certify under penalty of perjury the accuracy of filings.¹⁵ Contributors whose annual contribution would be less than \$10,000 fall within the Commission's *de minimis* exemption and are not required to file FCC Form 499-Qs but are required to file the annual FCC Form 499-A.¹⁶

b. Revenue Reporting for Other Programs

In addition to collecting revenue data for USF purposes, USAC is designated by the Commission to collect and distribute to other FCC-designated administrators data for the Telecommunications Relay Service Fund, North American Numbering Plan Administration and Local Number Portability Administration.¹⁷

¹¹ 47 C.F.R. § 54.706; *see also* 47 U.S.C. § 254(d).

¹² *See* 47 C.F.R. §§ 54.706, 54.709, 54.711.

¹³ *Id.*; *see also* FCC Form 499-Q Instructions (<http://www.universalservice.org/download/499Q.pdf>).

¹⁴ *Id.*; *see also* FCC Form 499-A Instructions (<http://www.universalservice.org/download/instructions/499ai.pdf>).

¹⁵ *See* 47 C.F.R. § 54.711(a).

¹⁶ 47 C.F.R. § 54.708. Section 54.708 provides that *de minimis* contributors need not file an annual FCC Form 499-A unless they are otherwise required to do so by the Commission's rules governing TRS or LNP. *Id.* USAC has no information regarding *de minimis* contributors who may claim to be exempt from TRS and LNP under the Commission's rules and thus do not file any FCC Form 499s with USAC.

¹⁷ *See 1998 Biennial Regulatory Review—Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms*, CC Docket No. 98-171, Order, 15 FCC

c. Administration of the Revenue Reporting Process

USAC has a well-trained customer service staff to assist contributors in filing required forms. Customer service staff explains the filing process, assist customers in understanding the forms and instructions, and resolve inquiries. This team answers approximately 24,000 customer inquiries a year, 25% of which relate to revenue reporting, billing and collections (as opposed to specific program-related inquiries). Through an automatic call distribution system, USAC maintains high standards with 98% of inbound customers speaking to a live representative in less than 30 seconds of calling USAC's toll free number. USAC averages inquiry resolution intervals of 48 hours or less for inquiries related to FCC Form 499s. In addition to handling inbound calls, USAC conducts outreach via electronic and regular mail to inform contributors of upcoming filing deadlines and other important information.

USAC has continued to streamline customer service for the data collection processes and, through continued outreach, reduced the average number of inquiries in 2005 by 59% over the prior year. USAC's data collection team processes an average of 2,656 quarterly FCC Form 499-Q submissions and approximately 4,752 annual FCC Form 499-A submissions. Additionally, on average, 3.95% of quarterly form filers submit revisions to their forms within the 45-day revision window established by the Commission.¹⁸ The Commission recently formally adopted a one-year revision window

Rcd. 23470, 23470 ¶ 1 (2000) (appointing USAC to administer, process, manage, and distribute data reported on FCC Form 499s to the other administrators); 47 C.F.R. § 54.711(b) (authorizing USAC to share data reported on FCC Form 499s with other administrators).

¹⁸ See *Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms*,

for annual FCC Form 499-A revisions.¹⁹ On average, 9.65% of FCC Form 499-A filers submit revisions within one year of the form due date.

d. Enhancements to the Revenue Reporting Process

USAC continually seeks ways to more effectively collect the required data while streamlining the process for contributors. For example, in April 2003 USAC launched an online FCC Form 499 data collection system. This optional filing system allows electronic authentication of users and allows contributors to complete and access current and prior online form submissions. The electronic filing system pre-populates information on the form, thereby eliminating some data entry and reducing the likelihood of reporting errors. Electronic filing also avoids the need for extensive data entry by USAC staff, which further reduces the potential for errors and enables a greater focus on the detection of contributor reporting errors and potential fraud.

Although the electronic filing system USAC launched in April 2003 requires users to send a paper form containing original certifying signatures, USAC recently added optional electronic certification of FCC Forms 498 and 499. This online certification process includes secure authentication that allows an authorized user with a

Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-in-Billing and Billing Format, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952, 24972, ¶ 36 (2002) (Interim Contribution Methodology Order) (reducing revision window for FCC Form 499-Q from date of next filing to 45-days “to eliminate incentives for contributors to revise their revenue projections after the announcement of the contribution factor”).

¹⁹ *Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Changes to the Board of Directors of the National Exchange Carrier Associations, Inc., CC Docket Nos. 96-45, 98-171, 97-21, Order, 20 FCC Rcd. 1012, 1016-18, ¶¶ 10-14 (rel. Dec. 9, 2004) (FCC Form 499-A Revision Order).*

signature on file to electronically certify forms. With online certification available, USAC anticipates the number of forms submitted online will significantly increase, with a corresponding decline in paper submissions.

e. USAC Review of FCC Form 499 Submissions

USAC reviews all FCC Form 499 filings to identify potential reporting errors and works with contributors to resolve identified errors. For example, contributors reporting a substantial decrease in annual revenue may be asked to provide documentation to support the decrease. USAC combats potential fraud and abuse of this self-certifying reporting mechanism based on its familiarity and experience with FCC Form 499 and the telecommunications industry in general. When issues are identified, contributors may be referred to USAC's Internal Audit Division, the FCC for enforcement activity, and/or other appropriate action may be taken.²⁰

Increased clarity and specificity in the Commission's rules concerning Voice Over Internet Protocol (VOIP), and other enhanced services, will greatly assist USAC as well as companies attempting to comply with FCC Form 499 reporting obligations. Companies that fail to report or that report significantly decreased or zero interstate telecommunications revenue due to their revenue being derived from various types of VOIP product offerings represent a growing challenge.

f. Calculating the Monthly Contribution Obligation

USAC calculates each contributor's monthly contribution obligations by applying the quarterly contribution factor to one-third of each contributor's reported quarterly USF

²⁰ See 47 C.F.R. §§ 54.711(a) (directing USAC to advise Commission of enforcement issues that may arise as a result of inaccurate or untruthful reporting), 54.713 (directing USAC to advise Commission of enforcement issues that may arise as a result of failure to file FCC Form 499).

revenue base.²¹ USAC issues one comprehensive monthly invoice to all non-*de minimis* contributors reflecting prior period payments, forwarded unpaid balances, late payment fees, late filing fees, and separate line items devoted to the portion of the USF contribution obligation associated with each of the four universal support programs.

g. Contributor Billing

Contributors may submit payments directly to USAC by mailed check or electronic or wire transfer. After contributions are received, USAC separates each contribution into separate accounts by the per-fund amounts reflected on contributor invoices.²²

Many USF contributors provide eligible services to beneficiaries of one or more of the programs or otherwise receive USF funding. FCC rules allow contributors who are also service providers in either the Schools and Libraries program or the Rural Health Care program to receive direct disbursements from USAC or offset disbursements against their contribution obligations.²³ When contributors request offsets rather than disbursements, USAC reflects the disbursements as credits on USAC's invoice to the contributor. In addition, the Red Light Rule now requires USAC to offset contribution amounts that contributors fail to remit to USAC.²⁴ Each month, USAC sends notices to delinquent contributors.

²¹ See 47 C.F.R. § 54.709(a)(1).

²² See 47 C.F.R. § 54.702(h) (requiring USAC to keep contributions with respect to each USF support program in separate accounts).

²³ 47 C.F.R. §§ 54.515 (allows netting in the schools and libraries program), 54.611 (allows netting in the rural health care program).

²⁴ *Amendment of Parts 0 and 1 of the Commission's Rules, Implementation of the Debt Collection Improvement Act of 1996 and Adoption of Rules Governing Applications or Request for Benefits by*

h. Annual True-Ups

USAC reconciles accounts annually through true-ups to: (1) determine whether carriers qualified as *de minimis* the prior calendar year, and (2) adjust USF contributions based upon a comparison of the quarterly worksheet filings to the year-end annual worksheet filing.²⁵ Adjustments resulting from this “A/Q true-up” are due and payable immediately when billed while credits resulting from the A/Q true-up are typically exhausted through offsets against ongoing USF contributor obligations. One time per year, USAC issues checks to contributors who have a credit balance on their invoice that has not been offset by contribution obligations.

i. Contributor Appeals

Generally contributors can request review by USAC of any decision in connection with billing, collections or disbursements.²⁶ Appeals to USAC may be filed by submitting a letter of appeal.²⁷ Contributor’s dissatisfied with a USAC appeal decision may appeal to the Commission within 60 days of the USAC decision.²⁸ Contributor appeals, whether to USAC or the Commission, must be postmarked within 60 days of the date of the USAC decision at issue.²⁹

Delinquent Debtors, MD Docket No. 02-339, Report and Order, 19 FCC Rcd 6540, ¶ 12 (2004) (*Red Light Rule Order*).

²⁵ The A/Q True up was first performed in 2002 and reconciled contributions made between July 2001 and July 2002 were based on reported 2001 annual revenue. As a result of a contribution methodology change in 2003, 2004 was the first year in which calendar-year billings were trued up based on revenue from the same calendar year. *See generally Interim Contribution Methodology Order, Federal-State Joint Board on Universal Service, Petition for Reconsideration Filed by AT&T*, CC Docket No. 96-45, Report and Order and Order on Reconsideration, 16 FCC Rcd 5748 (2001) (*Quarterly Reporting Order*).

²⁶ *See* 47 C.F.R. § 54.719(b).

²⁷ *See* 47 C.F.R. § 54.720(c).

²⁸ 47 C.F.R. §§ 54.720(d), 54.722.

²⁹ *See id.*; 47 C.F.R. § 54.720(e).

For the period beginning March 2001 through June 2005, USAC received 149 appeals from contributors and issued 119 decisions within an average of 152 days of receipt. USAC has received notice of 24 of its contributor appeal decisions subsequently appealed to the Commission.³⁰ Also for this period, USAC records indicate the Commission decided three contributor appeals and has partially remanded 19 others for further consideration by USAC in light of the Commission's order adopting a one-year revision deadline for the FCC Form 499-A.³¹

In instances where a contributor appeal asserts an error by USAC, USAC seeks to resolve the matter fairly and appropriately. USAC considers such requests for review as an opportunity to ensure its processes are equitable and efficient. Contributors who appeal to USAC, however, often explicitly or implicitly seek waiver or relief from Commission rules. For example, contributors frequently seek acceptance by USAC of a downwardly revised FCC Form 499-Q outside of the Commission-established 45-day revision window.³² Such appeals are not uncommon because a contributor who submits an erroneous FCC Form 499-Q filing typically will not detect an error until after receipt of the first USF invoice based upon that filing, which almost always occurs more than 45

³⁰ Although Commission rules require that USAC be served a copy of any appeal filed with the Commission, this rule is not universally observed. See 47 C.F.R. § 54.721(c); see also *Request for Review by Atlantic Digital, Inc., of Decision of Universal Service Administrator*, CC Docket No. 96-45, Order, 20 FCC Rcd 4224, 4226 ¶ 6 (2005) (*Atlantic Digital*) (noting failure to serve USAC as required by rules was a potentially fatal procedural defect).

³¹ The FCC has decided the following three appeals of individual contributors: *Atlantic Digital*, 20 FCC Rcd 4224; *Request for Review by ABC Cellular Corporation Page Now, Inc./ ABC Paging, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Associations, Inc.*, CC Docket Nos. 96-45, 97-21, Order, 17 FCC Rcd 25192 (2002); *Request for Review by International Telecom, Ltd., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Associations, Inc.*, CC Docket Nos. 96-45, 97-21, Order, 17 FCC Rcd 16060 (2002). The 19 remanded appeals were part of the *FCC Form 499-A Revision Order*.

³² See *Interim Contribution Methodology Order*, 17 FCC Rcd at 24972, ¶ 36.

days after the filing at issue.³³ Contributors that over-report revenue but miss the 45-day revision window must pay the resulting higher billings and await relief provided by the annual true-up which could occur as much as 18 months later.³⁴ Because the Commission established this 45-day window, a request to revise outside of the window effectively constitutes a request for waiver of Commission rules which USAC is not authorized to allow.

B. USAC Activities To Ensure Timely and Accurate Revenue Reporting and Collection of USF Debt

Contributor delinquency is low relative to the size of the USF and the number of contributors. Working with the Commission, USAC has implemented numerous measures to reduce delinquency and increase compliance with reporting requirements. Several of those measures are discussed in response to specific questions in the *NPRM*. USAC will highlight some of its other administrative initiatives here.

1. Installment Payment Plans for Delinquent USF Debt

The Debt Collection Improvement Act (DCIA)³⁵ allows delinquent contributors to seek installment plans for repaying universal service obligations. Such plans have, in many cases, proven effective. The requirements for obtaining an installment plan are

³³ For example, for the FCC Form 499-Q due on or about August 1 each year, USAC calculates the first monthly invoice based upon that filing on October 15, the 76th day after the original filing due date. The invoice is promptly mailed and received by the contributor a few days later, after the time which a revision can be timely filed. As noted elsewhere, electronic filing of the FCC Form 499 greatly reduces the likelihood of such reporting errors.

³⁴ For example, if a contributor over-reports its first quarter revenue, the contributor would be billed based on the revenue beginning in January 2005. The company would have to pay the January, February and March invoices, which are all generated based upon first quarter revenue, and wait for the annual true-up to occur in May of the following year with results beginning to appear in July's invoices for the following year—a full 18 months after the January 2005 invoice.

³⁵ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996).

strict. A delinquent contributor must demonstrate good faith by making a 10% down payment on outstanding arrears, continue to pay all newly accruing USF obligations, provide financial documentation to USAC demonstrating both the inability to pay the delinquency in a lump sum and the ability to pay the delinquency over a period of time, (generally 12 months or less) and be able to provide some form of security. Installment plans also require payment of 9% annual interest on the outstanding balances and payment of a one-time administrative charge of \$1,000 or 0.5% of the proposed plan amount up to a maximum of \$7,000, whichever is greater. USAC reviews all submissions, evaluates the financial condition of each applicant, and drafts a detailed recommendation to FCC staff concerning whether, and under what terms, a payment plan should be approved.

As of June 30, 2005, 52 contributors, with outstanding balances of \$42,441,670, have entered into, been denied, or expressed interest in obtaining a payment plan to resolve their USF delinquencies. Since their inception in July 2003, payment plans have resulted in an additional return to the USF of \$12,441,806, representing a 29.3% reduction in arrears. Thus, the installment plan process has resulted in significant additional return to the USF and a continued reduction in delinquencies.

2. Red Light Rule Implementation

In April 2004, the Commission released the *Red Light Rule Order*, which among other things, required USAC to “withhold action on applications or other requests for benefits by [delinquent] debtors.”³⁶ The Commission subsequently issued the *Schools*

³⁶ *Red Light Rule Order*, 19 FCC Rcd at 6541, ¶ 4.

and Libraries Fifth Order, which among other things directed USAC to “dismiss any outstanding requests for funding commitments if a school or library, or service provider, as applicable, has not paid the outstanding debt, or made otherwise satisfactory arrangements, within 30 days of the date of the notice provided for in [the Commission’s] commitment adjustment procedures.”³⁷ Consequently, any entity that owed a debt to USAC—be it a contributor, service provider, school or library—falls within the ambit of the Red Light Rule.

USAC has worked closely with the Commission to implement these orders. Effective November 1, 2004, USAC implemented procedures to offset support mechanism disbursements against USAC contributor debt and to hold support mechanism disbursements for entities that are delinquent to the Commission consistent with this order. Before implementation of the Red Light Rule USAC performed administrative offsets (also known as “forced netting”) in situations where contributors that were also USF recipients were found to be more than 90 days delinquent to the Fund. This pre-Red Light Rule force-netting typically involved netting against delinquencies within a particular support mechanism or against delinquent contributor obligations.

In accordance with the broader collection policies set forth in the Red Light Rule, requiring USAC to confer no “benefit” to entities with delinquencies to USAC or the Commission, USAC was required to implement more comprehensive offset procedures. To ensure program participants understood the new Red Light processes, USAC initiated a significant communication and outreach effort to USF recipients and contributors to

³⁷ *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Red 15808, 15822, ¶42 (2004) (*Schools and Libraries Fifth Order*).

implement the Red Light Rule. Although USAC is aware of certain short-term implementation issues, the results of Red Light Rule implementation have been increased contributions and reduced USF delinquencies. USAC will continue to work closely with Commission staff and affected parties to ensure the success of Red Light Rule implementation.

3. USAC Referrals of Delinquent Contributors to the FCC Enforcement Bureau

USAC works closely with the Commission on USF enforcement by monitoring contributor accounts and revenue reporting and referring potentially significant information to the Commission for further investigation or action.³⁸ USAC conducts internal reviews and refers information to the Commission regarding carriers that fail to timely file FCC Form 499s or that fail to make full or timely payment of universal service obligations. USAC also provides support to the Commission in ongoing investigations associated with the possible issuance of Notices of Apparent Liability (NALs). Since December 2004, USAC has formally referred 22 contributors to the FCC for potential enforcement action. Of those 22 USAC referrals, through September 30, 2005, the Commission has issued NALs in six cases and forfeiture orders or consent decrees in seven.

4. Contributor Bankruptcy

A major challenge faced by USAC has been USF contributor and service provider bankruptcies. When a contributor files for protection under the federal bankruptcy laws,

³⁸ See 47 C.F.R. §§ 54.711(a) (directing USAC to advise Commission of enforcement issues that may arise as a result of inaccurate or untruthful reporting), 54.713 (directing USAC to advise Commission of enforcement issues that may arise as a result of failure to file FCC Form 499).

unpaid USF obligations billed prior to the date of the bankruptcy filing are collectible only if USAC files a claim with the bankruptcy court. Claims for unpaid pre-petition USF obligations are considered “unsecured” claims and are payable pro-rata from whatever proceeds are ultimately determined by the court to be available to pay such claims to other unsecured debtors. To the extent a bankrupt contributor continues to operate post-petition, USF obligations billed during this period are considered “administrative expenses” of the estate.³⁹ When a bankrupt contributor becomes delinquent in its post-petition obligations, collection is possible only through filing a claim with the bankruptcy court for payment of administrative expenses.⁴⁰ Bankrupt contributors may also have claims against USAC to the extent they can establish USF payments made in the 90 days prior to filing bankruptcy are “preferential” transfers. Under federal bankruptcy law, USAC enjoys no special status as a creditor despite the fact payment of USF contributions is required by federal law.

USAC has worked actively in the bankruptcy area to protect both the interests of the Fund and its beneficiaries. As a creditor, USAC has recovered millions of dollars in pre-and post-petition USF obligations from USF debtors. As a defendant in bankruptcy-related litigation, USAC has successfully defended the USF and has established favorable

³⁹ See *In re Empire One Telecommunications, Inc.*, Case No. 01-11894 (AJG), slip op. at 8 (Bankr. S.D.N.Y. Sept. 23, 2003) (*Empire One*) (holding that the [Universal Service] Fund obligation is entitled to administrative expense priority pursuant to 11 U.S.C. § 503(b)(1)(A) because it is beneficial to the estate).

⁴⁰ Notably, the delinquent USF obligations of bankrupt contributors cannot be collected pursuant to the DCIA. See, e.g., 47 C.F.R. §§ 1.1910(c)(2) (suspending FCC’s so-called “Red Light Rule” for companies in bankruptcy); § 1.1911(h) (“[I]n most cases [when a bankruptcy petition has been filed with respect to a debtor] collection activity against the debtor should stop immediately.”).

legal precedents.⁴¹ USAC has also avoided millions of dollars in potential liabilities by successfully defending against actions by debtors to recover allegedly preferential transfers.

From 1998 through September 15, 2005, USAC filed 229 claims in bankruptcy courts to recover unpaid pre-petition USF obligations. In cases where it has a general unsecured claim, USAC receives distributions along with other unsecured creditors. USAC's recoveries on its unsecured pre-petition bankruptcy claims range between 2% and 10%, which is a typical rate of recovery for an unsecured creditor. From January 1, 2002 through September 15, 2005, USAC recovered \$2,797,671 toward pre-petition claims for unpaid USF obligations.

Contributors reorganizing in bankruptcy while continuing to operate incur post-petition USF obligations. Because reorganizing companies frequently become delinquent on such obligations, USAC closely monitors these companies. In order to recover post-petition delinquencies effectively, USAC must aggressively pursue repayment through the bankruptcy courts. USAC has recovered more than \$6 million⁴² for the USF in administrative claim recoveries.

USAC is regularly named as a defendant in certain adversarial cases arising under the bankruptcy code called "preference actions." A payment to any entity by a bankrupt company is presumed "preferential" if the payment is made within 90 days of the

⁴¹ See, e.g., *In re LAN Tamers, Inc.*, 329 F.3d 204, 213 (1st Cir. 2002), *cert. denied*, 124 S. Ct. 808 (2003) (BEAR reimbursements are not property of the estate of bankrupt service provider); *Empire One*, Case No. 01-11894 (AJG), slip op. at 8 (Bankr. S.D.N.Y. Sept. 23, 2003) (post-petition USF obligations entitled to administrative expense priority).

⁴² The actual number of \$6,424,360 represents actual and anticipated recoveries through September 15, 2005.

bankruptcy filing. In such instances, the court can order the recipient to return the payment to the bankruptcy estate under certain circumstances.⁴³ Since USAC's inception, USAC has successfully avoided over \$7 million in asserted liabilities to the USF, most of which represented claims alleging preferential transfers.

⁴³ *See* 11 U.S.C. § 547. When the bankrupt debtor or bankruptcy trustee files a so-called preference action, the initial burden of proof falls to the debtor or trustee to prove the avoidability of the transfers. Once the debtor or trustee satisfy their burden, the burden shifts to the payee (in these cases, USAC) to establish one or more defenses to avoidance, such as demonstrating that the payment or payments were in the "ordinary course" of the debtor's business. *See* 11 U.S.C. § 547(c)(2). If USAC cannot establish one of the recognized defenses to avoidance, USAC must refund the money to the estate.

C. Universal Service Fund Disbursements

1. Universal Service Fund Disbursements Since 1998

USAC has disbursed a total of \$35.7 billion in universal service support since 1998, by year as follows:⁴⁴

CALENDAR YEAR	USF DISBURSMENTS
1998	\$2,155,000,000.00
1999	\$3,599,539,505.84
2000	\$4,421,174,719.76
2001	\$4,688,894,419.41
2002	\$5,345,422,279.17
2003	\$5,433,622,100.45
2004	\$5,663,050,658.62
2005*	\$4,396,590,153.81
TOTAL	\$35,703,293,837.06
<i>*As of September 30, 2005</i>	

The details of disbursements by program are found below in the discussion of USAC's administration of each program.

2. Administration of the USF Disbursement Process

USAC collects and maintains vital information on FCC Form 498 about service providers who receive disbursements of universal service funds.⁴⁵ All service providers

⁴⁴ Disbursement totals are calculated by adding total disbursements for each program. USAC reports actual High Cost and Low Income program disbursements each year in the USAC Annual Report. For the Schools and Libraries and Rural Health Care programs, the USAC Annual Report reflects the amount of per-year committed funds rather than disbursements. For purposes of the Annual Report, commitments are funds that have passed an initial approval phase but which have not yet been approved for payment. Funds that are committed may not be disbursed; thus, annual disbursements for the Schools and Libraries and Rural Health Care programs are less than the annual commitment amounts reported in USAC's Annual Reports.

who provide services and receive disbursements in the High Cost, Low Income, Rural Health Care, or Schools and Libraries programs must submit FCC Form 498 along with a signed letter of authorization to USAC in order to receive USF disbursements. Service providers indicate on FCC Form 498 the manner in which they wish to receive disbursements for each support mechanism in which they participate. Additionally, the information provided on FCC Form 498 enables USAC to offset disbursements to be paid against USF contributions owed when requested by the program participant or required by the rules. USAC is in the process of implementing a “service provider portal” which, among other things, will provide a secure authentication process for online certification of FCC Form 498.

In November 2003, USAC implemented a significant change in the manner in which it distributed High Cost and Low Income program support. At that time, there were approximately 1,500 service providers who were also members of the National Exchange Carrier Association (NECA) pool and were paid directly through a pooled payment to NECA. This meant USAC disbursed universal service funds for these service providers directly to NECA in a consolidated lump sum payment, along with the authorized remittance instructions. NECA, after performing its own reconciliations, would then forward payments to the service providers. This new distribution approach evolved from recommendations by USAC’s auditors for tracking and reconciling disbursements.

⁴⁵ See 47 C.F.R. §§ 54.301, 54.303, 54.307, 54.309, 54.311, 54.407, 54.413, 54.515, 54.611, 54.702, 54.802, and 54.902; Service Provider Identification Number and Contact Information Form, OMB 3060-0824 (undated) (FCC Form 498).

As part of this new process, USAC obtained individual remittance instructions from all participating carriers. NECA members could opt to receive payment from USAC directly or through NECA. Regardless of the carrier's choice, each carrier was required to submit FCC Form 498. At this time, there are a handful of companies in the NECA pool who have not yet provided individual remittance instructions. USAC is working with these companies to provide necessary data to ensure compliance throughout the program.

USAC responds to all inquiries related to disbursements through a customer service team that handles approximately 24,000 customer inquiries annually, of which approximately 45% relate to disbursements. USAC's automatic call distribution system consistently achieves its goal of having 98% of inbound customers speak to a live representative within 30 seconds of calling. USAC's customer service staff is trained regarding the requirements of FCC Form 498 and can explain the filing process and assist contributors in understanding and completing the form. With a focus on trained support, outreach, and internal efforts at streamlining processes, USAC has achieved an average processing time of 3.5 days for each FCC Form 498 submitted.

D. The Universal Service Support Programs

The fundamental premise of the programs was articulated in section 254 of the 1996 Act, in which Congress instructed the Commission and the states to establish universal service support programs with the goal of ensuring the delivery of affordable telecommunications services to all Americans, including consumers in high-cost areas,

low-income consumers, eligible schools and libraries, and rural health care providers.⁴⁶

Following is an overview of each of the programs, including a discussion of USAC's role and functions in administering the programs.

1. High Cost Program

(a) Overview

In the 1997 *Universal Service Order*, the Commission implemented section 254 of the 1996 Act by formally establishing the High Cost program,⁴⁷ which currently consists of the following five components:

- High Cost Loop (HCL) support,⁴⁸ including Safety Net Additive (SNA)⁴⁹ support and Safety Valve Support (SVS)⁵⁰
- High Cost Model (HCM) support⁵¹
- Interstate Access Support (IAS)⁵²
- Interstate Common Line Support (ICLS)⁵³
- Local Switching Support (LSS)⁵⁴

USAC disburses High Cost program support to companies that have been designated as Eligible Telecommunications Carriers (ETCs) by a state commission or the FCC in accordance with Subpart F of the Commission's Part 36 rules and Subpart D of

⁴⁶ 47 U.S.C. §254(b).

⁴⁷ See *Universal Service Order*, 12 FCC Rcd at 8781, 8792-93, 8888-951, ¶ 2, ¶ 26, ¶¶ 199-325.

⁴⁸ See 47 C.F.R. § 36.601-.604.

⁴⁹ 47 C.F.R. § 36.605.

⁵⁰ See 47 C.F.R. § 54.305(b).

⁵¹ See 47 C.F.R. § 54.309; see also *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Ninth Report & Order and Eighteenth Order on Reconsideration, 14 FCC Rcd. 20432, 20435, ¶ 2 (1999) (*Ninth Report and Order and Eighteenth Order*); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Tenth Report and Order in CC Docket No. 96-45, Forward-Looking Mechanism For High Cost Support for Non-Rural LECS in CC Docket No. 97-160, 14 FCC Rcd 20156, 20162, ¶ 8 (1999).

⁵² See 47 C.F.R. §§ 54.800-.809.

⁵³ See 47 C.F.R. §§ 54.901-.904. Long Term Support (LTS) was merged into ICLS as of July 1, 2004.

⁵⁴ 47 C.F.R. § 54.301(a).

its Part 54 rules.⁵⁵ Historically, incumbent local exchange carriers (ILECs) received the majority of High Cost support, but competitive local exchange carriers (CLECs) are eligible for ETC status and many receive High Cost support.⁵⁶

From January 1998 through June 2005, USAC distributed over \$19 billion in High Cost program support across all components. The following charts show the disbursement history by program component:

YEAR	HCL	HCM	IAS	ICLS
1998	\$827,291,508	\$0	\$0	\$0
1999	\$836,818,121	\$27,507,840	\$0	\$0
2000	\$872,141,172	\$220,669,719	\$278,608,761	\$0
2001	\$906,786,914	\$227,833,839	\$576,699,146	\$0
2002	\$1,042,796,853	\$241,237,300	\$625,187,737	\$184,772,323
2003	\$1,084,649,796	\$234,030,504	\$621,741,099	\$399,419,998
2004	\$1,136,638,538	\$273,425,565	\$641,745,828	\$727,043,940
2005	\$592,010,406	\$144,655,718	\$354,367,991	\$556,078,700
TOTAL	\$7,299,133,308	\$1,369,360,485	\$354,367,991	\$1,867,314,961

YEAR	LSS	LTS	SNA	SVS	TOTAL
1998	\$387,259,432	\$476,316,559	\$0	\$0	\$1,690,867,499
1999	\$383,039,569	\$473,314,278	\$0	\$0	\$1,720,679,808
2000	391434691	\$478,383,390	\$0	\$0	\$2,241,237,733
2001	\$399,002,826	\$492,134,676	\$0	\$0	\$2,602,457,401
2002	\$391,142,087	\$492,818,630	\$0	\$0	\$2,977,954,930
2003	\$420,154,025	\$504,088,666	\$9,140,824	\$0	\$3,273,224,912
2004	\$422,305,025	\$274,822,502	\$11,590,707	\$0	\$3,487,572,105
2005	\$194,043,845	(\$136,960)	\$6,916,119	\$4,217,256	\$1,852,153,075
TOTAL	\$2,988,381,500	\$3,191,741,741	\$27,647,650	\$4,217,256	\$19,846,147,463

⁵⁵ 47 C.F.R. § 54.201.

⁵⁶ See *Universal Service Order*, 12 FCC Rcd at 8944, ¶ 311.

USAC projects approximately \$4 billion of High Cost program support payments in 2005, representing an 8% increase over the amount disbursed in 2004.⁵⁷ USAC expects the total amount of program disbursements to continue increasing as new ETCs claim support. Pursuant to the Act, the Commission's rules require carriers to submit general and component-specific filings to USAC. USAC receives and processes an enormous volume of forms, data, and correspondence in order to calculate support amounts, make demand projections, and disburse funds for each of the High Cost program. USAC verifies reported amounts, eligibility and certifications. Further details of these activities along with an overview of the High Cost program components are discussed below.

(b) High Cost Program Administration

Following is an overview of USAC's administration of each component of the High Cost program.

i. High Cost Loop (HCL), Safety Net Additive (SNA) Support and Safety Valve Support (SVS)

High Cost Loop (HCL) support provides funds for the "last mile" of connection for rural incumbent local exchange companies in service areas where the cost to provide this service exceeds 115% of the national average cost per line.⁵⁸ HCL support is calculated based on the results of the annual collection of ILEC loop cost and expense

⁵⁷ See Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections, Third Quarter 2004, Appendix HC02, (Apr. 30, 2004), Third Quarter 2005, Appendix HC02 (May 2, 2005).

⁵⁸ See 47 C.F.R. §§ 36.601-.604.

adjustment data submitted to the Commission and USAC each October 1.⁵⁹ Total HCL support for rural carriers⁶⁰ is limited under 47 C.F.R. § 36.603(a) to the current level of funding for the prior year multiplied by one plus the rural growth factor.⁶¹

NECA and USAC each collect data from carriers and calculate portions of HCL support with USAC having responsibility for disbursing all HCL related funds. NECA also calculates an overall HCL support cap which is applied to all ILECs in the aggregate. The cap does not apply to competitive carriers. NECA calculates overall HCL support for each ILEC and provides this information to USAC. USAC then calculates per-line support for each ILEC within the overall support amount available to the ILEC as determined by NECA. USAC also calculates and disburses competitive carrier HCL support as discussed below.

Competitive carriers that have been designated ETCs (CETCs) and are state- or self-certified, may receive HCL support if they are serving lines within an eligible ILEC's study area.⁶² CETCs file quarterly line counts with USAC,⁶³ which are used to compute the HCL support paid to the CETCs.⁶⁴ The HCL support provided to each CETC is based on: (1) the number of lines reported quarterly by the CETC for various

⁵⁹ See 47 C.F.R. §§ 36.602-.604; see also Universal Service Fund Submission of Study Results by the National Exchange Carrier Association, Inc. (dated October 1, 2004), <http://www.fcc.gov/wcb/iatd/neca.html> (*USF Data Submission*).

⁶⁰ See 47 C.F.R. § 51.5 (defining a rural telephone company).

⁶¹ 47 C.F.R. § 36.603(a).

⁶² 47 C.F.R. § 54.307(a)(1).

⁶³ 47 C.F.R. § 54.307(b)-(c).

⁶⁴ See 47 C.F.R. § 54.307(a).

ILEC study areas and/or disaggregated areas; and (2) the support per line paid to the ILEC(s) for those ILEC study areas and/or disaggregated areas.⁶⁵

USAC disburses HCL support by receiving incumbent expense adjustment calculations from NECA and competitor line count data directly from carriers. USAC validates NECA calculated HCL support amounts in a manner consistent with the Commission's rules. USAC also verifies carrier eligibility and conformance with certification requirements.

Once the HCL support amounts have been verified and eligibility is determined, USAC ensures the ILEC HCL cap is not exceeded by reviewing specific economic and carrier specific data and analyzing the current month HCL support amounts. Upon completing HCL cap validations for current and prior years, USAC utilizes ILEC HCL support amounts to determine CETC HCL support amounts (although as mentioned above, the HCL cap only applies to the ILECs, not CETCs). USAC also verifies carrier eligibility for HCL support. Finally, USAC compares current month HCL support to prior months' support, on a carrier study area code (SAC) basis, in order to ensure there are no significant discrepancies in disbursements.

To give a sense of the volume of HCL transactions handled by USAC, in 2004 USAC reviewed, processed and validated HCL line counts for 1,101 ILECs. For 2003 and 2004, 103 CETCs in 50 states and territories were reviewed, processed and validated. Certifications must also be filed with USAC to ensure the support disbursed for HCL will be used for the provision, maintenance, and upgrading of facilities and services for which

⁶⁵ See 47 C.F.R. § 54.307(a)(1).

the support is intended. In 2004, USAC reviewed, processed and validated 1,204 certifications for HCL.

Safety Net Additive (SNA) support and Safety Valve Support (SVS) are sub-components of HCL that are not subject to the HCL annual cap for ILECs.⁶⁶ Pursuant to the *Rural Task Force Order*,⁶⁷ SNA support is provided above the HCL cap for carriers that make “significant investments in rural infrastructure” in years in which HCL is capped.⁶⁸ To receive support, a rural carrier must show that growth in telecommunications plant in service (TPIS) per line is at least 14% greater than the prior year.⁶⁹ Carriers seeking to qualify for SNA support must provide notice to USAC that a study area meets the 14% TPIS trigger.⁷⁰ Also pursuant to the *Rural Task Force Order*, SVS is available above the HCL cap for rural carriers that acquire exchanges and make substantial post-transaction investments to enhance network infrastructure.⁷¹ SVS is available for up to 50% of the difference between the index year HCL support amount and the HCL support amount in subsequent years.⁷² SVS is also subject to an overall cap

⁶⁶ 47 C.F.R. § 36.603(c).

⁶⁷ *Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45, 00-256, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange, 16 FCC Rcd 11244 (2001) (*Rural Task Force Order*).

⁶⁸ *Id.* at 11276-81, ¶¶ 77-90 (footnote omitted); *see also* 47 C.F.R. § 36.605(c)(1).

⁶⁹ 47 C.F.R. § 36.605(c)(1).

⁷⁰ 47 C.F.R. § 36.605(c).

⁷¹ 47 C.F.R. § 54.305(b); *see also Rural Task Force Order*, 16 FCC Rcd at 11281-92, ¶¶ 91-119.

⁷² 47 C.F.R. § 54.305(d). In an order released on January 10, 2005, the FCC amended Section 54.305 to make it inapplicable to “transfers of exchanges between non-rural carriers after the phase-down of interim hold harmless support.” *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order and Order on Reconsideration, National Telephone Cooperative Association Petition for Reconsideration, 20 FCC Rcd 768, 772, ¶ 9 (2005). In addition, the FCC amended Section 54.305 “to provide that rural carriers

of no more than 5% of the HCL fund in any given year.⁷³ HCL can increase or decrease depending on the rural growth factor (RGF).⁷⁴

SNA processing is initiated by the carrier sending a letter notifying USAC the carrier believes it has qualified for SNA support in a given year. Once notification is received, USAC calculates SNA by reviewing incumbent data from NECA and competitor data directly from the carrier. USAC calculates SNA demand quarterly and makes disbursements monthly. USAC uses ILEC SNA support data to determine CETC SNA support amounts and subjects the amounts to eligibility and certification checks for all carriers.

CETCs that are state- or self-certified may receive SNA support if they are serving lines within an eligible ILEC's study area.⁷⁵ CETCs file quarterly line counts with USAC,⁷⁶ which are used to compute the HCL support and SNA paid to the CETCs.⁷⁷ The SNA support provided to each CETC is based on: (1) the number of lines reported quarterly by the CETC for various ILEC study areas and/or disaggregated areas; and (2) the support per line paid to the ILEC(s) for those ILEC study areas and/or disaggregated areas.⁷⁸

that acquire high cost exchanges may receive safety valve support for the investment made in the first year of operating the acquired exchanges." *Id.* at ¶ 10.

⁷³ 47 C.F.R. § 54.305(e).

⁷⁴ 47 C.F.R. § 36.604.

⁷⁵ 47 C.F.R. § 54.307(a)(1).

⁷⁶ 47 C.F.R. § 54.307(b)-(c).

⁷⁷ 47 C.F.R. § 54.307(a).

⁷⁸ 47 C.F.R. § 54.307(a)(1).

USAC receives data from carriers, NECA, and regulatory authorities necessary to determine and disburse SNA support and SVS. In 2004, USAC received, validated, and processed over 454,000 data points from 286 carriers. Of this amount, over 363,500 data points for 229 incumbent carriers, and over 90,500 data points for 57 competitive carriers were processed. Line count data is provided in a separate filing for SNA. In 2004, USAC reviewed, processed and validated SNA line counts for 229 ILECS and 57 CETCs in 40 states and territories. Certifications must also be filed with USAC to ensure the support disbursed for SNA will be used for the provision, maintenance, and upgrading of facilities and services for which the support is intended.⁷⁹ In 2004, USAC reviewed, processed and validated 286 certifications for SNA.

USAC also receives data monthly, quarterly and annually to determine SVS. SVS processing is initiated by an incumbent carrier notifying USAC it has qualified for SVS in a given year. Once notification is received, USAC verifies the carrier's eligibility and calculates SVS payments by reviewing incumbent data from NECA and competitor data directly from carriers. USAC re-verifies carrier eligibility and conformance with certification requirements monthly and calculates SVS for monthly disbursements and quarterly demand projections. USAC reviews rural use certifications annually.

State or self-certified CETCs may receive SVS if they are serving lines within an eligible ILEC's study area.⁸⁰ CETCs file quarterly line counts with USAC,⁸¹ which are

⁷⁹ 47 C.F.R. § 54.314.

⁸⁰ See 47 C.F.R. § 54.307(a)(1).

⁸¹ 47 C.F.R. § 54.307(b).

used to compute the amount of SVS paid to the CETCs.⁸² The SVS provided to each CETC is based on (1) the number of lines reported quarterly by the CETC for various ILEC study areas and/or disaggregated areas, and (2) the support per line paid to the ILEC(s) for those ILEC study areas and/or disaggregated areas.⁸³

SVS processing is initiated by the carrier sending a letter notifying USAC the carrier believes it has qualified for SVS in a given year. Once notification is received, USAC calculates SVS by reviewing incumbent data from NECA and competitor data directly from carriers. USAC then calculates SVS in accordance with the Commission rules. USAC also verifies carrier eligibility and conformance with certification requirements. Once the SVS amounts have been verified and eligibility is determined, USAC utilizes ILEC SVS amounts to determine CETC SVS amounts. USAC then performs eligibility and certification checks for the CETCs. Finally, USAC compares current month SVS to prior months' support, on a carrier SAC basis to ensure there are no significant discrepancies in disbursements. Research is performed where substantial discrepancies are found.

USAC reviews competitor and incumbent carrier data in determining SVS. In 2005, USAC estimates it will receive, validate and process over 41,000 data points from 65 carriers; of which, approximately 12,000 data points for 19 incumbent carriers, and approximately 29,000 data points for 46 competitive carriers are expected to be processed. The SVS component is expected to continue growing as a result of ILEC

⁸² See 47 C.F.R. § 54.307(a)(1).

⁸³ See 47 C.F.R. § 54.307(a).

investment in acquired exchanges. Correspondingly, USAC anticipates the number of data points reviewed, validated and processed will increase.

Line count data is provided in a separate filing for SVS. In 2005, USAC estimates it will receive, process, and validate line counts for 19 ILECS and 96 CETCs in all states and territories. Certifications must also be filed with USAC to ensure SVS disbursements will be used “for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”⁸⁴ In 2004, USAC reviewed, processed and validated 65 certifications for SVS.

ii. High Cost Model (HCM) Support

High Cost Model (HCM) support for non-rural carriers is based on a forward-looking economic cost model.⁸⁵ This model generates the statewide average cost per line, which is then compared to the national average cost per line to determine eligibility for forward-looking support.⁸⁶ If the statewide average cost per line exceeds two standard deviations of the national average cost per line (the national cost benchmark), carriers serving the state may qualify for support.⁸⁷ Support is provided for intrastate line costs that exceed the national benchmark.⁸⁸ Forward-looking intrastate line costs equal 76% of the forward-looking costs generated by the model.⁸⁹ The remaining 24% is

⁸⁴ 47 C.F.R. § 54.314; *see also* 47 C.F.R. §§ 54.315(f), 54.316.

⁸⁵ *See* 47 C.F.R. § 54.309.

⁸⁶ 47 C.F.R. § 54.309(a).

⁸⁷ 47 C.F.R. § 54.309(a)(3).

⁸⁸ 47 C.F.R. § 54.309(a)(4).

⁸⁹ *Id.*

recovered through interstate access rates.⁹⁰ For 2005, non-rural carriers in ten states (Alabama, Kentucky, Maine, Mississippi, Montana, Nebraska, South Dakota, Vermont, West Virginia, and Wyoming) are eligible to receive forward-looking support.⁹¹

On a monthly, quarterly and annual basis, USAC reviews data from competitors, NECA and the Commission to compute HCM support. NECA provides ILEC High Cost line counts, and state regulatory authorities and carriers provide non-rural use certifications for HCM. USAC also reviews an annual wire center data file from the Commission for use in HCM calculations. Quarterly, non-rural ILECs (through NECA) and competitive carriers provide USAC with line count updates. Carriers may submit monthly revised line count filings that supersede the original quarterly filings. Using the quarterly line count data, USAC calculates quarterly HCM demand projections for all carriers. Monthly disbursements are determined based on the line counts filed and any prior period adjustments to be made. USAC subjects disbursements to eligibility and certification checks.

Quarterly line counts are reported by competitive carriers on a wire center basis directly to USAC.⁹² Non-rural ILECs are required to file line count updates with NECA each quarter for HCM.⁹³ NECA provides the quarterly non-rural ILEC line count data to

⁹⁰ See *Ninth Report & Order and Eighteenth Order on Reconsideration*, 14 FCC Rcd at 20467-68, ¶63, n. 190.

⁹¹ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order and Order on Reconsideration, DA 03-4070 (2003); see also “*Wireline Competition Bureau Releases Estimated State-By-State High-Cost Universal Service Support Amounts for Non-Rural Carriers for 2004*,” CC Docket No. 96-45, Public Notice, DA 03-4071 (2003); Universal Service Administrative Company, *Federal Universal Service Support Mechanism Fund Size Projections, Third Quarter 2005*, Appendix H16 (May 2, 2005).

⁹² 47 C.F.R. §§ 54.307(b)-(c).

⁹³ 47 C.F.R. § 36.612(a).

USAC. Additionally, USAC accepts submissions by competitive carriers of revised line count filings monthly to supersede the original quarterly filings. USAC processes revised line counts and adjusts support when required for prior periods.

To receive HCM support, states must file non-rural use certifications on behalf of the recipient carriers.⁹⁴ This certification can also be submitted for new ETCs at any time throughout the year.⁹⁵ The state non-rural use certification identifies the ILECs and competitive carriers certified by the state that the funds received will be used for their intended purposes.⁹⁶ In states where state commissions do not certify carriers, those carriers may provide a self-certification statement to USAC and the Commission.⁹⁷ A carrier may receive support for some or all of the quarters in a year, depending on when the carrier's certification is received.⁹⁸ If the certification is received after July 1, the carrier does not receive HCM support for the current year.⁹⁹

Non-rural carriers that did not receive HCM support, but were projected to receive High Cost Loop (HCL) support, received Interim Hold Harmless (IHH) provision prior to IHH phase-down.¹⁰⁰ The IHH provision ensured, on an interim basis, a non-rural carrier received the greater of the amount provided to that carrier under the forward-looking mechanism that went into effect on January 1, 2000 or the amount provided by

⁹⁴ 47 C.F.R. § 54.313.

⁹⁵ 47 C.F.R. § 54.313(d)(3).

⁹⁶ 47 C.F.R. § 54.313.

⁹⁷ 47 C.F.R. § 54.313(b).

⁹⁸ 47 C.F.R. § 54.313(d)(3).

⁹⁹ 47 C.F.R. § 54.313(d)(3)(v).

¹⁰⁰ 47 C.F.R. § 54.311.

the mechanism in place prior to that date.¹⁰¹ IHH Support was designed as an interim measure to protect customers in high cost areas from potential rate shocks as a result of any sudden, significant increases in rates during the shift to the new, forward-looking support component. IHH support was also targeted to the highest cost wire centers. Beginning January 1, 2001, IHH was phased-down by \$1.00 in average monthly, per-line support.¹⁰² IHH support has now been fully phased-down.

USAC processes carrier and incumbent data in determining carrier HCL support. In 2004, USAC reviewed, validated, and processed 74,914 HCM data points from 191 carriers; of which, 56,234 data points for 86 incumbent carriers, and 18,860 data points for 105 competitive carriers were processed. Line count data is provided in a separate filing for HCM. In 2004, USAC reviewed, processed and validated HCM line counts for 15 ILECS and 39 CETCs in 10 states. Certifications must also be filed with USAC to ensure the support disbursed for HCM will be used for the provision, maintenance, and support of the intended services.¹⁰³ In 2004, USAC reviewed, processed and validated 54 certifications for HCM.

iii. Interstate Access Support (IAS)

Interstate Access Support (IAS) helps to offset interstate access charges for price cap ILECs.¹⁰⁴ The *Interstate Access Order* targeted IAS at \$650 million annually for five

¹⁰¹ See *id.*

¹⁰² 47 C.F.R. § 54.311(d).

¹⁰³ See 47 C.F.R. §§ 36.314, 36.316, 54.313.

¹⁰⁴ See 47 C.F.R. §§ 54.800-.809; see also *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-262, 94-1, 99-249, 96-45, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (2000), errata (rel. June 14, 2000) (*Interstate Access Order*).

years beginning in 2000.¹⁰⁵ Only price cap ILECs¹⁰⁶ or competitive carriers serving in the service area of a price cap ILEC¹⁰⁷ are eligible to receive interstate access support.

Each year, a price cap ILEC must submit the following information to be eligible for IAS: (1) line counts; (2) revenue information; (3) Unbundled Network Element (UNE) zone¹⁰⁸ rates (if UNE zones have been established); (4) UNE zone maps (if UNE zones have been established)¹⁰⁹ and (5) a carrier certification. A competitive carrier serving in the service area of a price cap ILEC may submit only line count data and a carrier certification.

On a quarterly and annual basis, USAC reviews data from carriers to project and pay IAS. Carriers must file each calendar quarter the number of lines served within each price cap ILEC study area in which the carrier serves by UNE zone and customer class where applicable.¹¹⁰ Annually, ILECs file average price cap CMT revenue per line month¹¹¹ and other data necessary to determine IAS rates for the prospective program year.¹¹² Additionally, ILECs and CETCs annually file an IAS certification with USAC and the Commission. The ILEC data and CETC line count data is used to generate IAS rates. Quarterly line counts are used to determine IAS demand projections and monthly disbursements. Quarterly loop counts are also used to reconcile payments pursuant to

¹⁰⁵ *Interstate Access Order*, 15 FCC Rcd at 13046, ¶ 201; *see also* 47 C.F.R. § 54.801(a).

¹⁰⁶ 47 C.F.R. § 54.801.

¹⁰⁷ 47 C.F.R. § 54.807.

¹⁰⁸ *See Interstate Access Order*, 15 FCC Rcd at 12988-89, ¶ 70, n. 99; *see also* 47 C.F.R. § 51.507(f); 47 C.F.R. § 51.5 for the definition of a “network element.”

¹⁰⁹ *See* 47 C.F.R. § 54.802.

¹¹⁰ 47 C.F.R. § 54.802(a).

¹¹¹ 47 C.F.R. § 61.3(d).

¹¹² 47 C.F.R. § 54.802(b).

Commission rules.¹¹³ Payments are subject to monthly eligibility and certification checks.

ILECs must file the number of lines served within each price cap local exchange carrier study area served.¹¹⁴ Line counts must be submitted at the UNE zone level if UNE zones have been established within the study area.¹¹⁵ Residential/single-line business and multi-line business line counts must be shown separately.¹¹⁶ Additionally, ILECs must file Average Price Cap CMT Revenue per Line Month¹¹⁷ on an annual basis.¹¹⁸ ILECs and CETCs must file an annual certification with the Commission and USAC stating all interstate access universal service support received will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.¹¹⁹

Loop counts filed by CETCs are used to compute the IAS support paid to the CETCs.¹²⁰ The IAS support provided to each CETC is based on: (1) the support per loop paid to ILEC(s) associated with the CETC's reported study areas, and (2) the number of quarterly loops reported by the CETC.¹²¹ USAC collects and validates IAS forms, and determines IAS support payments on a monthly basis. IAS per-line rates are used to

¹¹³ See 47 C.F.R. § 54.802 (requirements of the Administrator to periodically reconcile support payments).

¹¹⁴ See 47 C.F.R. § 54.802(a).

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ See 47 C.F.R. § 61.3(d) (defining Average Price Cap CMT Revenue per Line Month).

¹¹⁸ 47 C.F.R. § 54.802(b).

¹¹⁹ 47 C.F.R. § 54.809(a).

¹²⁰ See 47 C.F.R. § 54.803(a)(1).

¹²¹ See 47 C.F.R. § 54.802(d)(1).

calculate support amounts for the carriers, and are calculated by customer class for each UNE zone within a study area where applicable. These rates are recalculated annually by USAC during the second calendar quarter of the year. USAC validates and reviews all data submitted by ILECs for use in the annual rate calculation. During the rate calculation period carriers and USAC work together to resolve any issues related to the data.

USAC processes competitive carrier and incumbent data in determining IAS support. In 2004, USAC reviewed, processed and validated 35,530 data points from 187 incumbent carriers. Line count data is provided in a separate filing for IAS. In 2004, USAC reviewed, processed and validated IAS line counts for 149 ILECs and 154 CETCs in 50 states and territories. Certifications must also be filed with USAC to ensure the support disbursed for IAS will be used for the provision, maintenance, and support of the intended services. In 2004, USAC reviewed, processed and validated 528 certifications for IAS.

iv. Interstate Common Line Support (ICLS)

Interstate Common Line Support (ICLS) is designed to permit each rate-of-return carrier to recover its common line revenue requirement, while ensuring its subscriber line charges remain affordable to its customers.¹²² Only rate-of-return carriers, or competitive carriers serving in the service area of a rate-of-return carrier, are eligible to

¹²² See *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Federal-State Joint Board on Universal Service, Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation, Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers*, CC Docket Nos. 00-256, 96-45, 98-77, 98-166, Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166, 16 FCC Rcd 19613 (2001) (*MAG Order*).

receive ICLS.¹²³ In the *MAG Order* the Commission reformed the interstate access charge and universal service support systems for rate-of-return carriers.¹²⁴

To receive ICLS, rate-of-return ILECs must annually file projected revenue information,¹²⁵ which is used to project quarterly ICLS demand and determine ILEC and CETC payments. Rate-of-return carriers are also required to submit actual annual ICLS revenue requirements.¹²⁶ USAC uses this data to reconcile prior period payments and projected payments for the previous calendar year for both ILECs and CETCs. Quarterly line counts for carriers are used by USAC to generate and calculate CETC demand and make payments monthly. Each month, USAC reviews carrier eligibility and conformance to certification requirements prior to making payments based on projected and actual ICLS revenue requirements data.

All carriers seeking to qualify for ICLS must periodically submit line count information and carrier certifications.¹²⁷ All incumbent rate-of-return carriers must submit information to enable USAC to calculate the projected ICLS revenue requirement for those carriers.¹²⁸ A CETC serving in the study area of a rate-of-return carrier is required to submit only line count data and a carrier certification to be eligible to obtain ICLS.¹²⁹ All incumbent rate-of-return carriers are also required to submit their projected

¹²³ *See id.*.

¹²⁴ *See id.*.

¹²⁵ 47 C.F.R. § 54.903(a)(3).

¹²⁶ 47 C.F.R. § 54.903(a)(4).

¹²⁷ *See* 47 C.F.R. §§ 54.903 (regarding ILECs), 54.307(c) (regarding CETCs).

¹²⁸ 47 C.F.R. § 54.903.

¹²⁹ *See* 47 C.F.R. § 54.307 (discussing what data must be submitted).

revenue requirement data for the ICLS upcoming program year, as well as revisions.¹³⁰ Incumbent carriers must also submit actual results of operations showing their ICLS results of operations for the preceding calendar year.¹³¹ This information is used to reconcile the projected ICLS amounts. Rate-of-return carriers must file a self-certification with the Commission and USAC each year stating that all ICLS received will be used only for the provision, maintenance and upgrading of facilities and services for which the support is intended.¹³²

Rate-of-return incumbent carriers located in study areas where a CETC has initiated service and reported line count data to USAC have additional line count filing requirements.¹³³ Rate-of-return incumbent carriers located in study areas where there is no CETC that has initiated service and reported line count data to USAC may voluntarily elect to submit quarterly reports of line counts to USAC.

USAC processes carrier and incumbent data in determining ICLS support. In 2004, USAC reviewed, validated, and processed 60,000 data points from 1,248 incumbent carriers. Line count data is provided in a separate filing for ICLS. In 2004, USAC reviewed, processed, and validated ICLS line counts for 1,243 ILECS and 103 CETCs in 50 states and territories. In 2004, USAC reviewed, processed, and validated 1,468 carrier ICLS certifications.

¹³⁰ 47 C.F.R. § 54.903(a)(3).

¹³¹ 47 C.F.R. § 54.903(a)(4).

¹³² 47 C.F.R. § 54.904.

¹³³ See 47 C.F.R. § 54.903(a)(2).

Although it was discontinued as of July 1, 2004, long term support (LTS) was used to offset interstate access charges for rate-of-return regulated carriers.¹³⁴ LTS was available only for incumbent carriers participating in the NECA Common Line pool and competitive carriers that serve in the carrier's service area. LTS is now provided through ICLS.¹³⁵

v. Local Switching Support (LSS)

Local Switching Support (LSS) helps incumbent local exchange carriers designated as ETCs to recover a portion of the costs associated with local switching.¹³⁶ Incumbent ETC study areas having 50,000 or fewer access lines are eligible to receive support for local switching costs.¹³⁷ LSS is the product of a carrier's annual unseparated local switching revenue requirement multiplied by its local switching support factor.¹³⁸ To receive LSS, ILECs must file projected switching requirement information annually,¹³⁹ which is then used to project LSS demand each quarter and determine ILEC and CETC payments quarterly. ILECs are also required to annually submit actual LSS requirements.¹⁴⁰ This data is used to reconcile projected payments for the previous year for both ILECs and CETCs to the amount a carrier was entitled to receive when support is calculated using the actual LSS data. Carrier quarterly line counts are used by USAC

¹³⁴ See 47 C.F.R. § 54.303.

¹³⁵ See 47 C.F.R. § 54.303(a); 47 C.F.R. § 54.901-.904.

¹³⁶ See 47 C.F.R. § 54.301(a)(1).

¹³⁷ *Id.*

¹³⁸ See 47 C.F.R. § 54.301(a)(2)-(3). The LSS factor is defined as the difference between the 1996 weighted interstate Dial Equipment Minute (DEM) factor and the 1996 unweighted DEM factor. 47 C.F.R. § 54.301(a)(2)(i).

¹³⁹ 47 C.F.R. § 54.301(b).

¹⁴⁰ 47 C.F.R. § 54.301(e).

to generate and calculate CETC LSS demand filings quarterly and make payments monthly. USAC subjects payments based on projected and actual LSS requirements data to eligibility and certification checks prior to disbursement each month.

Incumbent carriers wishing to receive LSS must file either a Form LSSc or a Form LSSa, depending on whether they file as a cost or average schedule company.¹⁴¹ LSS for cost companies is determined based on a detailed set of cost elements.¹⁴² LSS for average schedule companies is determined based on an algorithm approved by the Commission known as the Average Schedule Formula and a limited data set, consisting of access minutes, the number of line counts, and the number of exchanges within a specific SAC.¹⁴³ While the calculation methodology for each of these carrier types differs, the process and procedures for performing LSS calculations are the same.

CETCs are certified by the state, or self-certified if the state does not provide certification for the CETC, may receive LSS.¹⁴⁴ CETCs file quarterly loop counts with USAC,¹⁴⁵ which are used to compute the LSS paid to the CETCs.¹⁴⁶ The LSS provided to each CETC is based on: (1) the support per loop paid to the ILEC(s) associated with the CETC's reported study areas; and (2) the number of quarterly loops reported by the CETC.¹⁴⁷

¹⁴¹ See 47 C.F.R. § 54.301(b)-(f); Local Switching Support Data Collection Form Cost Company, OMB 3060-0814 (February 2005) (FCC LSSc Form); Local Switching Support Data Collection Form Average Schedule Company, OMB 3060-0814 (February 2005) (FCC LSSa Form).

¹⁴² See 47 C.F.R. § 54.301.

¹⁴³ See 47 C.F.R. § 54.301(f); see e.g. 2006 Average Schedule Local Switching Support Formula, CC Docket 96-45 (filed September 30, 2005).

¹⁴⁴ See 47 C.F.R. §§ 54.307(a); 54.314.

¹⁴⁵ 47 C.F.R. § 54.307(c).

¹⁴⁶ See 47 C.F.R. §§ 54.301(a), 54.307.

¹⁴⁷ See 47 C.F.R. § 54.301.

USAC uses carrier data to calculate LSS projected support in a manner consistent with Commission rules. Once LSS amounts have been verified and eligibility is determined, USAC uses ILEC LSS amounts to determine CETC LSS amounts. USAC also performs eligibility and certification checks for the CETCs. Finally, USAC compares current month LSS to prior months on a carrier SAC basis in order to ensure there are no significant discrepancies in disbursements. LSS is paid on projected costs, and annually trued up to actual costs reported by each carrier.¹⁴⁸ USAC then recovers overpayments or disburses shortfalls between the carrier's projected LSS paid and eligible LSS based on actual costs.

USAC processes carrier and incumbent data in determining LSS. In 2004, USAC reviewed, processed and validated 67,818 data points from 1,468 incumbent carriers; of which 63,228 data points for 958 cost incumbent carriers, and 4,590 data points for 510 average schedule incumbent carriers were processed. Line count data is provided in a separate filing for LSS. In 2004, USAC reviewed, processed and validated LSS line counts for 1,257 ILECS and 103 CETCs in 50 states and territories. Certifications must also be filed with USAC to ensure the support disbursed for LSS will be used for the provision and maintenance of the intended services.¹⁴⁹ In 2004, USAC reviewed, processed and validated 1,468 certifications for LSS.

¹⁴⁸ 47 C.F.R. § 54.301(b),(e).

¹⁴⁹ 47 C.F.R. § 54.314.

2. Low Income Program

(a) Overview

In the 1997 *Universal Service Order*, the Commission expanded existing programs that promoted connectivity and established the Low Income program.¹⁵⁰

Through this program, eligible low-income consumers apply for service or installation discounts through their local telephone companies for the following three components:¹⁵¹

- **Lifeline:** Helps consumers pay the cost of monthly telephone service by reimbursing telephone companies for discounting monthly local phone service for eligible customers.¹⁵²
- **Link-Up:** Helps consumers defray the cost of telephone installation and certain other one-time costs by reimbursing telephone companies for discounting connection charges for eligible customers.¹⁵³
- **Toll Limitation Service (TLS):** Reimburses telephone companies for providing toll blocking and toll control to eligible customers.¹⁵⁴

To be eligible to participate in the Low Income program, a carrier must be certified as an Eligible Telecommunications Carrier (ETC).¹⁵⁵ State commissions may designate ETCs for participation in the program for service areas within the state.¹⁵⁶ The Commission also has jurisdiction to designate ETCs.¹⁵⁷

¹⁵⁰ See *Universal Service Order*, 12 FCC Rcd at 8781, 8793-94, 8952-94, ¶¶ 2, 27-28, 326-409.

¹⁵¹ See 47 C.F.R. §§ 54.407, 54.413.

¹⁵² 47 C.F.R. § 54.401.

¹⁵³ 47 C.F.R. § 54.411.

¹⁵⁴ 47 C.F.R. §§ 54.400(b)-(c), 54.403(c).

¹⁵⁵ 47 C.F.R. § 54.201(a).

¹⁵⁶ 47 C.F.R. § 54.201(b).

¹⁵⁷ *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, Western Wireless Corporation, Crow Reservation in Montana, Smith Bagley, Inc., Cheyenne River Sioux Tribe Telephone Authority, Western Wireless Corporation, Wyoming, Cellco Partnership d/b/a/ Bell Atlantic Mobile, Inc., Petitions for Designation as an Eligible Telecommunications Carrier and for Related Waivers to Provide Universal Service*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order and Further

USAC disburses Low Income program support to carriers on a monthly basis. The payment amount disbursed to each carrier is a projection based on the carrier's historical support claims for the past twelve months. In June 2005, for example, USAC disbursed a total of \$66.9 million to 1,533 participating carriers.¹⁵⁸ Between February 1998 and August 2005, USAC distributed more than \$4.7 billion in universal service funds under the Low Income program as follows:

LOW INCOME PROGRAM DISBURSEMENT SUMMARY (FEBRUARY 1998 – AUGUST 2005)					
YEAR	LIFELINE TOTAL	LINKUP TOTAL	TLS TOTAL	PICC¹⁵⁹ TOTAL	TOTAL
1998	\$379,530,553	\$38,274,415	\$1,561,771	\$2,378,304	\$421,745,043
1999	\$442,315,290	\$35,633,561	\$4,011,361	\$4,328,068	\$486,288,280
2000	\$520,558,010	\$33,866,040	\$3,136,643	\$3,713,135	\$561,273,828
2001	\$545,710,450	\$29,486,870	\$3,230,553	\$0	\$578,427,873
2002	\$642,153,814	\$30,939,460	\$3,817,848	\$0	\$676,911,122
2003	\$677,729,017	\$31,039,618	\$4,474,127	\$0	\$713,242,762
2004	\$728,594,371	\$32,763,095	\$5,420,778	\$0	\$766,778,244
2005	\$513,625,215	\$22,516,906	\$3,565,792	\$0	\$539,707,913
TOTAL	\$4,450,216,720	\$254,519,965	\$29,218,873	\$10,419,507	\$4,744,375,065

USAC projects that it will disburse \$794.81 million in support in 2005, which represents a five percent (5%) increase over the amount disbursed in 2004.

(b) Low Income Program Administration

The Commission's rules require ETCs that have provided consumers with Lifeline, Linkup and TLS support discounts to file FCC Form 497 with USAC to receive

Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12255-65, ¶¶ 92-114 (2000) (*Twelfth Report and Order*).

¹⁵⁸ Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections, Fourth Quarter 2005, Appendix LI04 (Aug. 2, 2005).

¹⁵⁹ PICC means: Presubscribed Interexchange Carrier Charge (PICC), which was available to price cap companies only for primary residential lines between 1998 and July 1, 2000 by PICC enabled ILECs to recover non-traffic sensitive common line costs not recovered through subscriber line charges (SLCs).

reimbursement for support provided.¹⁶⁰ Carriers must file one FCC Form 497 for each month for which they are claiming support, but they may either file forms quarterly or monthly.¹⁶¹

USAC pays carriers using USAC calculated projections based on each carrier's historical support claims. USAC disburses the projected amount and then reconciles the amount paid against the actual amount of support the carrier was eligible to receive based on the data reported on FCC Form 497.¹⁶² This administrative practice, which was implemented in 2000, benefits carriers by allowing them to receive monthly support payments without requiring them to submit a claim for actual support provided each month. USAC reconciles the difference between the projection and the actual support claim in a subsequent disbursement. If projections for a company exceed its actual support claim, USAC bills the company for the difference.

Carriers frequently file revisions to update their support claims.¹⁶³ USAC processes approximately 3,300 records during the first month of the quarter and 1,100 during each of the two remaining months in the quarter. As part of its quality control process, USAC verifies the carriers SAC and Service Provider Identification Number (SPIN), and status as an ETC. USAC validates the data on each FCC Form 497 by

¹⁶⁰ See 47 C.F.R. § 54.407; see also LifeLine and Link-Up Worksheet, OMB 3060-0819 (October 2000) (FCC Form 497). Information regarding participation in the Low Income program and procedures for filing may be found at: <http://www.universalservice.org/li/telecomcarriers/filingreq.asp>.

¹⁶¹ See *id.*

¹⁶² See 47 C.F.R. § 54.407; FCC Form 497.

¹⁶³ Under USAC's administrative procedure concerning the filing window for Low Income support claims, carriers can file an original or revised FCC Form 497 for the previous two years until March 31. After March 31, forms are accepted only for the current and previous year. For example, until March 31, 2005, carriers could file forms with support claims for any month in 2003 and 2004. After March 31, 2005, support claims are accepted only for 2004 and 2005.

verifying the appropriate fields are populated and legible and then compares the current support claim amounts with the amount claimed by the carrier in the previous month to determine if they are similar (approximately within a 25% range). USAC also checks the rate thresholds for each tier of support are within specified limits. USAC has a number of processes in place to manage ETC submitted forms that do not satisfy the verification and validation process requirements. Approximately 1% - 2% of the submissions require follow-up with the carrier.

USAC routinely reviews carriers' support claims to ensure they are consistent with the Commission's rules. In 2004, USAC began conducting in-depth data validations and, on a going-forward basis, a sample of carriers claiming Lifeline, Link-Up and TLS support will be subject to data validation each year. As with beneficiary audits, USAC will recover any support amounts found to have been paid based on a company's noncompliance with program requirements.

3. Rural Health Care Program

(a) Overview

Health care providers (HCPs) in rural areas face obstacles such as a remote patient base, scarcity of medical professionals, limited access to a wide range of medically necessary services or specialty care, increased costs for such services due to geographic location, and limited funding. The Rural Health Care program seeks to mitigate some of these obstacles by paying a portion of the costs for telecommunications services in a rural area, thereby enabling the health care provider to pay no more for its services than would an urban health care provider.

Section 254 of the 1996 Act requires:

A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services in a state, including instruction relating to such services, to any public or nonprofit health care provider that serves persons who reside in rural areas in that state at rates that are reasonably comparable to rates charged for similar services in urban areas in that state.¹⁶⁴

In the 1997 *Universal Service Order*, the Commission established the universal service support program for rural health care providers.¹⁶⁵ Under this program, eligible health care providers and consortia including eligible health care providers, may apply for discounts for eligible telecommunications services and Internet access.¹⁶⁶ Discounts on eligible services are based on the difference between the urban and rural rate charged for telecommunications services, or a flat 25% discount on the monthly cost for Internet access.¹⁶⁷ Because discounts are based on the difference between these rates, the funding structure and administration of the Rural Health Care program is fundamentally different from that of the Schools and Libraries program, which provides discounts based on the level of poverty of the site served by the supported services. The Commission capped the amount of annual funding for the Rural Health Care program at \$400 million.¹⁶⁸

USAC has committed over \$119 million and disbursed over \$92.8 million for the benefit of rural health care providers to strengthen telemedicine and telehealth networks across the nation, particularly in remote or rural areas, since the first year of the program

¹⁶⁴ 47 U.S.C. § 254(h)(1)(A).

¹⁶⁵ See *Universal Service Order*, 12 FCC Rcd at 8781, 8796-97, 9093-161, ¶¶2, 35-37, 608-749.

¹⁶⁶ See 47 C.F.R. §§ 54.601, 54.621.

¹⁶⁷ See 47 C.F.R. §§ 54.605, 54.607, 54.609, 54.621, 54.625.

¹⁶⁸ 47 C.F.R. §54.623.

as set forth in the table below. As shown below, participation in the program has dramatically increased in each successive year as a result of changes in Commission rules increasing eligibility, coupled with USAC's many outreach activities to identify eligible participants and encourage them to apply.

FUNDING YEAR	FUNDING COMMITMENTS ISSUED	HEALTH CARE PROVIDERS (HCP)	COMMITTED FUNDS	DISBURSED FUNDS
1998	755	483	\$3,398,219	\$3,375,405
1999	896	633	\$7,120,719	\$4,304,559
2000	1,236	743	\$10,754,442	\$10,314,172
2001	1,981	1,194	\$19,688,828	\$18,555,343
2002	2,572	1,406	\$22,601,413	\$21,360,492
2003	2,838	1,662	\$27,900,120	\$21,976,337
2004	3,114	1,731	\$27,930,168	\$12,940,883
TOTAL	13,392	7,852	\$119,393,908	\$92,827,192
NON-DUPLICATIVE HCPS		2,702		
<i>As of September 30, 2005</i>				

(b) Rural Health Care Program Administration

The Commission has established rules governing the administration of the Rural Health Care program in a series of orders.¹⁶⁹ USAC has developed and refined its administrative procedures for managing the program based on Commission orders and guidance, appeals decisions, audits, and results of internal reviews. The checks and balances USAC has put in place to prevent, deter, and combat waste, fraud, and abuse in the program include the Program Integrity Assurance (PIA) procedures that govern the review of applications and invoices submitted to USAC, maintenance of a whistleblower hotline, and USAC's beneficiary audit program.

(c) Application and Invoicing Process and Review Procedures

USAC's processing of applications begins with the health care provider's submission of FCC Form 465.¹⁷⁰ When a form is received from a new applicant, USAC verifies the health care provider's eligibility, determines the largest city in the health care provider's state, and calculates the maximum allowable distance (MAD), which is the distance from the HCP to the far side of the largest city in the provider's state. The largest city and MAD are added to the form by USAC when it posts the form on the USAC website. The form is posted to USAC's website for review by potential competing service providers. After FCC Form 465 is posted, the Commission's rules require the applicant to wait at least 28 days before entering into agreements with service

¹⁶⁹ See, e.g., *Universal Service Order; Rural Health Care Support Mechanism*, WC Docket 02-60, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 18 FCC Rcd 24546 (2003); *Rural Health Care Support Mechanism*, WC Docket 02-60, Second Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 24613 (rel. Dec. 17, 2004).

¹⁷⁰ See Health Care Providers Universal Service, Description of Services Requested & Certification Form, OMB 3060-0804 (January 2005) (FCC Form 465).

providers for services, and submitting an FCC Form 466 and/or FCC Form 466A requesting support for eligible services.¹⁷¹ Each year a filing window is established for submitting FCC Forms 466 and FCC Form 466A and all applications received within the specified time period of the window are considered to have been received simultaneously should there be insufficient funds.¹⁷²

After the health care provider submits FCC Form 466 and/or FCC Form 466A and supporting documentation (collectively referred to as a “packet”), USAC reviews each packet for accuracy, completeness and compliance with the Commission’s rules according to detailed PIA procedures. USAC staff works closely with applicants to ensure their requests for funding are complete. When USAC completes its review, it issues funding commitment decision letters indicating the discount the health care provider may receive in accordance with the Commission’s rules.

Health care providers notify USAC that the connections or Internet access for which the funding was requested has been or is being provided by their service provider(s) by submitting to USAC FCC Form 467.¹⁷³ After the health care provider has submitted FCC Form 467, USAC notifies service providers they can submit invoices for payment or credit. Service providers may request credits and/or disbursements from

¹⁷¹ See 47 C.F.R. §§ 54.603, 54.605; FCC Form 465; Health Care Providers Universal Service, Funding Request and Certification Form, OMB 3060-0804 (January 2005) (FCC Form 466); Health Care Providers Universal Service, Internet Service Funding Request and Certification Form (And Advanced Services Funding Request and Certification for Entirely Rural States), OMB 3060-0804 (January 2005) (FCC Form 466-A).

¹⁷² See 47 C.F.R. § 54.623(c)(2).

¹⁷³ Health Care Providers Universal Service, Connection Certification, OMB 3060-0804 (January 2004) (FCC Form 467).

USAC by submitting invoices using the invoice template available at USAC's website.¹⁷⁴

For telecommunications services, the service provider must credit the health care provider's billing account number prior to invoicing USAC. USAC reviews each invoice submitted, and disburses or credits funds consistent with the Commission's rules.¹⁷⁵

USAC's implementation of the PIA procedures have been the subject of annual audits conducted pursuant to the Commission's rules.¹⁷⁶ To date, there have been no material findings as a result of these audits.

(d) USAC's Improvements To Program Administration

As described in more detail in USAC's comments, since 1998 USAC has implemented numerous changes to its administration of the program on its own initiative consistent with its administrative authority. Reducing the administrative burden and associated costs on applicants and service providers participating in the program has been the primary objective underlying changes in USAC's administration of the Rural Health Care program.

For example, the creation of an online electronic application and certification process coupled with pre-populating the forms with data already in USAC's systems has likely helped to increase participation in the program and has also enabled USAC to process these forms faster and more accurately. Due to the implementation of the electronic certification and application process, initial postings of FCC form 465 have occurred sooner in each successive funding year. This means USAC has been able to

¹⁷⁴ See Rural Health Care Service Provider Invoice, <http://www.rhc.universalservice.org/Download/xls/InvoiceTemplate.xls>.

¹⁷⁵ 47 C.F.R. § 54.611.

¹⁷⁶ See 47 C.F.R. § 54.717.

begin processing applications earlier in the funding year, which decreases the amount of time an applicant waits for their discounts. In addition, the introduction of the electronic application and certification changes has allowed USAC to mitigate administrative costs as well and provide a more customer-focused approach to the application process, even when dramatic changes to the program are enacted by the Commission such as the addition of the 25% Internet discount.

All program forms are available on the USAC website for electronic submission or downloading. Applicants may log on to the website to determine whether their FCC Form 466 and FCC Form 466A packet has already been reviewed, is being reviewed, or requires additional information. To further assist applicants, USAC made available on its website a safe harbor database of urban rates to enable applicants to avoid having to contact their carriers to obtain this information. With respect to communicating with applicants and service providers during the processing of applications, USAC communicates via telephone, email and facsimile. With respect to other types of communication with participants, USAC sends emails containing information about changes to the forms, program tips, year end closing dates, conferences, meetings, and new program information.

4. Schools and Libraries Program

(a) Overview

Section 254 of the 1996 Act requires:

All telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3) . . . provide such services to elementary schools, secondary schools, and libraries for educational

purposes at rates less than the amounts charged for similar services to other parties.¹⁷⁷

In the 1997 *Universal Service Order*, the Commission implemented section 254(h) of the 1996 Act by establishing the federal universal service support program for schools and libraries.¹⁷⁸ Under this program, eligible schools, libraries and consortia comprising eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections (including basic maintenance of internal connections).¹⁷⁹ Discounts on eligible services range from 20%-90%, depending upon economic need and whether the applicant school or library is located in an urban or rural area.¹⁸⁰ After the first year of the program, the Commission capped the amount of annual funding for this program at \$2.25 billion.¹⁸¹ Since the inception of the program through September 30, 2005, USAC has disbursed \$10.3 billion to service providers for the benefit of schools and libraries. Program funds have gone to every state and territory and have been critical in expanding the availability of critical technology infrastructure to students of all economic backgrounds and geographic locations.

¹⁷⁷ 47 U.S.C. § 254(h)(1)(B).

¹⁷⁸ See *Universal Service Order*, 12 FCC Rcd at 8781, 8794-96, 9002-92, ¶ 2, ¶¶ 29-34, ¶¶ 424-607.

¹⁷⁹ 47 C.F.R. § 54.501-.503.

¹⁸⁰ 47 C.F.R. § 54.505.

¹⁸¹ See 47 C.F.R. §54.507(a).

CALENDAR YEAR	SCHOOLS AND LIBRARIES DISBURSEMENTS
1998	\$0
1999	\$1,398,995,015
2000	\$1,657,262,515
2001	\$1,471,004,546
2002	\$1,682,522,288
2003	\$1,422,463,978
2004	\$1,394,031,869
2005*	\$1,288,554,458
TOTAL	\$10,314,834,669
<i>*As of September 30, 2005</i>	

b. Schools and Libraries Program Administration

i. Application and Invoicing Process

The application process requires two forms, FCC Form 470¹⁸² and FCC Form 471.¹⁸³ FCC Form 470 opens the competitive bidding process by serving as a request for bids from service providers. An applicant must submit to USAC FCC Form 470 containing its request for services, which is posted to USAC’s website for review by potential competing service providers.¹⁸⁴ After FCC Form 470 is posted, the Commission’s rules require the applicant to wait at least 28 days before entering into agreements with service providers for services. The Commission competitive bidding rules require the entity selecting a service provider “carefully consider all bids submitted and 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-

¹⁸² 47 C.F.R. § 54.504(b); Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (October 2004) (FCC Form 470).

¹⁸³ 47 C.F.R. § 54.504(c); Schools and Libraries Universal Service, Description of Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (FCC Form 471).

¹⁸⁴ See 47 C.F.R. §54.504(b); FCC Form 470.

discount prices submitted by providers but price should be the primary factor considered.”¹⁸⁵ In the *Schools and Libraries Fifth Order*, the Commission required applicants certify on FCC Forms 470 and 471 that the services selected were “based on the most cost effective means of meeting educational needs and technology plan goals.”¹⁸⁶ Additionally, service providers will be required to certify on FCC Form 473 they did not engage in any of the anti-competitive practices listed on the form.¹⁸⁷

On FCC Form 471, the applicant requests support for the goods and services selected.¹⁸⁸ Each year a filing window is established for submitting FCC Form 471s, and all applications received within the specified time period of the window are considered to have been received simultaneously for the purpose of applying the Commission’s rules of priority when there are insufficient funds.¹⁸⁹ USAC reviews FCC Form 471s and issues funding commitment decisions in the form of Funding Commitment Decisions Letters (FCDLs) indicating the discount each applicant is eligible to receive in accordance with the Commission’s rules.

¹⁸⁵ See 47 C.F.R. § 54.511(a).

¹⁸⁶ *Schools and Libraries Fifth Order*, 19 FCC Rcd at 15831, ¶ 69.

¹⁸⁷ *Id.* at 15832, ¶ 71; Universal Service for Schools and Libraries, Service Provider Annual Certification Form, OMB 3060-0856 (October 1998) (FCC Form 473). The Commission is in the process of finalizing a revised FCC Form 473 reflecting, among other things, the new required certifications.

¹⁸⁸ See 47 C.F.R. § 54.504(b), (c); FCC Form 471.

¹⁸⁹ See 47 C.F.R. § 54.507(c).

Because the amount of funding requested in the Schools and Libraries program has exceeded demand in all but one year, the Commission has established rules of priority for responding to funding requests.¹⁹⁰ Under these rules, USAC must give first priority to funding requests for telecommunications services, voice mail and Internet access,¹⁹¹ or “priority one” requests. Once USAC has funded all priority one requests, it can then fund internal connections, or “priority two” requests, for applicants with the highest discount percentages receiving the first priority.¹⁹²

Service providers may request disbursements in one of two ways. The applicant can pay the non-discounted portion to the service provider, and the service provider can submit a request for the discounted portion by submitting FCC Form 474 to USAC.¹⁹³ Alternatively, applicants may also pay their bills in full, and then be reimbursed for the discounted amount by submitting, together with the service provider, FCC Form 472 (also known as a Billed Entity Applicant Reimbursement (BEAR) form). When USAC receives a BEAR Form, it disburses the discounted amount to the service provider and requires the service provider to remit payment to the applicant.¹⁹⁴ Under current program rules, USAC cannot pay schools or libraries directly.

¹⁹⁰ See 47 C.F.R. § 54.507(g).

¹⁹¹ See 47 C.F.R. § 54.507(g)(1)(i), (ii).

¹⁹² See 47 C.F.R. § 54.507(g)(1)(iii).

¹⁹³ See Universal Service for Schools and Libraries, Service Provider Invoice Form, OMB 3060-0856 (October 2001) (FCC Form 474 or SPI Form).

¹⁹⁴ See Universal Service for Schools and Libraries, Billed Entity Applicant Reimbursement Form, OMB 3060-0856 (October 1998) (FCC Form 472 or BEAR Form).

ii. Application and Invoicing Review Procedures

The Commission has established rules governing the administration of the Schools and Libraries program through its regulations and through a series of orders.¹⁹⁵ USAC has developed and refined its administrative procedures implementing Commission rules, appeals decisions, audits, informal Commission guidance and as a result of USAC's internal reviews. All FCC Form 471 applications for funds and invoices seeking disbursements are reviewed according to detailed USAC Program Integrity Assurance (PIA) procedures. These procedures are applied to each application and invoice to ensure that USAC's funding commitment decisions are in compliance with Commission rules, orders and guidance. The procedures cover every facet of the review of FCC Form 471 applications and, in addition to the reviews described in greater detail below, include reviews to ensure the entity applying for funding is an eligible entity, the applicant did not sign a contract prior to the 28-day posting requirement, and the applicant properly indicated the type of services for which it would seek funding on its FCC Form 470. There are procedures for ensuring the products and services are eligible for funding under the Commission's rules and for heightened scrutiny of certain applications based on defined criteria to test compliance with specific Commission rules.

¹⁹⁵ See, e.g., 47 C.F.R. §§ 54.500-.523; *Universal Service Order; Request for Review of the Decision of the Universal Service Administrator by Brooklyn Public Library, Brooklyn, New York, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-149423, CC Dockets No. 96-45 and 97-21, Order, 15 FCC Rcd 18598 (2000) (*Brooklyn Order*); *Request for Review by the Department of Education of the State of Tennessee of the Decision of the Universal Service Administrator, Request for Review by Integrated Systems and Internet Solutions, Inc., of the Decision of the Universal Service Administrator, Request for Review by Education Networks of America of the Decision of the Universal Service Administrator, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45, 97-21, Order, 14 FCC Rcd 13734 (1999) (*Tennessee Order*); *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, First Report and Order, 17 FCC Rcd 11521 (2002) (*Schools and Libraries First Order*); *Schools and Libraries Universal Service Support Mechanism*,

iii. Scrutiny of USAC's Review Procedures

USAC's PIA procedures have been closely and repeatedly scrutinized by numerous independent auditors. In 1997 at the direction of the Chairman of the Commission, then Schools and Libraries Corporation engaged the auditing firm of Coopers & Lybrand to review and provide an opinion on the adequacy of its procedures. As the audit was in process, the GAO began a simultaneous review of the procedures. PricewaterhouseCoopers (PwC) (the successor firm to Coopers & Lybrand) issued its opinion in November 1998, and, at that point, the concerns of the GAO had also been addressed, thereby enabling funding commitments to begin.

In June 1999, the Senate Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies of the Appropriations Committee directed GAO to review additional aspects of the administration of the Schools and Libraries program, with a particular focus on whether funds had been committed for ineligible products and

CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC 9202 (2003) (*Schools and Libraries Second Order*); *Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, El Paso, Texas, International Business Machines, Inc. on behalf of Ysleta Independent Schools District, El Paso, Texas, Donna Independent School District, Donna, Texas, International Business Machines, Inc. on behalf of Galena Park Independent School District, Houston, Texas, Oklahoma City School District I-89, Oklahoma City, Oklahoma, El Paso Independent School District, El Paso, Texas, International Business Machines, Inc. on Behalf of El Paso Independent School District, El Paso, Texas, Navajo Education Technology Consortium, Gallup, New Mexico, Memphis City School District, Memphis, Tennessee, International Business Machines, Inc. on behalf of Memphis City School District, Memphis, Tennessee, Albuquerque School District, Albuquerque, New Mexico, International Business Machines, Inc. on behalf of Albuquerque School District, Albuquerque, New Mexico, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, SLD Nos. 321479, 317242, 317016, 311465, 317452, 315362, 309005, 317363, 314879, 305340, 315578, 318522, 315678, 306050, 331487, 320461, CC Docket Nos. 96-45, 97-21, Order, 19 FCC Rcd 6858 (2003); *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912 (2003) (*Schools and Libraries Third Order*); *Federal-State Joint Board on Universal Service, Changes to the Board of Directors for the National Exchange Carrier Association, Inc.*, *Schools and Libraries Universal Service Support Mechanism*, CC Docket Nos. 96-45, 97-21, 02-6, Order on Reconsideration and Fourth Report and Order, 19 FCC Rcd 15252 (2004) (*Schools and Libraries Fourth Order*); *Schools and Libraries Universal Service Support Mechanism, Fifth Report and Order and Order*, 19 FCC Rcd 15808 (2004) (*Schools and Libraries Fifth Order*).

services.¹⁹⁶ GAO's report, issued in December 2000, identified certain processes requiring improvement with respect to application and invoice review.¹⁹⁷ USAC responded to all the recommendations in that report, and subsequently GAO closed the report.

USAC's implementation of PIA procedures have been the subject of annual audits pursuant to the Commission's rules.¹⁹⁸ To date, there have been no material findings as a result of these annual audits. Schools and Libraries funding disbursement integrity has also been addressed by the Commission's independent auditors in connection with the Commission's own annual financial audit.

iv. Application Review Procedures

There are numerous components to the PIA procedures. These procedures are reviewed and updated annually, with Commission oversight and guidance, in response to changes in program rules and to add new procedures to protect against identified program integrity issues. In addition to this annual update, PIA procedures are updated during the funding year as necessary. USAC also provides additional guidance to PIA reviewers as needed during the funding year in response as new situations arise.

USAC has instituted a multi-layered management review and quality assurance (QA) process for its PIA procedures. Many categories of decisions associated with PIA procedures, such as PIA review determinations, appeals determinations (discussed below), and commitment adjustments (also discussed below), undergo QA review by

¹⁹⁶ See GAO, Schools and Libraries Program Application and Invoice Review Procedures Need Strengthening, GAO-01-105, at 6 (Washington, D.C.: Dec. 15, 2000).

¹⁹⁷ See generally *id.*

¹⁹⁸ See 47 C.F.R. § 54.717.

USAC contractor staff to ensure to the fullest extent possible correct decisions are made. USAC management also reviews a sample of decisions for quality and consistency. USAC continually seeks to improve PIA procedures through experience gained in administering the program.

v. Eligibility of Services

As discussed in USAC's comments, one of the most challenging and complex areas of program administration is determining what goods and services are eligible for Schools and Libraries program support. Eligibility determinations are based on criteria established by the 1996 Act and Commission rules. Eligibility for discounts requires not only the product or service is eligible, but it is put to an eligible use, and is utilized at an eligible location by an eligible entity. In the *Third Report and Order*, the Commission adopted a rule creating a formal process for the annual update of the Eligible Services List (ESL).¹⁹⁹ This rule requires USAC to submit a draft list to the Commission by June 30th of each year.²⁰⁰ The Commission then issues a Public Notice to seek comment on the proposed list, and releases the final ESL for the funding year at least 60 days prior to the opening of the filing window.²⁰¹

vi. Heightened Scrutiny Reviews

USAC performs heightened scrutiny reviews including FCC Form 471 Item 25 certification review, as well as the competitive bidding process review. Item 25 reviews, or the necessary resources review, test the certification the applicant makes on FCC Form

¹⁹⁹ *Third Report and Order*, FCC-03-323 at pg. 18, ¶ 40.

²⁰⁰ *Id.*; see also 47 C.F.R. § 54.522.

²⁰¹ *Id.*

471 that it has secured access to the resources necessary to make effective use of the discounted services. Those resources include the applicant's share of the cost of the goods and services, hardware and software ineligible for discounts, as well as staff training to make use of the services, and maintenance. USAC also responds to whistleblower allegations of program rule violations by conducting appropriate heightened scrutiny reviews.

vii. Invoice Review Procedures and Controls

To receive program disbursements from USAC, service providers may submit to USAC FCC Form 474, the Service Provider Invoice (SPI) Form,²⁰² or applicants and service providers may jointly submit FCC Form 472 – the BEAR form.²⁰³ FCC Form 474 is used when the applicant pays its share of the costs of goods and services to the service provider, and the service provider bills USAC the support which is the amount owed to the service provider. FCC Form 472 is used when the applicant pays 100% of the cost of the goods and services to its service provider which when the support payment is paid to the service provider, the service provider then reimburses the applicant that amount. FCC Form 474 is the only form in the Schools and Libraries program that does not contain certifications on behalf of the entity submitting the form. Rather, the service provider makes certifications relevant to the representations made on FCC Form 474 each year on the annual FCC Form 473, the Service Provider Annual Certification form.²⁰⁴

²⁰² See FCC Form 474.

²⁰³ See FCC Form 472.

²⁰⁴ See Universal Service for Schools and Libraries, Service Provider Annual Certification Form, OMB3060-0856 (October 1998) (FCC Form 473).

USAC subjects all invoices to stringent invoice review procedures including automatic and manual reviews to ensure that disbursements are made in compliance with program rules. The automated checks on the data provided to USAC on invoices, can sometimes identify data discrepancies resulting in rejection of a payment request or trigger outreach to resolve the discrepancy. Other checks trigger further manual invoice review. When the reviews are complete, the payment is approved, approved in part, or denied based on the results of the review.

viii. Steps Taken by USAC to Strengthen Schools and Libraries Program Invoice Review Procedures

There have been two large-scale reviews of USAC's invoice review procedures. The first was the GAO's audit of the Schools and Libraries program application and invoice review procedures in 2000.²⁰⁵ With regard to USAC's invoice review procedures, GAO found there was a vulnerability to errors because USAC did not sufficiently verify how and where committed program funds were actually being spent prior to fund disbursement. USAC convened an internal task force to address the GAO findings and implemented a number of recommendations resulting from the task force.

USAC initiated a second review of its Schools and Libraries program invoice review procedures conducted by PwC. PwC issued its final report in February 2001, in which PwC made a number of recommendations aimed at strengthening the invoice review and payment process. In response to those recommendations, USAC instituted several new procedures, including the following:

²⁰⁵ See *Schools and Libraries Program: Application and Invoice Review Procedures Need Strengthening* (GAO-01-105), in December 2000.

- Targets and review invoices that are deemed at high risk for requesting payment for ineligible goods and services to ensure that USAC does not disburse funds for ineligible goods and services.
- Streamlined the invoice review process by ensuring documentation is kept in a single data system and invoice review team members use a customer-tracking tool that documents communications between the reviewer and the party who submitted the invoice.
- Revised the service check procedures to require the customer's bill be obtained and reviewed.
- Increased the number of manual reviews it performed.
- Formalized the procedures for ensuring heightened scrutiny is performed on invoices as appropriate.

USAC has also identified additional criteria used to select invoices for detailed review. These criteria focus on areas in which fraud may be more likely and, as a result, USAC subjects these invoices to detailed reviews before authorizing funds to be paid. USAC continually monitors the results of its invoice reviews and modifies the criteria used to identify the invoices for review based on those results.

ix. Additional Processes

There are a number of other processes mandated by Commission rules performed by USAC and discussed below.

1. Appeals to USAC

Applicants and service providers who disagree with USAC’s funding commitment, invoicing, or other decisions (for example, deadline extensions and service substitutions) can seek review of USAC’s decision by USAC and/or the Commission. USAC reviews and decides appeals decisions in accordance with guidelines established by the Schools & Libraries Committee of the USAC Board of Directors. Meritorious appeals result in a revised FCDL, and there are additional safeguards to ensure accuracy in its preparation.

2. Recovery of Funds

There are circumstances in which USAC must seek recovery of funds. During reviews of funding commitments, which can include PIA reviews, audits, appeal reviews, and other investigations (such as whistleblower calls), USAC may discover funds were committed in error. In order to be sure no funds are used in violation of program rules, USAC is required reduce those funding commitments and, if funds were disbursed in excess of the adjusted commitment, seek recovery of those funds.²⁰⁶ USAC refers to this process as “COMmitment ADjustment” or COMAD. Pursuant to Commission orders, USAC must seek recovery from the party—applicant or service provider (or both)—it deems responsible for the rule violation requiring the recovery.²⁰⁷

²⁰⁶ See *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21, 96-45, Order, FCC 99-291 (1999); *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21, 96-45, Order, 15 FCC Rcd 7197 (1999); *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21, 96-45, Order, 15 FCC Rcd 22975(2000); *Schools and Libraries Fourth Order, Schools and Libraries Fifth Order*, 19 FCC Rcd at 15813-21, ¶¶ 15-39.

²⁰⁷ *Schools and Libraries Fourth Order*, 19 FCC Rcd at 15255-57, ¶¶ 10-15.

3. Service Substitutions, Changes in Service Providers, Equipment Transfers

A service substitution is a change in the products and/or services specified in FCC Form 471 application. In certain limited circumstances, applicants or service providers may request and be approved for service substitutions. Similarly, applicants may request a service provider identification number, or SPIN change, after a funding commitment has been issued. USAC also must also administer rules regarding transfer of program-funded equipment. Generally, Commission rules prohibit transfer of equipment for three years and then only to other eligible entities. However, a recipient may transfer equipment purchased with program discounts to other eligible entities if the particular location where the equipment was originally installed is temporarily or permanently closed. The transferring entity must notify USAC of the transfer.

Each of these applicant and service provider actions require USAC review to ensure compliance with Commission rules.

x. Communications with Stakeholders Designed to Ensure Program Compliance

1. Program Forms, Instructions, Letters

Commission rules require applicants and service providers submit to USAC a number of program forms. Some forms are completed by applicants, others by service providers. Each program form is reviewed and approved by the Commission and submitted for review and approval by the Office of Management and Budget (OMB). Instructions accompany each form. These forms and instructions are available on the USAC website. USAC, in close consultation with the Commission and program participants, makes changes to forms as required by changes in program rules, and, where

necessary, to improve program efficiency, reduce administrative burden or respond to program integrity issues.

USAC emphasizes program rule requirements in various letters to applicants and service providers. For example at the opening of the filing window for each funding year, applicants from prior funding years and potential applicants are sent a letter encouraging them to apply for funding and reminding them of program requirements. USAC makes changes to these letters in response to program integrity issues of which it becomes aware.

USAC also sends notification letters to applicants and service providers in response to most forms. USAC uses this opportunity to further remind participants of program rule requirements. USAC also provides notifications, reminders and warnings for applicants on its website.

2. Education and Communications

A critical component of USAC's efforts to ensure and improve program compliance is to educate the applicant, service provider, and consultant communities regarding program rule requirements. Because applicant and service provider self-certification is a cornerstone of program integrity, educating these communities is a vital component of protecting the Schools and Libraries program from waste, fraud and abuse. Under the order establishing the universal service programs, the Commission requires applicants and service providers comply with self-certification requirements as a condition of participating in the Schools and Libraries program.²⁰⁸ Consequently,

²⁰⁸ See *Universal Service Order*. 12 FCC Rcd at 9002, 9050-53, ¶ 425, ¶¶ 522-525.

Commission regulations require program forms to be signed or electronically certified by the person authorized to do so on behalf of the school, library or service provider. In addition to the specific certifications made on each form, applicants and service providers certify to the truth and accuracy of the information provided on all program forms, subject to federal criminal and civil penalties.

3. USAC Website and Client Service Bureau

USAC uses its website to provide the applicant and service provider community with detailed information concerning the program, reminders about program rules, and warnings about behavior that could result in funding denials. USAC operates a call center that program participants can reach via a toll-free number to obtain general information about the program and answers to individual questions. USAC strives to provide accurate, timely and consistent information to callers.

4. Applicant Training and Education Regarding Program Requirements

Because self-certification by participants is one of the primary means mandated by the Commission to ensure program integrity, effective and comprehensive applicant education and training in program requirements is vital. USAC has held national workshops every fall since in September 1999. Before the first national workshop, USAC staff worked in conjunction with state Schools and Libraries program coordinators to offer statewide training sessions around the country. The presentations for workshops from 2001 through those completed to date in 2005 are available on the USAC website, as are webcasts on a broad range of topics, many in Spanish as well as English. In Funding Year 2005, USAC expanded its training opportunities and provided more than in

prior years. USAC expects more than 800 applicants and service providers will receive training for Funding Year 2005.

USAC also conducts and participates in numerous meetings, conference calls, and conferences with stakeholder groups. For example, USAC holds biweekly calls with the Schools and Libraries Task Force of the American Library Association (ALA). USAC also holds a biweekly call with the State E-Rate Coordinators Alliance (SECA). USAC has calls with the Council of Great City Schools (CGCS), when requested by the Council, to discuss relevant issues. For a time, the National Association of State Telecom Directors (NASTD) also had a standing biweekly call with USAC.

USAC attends various conferences sponsored by program participants. USAC has in the past regularly sent representatives to make presentations to the annual and mid-winter conferences of the ALA. USAC makes presentations at or attends other conferences if requested and as appropriate. Attendance at these conferences is reported to the USAC Board of Directors and to the USAC Schools & Libraries Committee in quarterly updates.

5. Service Provider Training and Education Regarding Program Requirements

USAC has a multifaceted approach to providing support to the service provider community, including consultants. As with applicants, service providers are also required to make a number of certifications on program forms, therefore, educating them about the program's requirements is key to USAC's efforts to protect the Schools and Libraries program from waste, fraud, and abuse. USAC conducts regular service provider training workshops open to all members of the service provider community.

USAC has held biweekly service provider conference calls since May 2000. Service providers regard these calls as a venue for raising issues, receiving updated program information, and developing mentoring opportunities. The calls have also served as an “early warning system” for bringing operational and program compliance issues to USAC’s attention, enabling quick responses from USAC to flag issues for application reviewers, the services team, or the appeals group. Currently, 921 service provider representatives are registered to receive a call agenda by email. In addition to biweekly updates, USAC solicits questions of importance and/or concern from the service provider community at large via telephone or e-mail in advance of the call so USAC is able to provide complete responses on the calls. The call is also a forum to address whistleblower procedures. USAC holds a monthly scheduled conference call with local exchange carriers, during which program compliance issues are periodically discussed. USAC’s Service Provider Manual is available on the USAC website. This manual is a detailed and comprehensive guide to service provider participation in the Schools and Libraries program.

6. Overview of the Volume of Transactions

The size of the Schools and Libraries program and the volume of transactions processed create many challenges for USAC’s administration of the program. Statistics on the volume of transactions processed by USAC illustrate vividly the amount of activity required to administer the program. For example, as a result of the annual filing requirement, each year USAC reviews thousands of applications, each of which contains one or more Funding Request Numbers (FRNs). The FRN is the actual request for funding for particular goods and services. Consequently, each FRN must be reviewed to

ensure it is a request for eligible services for eligible purposes for use by eligible entities.²⁰⁹

NUMBER OF CERTIFIED, IN-WINDOW APPLICATIONS RECEIVED		
FUNDING YEAR	NUMBER OF APPLICATIONS	NUMBER OF FRNs
1998	30,311	138,153
1999	32,167	136,209
2000	34,778	151,546
2001	34,306	162,836
2002	35,081	142,437
2003	39,807	138,678
2004	39,714	138,141
2005	38,883	125,084
TOTAL	285,047	1,133,084
<i>As of October 14, 2005</i>		

Further, since there are no restrictions on the number of invoices a service provider or applicant can submit to request disbursements up to the committed amount of funding for each FRN, each year USAC processes an enormous amount of invoice line items as set forth in the table below. Each of these invoice line-items are subject to automatic checks, and many also undergo manual checks to, among other things, verify that USAC is paying only for eligible goods and services approved on FCC Form 471.

²⁰⁹ See 47 C.F.R. §§ 54.502, 54.503.

NUMBER OF INVOICE LINE ITEMS		
FUNDING YEAR	FCC FORM 472	FCC FORM 474
1998	128,798	45,133
1999	119,151	127,431
2000	95,392	190,957
2001	106,617	173,412
2002	117,592	200,709
2003	129,417	217,690
2004	45,031	164,459
2005	2	45
TOTAL	742,000	1,119,836
<i>As of June 30, 2005</i>		

Approved funds are then disbursed to the thousands of different service providers participating in the Schools and Libraries program as set forth in the table below:

NUMBER OF SERVICE PROVIDER IDENTIFICATION NUMBERS RECEIVING DISBURSEMENTS	
FUNDING YEAR	NUMBER OF SPINS
1998	8,446
1999	7,547
2000	7,590
2001	6,982
2002	6,320
2003	6,069
2004	5,934
2005	5,689
TOTAL	54,577
<i>As of June 30, 2005</i>	

Applicants and service providers who disagree with USAC's funding decisions can appeal to USAC, and each year USAC handles thousands of appeals as set forth in the table below:

FUNDING YEAR	NUMBER OF APPEALS RECEIVED
1998	2,037
1999	3,475
2000	3,048
2001	4,233
2002	2,322
2003	2,742
2004	2,029
2005	769
<i>As of September 30, 2005</i>	

These statistics provide a flavor of the volume of the major transactions handled by the Schools and Libraries program, but these are not an all-inclusive picture of that volume.

APPENDIX B

ADMINISTRATIVE EXPENSES

USF ADMINISTRATIVE EXPENSES

Year	Overall USF Expenses	Administrative Expenses	Administrative Cost Percentage
1998	\$2,208,457,000	\$36,692,000	1.66%
1999	\$3,667,994,000	\$38,627,000	1.05%
2000	\$4,460,533,000	\$43,384,000	0.97%
2001	\$4,764,120,000	\$39,284,000	0.82%
2002	\$5,391,672,000	\$46,192,000	0.85%
2003	\$5,479,624,000	\$58,791,000	1.07%
2004	\$5,729,559,000	\$64,349,000	1.12%
USAC Average Administrative Expenses 1998 - 2004			1.08%

Source: USAC Annual Reports 1998 through 2004

**ADMINISTRATIVE EXPENSES OF THE TOP 20
CHARITABLE FOUNDATIONS**

Organization ¹	Overall Expenses	Administrative Expenses	Administrative Cost Percentage
Bill and Melinda Gates Foundation	\$1,481,059,000	\$54,534,000	3.68%
The Ford Foundation	\$589,557,000	\$27,484,000	4.66%
J. Paul Getty Trust	N/A	N/A	N/A
W. K. Kellogg Foundation	\$572,802,972	\$38,942,498	6.80%
The William and Flora Hewlett Foundation	\$209,868,000	\$14,987,000	7.14%
The David and Lucile Packard Foundation	\$207,546,000	\$17,048,000	8.21%
Gordon and Betty Moore Foundation	\$140,485,240	\$54,964,101	39.12%
The Andrew W. Mellon Foundation	\$202,155,000	\$10,601,000	5.24%
John and Catherine T. MacArthur Foundation	\$201,259,000	\$23,144,000	11.50%
The Pew Charitable Trusts	\$70,669,804	\$2,665,021	3.77%
The Starr Foundation	\$213,828,526	\$3,171,291	1.48%
The Rockefeller Foundation	N/A	N/A	N/A
Charles Stewart Mott Foundation	\$127,963,152	\$27,588,785	21.56%
The McKnight Foundation	\$79,368,000	\$7,777,000	9.80%
The Carnegie Corporation Foundation	\$119,197,745	\$3,230,366	2.71%
The Michael and Susan Dell Foundation	N/A	N/A	N/A
Conrad N. Hilton Foundation	\$2,886,730	\$72,770	2.52%
Community Foundation Silicon Valley	\$85,930,338	\$7,317,420	8.52%
The Henry Luce Foundation Inc	\$27,642,991	\$6,100,143	22.07%
Rockefeller Brothers Fund Inc.	N/A	N/A	0.00%
Average Percentage of Expenses Spent on Administration			7.94%

N/A – not available

¹ Largest US Foundations, Largest U.S. Independent Foundations Funding International Projects, The World Bank Group, <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/CFPEXT/FOUNDATIONSEXT/0,,contentMDK:20120708~menuPK:260695~pagePK:60000013~piPK:60000077~theSitePK:267976,00.html>. Ranking is based on value of overall assets according to the most current financial data in the Foundation Center's database as of August 1, 2005. All data was taken from the most current annual reports, and budgets from the last reported fiscal year except where noted. Sources are provided at the end of this Appendix.

**ADMINISTRATIVE EXPENSES OF THE TOP 20
CHARITABLE ORGANIZATIONS**

Net of Fundraising Expenses

Organization ²	Overall Expenses	Administrative Expenses	Administrative Cost Percentage
YMCAs in the United States	N/A	N/A	N/A
American Red Cross	\$3,199,452,000	\$173,518,000	5.42%
Catholic Charities USA	N/A	N/A	N/A
The Salvation Army	\$2,550,000,000	\$297,000,000	11.65%
United Jewish Charities	\$358,618,000	\$27,787,000	7.75%
Goodwill Industries International	\$13,566,684	\$3,786,514	27.91%
Shriner's Hospitals for Children	\$458,627,840	\$28,107,207	6.13%
Boys and Girls Clubs of America	\$135,801,746	\$10,987,826	8.09%
American Cancer Society	\$310,822,891	\$33,164,929	10.67%
Gifts in Kind International	\$497,367,790	\$2,951,559	0.59%
Habitat for Humanity	\$161,456,543	\$5,307,884	3.29%
Boy Scouts of America	\$166,200,952	\$12,413,939	7.47%
Planned Parenthood	\$76,814,455	\$5,310,885	6.91%
The Nature Conservancy	\$515,792,021	\$62,019,340	12.02%
YWCA of the USA	\$5,915,245	\$1,633,799	27.62%
Volunteers of America	\$695,841,329	\$63,927,987	9.19%
Easter Seals	\$56,183,500	\$1,546,300	2.75%
AmeriCares Foundation	\$818,441,900	\$1,590,714	0.19%
World Vision	\$1,546,400,000	\$110,000,000	7.11%
Girl Scouts of America	\$67,894,000	\$5,914,000	8.71%
Average Percentage of Expenses Spent on Administration			8.17%

N/A – not available

² Special Report: The NPT Top 100, An In-Depth Study of America's Largest Nonprofits, The Nonprofit Times, <http://www.nptimes.com/NOV04/sr-npt100.html>. Ranking is based on total revenue according to the most recent data from a survey conducted by The Nonprofit Times as of November 1, 2004. All data was taken from the most current annual reports, and budgets from the last reported fiscal year except where noted. Sources are provided at the end of this Appendix.

ADMINISTRATIVE EXPENSES OF SELECTED GOVERNMENT ORGANIZATIONS AND PROGRAMS

The following chart lists administrative expenses for selected governmental organizations and programs for which information was available. Breakdown of administrative expenses are not routinely provided or readily accessible for government entities, so this does not purport to be a comprehensive survey. All data was taken from the most current annual reports and budgets from the last reported fiscal year except where noted. Sources are provided at the end of this appendix.

Organization	Overall Expenses	Administrative Expenses	Administrative Cost Percentage
The International Monetary Fund ³	\$2,199,807,000	\$796,752,689	36.21%
The World Bank	\$3,246,000,000	\$1,113,000,000	34.28%
U.S. Social Security Administration	\$531,442,000,000	\$8,909,000,000	1.67%
U.S. Department of Housing and Urban Development	\$35,112,000,000	\$895,000,000	2.54%
U.S. Department of Veteran's Affairs – Loan Guarantee Program	\$4,485,000,000	\$168,000,000	3.74%
USAID	\$12,785,129,000	\$717,689,000	5.61%
U.S. Department of Transportation - Federal Highway Administration	\$31,805,000,000	\$313,000,000	0.98%
National Science Foundation	\$4,736,000,000	\$189,000,000	3.99%
Small Business Administration	\$786,201,000	\$371,153,000	47.20%
USDA - Rural Development Program	\$14,844,000,000	\$625,000,000	4.21%
Appalachian Regional Commission	\$70,827,000	\$4,654,000	6.57%
State of Alabama Clean Water State Revolving Fund Loan Program	\$62,376,689	\$516,849	.82%
California Community Redevelopment program	\$8,114,750,000	\$457,939,000	5.64%
Kentucky Transportation Cabinet	\$1,301,364,714	\$62,960,998	4.83%
Department of Education	\$63,623,000,000	\$1,110,000,000	1.74%
Pension Benefit Guaranty Corporation	\$16,232,000,000	\$263,000,000	1.62%
U.S. Department of Treasury – Community Development Financial Institutions Fund	\$51,908,194	\$10,311,653	19.86%
Administration for Children - Child Care and Development Fund	Administrative costs may not exceed 15% of the total grant budget.		15%
U.S. Department of Housing and Urban Development	Administrative costs may not exceed 20% of the total grant budget		20%
U.S. Department of Health and Human Services - LIHEAP Block Grant	Administrative costs may not exceed 10% of the total grant budget		10%
U.S. Department of Health and Human Services - Head Start Bureau	Administrative costs may not exceed 15% of the total grant budget		15%
US Code Title 20 - School to Work Implementation Grants to States	Administrative costs may not exceed 10% of the total grant budget		10%
Alaska Housing Finance Corp - Resident	Administrative costs may not exceed 20%		20%

³ The IMF reports its financial data in SDRs. SDRs were converted into United States Dollars using the exchange rate of (1 SDR = 1.45183 US dollars).

Opportunities and Self Sufficiency Program	of the total grant budget	
Arkansas Department of Health - School Based Tobacco Use Prevention Programs	Administrative costs may not exceed 10% of the total grant budget	10%
Child Development Grant – Iowa State Department of Education	Administrative costs may not exceed 10% of the total grant budget	10%
Head Start Programs	The Average administrative cost percentage for Head Start Programs.	11.8%
AHCCCS - Arizona Health Care Cost Containment System - Medicaid	Administrative costs may not exceed 10% of the total grant budget	10%
Oregon Family Health Insurance Assistance Program	Actual administrative expenses as a percent of cost	24.60%
Ryan White Title II HIV Care/Treatment Program - Oregon Department of Human Services	Administrative costs may not exceed 10% of the total grant budget	10%
Utah - Community Services Block Grant	Administrative costs should not exceed 10%	10%
Wyoming - Temporary Assistance for Needy Families	Administrative costs may not exceed 10% of the total grant budget	10%
Arkansas Department of Health - HIV Prevention Grant Fund	Administrative costs may not exceed 30% of the total grant budget	30%
U.S. Department of Health and Human Services - Tribal TANF	Administrative costs may not exceed 35% in year 1, 30% in year 2, and 25% in year 3 and thereafter	35%
U.S. Department of Health and Human Services - Child Care and Development Fund	Administrative costs may not exceed 15% of the total grant budget	15%
Average Percentage of Expenses Spent on Administration		13.02%

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APPENDIX C
ACRONYM LIST

ACRONYM	DEFINITION
ADA	Antideficiency Act
AEX	Acquired Exchange Support
ALA	American Library Association
BCP	Business Continuity Program
BEAR	Billed Entity Applicant Reimbursement
BEN	Billed Entity Number
CALLS	Coalition for Affordable Local and Long Distance Services
CCD	Common Core of Data
CETC	Competitive Eligible Telecommunications Carriers
CGCS	Council of Great City Schools
CIPA	Children's Internet Protection Act
CLLI	Common Language Location Identifier
COMAD	Commitment Adjustment
COOP	Continuity of Operations Plan
CSB	Client Service Bureau
DCIA	Debt Collection Improvement Act
DEM	Dial Equipment Minutes
DLT	Distance Learning and Telemedicine
DRT	Data Retrieval Tool
DSO	Days Sales Outstanding
EETT	Enhancing Education Through Technology
EPD	Eligible Products Database
ESL	Eligible Services List
ETC	Eligible Telecommunications Carriers
FACA	Federal Advisory Committee Act
FAR	Federal Acquisition Regulation
FCC RN	Federal Communications Commission Registration Number
FCDL	Funding Commitment Decision Letter
FFMIA	Federal Financial Management Improvement Act
FRN	Funding Request Number
GAAP	Generally Accepted Accounting Principles
GAAS	Generally Accepted Auditing Standards
GAGAS	Generally Accepted Government Auditing Standards
GAO	Government Accountability Office
GovGAAP	Generally Accepted Accounting Principles for Federal Agencies
HCL	High Cost Loop
HCM	High Cost Model
HCP	Health Care Provider
HHS	Department of Health and Human Services
HRSA	Health Resources and Services Administration
IAD	Internal Audit Division
IAS	Interstate Access Support

ICLS	Interstate Common Line Support
IHH	Interim Hold Harmless
ILEC	Incumbent Local Exchange Carrier
IMLS	Institute for Museum and Library Services
JFMIP	Joint Financial Management Improvement Program
LEC	Local Exchange Carrier
LSS	Local Switching Support
LTS	Long Term Support
MAD	Minimum Allowable Distance
NACPL	National Average Cost Per Loop
NAL	Notice of Apparent Liability
NASTD	National Association of State Telecom Directors
NCES	National Center for Education Statistics
NECA	National Exchange Carrier Association
NPRM	Notice of Proposed Rulemaking
OAT	Office for the Advancement of Telehealth
OIG	Office of Inspector General
OMB	Office of Management and Budget
OMD	Office of Managing Director
OPM	Office of Personnel Management
PART	Program Assessment Rating Tool
PIA	Program Integrity Assurance
PIN	Personal Identification Number
PwC	PricewaterhouseCoopers
QA	Quality Assurance
RFP	Request for Proposal
RGF	Rural Growth Factor
RHCC	Rural Health Care Corporation
RUS	Rural Utility Service
SAC	Study Area Code
SECA	State E-Rate Coordinators Alliance
SLC	Schools and Libraries Corporation
SLC	Subscriber Line Charges
SLD	Schools and Libraries Division
SNA	Safety Net Additive
SPI	Service Provider Invoice
SPIN	Service Provider Identification Number
SVA	Safety Value Support
SVS	Safety Valve Support
TANF	Temporary Assistance for Needy Families
TLS	Toll Limitation Service
TPIS	Telecommunications Plant in Service
TTY	Text Telephone
UNE	Unbundled Network Elements

USAC	Universal Service Administration Company
USF	Universal Service Fund
VOIP	Voice Over Internet Protocol
VPN	Virtual Private Network
W3C	World Wide Web Consortium
WCAG	Web Content Accessibility Guidelines
WCB	Wireline Competition Bureau

EXHIBIT 1

**USAC BOARD OF DIRECTORS CRITERIA FOR
EXECUTIVE SESSION**

**Universal Service Administrative Company
Board of Directors Meeting**

ACTION ITEM

**Approval of Criteria and Procedure for USAC Board
and Committee *Executive Sessions***

NOTE to members of the Executive Committee: This board paper is the same as #aEC04.

Issue:

This item provides suggested criteria to be used in determining when the USAC Board of Directors or a Committee thereof may appropriately conduct business in *Executive Session*, and sets forth the procedure to be followed concerning *Executive Sessions* of the USAC Board and Committees of the Board.

Background – Analysis – Justification:

FCC orders and regulations, as well as USAC's By-laws, require that meetings of the USAC Board of Directors and committees of the Board "shall be open to the public." See *In re Changes to the Board of Directors of the National Exchange Carrier Association and Federal-State Joint Board on Universal Service, Report and Order and Second Order on Reconsideration*, CC Docket Nos. 97-21 and 96-45 at ¶¶ 71, 73 (July 10, 1997); 47 C.F.R. § 54.703(e); USAC By-laws, Article II(6). The nature of the issues that come before the USAC Board and the programmatic committees, however, requires some business to be conducted in executive session.

The strong presumption is that all USAC Board and Committee proceedings shall be conducted in open session unless there is a specific and legitimate reason for conducting business in closed, or "executive," session. An "executive session" is simply "any meeting or part of a meeting where the proceedings are to be kept secret." *Robert's Rules of Order* at 88-89 (Modern. Ed. 1989). The By-laws do not specify instances in which executive sessions can be held, but they clearly contemplate that such sessions will be conducted. Specifically, the By-laws provide for the recordation of minutes for "closed executive sessions where proprietary matters are discussed and reviewed." Actions that involve "proprietary information" must be summarized in sufficient detail to inform the public of the action taken, but without infringing upon any privacy rights. See USAC By-laws, Article II(6).

There are no requirements that Delaware corporations open their governance meetings to the public, so there are no corporate law principles applicable here.

Thus, although USAC is not a federal agency and is not subject to federal open meeting requirements, in establishing the criteria below, we have looked to the federal "Sunshine Act," 5 U.S.C. § 552(b) and FCC open meeting regulations, 47 C.F.R. § 0.603. The criteria have also been developed based on our experience with executive sessions to date. We believe that the criteria and procedures set forth below, or in whatever form they are adopted by the Board, should be posted to the USAC corporate web site.

Criteria for Discussing Matters in Executive Session

The USAC Board of Directors and the Committees of the Board shall apply the criteria set forth below in determining whether executive session is appropriate. These guidelines are not intended to be exclusive or exhaustive. Subject to the procedures set forth below, the Board or Committees retain the authority to conduct business in executive session should they determine executive session to be in the best interests of the corporation.

- Discussion of *pre-decisional matters* before a governmental agency or instrumentality to which USAC is privy, where discussion of such matters in open session would undermine the agency's deliberative process or would result in the disclosure of an agency's conclusions or rationales before the agency had formally decided the matter.
- Discussion of matters subject to the *attorney-client privilege or any other legally recognized privilege* where discussion of such matters in open session would compromise the continued applicability of the privilege.
- Discussion of USAC's *contractual and procurement matters* where discussion of such matters in open session would compromise USAC's business objectives or negotiating strategy.
- Discussion of USAC *internal personnel matters* concerning a specific individual.
- Discussion of the *eligibility, payment status, request for funding, or other issue regarding a specific participant* in any of the universal service support mechanisms where discussion of the matter in open session would reveal trade secrets or commercial or financial information obtained from a person or entity.
- Discussion of *investigatory records or pending or contemplated enforcement action* against a participant in any of the universal service support mechanisms.

- Discussion of any information where disclosure would constitute a *clearly unwarranted invasion of privacy*.
- Discussion of *internal rules and procedures* concerning the administration of the universal service support mechanisms where discussion of the matter in open session would result in *disclosure of confidential techniques and procedures* that would compromise program integrity.

Procedures Regarding Executive Session

The USAC Board of Directors, the Committees of the Board, and USAC staff shall follow the procedures set forth below concerning the conduct of proceedings in executive session.

- The strong presumption is that all USAC Board and Committee proceedings shall be conducted in open session unless there is a specific, legitimate, and articulated reason or reasons for conducting business in closed or “executive,” session. In cases where an issue can be appropriately segregated into matters suitable for discussion in open or executive session, the issue shall be divided into matters discussed in executive and open session.
- USAC management may recommend that a matter be discussed in executive session in advance of a Board or Committee meeting. Such a recommendation shall be made only with the approval of the Vice President and General Counsel and the CEO.
- When USAC management recommends executive session in advance of a Board or Committee meeting, the rationale and basis for the recommendation that executive session is appropriate shall be set forth in the written materials distributed to the Board or Committee. USAC management may make conditional or alternative recommendations to the Board or Committee.
- All written Board items, including confidential attachments, shall be marked “***Executive Session***” and “USAC Confidential and Proprietary.” The Vice President and General Counsel may recommend that copies of confidential written materials be retained solely by USAC management.
- A Board or Committee member, the CEO, Vice President and General Counsel, Vice President of Operations, or a division head may recommend going into executive session at any time during the course of a meeting.
- When USAC management, a Board member, or a Committee member recommends or moves that a matter be discussed in executive session, the Board or Committee shall immediately debate the matter and vote on the

question whether the discussion should continue in executive session. No substantive discussion of the matter shall occur before the Board or Committee has voted on whether the discussion should be in executive session.

- Meeting minutes of all discussions in executive session shall be taken. The Board or Committee chair shall report to the public the substance of any discussion conducted and/or action taken in executive session.

Recommended USAC Executive Committee Action:

APPROVAL OF THE FOLLOWING USAC EXECUTIVE COMMITTEE RESOLUTION:

RESOLVED, That the USAC Executive Committee recommends to the USAC Board of Directors that the Board adopt the criteria and procedures for conducting USAC business in *Executive Session* set forth in this issue paper and that the foregoing criteria and procedures for conducting USAC business in *Executive Session* shall be posted to the USAC web site.

Recommended USAC Board of Directors Action:

APPROVAL OF THE FOLLOWING USAC BOARD OF DIRECTORS RESOLUTION:

RESOLVED, That the USAC Board of Directors accepts the recommendations of the USAC Executive Committee to adopt the criteria and procedures for conducting USAC business in *Executive Session* set forth in this issue paper and that the foregoing criteria and procedures for conducting USAC business in *Executive Session* shall be posted to the USAC web site.

EXHIBIT 2
USAC BOARD OF DIRECTORS
STATEMENT OF ETHICAL CONDUCT

Statement of Ethical Conduct for Members of the USAC Board of Directors

Members of the Board of Directors of the Universal Service Administrative Company (“USAC”) are vested with significant responsibilities for the stewardship of corporate programs, funds, property, information, and interests. Moreover, each Board member is obligated to represent the interests of the constituency represented by that Board member. In agreeing to serve on the USAC Board of Directors, each Director acknowledges and accepts these responsibilities and agrees to comply at all times with the provisions of this *Statement of Ethical Conduct for Members of the USAC Board of Directors*, as follows:

1. The USAC Board of Directors is purposely structured to ensure that the views of many differing interests are heard and considered. This can create a conflict in the demands on a particular Director. The Director, in bringing to the attention of the Board the particular sensitivities and concerns of his or her constituency, is assisting the entire Board and enhancing the Board’s decision making process. However, the Director ultimately must use his or her position to represent USAC’s overall interests, *i.e.*, the interests of the corporate entity, and not the interests of his or her constituency.
2. No Director shall use USAC resources for personal or business gain, nor shall any Director obtain for the Director or his or her business a material interest or benefit of any kind resulting from the Director's relationship with USAC.
3. A Director who is aware of a potential conflict of interest with respect to any matter coming before the Board or any committee of the Board shall disclose the actual or potential conflict to the USAC General Counsel and/or the Executive Committee, unless the conflict is so apparent from the particular sensitivities and concerns of the Director’s constituency that there is no need for additional disclosure.
4. No Director shall accept any gift, gratuity, or favor in connection with the Director's service on the USAC Board of Directors.
5. Directors shall ensure that all information concerning USAC which is confidential or privileged or which is not publicly available is not disclosed inappropriately and is not used for any other purpose than to fulfill his or her responsibilities as a USAC Director. Directors shall ensure that all non-public information of other persons or firms acquired by USAC is treated as confidential and not disclosed.
6. Directors are encouraged to disclose and discuss any actual or potential breaches of this *Statement of Ethical Conduct for Members of the USAC Board of Directors* to the USAC General Counsel and/or the Executive Committee of the Board of Directors.

The USAC Board of Directors adopts this *Statement of Ethical Conduct for Members of the USAC Board of Directors* in January 2000. The Board or an appropriate Committee thereof

will review it periodically to determine its adequacy, to evaluate compliance, and to revise this *Statement* as deemed necessary.

EXHIBIT 3

**USAC STATEMENT OF ETHICAL CONDUCT FOR
EMPLOYEES, DEFINITION OF GIFTS
PROHIBITED, DEFINITION OF FINANCIAL
INTEREST, AND OUTSIDE EMPLOYMENT**

Statement of Ethical Conduct for Employees

ADOPTED BY THE USAC BOARD OF DIRECTORS OCTOBER 20, 1998

REVISED AND REAFFIRMED OCTOBER 24, 2000

REVISED AND REAFFIRMED OCTOBER 22, 2002

REVISED AND REAFFIRMED OCTOBER 19, 2004

In appointing the Universal Service Administrative Company (the Company or USAC) as the permanent administrator of the Universal Service Support Mechanisms, *see* 47 C.F.R. § 54.701 *et seq.*, the Federal Communications Commission (FCC) has invested the employees and officers of the Company (hereafter referred to collectively as “Employee” or “Employees” except where specifically noted otherwise) with significant responsibilities for the stewardship of corporate funds, programs, property, information, and interests. With regard to Employees who are also Company officers, the provisions of this Statement of Ethical Conduct for Employees and Officers apply in addition to any independent fiduciary duties officers may owe to the Company as a result of their status as Company officers.

By acceptance of service with the Company, each Employee acknowledges these responsibilities and agrees to regulate his or her personal conduct in a manner that assures the Company, its sources of revenue and other stakeholders in the Universal Service Support Mechanisms, and his or her USAC colleagues and supervisors of undivided loyalty to these responsibilities, and uncompromised integrity in their discharge. Employees shall direct any questions concerning the USAC Code of Ethics to the Vice President and General Counsel, who serves as the Ethics Officer of the Company.

The Board of Directors of the Company has adopted this Statement of Ethical Conduct for Employees to guide their conduct:

1. Each Employee has a continuing obligation to protect and conserve all corporate money, property, information, and other resources, expending them in the best interests of the Company strictly in accord with policies adopted by Board of Directors, and authorities and procedures duly established by the Company, and all applicable law.
2. Except by virtue of good reputation derived from service to the Company, no Employee shall seek to use his or her relationship to the Company for his or her personal benefit or professional advancement.
3. No Employee shall solicit or accept, directly or indirectly, anything of substantial monetary value (including any gift, gratuity, favor, entertainment, loan, or any other consideration) from any person, corporation, association, or other entity which has, or is seeking, a contractual, donative, employment, financial, or other beneficial relationship with the Company, which relationship may subsequently affect or influence the Employee’s performance of his or her duties to the Company or the Employee’s loyalty to USAC or discharge of responsibilities with uncompromised integrity. (See [“Definition of Gifts Prohibited”](#) section.)
4. No Employee shall solicit and, in general, no Employee shall accept payment from any entity other than the Company for expenses incurred while traveling on behalf of the Company. However, with the advance approval of the Company’s management, an entity may reimburse the Company for the travel expenses of a Company Employee to participate in

training seminars, industry association meetings, or other events where the Company's management determines that such participation is in the best interest of the Company. (See USAC's [Business and Travel Expenses of USAC Representatives Eligible for Reimbursement and Procedures for Approving Acceptance of Travel Reimbursement from Outside Sources](#) for additional details.)

5. Each Employee shall not engage in any conduct that might result in the loss of public confidence in the responsible performance of the Company's functions, the impairment of corporate efficiency or economy, or might reasonably give the appearance of the following:
 - a. The compromise or loss of complete impartiality of judgment and action.
 - b. The making or implementation of a corporate decision outside of standard corporate policies and procedures.
6. No Employee shall make use of, or permit others to make use of, any information obtained as a result of his or her relationship with the Company, which information is not generally available to the public, whether for direct personal gain or for advice to others with whom he or she has family, business, personal, financial, or professional ties.
7. Each Employee has a continuing fiduciary duty of loyalty and care in the management of fiscal and investment affairs, and acts in violation of that duty under the following circumstances:
 - a. He or she fails to use diligence in supervising and periodically inquiring into the actions of those Employees and outside experts to whom any duty to make day-to-day financial or operational decisions has been assigned or delegated; or
 - b. He or she knowingly permits the Company to enter into a business transaction with himself or herself, or with any corporation, partnership, or association, in which he or she holds a position as trustee, director, partner, general manager, principal officer, or substantial shareholder or beneficial owner, without previously having informed all persons charged with approving that transaction of his or her interest or position and of any significant facts known to him or her indicating that the transaction might not be in the best interest of the Company; or
 - c. He or she fails to perform his or her duties honestly, in good faith, and with reasonable diligence and care.
8. No Employee who is also an officer of the Company shall receive any salary or other compensation from any source other than the Company during the period of his or her employment by the Company.
9. No Employee may have direct or indirect financial interests, or engage in any outside employment or activities, which conflict substantially, or have the appearance of conflicting substantially, with his or her corporate responsibilities and duties. The Company shall develop guidelines for determining such a substantial conflict or appearance of substantial conflict, with criteria based primarily on the following: the magnitude of an Employee's financial interest, the degree of policy making authority of the Employee in the Company, and the potential effect actions or in-actions by the Company could have on such financial interests. Financial interests in any one entity valued at less than \$15,000 or less than one percent of the total equity of the entity that could potentially be affected by Company action or inaction and investments in a mutual fund with a broad range of holdings, including securities in entities that could be affected by the activities of the Company, shall be presumed not to present a conflict or the appearance of a conflict.

10. No Employee may engage, directly or indirectly, in financial, business, trade, or professional transactions as a result of, or in primary reliance upon, information obtained through his or her employment, or the discharge of his or her corporate responsibilities.
11. Each new Employee of the Company shall, within the first week of employment, file with designated USAC management a written disclosure of current and prior (within the past five years) employment with or financial interest in any of the following: a telecommunications or Internet service provider, communications common carrier, educational institution, rural health care provider, or other organizations having an interest in the Universal Service Support Mechanisms. (See Form 1033 – *Statement of Ethical Conduct for Employees Disclosure Form* in [Appendix A](#).) If the Employee has any change in circumstances that would trigger a requirement to disclose, an updated disclosure statement must be filed immediately. A written disclosure is also required with respect to service as a board member of any institution eligible for support under the High Cost or Low Income Support Mechanisms or for support or discounts under the Schools and Libraries or Rural Health Care Support Mechanisms. All Employees must file with the CEO an updated disclosure statement by January 31 of every year.
12. Each Employee shall promptly file with designated management a written disclosure of discussion of potential employment with any person, corporation, group, or association, or other entity which has, or is seeking, a contractual, donative, employment, business, financial, or other beneficial relationship, that may be substantially affected by that Employee's performance of his or her duties to the Company. The Employee filing such disclosure of discussion of potential employment shall review with designated management the matters he or she is working on, and designated management shall determine whether that Employee must recuse himself or herself from any of those matters because of the conflict or potential conflict they may present because of the discussion of potential employment.
13. The conduct or interests of individual Employees may be further or otherwise reasonably restricted in light of special circumstances, duties, or responsibilities. Such restrictions shall be transmitted to the individual in writing by the Chief Executive Officer upon recommendation of the Vice President and General Counsel and shall be subject to review by the Board of Directors or a committee of the Board, upon written application by the individual.
14. The Board of Directors shall review, at least biennially, this *Statement of Ethical Conduct for Employees and Officers* to determine its adequacy, evaluate compliance, and revise the statement as appropriate.

Definition of Gifts Prohibited

APPROVED BY THE USAC BOARD OF DIRECTORS OCTOBER 20, 1998

REAFFIRMED OCTOBER 24, 2000

REVISED AND REAFFIRMED OCTOBER 22, 2002

REVISED AND REAFFIRMED OCTOBER 19, 2004

Paragraph 3 of the *Universal Service Administrative Company Statement of Ethical Conduct for Employees and Officers* prohibits any Company Employee from soliciting or accepting, directly or indirectly, anything of substantial monetary value (including any gift, gratuity, favor, entertainment, loan, or any other consideration [hereinafter, gift]) from any person, corporation, association, or other entity which has, or is seeking, a contractual, donative, employment, financial, or other beneficial relationship with the Company, including but not limited to any person, corporation, association, or other entity which is a beneficiary of, contributor to, or other stakeholder in the Universal Service Support Mechanisms, and/or which provides or is seeking to provide any goods or services to the Company, which relationship may be subsequently affected by that Employee's performance of his or her duties on behalf of the Company.

For purposes of this provision, such prohibited gifts include items or services of substantial monetary value whether provided in-kind or as an advance payment or reimbursement, and items or services given indirectly, such as those given to an Employee's relative or a charity favored by the Employee. Prohibited gifts also include travel, lodging, and meals paid for by a prohibited source that do not otherwise comply with USAC's guidelines for accepting reimbursement for such items.

Gifts specifically do not include the following:

1. Modest items of food not offered as part of a meal (e.g., coffee, soft drinks)
2. Items of little intrinsic value such as greeting cards and plaques
3. Loans from financial institutions on terms generally available to the public
4. Benefits and discounts available to the public
5. Contest prizes available to the public
6. Pension or other post-employment benefits from a former employer, the terms of which were fixed and certain prior to the Employee's joining the Company
7. Anything properly paid for by USAC or secured under a USAC contract that is the property of USAC (except that frequent flyer miles and hotel bonus points are the property of the Employees who earn them)

A prohibited source of gifts is a person who matches one of the following criteria:

1. Seeking official action by USAC
2. Does or seeks to do business with USAC
3. Has interests that may be substantially affected by the performance of the USAC representative's duties
4. Is an organization, the majority of whose members are prohibited sources

The following exceptions are made to the gift ban, though they do not apply to gifts solicited or given in exchange for the use of the Employee's influence:

1. Gifts with a market value of \$20 or less per occasion, up to \$50 per year from any source (there is no exception for gifts of cash or securities).
2. Gifts based on family relations or personal friendships pre-dating affiliation with USAC.
3. Benefits offered to all members of a group to which the Employee belongs.
4. Gifts resulting from the Employee's spouse's, other family member's, or friend prior to joining USAC's business/employment, or an Employee's permissible outside business/employment activities.
5. Free admission to widely attended gatherings, including admission for the Employee's representative's spouse or guest if others attending will generally be accompanied by guests if (a) free admission is provided by the event sponsor; (b) the Employee is a speaker at the event; or (c) the Employee's attendance is in USAC's interest and free attendance is provided by the sponsor (or someone else if the event is expected to be attended by 100 or more people and attendance has a market value of less than \$250).
6. Food, refreshments, and entertainment provided at social events other than from prohibited sources where admission is free.

If an Employee receives a prohibited gift, he or she must return it, pay market value for it, or turn it over to the Company if returning the prohibited gift is impracticable (e.g., a gift of perishable goods).

Financial Interest

APPROVED BY THE USAC BOARD OF DIRECTORS JULY 27, 1999
REVISED AND REAFFIRMED OCTOBER 24, 2000
REAFFIRMED OCTOBER 22, 2002
REVISED AND REAFFIRMED OCTOBER 19, 2004

The Company reserves the right to consider one or more of the following factors in determining whether a financial interest of \$15,000 or more or of one percent or greater of the total equity of an entity creates an actual, potential or apparent conflict of interest under the Company's *Statement of Ethical Conduct for Employees and Officers*. These factors are illustrative only, and the Company in its sole discretion may consider factors other than those listed below, if the circumstances warrant.

- The percentage of the total net worth of the company or companies represented by the Employee's holdings.
- The percentage of the Employee's total assets and net worth represented by the Employee's holdings in the company or companies.
- The date when the Employee acquired the holdings in question, or the date when the value of such holdings exceeded \$15,000 or 1 percent or greater of the total equity.
- The amount of contact and exposure that the Employee has or potentially will have with the particular company or companies in which the Employee has the financial interest.
- Whether the Employee has the authority to influence the awarding of contracts or other benefits to the company or companies in which the Employee has the financial interest.

- Whether USAC has, or expects to have, a substantial relationship with the company or companies in which the Employee has a financial interest of \$15,000 or more, or 1 percent or greater of the total equity of the company.

The Company reserves the right to request additional information regarding an Employee's financial interest, including but not limited to requiring an Employee to disclose the total amount and value of such Employee's holdings in the company or companies in which the Employee has a financial interest of \$15,000 or more, or 1 percent or greater of the total equity of the company, as well as the total value of the Employee's financial holdings.

The Company will make reasonable efforts to keep financial information provided by an Employee under this policy confidential and will not use such information for any purpose except to assess whether an Employee's financial interest in the company or companies in question creates a conflict.

Once the analysis has been completed, USAC could act if a conflict or the appearance of a conflict exists. USAC could, depending on the significance of the actual, potential or apparent conflict, take one or more of the following actions:

- Require the Employee to abstain from certain activities, such as evaluating certain applications or reviewing data.
- Require the Employee to abstain from certain decision-making responsibilities.
- Limit the Employee's access to certain information.
- Require the Employee to divest themselves of certain or all financial interests that present an actual, potential or apparent conflict.
- Require other appropriate action necessary to address the actual, potential or apparent conflict.

Outside Employment (and Board Membership)

Purpose

USAC recognizes its Employees' rights to engage in outside employment when such employment does not constitute an actual, potential or apparent conflict of interest. Further, it is USAC's responsibility to assess whether an actual, potential or apparent conflict of interest exists as it pertains to outside employment by its Employees.

As such, the following rules are intended to do the following:

1. Require and provide a process for any Employee engaged in certain employment outside USAC to report such outside employment to the Company.
2. Provide guidelines under which a supervisor will determine whether a specific situation of outside employment constitutes an actual, potential or apparent conflict of interest.
3. Provide a process for supervisors to make a determination of actual, potential or apparent conflict of interest for an Employee's outside employment.

4. Describe the process for an Employee to appeal a supervisor's decision to deny a request for approval of outside employment.

Definition of Outside Employment

Outside employment includes all monetarily compensated employment. Monetary compensation does not include reimbursement for expenses, including per diems provided for expenses of persons performing public service. Approval is not required for volunteer activities performed by an Employee, such as serving on a church board or acting as its treasurer, or serving on a board or council of a local unit of government, etc., for which the Employee receives no compensation. Employment would not include those activities performed for work or educational credits or reduced fees for organizations, such as Boy or Girl Scouts, athletic organizations, bowling leagues, etc.

As set forth above, no Employee who is also an officer of the Company shall receive any salary or other compensation from any source other than the Company during the period of his or her employment by the Corporation.

Guidelines

The following outside employment activities shall, in all cases, interfere or conflict with an employee's full and faithful discharge of his or her duties to USAC. (These are intended to be examples and are not meant to be all-inclusive):

1. Employment by an entity that currently receives funding from USAC.
2. Employment by a trade organization that represents entities that receives support from USAC.
3. Employment by an advocacy group that regularly participates in Universal Service proceedings at the FCC.

The following outside employment activities are specifically identified as having the potential for causing an actual or apparent conflict of interest. (These are intended to be examples and are not meant to be all-inclusive):

1. Employment that would impair, or would appear to impair, the employee's ability to be impartial in the administration of the fund.
2. Employment where the contact that led to the outside employment was made while the employee was performing USAC business, whether in the office or elsewhere, such that it may constitute a use of the employee's position in pursuit of private activities.
3. Employment in conjunction with other USAC employees that may conflict with managerial responsibilities, particularly the responsibility to impartially and adequately supervise other employees.
4. Employment in situations where it would appear that USAC was being represented by the employee, despite a clear statement that the employee is **not** representing USAC.
5. Employment by an entity that formerly received funding from USAC during some recent period of the employee's tenure.

6. Employment by a consulting firm that counts as clients any entity that contributes or receives funding from USAC.
7. Any other employment that could constitute an actual, potential or apparent conflict of interest.

Prior Approval Required for Certain Outside Employment

Procedures

Prior to accepting outside employment of the kind specified as having the potential for causing a conflict of interest (see [above](#)), an employee shall provide his or her supervisor with a written statement describing the nature of the outside employment. If the supervisor determines that an actual, potential or apparent conflict of interest exists, the employee has the option of withdrawing the request or forwarding it to the next level of supervision, up to and including the CEO, for further determination. If the supervisor determines that no conflict of interest exists, the employee may proceed with the outside employment activity. In circumstances where the CEO is the approving authority under these rules, the employee may not proceed with the outside employment activity until he or she receives the CEO's approval. In all cases, after review of these guidelines, if the supervisor determines that there is uncertainty regarding whether proposed outside employment activity constitutes an actual, potential or apparent conflict of interest, the supervisor shall consult with the Vice President and General Counsel.

Determination that a potential for conflict of interest exists, at the initial level of review, will be made within five workdays from the date of the notification. If the employee receives no response within five working days, he or she may proceed with the outside employment activity. Employees may request placement of approved outside employment requests in their personnel file. Employees may request and receive written approval for their personnel file of any outside employment activity that is not prohibited under these rules, regardless of whether they are required to seek prior approval under these procedures.

Outside employment activities of the kind identified as, in all cases, interfering or conflicting with an employee's full and faithful discharge of his or her duties (see [above](#)) are not permitted.

Specific approval is not required for outside employment activities that are not included within the two categories above, except as follows. An employee always has the duty to notify, and to obtain prior approval from, his or her supervisor when in the judgment of the employee there is any reason for concern that the activity has a potential for conflict of interest, regardless of whether it is specifically identified in these rules. In this regard, it will be recognized that outside employment activities of the same professional or occupational nature as the employee's work duties may create more of a potential for conflict of interest than activities which are unrelated to the employee's professional or occupational field of employment.

EXHIBIT 4

USAC EMPLOYEE ETHICS

DISCLOSURE FORM

**STATEMENT OF ETHICAL CONDUCT FOR EMPLOYEES:
DISCLOSURE FORM**

Universal Service Administrative Company

USAC 1033 06/2003

POLICY

Each employee of the Corporation shall file with designated management, and update at least annually, a written disclosure of current and prior (within the past five years) employment with or financial interest in any of the following: a telecommunications or Internet service provider, communications common carrier, educational institution, rural health care provider, or other telecommunications organizations.* A written disclosure is also required with respect to service as a board member of any institution eligible for high cost support or discounts under the Schools and Libraries Universal Service Program or the Rural Health Care Program. Each employee shall promptly file with designated management a written disclosure of discussion of potential employment with any person, corporation, group, or association, or other entity which has, or is seeking, a contractual, donative, employment, business, financial, or other beneficial relationship, that may be substantially affected by that employee's performance of his or her duties to the Corporation. The employee filing such disclosure of discussion of potential employment shall review with designated management the matters he or she is working on, and designated management shall determine whether that employee must recuse himself or herself from any of those matters because of the conflict or potential conflict they may present because of the discussion of potential employment.

Disclosure statements must be filed with the CEO by January 31 of every year and updated throughout the year for any change in circumstances that would trigger a requirement to disclose.

EMPLOYEE INFORMATION

Name	Position with USAC
Home Address	Date of Filing
Please list positions currently held as director or Board member, manager, employee, or consultant with any of the following: educational institution, library, rural health care provider, telecommunications or Internet services provider, communications common carrier, or other telecommunications organization or internal connections provider.*	
Organization	Position
Please list any telecommunications or Internet services provider, communications common carrier, other telecommunications organizations, or internal connections provider, in which you or your spouse own securities valued at more than \$15,000 or more than 1 percent of the total equity of the entity. (You need not list shares in any mutual fund that may include such securities unless the fund is devoted exclusively to investment in such securities.)	
Corporate Name	Function of Corporation
Please list any educational institution, library, rural health care provider, telecommunications or Internet services provider, communications common carrier, or other telecommunications organizations or internal connections provider with which you have been employed prior to your employment by USAC.* (List only those with which you have been employed in the last five years.)	
Organization	Position
I have read USAC's <i>Statement of Ethical Conduct for Employees, Definition of Gifts Prohibited, and Travel Guidelines</i> in the Employee Handbook. I understand these documents, I am in compliance with them, and I will continue to abide by them.	
Signature	Date

*Includes any entity that contributes to and/or receives disbursements from any Universal Service Support Mechanism.

APPROVED BY THE USAC BOARD OF DIRECTORS, October 20, 1998; REVISED AND APPROVED BY USAC BOD, October 24, 2000.