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CC Docket No. 96-45
CC Docket No. 02-6

RECEIVED

JUL 28 2006

Federal Communications Commission
Office of Secretary

July 28, 2006

Federal Communications Commission
Office of the Secretary
236 Massachusetts Avenue, NE Suite 110
Washington, DC 20002

Re: Request for Review of Universal Service Administrative Company ("**USAC**") Determinations and Request for Waiver (Application. No. 26616; Billed Entity No. 127323)

Ladies and Gentlemen:

This letter, on behalf of our client, Metropolitan Regional Educational Service Agency ("**Metro RESA**"), appeals the USAC determination to attempt to recover funds from Metro RESA, a public entity, based on the facts and circumstances in this individual case. The determination to collect such funds related to the application cited above was communicated to Metro RESA for the first time in an undated and unaddressed USAC letter (see Enclosure1) which was attached to a number of Demand Payment Letters to Metro RESA, dated April 25, 2006, relating to funding year 1998, year one of the E-rate program (see Enclosure 2 for a sample of the Demand Payment Letters). In addition, Metro RESA also appeals the determination contained in numerous Funding Commitment Adjustment Reports relating to funding year 1998 which were attached to the Demand Payment Letters described above, and which, in part, state: "False certifications on the Form 471 as well as the high degree of service provider involvement documented during the forensic audit support recovery efforts against both the applicant and the service provider." (See Enclosure 3 for a sample of the numerous Funding Commitment Adjustment Reports).

The current officials at Metro RESA regret any past problems relating to Metro RESA's involvement in the E-rate program. Representatives of the current leadership at Metro RESA met with senior officials of the Schools and Libraries Division and the Federal Communications Commission (the "**FCC**" or "**Commission**") on November 18, 2002, in order to evaluate the possibility of restarting the Education on Demand Project and to avoid any additional problems with the program. Based on Metro RESA's concerns regarding the effective oversight of the program due to a limited staff and budget as well as the lack of authority to direct school systems to take actions, Metro RESA subsequently decided not to seek a restart of the Education on Demand Program. Metro RESA advised any school system interested in the Education on Demand Project to go forward on its own to secure funds and operate the system. Further, the current

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leadership of Metro RESA has co-operated with USAC in every manner requested and restated its commitment in that regard in its meeting with USAC and FCC officials.

However, Metro RESA fundamentally disagrees with the USAC decision to seek to recover funds from Metro RESA itself (rather than any individual or individuals from Metro RESA who may have acted improperly or unlawfully). Metro RESA, as outlined below, appeals the USAC determinations on both public policy and legal grounds. In addition, as further outlined below, Metro RESA appeals the USAC determinations on procedural and due process grounds. In addition to appealing the determinations, we are also requesting, as detailed below, that certain USAC/FCC documents, including the Funding Commitment Decision Letter and the results of audits and investigations, be furnished to Metro RESA and that current Metro RESA officials be given access to Metro RESA's documents and files relating to its E-rate program that were previously seized and which have been retained by USAC or other agencies. Without access to the requested documents, Metro RESA does not have the information needed to effectively appeal the USAC determinations. In addition, we request a waiver from any applicable appeals dates until those documents are provided. Finally, Metro RESA respectfully reserves the right to supplement or amend all the matters submitted in this appeal and waiver letter.

Metro RESA raised all of the above issues with USAC in its June 22, 2006, Appeal Letter and received an unsigned letter, dated June 27, 2006, that stated: "We have reviewed your correspondence carefully. Unfortunately the specific issues raised are not appealable under current program rules."

Public Policy Grounds for Appeal. Metro RESA is a public entity. It is one of sixteen regional service agencies (**RESA's**) created by the Georgia Legislature to provide shared services to member local school systems. All local school systems, Department of Technical and Adult Education facilities and University System of Georgia institutions in the RESA service area are members of the RESA. Each regional education service agency is governed by a board of control. The board of control includes the superintendent of each member school system, the president or highest administrator of each member post secondary education institution and a local public or regional library director. The RESA statute is attached at Enclosure 4.

Metro RESA serves the Metropolitan Atlanta geographical area. Its members include the school systems listed at Enclosure 5. Metro RESA supports approximately 659 schools, 614,106 students and 39,910 teachers. Its board of control consists of the superintendents of the twelve school systems in the Metro RESA Atlanta service area plus the presidents of the colleges/universities in the Metro RESA area including Georgia Tech and Georgia State Universities.

Metro RESA receives its funding from three sources: the State of Georgia as part of the state's RESA program budget, dues from its member school systems and from certain other revenues derived from the provision of services to its members. A specific

listing of Metro RESA funding sources is provided at Enclosure 6. Metro RESA has no assets available to pay any significant claims independent of that funding stream.

Metro RESA recognizes that the FCC in its Order on Reconsideration and Fourth Report and Order, dated July 23, 2004 ("**Fourth Report and Order**"), modified its policy of only seeking recovery from service providers and determined that recovery actions should be directed to the party or parties that committed the rule or statutory violation in question. The Commission adopted this position based on increased experience regarding the situations in which statutory or rule violations may take place. The Commission recognized that holding only service providers responsible may not have placed sufficient incentives on beneficiaries to ensure compliance with statutes or directives. The Commission noted that, in many cases, the beneficiary was in the best position to insure compliance with laws and support mechanism rules and that, in certain cases, beneficiaries should bear the consequence of rules violations in order to promote greater accountability and care on their part. Ultimately, USAC was directed to make an initial determination, on a case by case basis, whether to seek repayment from beneficiaries, service providers or both.

The Commission's position in the Fourth Report and Order is reasonable and the Commission's goals are sound. However, Metro RESA asserts that the facts in this individual case highlight the need to further refine the Commission's analysis relating to beneficiary recovery, on a case by case basis, in order to hold those truly responsible for the violations accountable and to effectively deter future misconduct.

Metro RESA was created by law to do good things to benefit Georgia students, teachers and others engaged in educating students. Ultimately the beneficiaries of an effective educational system in Georgia are the citizens of Georgia and ultimately the citizens of the United States. Like other public entities, Metro RESA can have no malice or intent to do wrong independent of any malice of or intent to do wrong by its individual officials. See *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247 (1981). Recognition of that fact led the Supreme Court to conclude that it was not sound public policy to take action seeking punitive damages against a public entity to deter others from committing wrongs or to punishment the entity for misdeeds. The common sense reason supporting this policy is that the individual wrongdoer, not the public entity itself, caused the harm and that the taxpayers (as innocent victims of the wrongdoing themselves) should not be required to pay the bill for any harms inflicted by individual officials who have been found to have done wrong. *Id.* ("... noting the existence of "respectable authority to the effect that municipal corporations cannot, as such do a criminal act or a willful or malicious wrong and they cannot therefore be made liable for exemplary damages.") Following similar reasoning, courts have also held, under the doctrine of public body immunity, that governmental bodies are incapable of forming the requisite criminal intent for liability under certain statutes such as 18 U.S.C. § 1962. See *Lancaster Community Hospital v. Antelope Valley Hospital District*, 940 F.2d 397 (9th Cir. 1991); *Wood v. Incorporated Village of Patchogue*, N.Y., 311 F. Supp 2d 344 (E.D.N.Y. 2004).

While Metro RESA has not had access to the results of any investigations, the conclusions USAC has asserted in its documents, the information regarding the investigations discussed in the Atlanta newspapers by an FCC official (see Enclosure 7), and the limited knowledge of current and former Metro RESA employees indicate the soundness of this reasoning is demonstrated when applied to the facts in this case.

Providing educational videos to students in classrooms is a proper goal and a beneficial use of E-rate money. However, investigations and audits may have revealed that Edward Kramer, a Metro RESA employee, was pursuing his own financial interests and engaged in misconduct for his own purposes. The signature of the Metro RESA executive director on certain FCC forms may have been forged. Mr. Kramer certainly may have misled key Metro RESA regarding the substance of certain certifications and certainly concealed any misconduct and /or any falsity of the certifications from the Metro RESA Executive Director and Board.

The victims in this matter include citizens who pay universal service fees and the FCC and Universal Service Company/SLD who administer the E-rate program to improve education in the United States. However, Metro RESA (both the institution and the other officials who relied on Mr. Kramer), the school systems in Metro RESA's area, and their teachers and students were also victims. These victims were misled and denied the use of the valuable educational tool the project was designed to provide. If any monies were somehow made available to Metro RESA by state funding sources or local school boards to fund any recovery, those funds would presumably be made available in lieu of their provision for valid educational purposes. Since any funds made available in response to claims will be at the educational expense of Georgia students and taxpayers who were also victims of the wrongdoing by certain individuals, sound public policy, in this case, dictates that claims should not be asserted against Metro RESA, the public entity.

Metro RESA recognizes that the sound public policy that prohibits punishing a public entity for the malicious acts of its employees generally does not and should not, subject to sovereign immunity and scope of employment concerns, limit public entities, such as municipalities, from compensating, on behalf of the public as a whole, individual victims for injuries caused by public employees. However, in regard to recovering Universal Service Funds which are initially collected from citizens, including the citizens of Georgia, to improve education, any attempt to recover these funds from Metro RESA, in this individual case, will nonetheless harm the specific beneficiaries (Georgia teachers, students and citizens) that the Universal Service Fund was intended to benefit in the first place.

In addition to penalizing the victims, seeking repayment from Metro RESA will not help achieve the goals outlined by the Commission in the Fourth Order and Report. No officials who were involved in this matter are currently employed or connected to Metro RESA. Current Metro RESA officials have tried to avoid creating any additional issues relating to the Education on Demand Project and determined they did not wish to

seek a restart of the program. Metro RESA, the entity, is not capable of wrongful actions. Individuals working for beneficiaries such as Metro RESA can certainly act improperly and Metro RESA asserts, based on the facts in this case, it is most appropriate for the Commission and others to take all available actions, whether civil or criminal, against those individuals who have engaged in wrongful conduct. Taking such action against the individuals is consistent the reasoning in the Fourth Order and Report and will truly promote care and accountability on behalf of the individuals working for public entities. Seeking recovery from public entities with no assets and which are funded such as Metro RESA will not produce the effect desired by the Commission.

Legal Basis for Appeal. Further, subject to understanding the basis for USAC's determinations, Metro RESA asserts that, a matter of law in this individual case, it is not responsible for any of the wrongs that are apparently being attributed to Mr. Kramer. Mr. Kramer was in charge of the E-rate program. He was the only individual in the organization with skills and experience in information technology. The provision of video services for classrooms appeared to be a good use of E-rate funds and Mr. Kramer advised the project could be accomplished with currently available technology. The Executive Director and the Board relied on Mr. Kramer's skills and experience regarding the project's technology plan and the system's ability to operate effectively. To the extent that the evidence shows Mr. Kramer made intentional, false certifications, forged signatures on documents, lied to key officials regarding the substance of certifications for his own purposes or engaged in a pattern of self-dealing, Metro RESA asserts that he was acting outside the scope of his employment. Based on the apparent conclusions cited in FCC documents, it appears he was acting to further his own financial interests. His duties and employment at Metro RESA did not include the securing of services in violation of procurement rules or taking actions in situations in which he had a clear conflict of interest. His scope of employment clearly did not include intentionally making false statements to either Metro RESA officials or to the SLD. Further, his duties did not include the concealment of his actions from those same parties. His duties with Metro RESA, of course, did not extend to the commission of any criminal acts that FCC evidence or investigations may reveal to have taken place. Under these circumstances he was not furthering the business of Metro RESA. None of these acts were foreseeable and none of these actions were ratified by Metro RESA leaders. To the extent the evidence supports these conclusions regarding his conduct, the evidence supports the legal conclusion that he was acting independently and not as a Metro RESA employee. Under those circumstances, Metro RESA is not responsible, as a matter of law, for his actions. See *De Attallah v. U.S.*, 955 F. 2d 776 (1st Cir.1992) (United States not responsible for criminal acts of employees committed to further personal interests); See also *Commerce Bank of Saint Joseph v. Kansas*, 251 Kan.207 (1992) (state of Kansas employee not in the scope of employment when accepting bribes); *Parkhurst v. U.S.*, 2001 Lexis 18182. (U.S. not responsible for intentional criminal conduct that was not authorized as part of employee's duties)

Failure to Provide Documents, Requests For Information and Procedural and Due Process Grounds for Appeal. The undated, unaddressed USAC letter (See

Enclosure 1) sent to Metro RESA with the April 25, 2006, Demand Payment Letters indicates that Metro RESA was sent a Funding Commitment Decision Letter under separate cover concerning "the FCC Form 471 Application Number cited above." Metro RESA has never received a Funding Commitment Decision Letter and there is no Application Number referenced in the undated and unaddressed letter. The undated letter indicates that the Funding Commitment Decision Letter is "**the official action on this application by the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company (USAC). Please refer to that letter for instructions regarding how to appeal the Administrator's decision, if you wish to do so**." Given the stated importance of Funding Commitment Decision Letter, Metro RESA requests that a copy of the document be provided as soon as possible.

The April 25, 2006, Demand Payment Letters were addressed to Ed Kramer, Metro RESA, 2268 Adams Drive, N.W. Atlanta, GA 30318. Metro RESA moved from 2268 Adams Drive, Atlanta to 1870 Teasley Drive, Smyrna, Georgia in February 2002. On August 20, 2002, Bobby Stephens, the Acting Executive Director of Metro RESA wrote the SLD and indicated that he would serve as the Metro RESA point of contact for all E-rate matters. At that time he provided the new, accurate address and phone numbers for Metro RESA (see Enclosure 8). In addition, Bobby Stephens and Harlon Crimm represented Metro RESA at the meeting with key FCC and USAC officials on November 18, 2002, and Mr. Stephens indicated again that he would be the Metro RESA point of contact for all E-rate matters. He again furnished the accurate address for Metro RESA to the attendees. In addition, the new Executive Director of Metro RESA wrote Mr. Mark Seifert of the FCC regarding E-rate issues on May 6, 2003 on letterhead reflecting the correct Metro RESA address.

In addition to not receiving the Funding Commitment Decision Letter, Metro RESA did not receive the Notification of Commitment Adjustment Letters which the April 25, 2006, Demand Payment letters indicated had been previously furnished to Metro RESA. I orally requested copies of all key documents from the USAC Office of Counsel. Pursuant to that request, Associate General Counsel Kristy Carroll provided a CD containing a re-creation of the Commitment Adjustment Letters and Further Explanation of the Administrator's Decision Letter relating to 1998 funding that were apparently sent to Metro RESA on April 11, 2005. We sincerely appreciate the efforts of Ms Carroll to provide these documents.

However, in a May 25, 2006, letter (see Enclosure 9), she indicates that USAC's records show the Commitment Adjustment Letters for 1998 funding and a number of other documents related to SLD decisions were ultimately delivered via Fed-Ex to the attention of Ed Kramer at the correct 1870 Teasley Drive, Smyrna, Georgia address and signed for by a "J. Chaney". Ms. Carroll indicates that the Fed-Ex records indicate that while the letters were addressed to the old Atlanta address, the documents could not be delivered to the Atlanta address and were then ultimately delivered by Fed-Ex to the correct address on April 13, 2005. These documents, however, have never been seen by anyone at Metro RESA. (See Enclosure 10, an affidavit from Bobby Stephens). Metro

RESA officials did receive a number of documents from SLD in April 2005 but those documents related to funding requests for Year 2 (1999)-not funding for 1998. Thus, the records referred to by Ms Carroll concern the delivery of Year 2 (1999) funding documents. No 1998 documents were ever received at Metro RESA until the Demand Payment letters appeared on April 25, 2006.

In addition to not receiving these key procedural documents, Metro RESA has received no information regarding the results of any investigations in this matter that apparently serve as the basis for all the SLD decisions that have been made. The individuals involved with the E-rate program in the past are no longer working at Metro RESA. I am advised that Mr. Kramer is currently under house arrest and is facing criminal charges on unrelated matters. I am also advised that he is in poor health.

The undated, unaddressed letter states that **facts uncovered by USAC** in evaluating Metro RESA's requests for funding and **subsequent investigations** indicate certifications made by Metro RESA's designated representative were likely false. In addition, the undated letter indicates that **facts uncovered by SLD** in evaluating requests indicate that the service providers were improperly involved in the competitive bidding process. The undated letter also asserts that **certain documents discovered by USAC** show a clear conflict of interest and a pattern of self-dealing. The undated letter also indicates that "...**the record strongly suggests** that the Applicant and its primary service providers either falsely certified or subsequently violated certifications that program requirements were satisfied. Based on the false certifications in materials submitted to USAC, clear evidence of improper vendor conduct and other conduct and the fact that certain goods and services were not provided, all requests for appeals and invoices that are pending are denied. Funding commitments previously issued will be rescinded and recovery of funds sought."

In addition to assertions in the undated letter, the Funding Commitment Adjustment Reports that were attached to the Demand Payment Letters state: "After a **thorough investigation**, it has been determined that the funding commitment must be rescinded in full. False certifications on the Form 471 as well as the high degree of service provider involvement documented during the **forensic audit** support recovery efforts against both the applicant and the service provider".

Metro RESA has never received any information of any kind regarding the results of any USAC investigation, FBI or law enforcement investigation, audit, forensic audit, facts, documents or evidence developed in the case or anything that could in some way referred to as "**the record**". With little institutional knowledge and without access to any of the key documents relevant to these matters, current Metro RESA officials cannot effectively understand, evaluate or appeal USAC's actions. In that regard, Metro RESA does not even possess its own files that have been seized and never returned. It is critical for Metro RESA to review the factual basis for determinations that misconduct took place and to determine which statutes or program rules may have been broken. It is obviously

critical understand the factual basis for the determinations that specific certifications were false or later violated. It is also critical to understand any USAC determinations regarding: who broke the rules and who knew about the misconduct, and to review and verify any USAC determination that the wrongdoer acted intentionally for his own personal gain, concealing and misleading others regarding his wrongdoing. In addition to understanding any basis for appeal, these documents may also provide a basis for Metro RESA to take action under state law regarding individuals that may have been engaged in wrongdoing.

Metro RESA requested the results of USAC and law enforcement investigations in its meeting with key USAC and FCC officials on November 18, 2002, but were told by Mr. Seifert from the FCC that the investigations were on-going and the information could not be shared. Apparently these investigations have now been completed. No information has ever been provided to Metro RESA notwithstanding the fact that FCC Inspector General officials shared information regarding audit results with the reporters from the Atlanta Journal-Constitution. (See Enclosure 7). In addition, FCC officials have testified about the Metro RESA investigation before Congress but have not shared any information with Metro RESA (See Enclosure 11). Metro RESA requests the above information, including copies of its own files, be furnished as soon as possible so that an effective appeal can be evaluated and made. We also request access to the original documents submitted by Metro RESA to USAC that serve as the focus of the alleged misconduct.

We assert that it violates fundamental due process to require Metro RESA to appeal without receiving the key USAC decision document, the Funding Commitment Decision Letter We also assert it violated due process to require Metro RESA to appeal within 60 days of April 25, 2006, when Metro RESA received some documents as late as May 25, 2006. Finally, there is a clear absence of any due process when Metro RESA is required to evaluate a USAC decision without receiving any facts or information regarding the specific information upon which USAC's decision is based. Therefore, we request a waiver regarding appeal deadlines and a determination that any appeals be suspended until the requested documents and information are provided to Metro RESA for evaluation.

Other Issues and Considerations. Mr. Thomas Bennett, Assistant Inspector General, FCC, testified in March, 2005 that the FCC Office of the Inspector General determined that there were numerous concerns with the E-rate program, including a lack of clarity regarding program rules. Mr. Bennett stated in 2005: "We do not believe that it is possible under the current structure for applicants to have a clear understanding of program rules." (See Enclosure11). The lack of clear guidance can never justify criminal conduct or intentional wrongdoing. However, recognizing the continuing difficulties with program implementation in the E-rate program, we ask the Commission to consider that such difficulties in year one of the program certainly contributed to the problems with Metro RESA's Education on Demand project.

In addition, Metro RESA does not agree with the Commission's position in the Fourth Report and other FCC Orders that the Commission has the authority to recover Universal Service Funds from service providers and beneficiaries as a claim of the United States under the Debt Collection Act.

Additionally, subject to the receipt of information regarding USAC/FCC investigations and audits and the basis for USAC's determinations, Metro RESA may also assert that Mr. Kramer's conduct or the conduct of others did not violate applicable statutes or specific program rules promulgated by the Commission and in place in 1998 but rather violated guidance promulgated by a private entity, USAC. Metro RESA contends that the failure to comply with such guidance would not provide a basis for recovery of funds. In addition, if the basis of USAC's determination to recover funds is the subsequent violation by Mr. Kramer or others of a certification that was valid when made, those facts may raise scope of employment issues as well as questions regarding the statutory and regulatory basis to seek the recovery of funds.

Finally, we note that the amounts the FCC is claiming include the cost of equipment provided to various school systems. In many cases, this equipment has been used by the school systems for beneficial educational purposes. USAC's determination does not appear to take those facts in consideration in any manner.

This letter has been reviewed and approved by Executive Director of Metro RESA. Thank you for your consideration of this matter. Please contact me at any time. My cell phone is 703-623-9690.

SILVER, McGOWAN & SILVER, P.C.

By: William J. McGowan

Enclosures

Under separate cover, you are being sent a Funding Commitment Decision Letter concerning the FCC Form 471 Application Number cited above. This Funding Commitment Decision Letter (FCDL) denies all funding requests on this application.

Please be advised that the Funding Commitment Decision Letter is the official action on this application by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC). Please refer to that letter for instructions regarding how to appeal the Administrator's decision, if you wish to do so.

The purpose of this letter is to provide you with additional information concerning issues which may be present in your application. SLD has denied your application for the reason stated in your FCDL. However, your application may also include one or more of the following issues.

In certifying FCC forms associated with Applicant's requests for funding, Applicant's designated representative attested to Applicant's compliance with program rules. The certifications included statements that Applicant had secured access to resources necessary to make effective use of the services purchased and to pay the discounted charges for the eligible services, that Applicant complied with state and local procurement laws, that school technology plans were approved as required by program rules, and that Applicant would retain relevant records. Applicant's designated representative certified that he "had examined this request and to the best of my knowledge, information, and belief, all statements of fact contained herein are true."

Facts uncovered by USAC in evaluating Applicant's requests for funding and in subsequent investigations indicate that these certifications were likely false. Moreover, facts uncovered by SLD in evaluating Applicant's requests for funding indicate that the service provider(s) in question were improperly involved in the competitive bidding process. Certain documents discovered by USAC showed clear conflicts of interest and a pattern of self-dealing. Moreover, the evidence was unambiguous that neither Applicant nor the participating schools involved in the project had budgeted and paid their non-discounted portion of the goods and services that had been provided. Finally, numerous goods and services which were paid for were not provided or not made operational.

The record strongly suggests that Applicant and its primary service providers either falsely certified or subsequently violated certifications to the Administrator that certain program requirements were satisfied. Based on the false certifications in materials submitted to USAC, clear evidence of improper vendor involvement and other conduct, and the fact that certain goods and services were not provided, all requests for funding,

appeals, and invoices that are pending are be denied. Funding commitments previously issued will be rescinded and recovery of funds sought.

Under separate cover, you are being sent a Funding Commitment Decision Letter concerning the Form 471 application cited on the first page of this document. Please be advised that the Funding Commitment Decision Letter is the official action on this application by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC). Please refer to that letter for instructions regarding how to appeal the Administrator's decision, if you wish to do so.

Universal Service Administrative Company
Schools and Libraries Division

USAC

Universal Service Administrative Company
Schools & Libraries Division

Demand Payment Letter

Funding Year 1998: 1/01/1998 - 6/30/1999

April 25, 2006

ED KRAMER
METRO R E S A
2268 ADAMS DR NW,
ATLANTA, GA 30318 1918

Re:

Form 471 Application Number:	**26616**
Funding Year:	**1998**
Applicant's Form Identifier:	
Billed Entity Number:	**127323**
FCC Registration Number:	
SPIN Name:	**BellSouth Telecommunications, Inc.**
Service Provider Contact Person:	**Fay Reed**

You were previously sent a Notification of Commitment Adjustment Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Funding Commitment Adjustment Report (Report) attached to the Notification of Commitment Adjustment Letter. A copy of that Report is attached to this letter. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The balance of this debt is due within 30 days from the date of this letter. Failure to pay the debt within 30 days from the date of this letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104 for more information regarding the consequences of not paying the debt in a timely manner.

If the Schools and Libraries Division (SLD) has determined that both the applicant and the service provider are responsible for a program rule violation, then, pursuant to the Order on Reconsideration and Fourth Report and Order (FCC 04-181), the SLD will seek recovery of the improperly disbursed amount from BOTH parties and will continue to seek recovery until either or both parties have fully paid the debt. If the SLD has determined that both the applicant and the service provider are responsible for a program rule violation, this was indicated in the Funding Commitment Adjustment Explanation on the Funding Commitment Adjustment Report.

If the SLD is attempting to collect all or part of the debt from both the applicant and the service provider, then you should work with your service provider to determine who will be

debt to avoid duplicate payment. Please note, however, that the debt is the responsibility of both the applicant and service provider. Therefore, you are responsible for ensuring that the debt is paid in a timely manner.

Please remit payment for the full "Funds to be Recovered from Applicant" amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

If sending payment by U. S. Postal Service or major courier service (e.g. Airborne, Federal Express, and UPS) please send check payments to:

Universal Service Administrative Company
1259 Paysphere Circle
Chicago, IL 60674

If you are located in the Chicago area and use a local messenger rather than a major courier service, please address and deliver the package to:

Universal Service Administrative Company
Lockbox 1259
540 West Madison 4th Floor
Chicago, Il 60661

Local messenger service should deliver to the Lockbox Receiving Window at the above address.
Payment is due within 30 days from the date of this letter.

Complete program information is posted to the SLD section of the USAC web site at www.universalservice.org/sl/. You may also contact the SLD Technical Client Service Bureau by e-mail using the "Submit a Question" link on the SLD web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Universal Service Administrative Company
Schools and Libraries Division

cc: Fay Reed
BellSouth Telecommunications, Inc.

Funding Commitment Adjustment Report
Form 471 Application Number: 26616

Funding Request Number:	28744
Services Ordered:	TELCOMM SERVICES
SPIN:	143022074
Service Provider Name:	Penn-Akron Corporation
Contract Number:	M2697-2
Billing Account Number:	
Site Identifier:	127323
Original Funding Commitment:	$34,425.00
Commitment Adjustment Amount:	$34,425.00
Adjusted Funding Commitment:	$0.00
Funds Disbursed to Date:	$16,789.87
Funds to be Recovered from Applicant:	$16,789.87

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. False certifications on the Form 471 as well as the high degree of service provider involvement documented during the forensic audit support recovery efforts against both the applicant and the service provider. For a more detailed explanation, please see the enclosed letter.

PLEASE SEND A COPY OF THIS PAGE WITH YOUR CHECK TO ENSURE TIMELY PROCESSING

O.C.G.A. § 20-2-270

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*** Current Through the 2005 Special Session ***
*** Annotations Current Through January 23, 2006 ***

TITLE 20. EDUCATION
CHAPTER 2. ELEMENTARY AND SECONDARY EDUCATION
ARTICLE 6. QUALITY BASIC EDUCATION
PART 11. REGIONAL EDUCATIONAL SERVICE AGENCIES

◆ **GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION**

O.C.G.A. § 20-2-270 (2006)

§ 20-2-270. Establishment of state-wide network

(a) The State Board of Education shall establish a state-wide network of regional educational service agencies for the purposes of: providing shared services designed to improve the effectiveness of educational programs and services to local school systems; providing instructional programs directly to selected public school students in the state; and providing Georgia Learning Resources System services. The regional educational service agencies established by the state board may legally be referred to as "RESA" or "RESA's."

(b) The State Board of Education shall establish the service area of each regional educational service agency as a geographically defined area of the state. All local school systems, Department of Technical and Adult Education facilities and institutions, and University System of Georgia facilities and institutions that are located in the designated geographical area shall be members of that regional educational service agency.

(c) Every state supported postsecondary institution shall be an active member of a regional educational service agency.

(d) Each regional educational service agency and its employees shall be subject to or exempt from taxation in the same manner as are school systems and school system employees.

(e) All employees and volunteers of a regional educational service agency shall be immune from liability to the same extent as are employees and volunteers of a school system.

HISTORY: Code 1981, § 20-2-270, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1990, p. 1972, § 4; Ga. L. 1995, p. 1302, § 17; Ga. L. 1995, p. 1340, § 2; Ga. L. 1996, p. 1062, § 1; Ga. L. 2000, p. 618, § 44.

NOTES:
EDITOR'S NOTES. --Ga. L. 2000, p. 618, § 1, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'A Plus Education Reform Act of 2000.'"

O.C.G.A. § 20-2-270.1

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*** Current Through the 2005 Special Session ***
*** Annotations Current Through January 23, 2006 ***

TITLE 20. EDUCATION
CHAPTER 2. ELEMENTARY AND SECONDARY EDUCATION
ARTICLE 6. QUALITY BASIC EDUCATION
PART 11. REGIONAL EDUCATIONAL SERVICE AGENCIES

◆ **GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION**

O.C.G.A. § 20-2-270.1 (2006)

§ 20-2-270.1. Services to member local school systems by regional educational service agency; Georgia Learning Resources System; congruous service areas; Psychoeducational Network continued; sale of goods to private schools

(a) Each regional educational service agency shall provide the following shared services to member local school systems:

(1) Identifying or conducting research related to educational improvements and in planning for the implementation of such improvements;

(2) Developing and implementing staff development programs with an emphasis on improving student achievement and school accountability;

(3) Developing and implementing curricula and instruction of the highest quality possible, including implementing the uniformly sequenced core curriculum adopted by the state board;

(4) Developing and implementing academic assessment and evaluation programs;

(5) Identifying and utilizing electronic technology, including computers, in an effort to improve the quality of classroom instruction as well as classroom, school, and school system management;

(6) Developing programs, resource materials, and staff development services relating to instruction on alcohol and drug abuse; and

(7) Assistance in the development and implementation of a state-wide mentoring program.

The shared services may also include assistance designed to address documented local needs pursuant to subsection (d) of Code Section 20-2-272.

(b) The state board shall make the service areas for the Georgia Learning Resources System

congruous with the service areas for the RESA's. The RESA's are designated as the fiscal agents for the agency of the Georgia Learning Resources System or a local board of education as identified by the State Board of Education through an annual contract to serve as fiscal agent for the Georgia Learning Resources System. All member local school systems shall be provided the services of the Georgia Learning Resources System.

(c) The Psychoeducational Network for severely emotionally disturbed students shall be continued in effect. The service areas of units of the Psychoeducational Network for severely emotionally disturbed students in place on January 1, 1995, shall be continued in effect. The fiscal agent for each service area shall be as in effect on January 1, 1995, unless changed as provided in this subsection. Upon the request of a majority of the local school superintendents of the local school systems within a service area, representatives of each of the local school systems in the respective service area shall vote in the manner and at the time prescribed by the state board to determine if one of the local school systems or the regional educational service agency serving the respective service area shall serve as the fiscal agent for the respective unit of the Psychoeducational Network for the ensuing fiscal year. In the event this vote results in a change in the fiscal agent for the respective unit, the new fiscal agent shall continue in this capacity for a minimum of three fiscal years. In the event a regional educational service agency is designated as the fiscal agent for a service area, all member local school systems shall be provided the services of the Psychoeducational Network.

(d) A regional educational service agency shall be authorized to sell or provide at reasonable costs goods to private schools located in this state.

HISTORY: Code 1981, § 20-2-270.1, enacted by Ga. L. 2000, p. 618, § 45; Ga. L. 2002, p. 1149, § 1.

NOTES:
EDITOR'S NOTES. --Ga. L. 2000, p. 618, § 1, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'A Plus Education Reform Act of 2000.'"

- Title Note
- Chapter Note
- Article Note

Source: Legal > States Legal - U.S. > Georgia > Statutes & Regulations > **GA - Official Code of Georgia Annotated**
TOC: Official Code of Georgia Annotated > /. . . / > PART 11. REGIONAL EDUCATIONAL SERVICE AGENCIES > **§ 20-2-270.1. Services to member local school systems by regional educational service agency; Georgia Learning Resources System; congruous service areas; Psychoeducational Network continued; sale of goods to private schools**
View: Full
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O.C.G.A. § 20-2-271

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*** Current Through the 2005 Special Session ***
*** Annotations Current Through January 23, 2006 ***

TITLE 20. EDUCATION
CHAPTER 2. ELEMENTARY AND SECONDARY EDUCATION
ARTICLE 6. QUALITY BASIC EDUCATION
PART 11. REGIONAL EDUCATIONAL SERVICE AGENCIES

◆ **GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION**

O.C.G.A. § 20-2-271 (2006)

§ 20-2-271. Development of regional improvement plan; introduction of core services; instructional care teams; establishment of alternative methods of teacher certification

(a) Each regional educational service agency shall annually develop and submit to the Department of Education for approval, with a copy to the Education Coordinating Council, a regional plan for improvement of educational efficiency and cost effectiveness of its member institutions. Each plan must include the purposes and description of the services the regional educational service agency will provide to schools identified as low-performing based on the indicators adopted under Code Section 20-14-33 and to other schools.

(b) By July 1, 2002, each regional educational service agency shall introduce and provide core services for member local school systems and schools and provide core services for purchase by local school systems and schools which are not members of that regional educational service agency. These core services shall include the following:

(1) Training and assistance in teaching each subject area assessed under Code Section 20-2-281;

(2) Assistance specifically designed for any school that is rated academically failing under Code Section 20-14-33;

(3) Training and assistance to teachers, administrators, members of local boards of education, and members of local school councils on school-based decision making and control; and

(4) Assistance in complying with applicable state laws and rules of the State Board of Education and the Educational Coordinating Council.

Nothing in this Code section shall be construed to limit the freedom of a school system or school to purchase or refuse to purchase any core service from any regional educational service agency in this state.

(c) As part of the assistance provided by a regional educational service agency under this Code section, each regional educational service agency shall provide for the establishment of instructional care teams. Upon determining that a school under its management and control is consistently underperforming or is otherwise educationally deficient, a local board of education may request through a regional educational service agency the appointment of an instructional care team for that school. The instructional care team shall consist of such number of persons with such experience as a principal, teacher, or other education personnel so as to best address the needs of the school. Such instructional care team shall conduct an investigation into such aspects of instruction at the school as requested by the local board, prepare a written evaluation of such aspects of the school, and make nonbinding recommendations to the local board regarding improvements at the school. Such investigations, evaluations, and recommendations shall focus on, but not be limited to, instruction in mathematics, science, reading and other English courses, and social studies. Instructional care teams may also provide long-term and short-term follow-up assistance, such as but not limited to instruction, instructional assistance, and professional and staff development. Each regional educational service agency shall develop a registry or listing of potential instructional care team members, together with their areas of expertise, who may be available to member or nonmember local school systems for service on instructional care teams. Each regional educational service agency shall promulgate rules and regulations for the purchase of the services of an instructional care team, provided that nothing in this Code section shall prevent regional educational service agencies from entering into cooperative arrangements for the mutual exchange of such services. Subject to appropriation by the General Assembly, regional educational service agencies may be provided grants for the purpose of facilitating the development and implementation of instructional care teams.

(d) Each regional educational service agency may provide any additional service and any assistance to its member systems, as determined by the board of control. Each regional educational service agency may offer any service and form of assistance provided for in this Code section for purchase by any local school system or school in this state.

(e) Pursuant to rules and regulations developed by the Professional Standards Commission, each regional educational service agency shall develop programs for nontraditional alternative routes to state teacher certification as an alternative to traditional educator preparation, with special consideration provided to critical field shortages in its regional teaching work force.

(f) Each regional educational service agency may acquire, lease, purchase, lease purchase, or dispose of real or personal property and may incur debts for those purposes, subject to the approval of such agency's board of control. Such property shall be held in the name of the regional educational service agency.

HISTORY: Code 1981, § 20-2-271, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1995, p. 1340, § 2; Ga. L. 1996, p. 1062, § 1; Ga. L. 2000, p. 618, § 46.

NOTES:
EDITOR'S NOTES. --Ga. L. 2000, p. 618, § 1, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'A Plus Education Reform Act of 2000.'"

OPINIONS OF THE ATTORNEY GENERAL

GEORGIA MILITARY COLLEGE IS NOT A "LOCAL SCHOOL SYSTEM" and is ineligible to be a member of a regional educational service agency. 1997 Op. Att'y Gen. No. U97-30.

- Title Note
- Chapter Note
- Article Note

Source: Legal > States Legal - U.S. > Georgia > Statutes & Regulations > **GA - Official Code of Georgia Annotated**

TOC: Official Code of Georgia Annotated > *l . . . l* > PART 11. REGIONAL EDUCATIONAL SERVICE AGENCIES > **§ 20-2-271. Development of regional improvement plan; introduction of core services; instructional care teams; establishment of alternative methods of teacher certification**

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§ 20-2-272. Agency board of control; membership; powers and duties; planning boards

O.C.G.A. § 20-2-272

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*** Current Through the 2005 Special Session ***
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TITLE 20. EDUCATION
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◆ **GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION**

O.C.G.A. § 20-2-272 (2006)

§ 20-2-272. Agency board of control; membership; powers and duties; planning boards

(a) Each regional educational service agency shall be governed by a board of control. On and after July 1, 2000, the school superintendent of each member school system, the president or highest administrator of each member postsecondary institution, and a local public or regional library director appointed by the director of the Office of Public Library Services of the Board of Regents of the University System of Georgia shall serve as the board of control.

(b) All laws and the policies and regulations of the State Board of Education applicable to local school systems and local boards of education shall be applicable, when appropriate, to the regional educational service agencies and their boards of control unless explicitly stated otherwise in this part. No board of control shall levy or collect any taxes. No board of control shall expend or contract to expend any funds beyond the amount of funds that the board of control is legally authorized to receive and will, in fact, receive, except as otherwise provided in this part. Each board of control shall submit an annual report and an annual budget to the state board, in the manner prescribed by the state board, for review and approval.

(c) The State Board of Education shall be responsible for assuring that the activities of each regional educational service agency and its board of control established under this part conform to both the Constitution and laws of Georgia, as well as the policies and regulations of the state board.

(d) Boards of control shall determine the assistance needed by local school systems in the area served by each regional educational service agency, establish priorities from those needs, and allocate resources accordingly. Boards of control shall annually review the effectiveness and efficiency of such agencies. Boards of control shall determine the procedures and activities by which each regional educational service agency achieves locally established objectives and shall establish job descriptions, personnel qualifications, and work schedules consistent with locally established priorities and objectives.

(e) In the event the State Board of Education adopts a policy to reorganize the service areas of regional educational service agencies pursuant to Code Section 20-2-270 effective July 1