

# LOS ANGELES UNIFIED SCHOOL DISTRICT

## Information Technology Division

DAVID L. BREWER III  
Superintendent of Schools

DAVID R. HOLMQUIST  
Chief Operating Officer



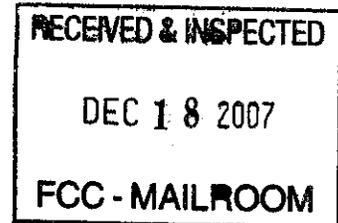
ANTHONY D. TORTORICE  
Chief Information Officer

JAMES ALTHER, Ph.D.  
Chief Technology Director,  
Infrastructure Group

### SENT VIA UPS

December 14th, 2007

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743



**RE: CONSOLIDATED REQUEST FOR REVIEW**

CC: 02-6

To Whom It May Concern:

The Los Angeles Unified School District ("District or LAUSD") is submitting this Consolidated Request for Review (collectively, the "Request") in response to FCC Order 07-63 released from the Federal Communications Commission ("FCC") dated May 8th, 2007. This letter is regarding the following information:

Applicant:	Los Angeles Unified School District
BEN:	143454
CC Docket Number:	02-6, 96-45
Name:	James Alther
Title:	Chief Technology Director
Address:	333 S. Beaudry Ave, 10 <sup>th</sup> Floor Los Angeles, CA 90017
Phone:	(213) 241-1332
Fax:	(213) 241-8400
E-mail:	<a href="mailto:james.alther@lausd.net">james.alther@lausd.net</a>
Form 471 App Number(s):	153024, 152055, 153006, 153037, 153019, 153033, 153030, 152074, 153012, 153005, 153017, 153014, 153004, 153011, 152080, 153036, 153016, 152062, 153025, 152997, 153008, 153038, 153028, 153073, 153018, 152063
FRN Number(s):	268633, 297139, 268603, 299384, 262379, 262460, 262578, 268595, 268600, 268617, 268667, 268673, 268678, 268765, 297122, 297124, 297133, 297152, 297167, 297173, 297489, 298258, 299344, 299346, 297150, 268586

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### *Introduction*

The Universal Service Administrative Company (“USAC”) conducted a post-funding review for funding years 1999 and 2000 commencing on June 26th to July 13th and August 20th to August 31st, 2001. On April 23rd, 2003, the Schools and Libraries Committee and Audit Committee of the USAC Board of Directors issued a final Arthur Andersen audit report. In the Arthur Anderson Audit of selected LAUSD Funding Year 1999 and 2000 E-rate funding commitments and disbursements, USAC auditors alleged that the contract(s) for the associated funding requests referenced herein<sup>1</sup> were executed before the Allowable Contract Date (“ACD”) listed on the submitted Form 471 application(s). Furthermore, it was alleged that during the course of the audit, certain funds were committed in error, disbursed, and had been determined to be recoverable. The SLD’s decision to seek recovery of funds committed and disbursed in error were a direct result of the audit findings.

### *Background*

As a result of the audit findings, Commitment Adjustment/Erroneously Disbursed Funds Letter(s) were issued by USAC to the LAUSD’s service providers, with a copy to the LAUSD as the Billed Entity during the 2003-2004 timeframe. In April of 2006, the LAUSD and USAC amicably resolved the repayment issue and agreed to an amount of \$4,031,786.70.<sup>2</sup> This payment was to resolve exceptions noted in the Arthur Anderson Audit of selected LAUSD Funding Year 1999 and 2000 E-rate funding commitments and disbursements issued by USAC and the resulting Commitment Adjustments/Erroneously Disbursed Funds Letters issued in connection with this audit.

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<sup>1</sup>See Exhibit A, Summary of Application numbers and FRN numbers. For purposes of this filing, the Applications that are the subject of this Consolidated Review shall be referred to collectively as the “Applications.”

<sup>2</sup> Exhibit B includes a copy of the letter sent to SLD along with warrant number 13874369 dated April 7, 2006 which details the funding requests along with the recovery amount totaling \$4,031,786.70.

*Downey Electric's Involvement*

During the 1999/2000 funding year, Downey Electric was involved in the following E-rate projects/FRNs:

<u>Project</u>	<u>471 No.</u>	<u>FRN</u>
Middleton MS	153035	297160
Eagle Rock HS	154262	297172
Heliotrope ES	153020	268632

The USAC audit ultimately determined that Downey Electric committed program violations that resulted in Downey receiving "erroneously disbursed funds" from the SLD on the above-referenced LAUSD projects. USAC then sent "Repayment/Offset Demand" Letters on these projects to Downey in April, 2004, demanding repayment of the erroneously disbursed funds. Downey then filed an appeal with the FCC challenging USAC's finding that funds were erroneously disbursed to Downey on the above projects. In May, 2007, the FCC issued a ruling in favor of Downey on its appeal and, as such, Downey is no longer obligated to return the funding it received to the SLD on the above-referenced projects.

*Applicability of FCC 07-63*

On May 8th, 2007, the Federal Communications Commission granted 62 appeals concerning various procedural errors that were comprised of 34 applicants that made ministerial or clerical errors<sup>3</sup> on forms that were timely submitted and 28 applicants were cited for various procedural issues related to the 28 day posting of the Form 470<sup>4</sup>. The order states that petitioners' argued that they misunderstood the rules, which resulted in a denial of their requests for E-rate funding.<sup>5</sup> As a result, it was noted in the order that the Commission found good cause to waive section 54.504(b)(4) of the Commission's rules, which requires applicants to wait 28 days after posting an FCC Form 470 to USAC's website before

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<sup>3</sup> 47 C.F.R. § 54.504 (c); see infra paras 6-7, "Good cause exists to waive these section of the Commissions' rules, which requires applicants to submit a completed FCC Form 471 to USAC."

<sup>4</sup> 47 C.F.R. § 54.504 (b) (4); see infra paras: 8-9, " which states that applicants must wait 28 days after their FCC Form 470 is posted to USAC's website or after public availability of an applicant's request for proposal (RFP) before entering into an agreement with a service provider for the requested services."

<sup>5</sup> See footnote 19 on page 4 of the Order; stating Request for Review of Los Angeles Unified School District citing the reason for the waiver was attributed to the misunderstanding of rules.

entering into an agreement with a service provider for the requested services. Additionally, the order states that errors related to the competitive bidding process do not warrant a complete rejection of their applications. It was also found in the order that no evidence of waste, fraud or abuse occurred.

Based on the facts and the circumstances addressed within the order granting Petitioners' waiver of Section 54.504 (b) (4),<sup>6</sup> one of the sixty-two (62) appeals specifically<sup>7</sup> cited LAUSD. In the citation,<sup>8</sup> the FCC order states that during post-funding review, USAC determined that LAUSD had agreements with their service providers prior to the allowable contract date and had determined that there were violations of the Commission's competitive bidding rules. However, the ruling went on to state the following; "in light of our decision, we direct USAC to discontinue recovery actions against Los Angeles." This was noted in the May 8th, 2007 release.

With respect to this decision, the relevance of this outcome should be reviewed in connection with the 26 funding request numbers ("FRN") associated with the tendered payment made to USAC in order to satisfy obligations of the Arthur Anderson Audit. It was noted in the order that the Commission found good cause to wave section 54.504 (b) (4) of the Commission's rules granting approval of Downey's appeal. We argue that since FCC Order 07-63 formally granted the approval of the appeal filed by Downey, the Commission should provide the same consideration of the Year 1999/2000 audit findings specifically associated with the aforementioned FRNs, and allow the LAUSD to recover the tendered amount of \$4,031,786.70.

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<sup>6</sup> Waivers cited Petitioners' mistakenly signed their contractors or certified their FCC Forms 471 before the allowable contract date.

<sup>7</sup>See FCC 07-63 Paragraph 10 footnote 38

<sup>8</sup>See Exhibit C, Downey Appeal. Downey filed an appeal on January 16<sup>th</sup> and again on June 15<sup>th</sup>, 2004 as a result of the findings of the 1999/2000 Anderson audit. Subsequently, this resulted in Downey's receipt of repayment/offset demand letters, collectively for 471#'s 154262, 153035, and 153020; and FRN(s) 297172, 297160 and 268632, respectfully.

The following reasons are listed below:

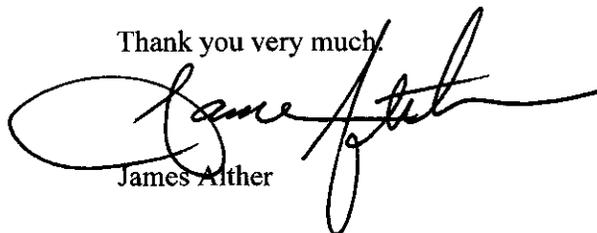
1. The 26 funding requests cited in the Anderson Audit had the same reasons that lead to the Commission findings in the Downey appeal that caused LAUSD to repay the disbursed funding back to USAC. We argue that the findings of the Order that provided the basis for the granting of Downey's appeal should be unilaterally applied to the FRNs associated with 1999/2000 Anderson Audit.
2. Repayment of erroneously disbursed funds was sent to USAC on April 7<sup>th</sup>, 2006, 1 year before the Order was released on May 8th, 2007.
3. The Order states that errors related to the competitive bidding process do not warrant a complete rejection of their applications. It was also found in the order that no evidence of waste, fraud or abuse occurred. Therefore, we argue that LAUSD should be extended the same consideration as outlined in the Order to be retroactively applied to the 26 funding requests.
4. The District has paid the discounted amount to all service providers associated with the funding commitments herein and all services were delivered.

*Conclusion*

Based on the stated above, we respectfully request that the Commission grant the LAUSD Consolidated Request in full. In light of FCC's decision to discontinue the recovery actions against LAUSD, we are seeking repayment of the \$4,031,786.70 tendered in conjunction with the Anderson Audit finding; as directed by the order FCC 07-63 and based on the same set of circumstances leading to the repayment by the District of the remaining funds associated with the audit.

If you have any questions, or wish to discuss this matter further, please don't hesitate to contact the undersigned, or Tracy Okumura at (213) 241-1875 or [tracy.okumura@lausd.net](mailto:tracy.okumura@lausd.net). Otherwise, thank you in advance for your prompt and courteous attention to resolving this matter.

Thank you very much.



James Alther

EXHIBIT A

SUMMARY OF APPLICATION  
AND FRN NUMBERS

BEN	FRN	FY	App No	Applicant Name	SPIN	SPIN Name/Service Provider
143454	268633	1999	153024	LAUSD	143015304	Woodcliff Corporation
143454	297139	1999	153030	LAUSD	143019355	Patco Builders, Inc.
143454	268603	1999	153011	LAUSD	143015304	Woodcliff Corporation
143454	299384	1999	152997	LAUSD	143016917	ACC Contractors, Inc.
143454	262379	1999	152055	LAUSD	143016917	ACC Contractors, Inc.
143454	262460	1999	152074	LAUSD	143016194	Helix Electric, Inc
143454	262578	1999	152080	LAUSD	143016194	Helix Electric, Inc
143454	268595	1999	153008	LAUSD	143016194	Helix Electric, Inc
143454	268600	1999	153006	LAUSD	143015304	Woodcliff Corporation
143454	268617	1999	153012	LAUSD	143016194	Helix Electric, Inc
143454	268667	1999	153036	LAUSD	143016194	Helix Electric, Inc
143454	268673	1999	153038	LAUSD	143016194	Helix Electric, Inc
143454	268678	1999	153037	LAUSD	143016194	Helix Electric, Inc
143454	268765	1999	153005	LAUSD	143016710	Atek Construction, Inc.
143454	297122	1999	153016	LAUSD	143016194	Helix Electric, Inc
143454	297124	1999	153028	LAUSD	143016194	Helix Electric, Inc
143454	297133	1999	153019	LAUSD	143016194	Helix Electric, Inc
143454	297152	1999	153017	LAUSD	143016917	ACC Contractors, Inc.
143454	297167	1999	152062	LAUSD	143016194	Helix Electric, Inc
143454	297173	1999	152073	LAUSD	143017802	Pinner Construction Co. Inc.
143454	297489	1999	152063	LAUSD	143016194	Helix Electric, Inc
143454	298258	1999	153014	LAUSD	143016194	Helix Electric, Inc
143454	299344	1999	153025	LAUSD	143017802	Pinner Construction Co. Inc.
143454	299346	1999	153018	LAUSD	143017763	Universal Constr & Maintenance
143454	297150	1999	153033	LAUSD	143016571	Morillo Constrction Co.
143454	268586	1999	153004	LAUSD	143016710	Atek Construction, Inc.

**EXHIBIT B**  
**LETTER TO USAC**



LOS ANGELES UNIFIED SCHOOL DISTRICT  
OFFICE OF THE GENERAL COUNSEL  
BUSINESS SERVICES  
333 S. BEAUDRY AVENUE, 20<sup>TH</sup> FLOOR  
LOS ANGELES, CALIFORNIA 90017  
TEL: (213) 241-7600  
FAX: (213) 241-3310

ROY ROMER  
SUPERINTENDENT OF SCHOOLS

KEVIN S. REED  
GENERAL COUNSEL

RICHARD A. DEEB  
ASSOCIATE GENERAL COUNSEL

WRITER'S DIRECT DIAL: 213-241-7600  
WRITER'S E-MAIL: JIM.HUNT@LAUSD.NET  
MATTER NO.: 0374

**VIA FEDERAL EXPRESS**

April 7, 2006

Universal Service Administrative Company  
1259 Paysphere Circle  
Chicago, IL 60674

RE: Resolution of Funding Years 1999 and 2000 Audit  
Billed Entity/Number: Los Angeles Unified School District/143454

To Whom It May Concern:

Enclosed please find warrant number 13874369 dated March 27, 2006 from the Los Angeles Unified School District (LAUSD) to USAC in the amount of \$4,031,786.70. This payment is to resolve exceptions noted in the Arthur Anderson Audit of selected LAUSD Funding Year 1999 and 2000 E-Rate funding commitments and disbursements, and the resulting Commitment Adjustment/Erroneously Disbursed Funds Letters issued by USAC to the LAUSD's service providers, with a copy to the LAUSD as the Billed Entity ("USAC Letters.")

To ensure proper credit, the LAUSD has prepared the enclosed spreadsheet detailing each of the twenty-six (26) Applications where the LAUSD received funds disbursed in error to LAUSD service providers, and for which the LAUSD is tendering payment in response to the USAC Letters issued in connection with this audit. **Please credit the LAUSD with payment-in-full on each of these 26 Applications totaling \$4,031,786.70.**

Please note that the LAUSD's spreadsheet does not include all of the Applications where the LAUSD is identified as the Billed Entity in the USAC Letters. The LAUSD is the Billed Entity on ten (10) additional Applications identified in the audit, but to date the LAUSD has not received the funds from the subject service providers. During Funding Years 1999 and 2000, USAC issued funds directly to the LAUSD's service providers, and the service providers were contractually obligated to forward these funds to the LAUSD. However, on these 10 Applications (as well as others not the subject of this audit), the LAUSD did not receive the erroneously disbursed funds from the subject service providers. Therefore, the LAUSD is not in a position to reimburse USAC for funds it did not receive, and respectfully requests that USAC seek recovery of any such funds directly from the subject service providers.

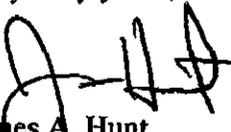
In this regard, please also find a spreadsheet prepared by Andy Eisley, Senior Manager – Program Integrity Operations, Schools and Libraries Division of USAC, which identifies all thirty-six (36) Applications referenced in the USAC letters. Per my communications with Mr. Eisley, this spreadsheet identifies the total of all recoveries to be sought by USAC in connection with the subject audit of the LAUSD, \$5,729,648.70.

A review of USAC's spreadsheet reveals funding on ten (10) additional Applications to five (5) different service providers, which LAUSD records reveal was never forwarded to the LAUSD: 1) Cal City Construction, Inc. (Application #152068), 2) Coordinated Construction Inc. (Application #s152078 and 153026), 3) Downey Electric Inc. (Application #s153020, 153035, and 154262), 4) K&M Construction Co. (Application #154260), and 5) USS Cal Builders, Inc. (Application #s152061, 152057, and 153031.) The total amount of these 10 Applications is \$1,697,862. Since the LAUSD did not receive these funds from the subject service providers, the LAUSD has deducted \$1,697,862 from the total recovery amount in USAC's spreadsheet of \$5,729,648.70, to reach the revised total in LAUSD's spreadsheet of \$4,031,786.70.

If you have any questions or require any further information from the LAUSD regarding payment tendered, or resolution of the subject Arthur Anderson Audit of the LAUSD, please immediately contact the undersigned. Otherwise, the LAUSD will consider the enclosed payment as full and final satisfaction of all outstanding issues raised in the subject audit, and the related USAC Letters.

Thank you for your attention to this matter, and for working with the LAUSD in resolving the issues raised by the subject audit.

Very truly yours,

  
James A. Hunt  
Assistant General Counsel  
Los Angeles Unified School District

Enclosures as noted

CC: (Via E-mail only)  
Andy Eisley, SLD/USAC  
Megan Klee, LAUSD/ITD  
Dr. James Alther, LAUSD/ITD  
William Wilkerson, LAUSD/FSD  
Charles Burbridge, LAUSD/CFO  
Kevin Reed, LAUSD/OGC  
Michelle Meghrouni, LAUSD/OGC

Check Date: 03/27/06

Check No. 13874369

Invoice Number	Invoice Date	Voucher ID	Gross Amount	Discount Available	Paid Amount
I.EG-SLD1	03/17/06	01148555	4,031,786.70	0.00	4,031,786.70

Vendor Number	Name			Total Discounts	TIN
185109000	USAC			\$0.00	
Check Number	Date	Total Amount	Late Interest	Discount Taken	Total Paid Amount
13874369	03/27/06	\$4,031,786.70	0.00		\$4,031,786.70

NOTICE TO CASHIER: BE SURE WATERMARK IS ON REVERSE SIDE BEFORE CASHING



Los Angeles County

**L.A. UNIFIED SCHOOL DISTRICT**  
 333 SOUTH BEAUDRY AVENUE  
 LOS ANGELES, CA 90017  
 213-241-1000

PAYABLE AT:  
 CITIBANK DELAWARE  
 ONE PENN'S WAY  
 NEW CASTLE, DE 19720  
 62-20/311

**13874369**

Date Issued: 03/27/06

Amount  
**\$4,031,786.70\*\*\***

**THE TREASURER OF LOS ANGELES COUNTY will pay exactly:**

\*\*\*\*FOUR MILLION THIRTY-ONE THOUSAND SEVEN HUNDRED EIGHTY-SIX AND 70/100 US\*\*\*\*  
 \*\*\*\*DOLLARS\*\*\*\*

WARRANT CLEARANCE FUND  
 FOR CURRENT FISCAL YEAR  
 THIS WARRANT IS VOID AFTER  
 SIX MONTHS FROM DATE ISSUED

WE CERTIFY THAT THIS IS A LEGAL ORDER LAWFULLY  
 DRAWN AGAINST THE FUNDS OF THE DISTRICT/AGENCY

*Ch. A. Benbridge*  
 FOR GOVERNING BOARD OF DISTRICT/AGENCY

EXAMINED, APPROVED AND ALLOWED  
 DR. DAREN P. NOBLES, COUNTY SUPERINTENDENT OF SCHOOLS

BY: *David K. Smith* DEPUTY

Will pay to:

USAC

135 SO LA SALLE DEPT #1259  
 CHICAGO, IL 60674-1259

⑈ 13874369⑈ ⑆031100209⑆ 38638165⑈

LAUSD SPREADSHEET

CAL Date	BEN	FRN	FY	App No	Applicant Name	SPIN	SPIN Name/Service Provider	Original Commitment	Disbursed	Dollars To Recover	Amount Tendered	Balance
10/9/2003	143454	268633	1999	153024	LAUSD	143015304	Woodcliff Corporation	\$392,226.30	\$392,226.30	\$42,590.70	\$42,590.70	\$0.00
10/9/2003	143454	297139	1999	153030	LAUSD	143019355	Patco Builders, Inc.	\$55,264.00	\$55,264.00	\$55,264.00	\$55,264.00	\$0.00
11/18/2003	143454	268603	1999	153011	LAUSD	143015304	Woodcliff Corporation	\$97,144.00	\$97,144.00	\$97,144.00	\$97,144.00	\$0.00
11/18/2003	143454	299384	1999	152997	LAUSD	143016917	ACC Contractors, Inc.	\$188,400.00	\$188,400.00	\$44,360.00	\$44,360.00	\$0.00
11/19/2003	143454	262379	1999	152055	LAUSD	143016917	ACC Contractors, Inc.	\$391,552.00	\$391,552.00	\$391,552.00	\$391,552.00	\$0.00
11/19/2003	143454	262460	1999	152074	LAUSD	143016194	Helix Electric, Inc	\$59,680.80	\$59,680.80	\$59,680.80	\$59,680.80	\$0.00
11/19/2003	143454	262578	1999	152080	LAUSD	143016194	Helix Electric, Inc	\$81,849.60	\$81,849.60	\$81,849.60	\$81,849.60	\$0.00
11/19/2003	143454	268595	1999	153008	LAUSD	143016194	Helix Electric, Inc	\$79,220.00	\$79,220.00	\$79,220.00	\$79,220.00	\$0.00
11/19/2003	143454	268600	1999	153006	LAUSD	143015304	Woodcliff Corporation	\$352,246.00	\$352,246.00	\$352,246.00	\$352,246.00	\$0.00
11/19/2003	143454	268617	1999	153012	LAUSD	143016194	Helix Electric, Inc	\$69,181.20	\$69,181.20	\$69,181.20	\$69,181.20	\$0.00
11/19/2003	143454	268667	1999	153036	LAUSD	143016194	Helix Electric, Inc	\$47,644.20	\$47,644.20	\$47,644.20	\$47,644.20	\$0.00
11/19/2003	143454	268673	1999	153038	LAUSD	143016194	Helix Electric, Inc	\$154,639.80	\$154,639.00	\$154,639.00	\$154,639.00	\$0.00
11/19/2003	143454	268678	1999	153037	LAUSD	143016194	Helix Electric, Inc	\$107,096.40	\$107,096.40	\$107,096.40	\$107,096.40	\$0.00
11/19/2003	143454	268765	1999	153005	LAUSD	143016710	Atek Construction, Inc.	\$328,590.00	\$328,590.00	\$328,590.00	\$328,590.00	\$0.00
11/19/2003	143454	297122	1999	153016	LAUSD	143016194	Helix Electric, Inc	\$229,722.40	\$229,722.40	\$229,722.40	\$229,722.40	\$0.00
11/19/2003	143454	297124	1999	153028	LAUSD	143016194	Helix Electric, Inc	\$103,775.40	\$103,775.40	\$103,775.40	\$103,775.40	\$0.00
11/19/2003	143454	297133	1999	153019	LAUSD	143016194	Helix Electric, Inc	\$63,272.70	\$63,272.70	\$63,272.70	\$63,272.70	\$0.00
11/19/2003	143454	297152	1999	153017	LAUSD	143016917	ACC Contractors, Inc.	\$247,365.00	\$247,365.00	\$247,365.00	\$247,365.00	\$0.00
11/19/2003	143454	297167	1999	152062	LAUSD	143016194	Helix Electric, Inc	\$141,056.10	\$141,056.10	\$141,056.10	\$141,056.10	\$0.00
11/19/2003	143454	297173	1999	152073	LAUSD	143017802	Pinner Construction Co. Inc.	\$224,000.00	\$224,000.00	\$224,000.00	\$224,000.00	\$0.00
11/19/2003	143454	297489	1999	152063	LAUSD	143016194	Helix Electric, Inc	\$39,908.80	\$39,908.80	\$39,908.80	\$39,908.80	\$0.00
11/19/2003	143454	298258	1999	153014	LAUSD	143016194	Helix Electric, Inc	\$109,238.40	\$109,238.40	\$109,238.40	\$109,238.40	\$0.00
11/19/2003	143454	299344	1999	153025	LAUSD	143017802	Pinner Construction Co. Inc.	\$117,000.00	\$117,000.00	\$117,000.00	\$117,000.00	\$0.00
11/19/2003	143454	299346	1999	153018	LAUSD	143017763	Universal Constr & Maintenance	\$158,490.00	\$158,490.00	\$158,490.00	\$158,490.00	\$0.00
5/26/2004	143454	297150	1999	153033	LAUSD	143016571	Morillo Construction Co.	\$246,000.00	\$246,000.00	\$246,000.00	\$246,000.00	\$0.00
3/31/2005	143454	268586	1999	153004	LAUSD	143016710	Atek Construction, Inc.	\$440,900.00	\$440,900.00	\$440,900.00	\$440,900.00	\$0.00
										\$4,031,786.70	\$4,031,786.70	\$0.00

**EXHIBIT C**

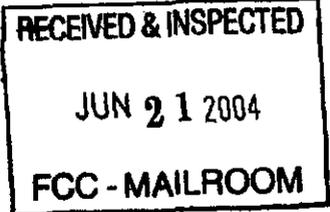
**DOWNEY APPEAL LETTER**

DOCKET FILE COPY ORIGINAL



**downey  
electric, inc.**  
SINCE 1948

CONSULT • DESIGN • CONSTRUCT



June 15, 2004

**FEDERAL COMMUNICATIONS COMMISSION**

Office of the Secretary  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Re: CC Docket No. 02-6

To whom this may concern:

Since filing this appeal, we have been sent several repayment/offset demand letters with different case numbers for the same projects. In our original appeal, our basis for appeal only covered Billed Entity #143454, 471 Application #154262, FRN# 297172. And now we have been billed for # 471 Application Numbers, 153035 and 153020, FRN#'s 297160 and 298632 which never gave us anytime for appeal.

Downey Electric cannot understand, why according to USAC's letter dated April 16<sup>th</sup> 2004, the first appeal was denied due to a date that the SLD assumably set for filing then funded erroneously. How could this happen three times to us and to almost everyone I know that was involved in this program?

The contractor is not the auditor or the author of this huge mistake. USAC tells us we can take up legal repress with the SLD if we believe it warranted. Maybe this is where to first start looking for a refund.

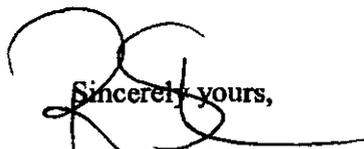
I am an SBE contractor who only filed according to bid instructions and do not have the kind of resources to write a check no matter what the alleged amount is.

I believe whether given erroneously or not, it served its purpose for the school district.

Downey would like to hear the FCC's take on this whole fiasco and would like to see documentation giving USAC the authority to address these filings.

Please see attached demands and correspondence from USAC and please reconsider our appeal.

Sincerely yours,

  
**Ronald Stillman**  
President  
Downey Electric, Inc.

No. of Copies rec'd \_\_\_\_\_  
List ABCDE \_\_\_\_\_



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

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**REPAYMENT/OFFSET DEMAND LETTER**

April 12, 2004

Rolly Bales  
Downey Electric, Inc.  
11205 Imperial Hwy  
Norwalk, CA 90650

SPIN: 143016697  
Applicant Name LOS ANGELES UNIFIED SCHOOL DISTRICT  
Billed Entity Number: 143454

Dear Service Provider Contact:

You were recently sent a Commitment Adjustment Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Option Selection Worksheet attached to this letter. The Federal Communications Commission by its Order FCC 00-350 (released October 26, 2000) has directed USAC to implement the funds recovery process from service providers who received erroneous funding amounts. Listed below are the options available to you to return the total 'Funds to be Recovered' amount as specified on the Commitment Adjustment Letters you have been provided.

You may choose one of three options:

1. Remit to USAC the stated 'Funds to be Recovered' amount, within 30 days of the date of this letter,
2. Offset the stated amount owed to USAC by foregoing disbursement on alternate valid funding commitments or pending funding requests for the same applicant for the same or alternate funding year, or
3. A combination of the above two methods. The sum must equal the required recovery amount.

- If you select the cash payment option (# 1), please make your check payable to: "USAC – Fund Recovery" and remit the full "Funds to be Recovered" amount.
- If you select the offset option (# 2), USAC will offset the first submitted invoices, regardless of the alternate FRNs to which they apply, against the USAC recovery amount. You will be notified that the invoices have been approved and the funds have been credited as an offset. Once the USAC recovery is satisfied, any additional invoices submitted will be processed as normal, subject to remaining availability of funds for each FRN.

• If you select the combination option (#3), please indicate the amount of cash payment and make your check payable to: "USAC – Fund Recovery." The difference between the dollar amount remitted and the total "Funds to be Recovered" amount due to USAC is the remaining amount to be recovered by foregoing disbursement on alternate FRNs after work is completed and invoices are submitted to USAC. The sum of both options must equal the required recovery amount.

If an offset methodology is selected either via Option 2 or 3 above, the following examples may help you understand how USAC will process submitted invoices to ensure accurate and timely recovery of funds. The offset methodology will apply to either Service Provider Invoice Forms (FCC Form 474) or Billed Entity Applicant Reimbursement (BEAR) Forms (FCC Form 472).

Example 1 illustrates processing of invoices that exactly offset the recovery dollar amount:

Adjusted FRN and Recovery Dollar Amount	Alternate FRN and Available Dollar Amounts	Invoices Submitted SPIF or BEAR	USAC Applies to Recovery	USAC Pays
123 \$1,000	124 \$1,500	\$300	\$300	-0-
	125 \$ 800	\$400	\$400	-0-
	126 \$1,200	\$300	\$300	-0-
<u>Total \$1,000</u>	<u>\$3,500</u>	<u>\$1,000</u>	<u>\$1,000</u>	

Example 2 illustrates how invoices can be processed once the FULL amount of the recovery has been obtained:

Adjusted FRN and Recovery Dollar Amount	Alternate FRN and Available Dollar Amounts	Invoices Submitted SPIF or BEAR	USAC Applies to Recovery	USAC Pays
123 \$1,000	124 \$1,500	\$600	\$600	-0-
	125 \$ 800	\$800	\$400	\$ 400
	126 \$1,200	\$1,200	\$0	\$1,200
<u>Total \$1,000</u>	<u>\$3,500</u>	<u>\$2,600</u>	<u>\$1,000</u>	<u>\$1,600</u>

Please review the attachments **complete the Option Selection Worksheet, and return it within 30 days of the date of this letter.** An instruction sheet has been provided as well as a listing of alternate FRNs with valid or pending funding commitments available for offset.

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If you have any questions, please call 1-888-203-8100, and ask for the Technical Client Service Bureau. These specially trained staff can assist you with this process.

Universal Service Administration Company  
Schools and Libraries Division

**Attachments**

CC: James Alther  
LOS ANGELES UNIFIED SCHOOL DISTRICT  
355 S. GRAND AVENUE, RM. 305,  
LOS ANGELES, CA 90071

**INSTRUCTIONS FOR:**

**SERVICE PROVIDER  
"OPTION SELECTION WORKSHEET"**

**1. Check Repayment option**

- If you are choosing Option 1 or 3

**Return within 30 days of the date of this letter:**

The completed, signed Option Selection Worksheet with your check to the appropriate address identified below:

If sending by US Mail 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.

- If you are choosing Option 2:

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**Return the completed, signed Option Selection Worksheet within 30 days of the date of this letter to:**

**Box 125, Correspondence Unit,  
80 South Jefferson Road,  
Whippany, New Jersey 07981**

2. **Indicate the amounts for the recovery option you have chosen.**
3. **Sign and date the Worksheet where indicated.**

**OPTION SELECTION WORKSHEET**

**Case Number: OSW- 87**

**SELECT PAYMENT OPTION AND AMOUNTS FOR RECOVERY:**

Applicant Name: LOS ANGELES UNIFIED SCHOOL DISTRICT  
Applicant Address: 355 S. GRAND AVENUE, RM. 305, , LOS ANGELES, CA 900  
Billed Entity Number 143454

**ERRONEOUSLY DISBURSED FUNDS:**

<u>Funding Year End</u>	<u>471 #</u>	<u>FRN</u>	<u>Funds to be Recovered</u>
06/30 2000	153020	268632	\$208,386.00
06/30 2000	153035	297160	\$280,899.00
06/30 2000	154262	297172	\$405,927.00
Total Funds to be recovered for this applicant:			<u>\$895,212.00</u>

**Check one repayment option and specify dollar amount:**

1.  Remit check for total amount
2.  Offset total amount from FRNs
3.  Combination check and offset

**TOTAL TO REMIT:** \$ \_\_\_\_\_

**TOTAL AMOUNT TO OFFSET:** \$ \_\_\_\_\_

**TOTAL AMOUNT OF RECOVERY:** \$ \_\_\_\_\_

*(Must equal the total amount to recover stated above)*

Signature of Authorized Representative \_\_\_\_\_

Print Name of Authorized Representative \_\_\_\_\_

Name of Service Provider \_\_\_\_\_

Date \_\_\_\_\_

**SCHEDULE OF ALTERNATIVE VALID FRNs AVAILABLE FOR OFFSET**

Applicant Name: LOS ANGELES UNIFIED SCHOOL DISTRICT  
Applicant Address: 355 S. GRAND AVENUE, RM. 305, , LOS ANGELES, CA 900  
Billed Entity Number 143454

**Other Valid FRNs for this applicant with unpaid dollars available for Offset:**

<u>Fund Year En</u>	<u>471 #</u>	<u>FRN</u>	<u>Dollars Potentially Available for Offset</u>
<b>Total Potentially Available for Offset:</b>			<b>\$0.00</b>

**NO OFFSETS AVAILABLE.**

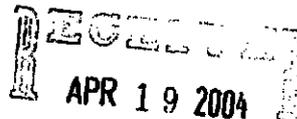
\* The FCC directed in its October 26, 2000, Order that USAC permit service providers to choose as potential offsets pending funding requests that have not yet been the subject of a Funding Commitment Decision Letter (FCDL). Therefore, the column 'Dollars Potentially Available for Offset' may include FRNs in the SLD system for which no decision has yet been issued. If so, those pending FRNs are indicated by an asterisk to the right of the requested discount. If, after SLD review is completed, any such request is reduced or denied, the potential offsets would be reduced and if total potential offsets fall below the 'Total Funds to be Recovered' shown above, the service provider will be required to remit payment for any shortfall.



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

**Administrator's Decision on Appeal - Funding Year 1999-2000**

April 16, 2004



BY: .....

Ronald Stillman  
Downey Electric, Inc.  
11205 Imperial Highway  
Norwalk, CA 90650

Re: Los Angeles Unified School District

Re: Billed Entity Number: 143454  
471 Application Number: 154262  
Funding Request Number(s): 297172  
Your Correspondence Dated: January 16, 2004

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision regarding your appeal of SLD's Funding Year 1999 Commitment Adjustment Decision for the application number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one application number, please note that for each application an appeal is submitted, a separate letter is sent.

Funding Request Number(s): 297172  
Decision on Appeal: **Denied in Full**  
Explanation:

- You appeal the SLD's Commitment Adjustment Decision Letter. In support of your appeal, you state that there are several issues that cannot be resolved without further research and study. Further, Downey Electric, Inc. does not have anyone presently employed who worked on the Los Angeles Unified School District ("LAUSD") project or handled that paperwork. You are appealing the fact that the competitive elements of the project did not meet SLD requirements and you indicate that there were several competitors. You assert that the April 1, 1999 signing date for contracts could have easily been delayed, as you did not get started on the project until later in 1999.

- After thorough review of the Letter of Appeal and all relevant documentation, we find the following facts. During an audit of the LAUSD, the auditors determined that the contract for this funding request was executed before the Allowable Contract Date ("ACD") listed on the submitted Form 471 application. It was determined that during the course of the audit the applicant was given a chance to correct the Contract Award Date ("CAD"), if possible, by providing additional documentation and/or citing an alternate establishing Form 470, which could have potentially corrected the ACD. Furthermore, pursuant to the applicant response it was determined that the applicant indicated the originally listed CAD and cited Form 470 were correct. Based on the aforementioned applicant response and documentation contained within the SLD records, it was determined that the committed \$405,927.00 was committed in error, disbursed, and will be recovered in full. Therefore, we find that the Commitment Adjustment Letter, dated November 19, 2003, was properly issued to the applicant and service provider in accordance with the rules of the Universal Support Mechanism. Consequently, the appeal is denied in full.
- The SLD's decision to seek recovery from the service provider of funds committed and disbursed in error is a direct result of an audit conducted by the Universal Service Administrative Company ("USAC"), and is permitted under FCC rules.<sup>1</sup> Accordingly, USAC has created a recovery plan, with Commission approval, to recover funds erroneously disbursed in years 1998 and 1999 of the Schools and Libraries Support Program. In an FCC Order, the FCC concluded that "continuance of USAC's fund recovery plan beyond year one of the program fully complies with Commission rules, and will ensure the integrity of the support program on a going-forward basis".<sup>2</sup> Therefore, concurrent with FCC oversight, USAC is permitted to recover funds from an applicant or service provider if such sums were disbursed contrary to program rules and/or legislative intent.<sup>3</sup> However, the service provider may seek legal redress from the school or library if it believes such action is warranted.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12<sup>th</sup> Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

<sup>1</sup> § 54.516(c)

<sup>2</sup> Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket 97-21 and 96-45, *Order*, 15 FCC Rcd. 22,975 at ¶ 10 (2000).

<sup>3</sup> *Id.*

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We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company

cc: Jim Konantz  
Los Angeles Unified School District  
355 South Grand Avenue, 11<sup>th</sup> Floor  
Los Angeles, CA 90071



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

**REPAYMENT/OFFSET DEMAND LETTER**

May 25, 2004

Rolly Bales  
Downey Electric, Inc.  
11205 Imperial Hwy  
Norwalk, CA 90650



BY:.....

SPIN: 143016697  
Applicant Name LOS ANGELES UNIFIED SCHOOL DISTRICT  
Billed Entity Number: 143454

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