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\* CERTIFIED BY THE SUPREME COURT OF NEW JERSEY  
AS A CIVIL TRIAL ATTORNEY  
> ADMITTED IN N.J. AND N.Y.

CC: 02-6

FILE NO: 1962.06

September 15, 2009

**BY FEDERAL EXPRESS**

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

Dear Sirs:

Re: In the Matter of Kipp Tech Valley Charter School (Albany, NY), and Future Generation, Inc., Service Provider

Appeals from USAC Appeal Denials of July 21, 2009 re May 14, 2009 Notification Of Improperly Disbursed Funds Recovery Letters, Form 471 Application #'s 458735 and 457066

Please be advised that this office has been retained by Kipp Tech Valley ("Tech Valley"), a charter school located in Albany, New York, and its service provider, Future Generation, Inc. ("Future"), to perfect an appeal to the Federal Communications Commission of Universal Service Administrative Company's denial of a first level appeal. We are appearing for the service provider insofar as it was served with the relevant Notification of Improperly Disbursed Funds Recovery Letter, although no adjustment claim has yet been made against it by USAC.

**Concise Procedural History**

On or about July 8, 2009, both Tech Valley and Future appealed to Universal Service Administrative Company (USAC) concerning its May 14, 2009 Notification of Improperly Disbursed Funds Recovery Letter for Funding Year July 1, 2005 through June 30, 2006. *Pal*.<sup>1</sup> Their appeal to USAC encompassed each and every funding disbursement recovery report adjustment set forth in the tables which follow. The appeal consisted of a letter of appeal and the accompanying affidavit

<sup>1</sup> All "Pa" numbers refer to the documents attached as the appellant's appendix on appeal.

of Dan Ceaser, the head administrator of Tech Valley. Pa21.

Each of the recovery notifications were premised upon two elements: (1) that Tech Valley failed to maintain an approved technology plan at the time of the submission of its Forms 486, and (2) the services which form the bases for the recovery were not basic telecommunications service. Pa4; Pa8 - Pa20. While conceding that the services were not basic telecommunications, Tech Valley and Future sought either a reversal of the USAC determination concerning its technology plan or a waiver, upon good cause shown, of the plan approval requirements if it should be determined that Tech Valley's plan was not properly approved. Pa23; Pa25.

On July 21, 2009, just thirteen days after the appeal letter was mailed by the appellants, USAC responded by denying their requests, noting that a technology plan must be approved either before a Form 486 is submitted or before the contracted services are rendered, and that insofar as Tech Valley's plan was not approved before services were rendered, its appeal could not be granted. As to Tech Valley's request for a waiver, USAC responded, "As USAC does not have authority to waive the FCC rules of the program, your appeal is denied." Pa26; Pa28 - Pa29.

#### **SCOPE OF THE APPEAL: ADJUSTMENTS OF FUNDING REQUESTS**

<b>KIPP TECH VALLEY (ALBANY, NY)</b>		
<b>Notification of Improperly Disbursed Funds Recovery Letters (2):</b>	May 14, 2009 (Pa1 - Pa4; Pa5 - Pa20)	
<b>Funding Request Numbers:</b>	1254780	1254846
	1254791	1254857
	1254800	1254866
	1254807	1254875
	1254822	1254880
	1254831	1254886
	1254838	1260044
<b>Billed Entity Name:</b>	Kipp Tech Valley	
<b>FCC Registration Number from Letter:</b>	0014484844	
<b>Billed entity number:</b>	16027263	
<b>Form 47I Application Number:</b>	458735, and 457066	
<b>SPIN Name / Number:</b>	Future Generation, Inc. / 143007891	

<b>Summary and Analysis of Adjustments Sought</b>			
<b>Funding Req. No.</b>	<b>Contract No.</b>	<b>Requested Amount</b>	<b>Actual Funding</b>
1254780 (Pa8)	1537	\$3,012.73	\$3,012.73
1254791 (Pa9)	1538	\$1,556.09	\$1,556.09
1254800 (Pa10)	1540	\$8,639.82	\$8,639.82
1254807 (Pa11)	1539	\$5,849.96	\$5,849.96
1254822 (Pa12)	1541	\$14,125.10	\$14,125.10
1254831 (Pa13)	1542	\$8,142.80	\$8,142.80
1254838 (Pa14)	1543	\$3,415.50	\$3,415.50
1254846 (Pa15)	1545	\$30,037.50	\$30,037.50
1254857 (Pa16)	1546	\$16,140.60	\$16,140.60
1254866 (Pa17)	1547	\$2,024.87	\$2,024.87
1254875 (Pa18)	1548	\$7,560.00	\$7,560.00
1254880 (Pa19)	1549	\$8,955.00	\$8,955.00
1254886 (Pa20)	1544	\$7,110.00	\$7,110.00
1260044 (Pa4)	1730	\$351.00	\$351.00
<b>Total Commitment Recovery Adjustment for Funding Year July 2005 - June 2006:</b>			<b>\$116,920.97</b>

### NATURE OF THE APPEAL

#### **I. Discussion of the Facts**

##### A. Appellant Future

Appellant Future is a service provider engaged in the business of providing computer, telecommunications and networking services to various schools and libraries throughout the State of New Jersey and its environs. Its services include system and software sales, technical and network administration services, complete networking services (copper, fiber optic, and wireless), comprehensive maintenance and support, as well as training. Future has been engaged as a service

provider to K - 12 educational organizations in the E-rate program since 1998.

B. Appellant Kipp Tech Valley: Start Up in 2005-2006 School Year

The "Knowledge is Power Program" or "KIPP" is a network of independent public charter schools that has achieved national recognition for improving student achievement. Kipp Tech Valley is a member of the network and a tuition free, college preparatory, public middle school located in Albany, New York. One of its sister schools, KIPP Academy New York, has been recognized by the New York State Senate as the highest performing public middle school in the Bronx for each of the last seven years. Likewise, the students at TEAM Academy, a KIPP network school in Newark, New Jersey, achieved a 99 percent increase in mathematics scores and a 61 percent increase in reading scores during their first year in the school. Pa22; Pa38.

In Albany, as in Newark, Tech Valley serves a specialized, economically disadvantaged population: 89% of its students are African American and 6% Hispanic, with more than 75% of the children eligible for the government's free or reduced-price lunch programs. The New York State School Report Card for Tech Valley for 2006-2007 estimates that the percentage of students from families receiving public assistance is 71 to 80%. Pa22; Pa41; Pa42.

A public charter school, Tech Valley commenced its operations with a class of 84 fifth grade students during school year 2005-2006 (the year targeted by USAC for the commitment adjustments), and has added subsequent grades each year as its students have advanced. Total budgeted operational expenses for 2008-2009 were \$3,385,588. The State and local governing bodies provided \$3,159,810 of the school's budgeted spending with the balance coming from federal programs and a private grant. Pa22; Pa43 - Pa46.

Because the school is funded solely from government sources, and is still in its earliest start-up phase as a newly operational institution with no endowment or contingency fund, there are no additional moneys available from which to repay the sums sought by USAC. Pa22 - Pa23.

C. Tech Valley's Adoption of a Sister School's Tech Plan

Indeed, the amounts which USAC funded under the above outlined funding requests, were essentially start up costs for the equipment, wiring, and other related needs of the school for the first year of its operations. Before the school even had a leased site, its board gave due consideration to its E-Rate needs, establishing a project time-line as part of its pre-opening planning. Pa23; Pa32.

On November 15, 2004, when the school's board of trustees first considered a draft technology plan, it drew upon a USAC approved and utilized plan of one of its sister institutions, Kipp Academy in Houston, Texas. Pa23; Pa35.

Subsequently, however, Tech Valley relied upon another, more recently approved plan, that of TEAM Academy Charter School of Newark, New Jersey. The TEAM technology plan was approved on June 22, 2004, and was subsequently amended by an addendum approved on June 18, 2008. Pa23; Pa47 - Pa67.<sup>2</sup>

That TEAM plan, a copy of which is appended hereto as Pa47 - Pa67, reflected the technology efforts of a school which, like Tech Valley, was not only a novice to the E-rate system, but was itself new in every sense, have only completed its second year of operations. Because of this identity of interests and history, Tech Valley wholly adopted the TEAM technology plan. Tech Valley made only sensible changes to the plan where required, fitting it to Tech Valley's mission statement and the realities of its own site and setup in Albany. This approach not only resulted in savings of staff time and expense, but more importantly gave Tech Valley a detailed, useful plan upon which to build not only its E-rate applications, but a successful technology platform for its students and the school's future. Pa23 - Pa25; Pa47 - Pa67.

The plan, 21 pages in length, was approved by the Tech Valley Board and formed the basis for its filing of Forms 486 for the period covered by the USAC recovery notifications. Pa68 - Pa88. Although it relies heavily on the TEAM Academy plan, it also provides site specific information, goals and programs, as well as an analysis showing how Tech Valley intended to comply with the New York State Technology Education Standards.

Significantly, it should not be overlooked that the November 2004 minutes of Tech Valley's Board, discussed above, underscore two highly salient factors (Pa34 - Pa38): first, Mr. Ceaser was the *only* paid, professional educator engaged in the school's start up and planning; and second, that the school's treasury at this point was less than \$6,000, all of which was received through a grant. Pa35. Accordingly, neither the personnel nor the resources were available to fully research a technology plan from the ground up, nor was the school sufficiently well heeled to hire a professional who might have recognized that the employ of the bulk of another school's plan, though approved by its State authorities, would not suffice for purposes of authorizing the Tech Valley plan under the FCC regulations and USAC rules. Pa24.

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<sup>2</sup> In its July 21, 2009 denial of appeal, USAC erred in finding that the Tech Valley Technology Plan of 2004 - 2006 was approved on June 18, 2008. Rather, this date was the amendment approval date for the TEAM Academy Plan.

Put another way, Tech Valley accomplished what it could with the time, money and manpower available to it, but did so without realizing that it needed to obtain additional approval of the technology plan if it was to avail itself of the E-rate system and its discounts. USAC nonetheless found its efforts wanting. Pa24 - Pa25.

D. USAC Notices of Improperly Disbursed Funds

In each instance, the USAC's Notification of Improperly Disbursed Funds Recovery Letters outlined above relate:

After a thorough investigation, it has been determined that the funds were improperly disbursed on this funding request. During the course of the review, it was determined that the technology plan for this entity was not approved at the time of submission of the Form 486. Program rules require applicants to obtain approval of technology plans by parties qualified to approve technology plans, prior to submitting the Form 486, for services other than basic telecommunications service. Since this is not a request for basic telecommunications service, the technology plan needed to be approved prior to submitting the Form 486 or the start of services, whichever was earlier. Since this requirement was not met, USAC will seek recovery of improperly disbursed funds of [amount disbursed] from the applicant. Pa4; Pa8 - Pa20.

As the above recitation of the facts which surrounded the Tech Valley technology plan makes clear, however, (1) the plan was approved by the school staff and Board, and (2) the guts of the plan had already passed muster with USAC when approval was received by both Kipp Academy of Houston, Texas, and by TEAM Academy, a Kipp school in Newark, New Jersey, this latter plan being a virtual mirror image of that used and adopted by Tech Valley. The only misstep by Tech Valley was failing to obtain its own approval from a state agency or other specified entity to ensure that the plan it adopted was based on the reasonable needs and resources of the applicants and was and is consistent with the goals of the E-rate program.

*Legal Argument*

**POINT I**

**TECH VALLEY SUBSTANTIALLY COMPLIED  
WITH THE USAC TECHNOLOGY PLAN REQUIREMENTS**

The USAC is the not-for-profit corporation responsible for administering the Universal Service Fund and the four federal universal service programs, one of which is Schools and Libraries. The schools and libraries support mechanism, also known as the E-rate program, is administered

under FCC oversight. *See generally, Fifth Report and Order, CC Docket No. 02-6 (FCC 2004).* Under the program, eligible schools may receive discounts for certain telecommunications services, voice mail, Internet access and internal connections. *See, 47 CFR §§ 54.502, 54.503.* Before applying for discounted services, the eligible applicant must first develop a technology plan to ensure that any services it purchases will be effectively used. *In re School Administrative District 67 Lincoln, Maine, 21 F.C.C.R. 9267, 21 FCC Rcd. 9267, 2006 WL 2403964 (F.C.C. 2006).* The applicant must then submit a completed FCC Form 470, which will identify the applicant and the services it desires to obtain. *Fifth Report and Order, supra.* Any school whose technology plan has not been approved when they file FCC Form 470 must certify that they understand their technology plan must be approved prior to the commencement of service. They also must confirm, in FCC Form 486, that their technology plan was approved before they began receiving services. *In re School Administrative District 67 Lincoln, Maine, supra.*

In general, an approved technology plan sets out how information technology and telecommunications infrastructure will be used to achieve educational goals, specific curriculum reforms, or library service improvements. A technology plan designed to improve education or library services should cover the entire funding year (July 1 to June 30) but not more than three years. The plan must contain the following five elements:

- Goals and realistic strategy for using telecommunications and information technology
- A professional development strategy
- An assessment of telecommunication services, hardware, software, and other services needed
- Budget resources
- Ongoing evaluation process. *See, <http://www.usac.org/sl/applicants/step02>*

The Tech Valley technology plan provides specific, detailed information and analysis respecting each of these five elements as well as a careful outline showing that the Tech Valley technology goals align with those of the New York State Technology Education Standards. Pa79; Pa80 - Pa81. The Tech Valley plan meets every objective criteria demanded by USAC and the FCC, and largely draws upon the USAC approved plan of its twin KIPP institutions in Houston and Newark.

Nor should it be taken lightly that the plans from which Tech Valley wholly derived its own, were previously approved under USAC guidelines. A plan which meets USAC criteria and which has been approved not once but twice for nearly identical, sister institutions should be taken as substantive compliance with the USAC and FCC rules notwithstanding the school's mistake in failing to have it formally approved in advance of its Form 486 filings.

Accordingly, this is a case where the violation of the pertinent rule is procedural only, not substantive, and where there is no evidence of waste, fraud, or abuse, misuse of funds, or a failure to adhere to core program requirements. *Cf., In re Acorn Public Library District*, File Nos. SLD-637819, CC Docket No. 02-6, DA 08-2376 (October 30, 2008). Thus, in a circumstance such as that here, when the applicant had a good faith belief that it had complied with the program's regulations and rules, and its only misstep was merely procedural, a complete recovery of its funding is not warranted. *See, Bishop Perry Order*, 21 FCC Rcd at 5316, 5323, para. 14 (2006). Rigid adherence to E-rate procedural rules and requirements in the case of Tech Valley will not promote the goals of section 254 of the Act, namely ensuring access by the school and its pupils to discounted telecommunications and information services, and therefore will not serve the public interest. *See, In re Barberton City School District*, File Nos. SLD-400938, CC Docket No. 02-6, DA 08-2382 (October 30, 2008).

## POINT II

### USAC RECOVERY NOTICES UNDERCUT THE STATUTORY POLICIES AND REQUIREMENTS OF THE ACT

Moreover, setting aside of the recovery notifications and accepting the 2004-2006 plan as having substantially complied with E-rate rules, will promote the statutory requirements of Section 254(h) of the Communications Act of 1934, as amended, by helping to ensure that an undeniably eligible school actually obtains access to discounted telecommunications and information services. *See, 47 U.S.C.A. § 254(h)*. In fact, in circumstances similar to those of Tech Valley, the Commission has concluded that a reduction in a school's E-rate funding is unwarranted and contrary to the public interest. *See, In re School Administrative District 67 Lincoln, Maine, supra*.

Indeed, more recently, in recognition of the difficulties encountered by schools with neither the staff nor resources to become fully cognizant of USAC's labyrinthine technical rules and regulations, the Commission has recently directed USAC to "enhance its outreach efforts . . . to better inform applicants of the technology plan requirements and to provide applicants with a 15 day opportunity to provide correct technology plan documentation." *See, In re Brownsville Independent School District Brownsville, TX*, 22 F.C.C.R. 6045, 22 FCC rcd. 6045, 40 Communications Reg. 1245, 2007 WL 952113 (F.C.C. 2007). Therein, the FCC reiterated:

As we recently noted, many E-rate program beneficiaries, particularly small entities, contend that the application process is complicated, resulting in their applications for E-rate support being denied because of simple mistakes. [Citing *Bishop Perry Order*, 22 FCC Rcd 5316 (2006).]

Recognition and relaxation in cases involving small entities have no greater application than

here. At the time of its adoption of the technology plan, no entity was smaller than Tech Valley, with just Mr. Ceaser on staff trying, like the true chief cook and bottle washer that he was, to bring together all the elements necessary to open a new school dedicated to the underprivileged and with an emphasis on math and technology skills. As explained in his accompanying affidavit, Mr. Ceaser believed that he had complied with the technology plan requirement and that the plan was appropriate to the school and correctly adopted and approved under E-rate guidelines. Under these circumstances, the violation here is procedural and not substantive.

### POINT III

#### **WAVIER REQUIRED TO AVOID CLOSURE OF THE SCHOOL**

The Commission may waive any provision of its rules on its own motion and for good cause shown. *See, 47 C.F.R. at § 1.3.* Furthermore, a program rule may be waived where the particular facts of the case make strict compliance inconsistent with the public interest. *See, Northeast Cellular Telephone Co. v. FCC*, 897 F. 2d 1164, 1166 (D.C. Cir. 1990), cited in, *In re Minford Local Schools*, SLD No. 637390, CC Docket No. 02-6, DA 09-1567 (July 21, 2009). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *See, WAIT Radio v. FCC*, 418 F. 2d 1153, 1157 (D.C. Cir. 1969), *aff'd* 459 F. 2d 1203 (D.C. Cir. 1972), cited in, , *In re Minford Local Schools, supra.*

It must not be overlooked that Tech Valley is a small public school struggling in difficult financial times. The amount sought in recovery, \$116,000, represents a substantial portion of its yearly operating budget and, if enforced, will likely force the school to close. There are simply no funds available from which to repay USAC this amount and no reasonable means of raising it. No one, least of all the Commission, wants to be a party to closing an otherwise successful charter school based on a good faith mistake such as the one which occurred here. Particularly so, given the school's substantive compliance and the minimal effect on the Fund which might result from grant of an FCC waiver. *See, In re Barberton City School District, supra.* ("We find that, for these applicants, denying or rescinding their requests for funding would create undue hardship and prevent these otherwise eligible schools and libraries from receiving E-rate funding. Finally, granting these appeals should have minimal effect on the Universal Service Fund.")

Accordingly, under all of the circumstances of this case, a waiver must be granted to Tech Valley, permitting it to continue to operate and provide an education to the children who attend it.

**CONCLUSION**

Based on the foregoing analysis of the facts and discussion of pertinent law, the parties' appeal must be granted in all respects and the Recovery Letters must be withdrawn.

Respectfully submitted,



RAYMOND BARTO

**Contact Person:** For Tech Valley and Future, I am the person with whom you can most readily discuss these appeals. I am an attorney at law and my name is Raymond Barto. My address, telephone number, and fax number are set forth above. My preferred email address is [Raymondbarto@hotmail.com](mailto:Raymondbarto@hotmail.com). My signature on this appeal is authorized by Tech Valley and Future.

pc: Mr. Dan Ceaser

Kevin P. Quinn, Esq.

Future Generation, Inc.

USAC, Schools & Libraries Division-Correspondence Unit, 100 So. Jefferson Rd, Whippany, NJ  
07981

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May 14, 2009, USAC to Kipp Tech Valley Charter School, Notification of Improperly Disbursed Funds Recovery Letter	Pa5
July 7, 2009 Affidavit of Dan Ceaser in Support of Appeal, previously filed on appeal to USAC	Pa21
July 21, 2009, USAC Decision on Appeal, Denial of Kipp Tech Valley Appeal	Pa26
July 21, 2009, USAC Decision on Appeal, Denial of Kipp Tech Valley Appeal	Pa28
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**Notification of Improperly Disbursed Funds Recovery Letter**

**Funding Year 2005: July 1, 2005 - June 30, 2006**

May 14, 2009

**Dan Ceaser**  
**KIPP TECH VALLEY**  
**P.O. BOX 6070**  
**ALBANY, NY 12206**

**Re: Form 471 Application Number: 458735**  
**Funding Year: 2005**  
**Applicant's Form Identifier: Telco**  
**Billed Entity Number: 16027263**  
**FCC Registration Number: 0014484844**  
**SPIN: 143007891**  
**SPIN Name: Future Generation, Inc.**  
**Service Provider Contact Person: Susan Kopf**

Our routine review of Schools and Libraries Program (Program) funding commitments has revealed certain applications where funds were disbursed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now recover these improper disbursements. The purpose of this letter is to inform you of the recoveries as required by Program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the Program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error.

This is NOT a bill. The next step in the recovery of improperly disbursed funds process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at [http://www.fcc.gov/debt\\_collection/faq.html](http://www.fcc.gov/debt_collection/faq.html).

TO APPEAL THIS DECISION:

You have to option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC).

If you wish to appeal the Notification of Improperly Disbursed Funds decision indicated in this letter to USAC your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Improperly Disbursed Funds Recovery Letter and the funding request numbers you are appealing. Your letter of appeal must include the
  - Billed Entity Name,
  - Form 471 Application Number,
  - Billed Entity Number, and
  - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Funding Disbursement Recovery Report included with this letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org). USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
100 S. Jefferson Rd.  
P. O. BOX 902  
Whippany, NJ 07981

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

If you wish to appeal a decision in this letter to the 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 by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

FUNDING DISBURSEMENT RECOVERY REPORT

On the pages following this letter, we have provided a Funding Disbursement Recovery Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from the application for which recovery is necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/sl/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to the service provider for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on these FRN(s), a separate letter will be sent to the service provider detailing the necessary service provider action. The Report explains the exact amount the applicant is responsible for repaying.

Schools and Libraries Division  
Universal Services Administrative Company

cc: Susan Kopf  
Future Generation, Inc.

Funding Disbursement Recovery Report  
for Form 471 Application Number: 458735

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Funding Request Number: 1260044  
Services Ordered: INTERNET ACCESS  
SPIN: 143007891  
Service Provider Name: Future Generation, Inc.  
Contract Number: 1730  
Billing Account Number:  
Site Identifier: 16027263  
Funding Commitment: \$351.00  
Funds Disbursed to Date: \$351.00  
Funds to be Recovered from Applicant: \$351.00

Disbursed Funds Recovery Explanation:

After a thorough investigation, it has been determined that funds were improperly disbursed on this funding request. During the course of review, it was determined that the technology plan for this entity was not approved at the time of submission of the Form 486. Program rules require applicants to obtain approval of technology plans by parties qualified to approve technology plans, prior to submitting the Form 486, for services other than basic telecommunications service. Since this is not a request for basic telecommunications service, the technology plan needed to be approved prior to submitting the Form 486 or the start of services, whichever was earlier. Since this requirement was not met, USAC will seek recovery of improperly disbursed funds of \$351.00 from the applicant.

**Notification of Improperly Disbursed Funds Recovery Letter**

**Funding Year 2005: July 1, 2005 - June 30, 2006**

May 14, 2009

Dan Ceaser  
KIPP TECH VALLEY  
P.O. BOX 6070  
ALBANY, NY 12206

Re: Form 471 Application Number: 457066  
Funding Year: 2005  
Applicant's Form Identifier: Yr 8 Internal Connections  
Billed Entity Number: 16027263  
FCC Registration Number: 0014484844  
SPIN: 143007891  
SPIN Name: Future Generation, Inc.  
Service Provider Contact Person: Susan Kopf

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In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now recover these improper disbursements. The purpose of this letter is to inform you of the recoveries as required by Program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the Program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error.

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1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.

2. State outright that your letter is an appeal. Identify the date of the Notification of Improperly Disbursed Funds Recovery Letter and the funding request numbers you are appealing. Your letter of appeal must include the

- Billed Entity Name,
- Form 471 Application Number,
- Billed Entity Number, and
- FCC Registration Number (FCC RN) from the top of your letter.

3. When explaining your appeal, copy the language or text from the Funding Disbursement Recovery Report included with this letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.

4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.

5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org). USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
100 S. Jefferson Rd.  
P. O. Box 902  
Whippany, NJ 07981

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-5 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

FUNDING DISBURSEMENT RECOVERY REPORT

On the pages following this letter, we have provided a Funding Disbursement Recovery Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from the application for which recovery is necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/el/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to the service provider for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on these FRN(s), a separate letter will be sent to the service provider detailing the necessary service provider action. The Report explains the exact amount the applicant is responsible for repaying.

Schools and Libraries Division  
Universal Services Administrative Company

cc: Susan Kopf  
Future Generation, Inc.

Funding Disbursement Recovery Report  
for Form 471 Application Number: 457066

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Funding Request Number: 1254780  
Services Ordered: INTERNAL CONNECTIONS  
SPIN: 143007891  
Service Provider Name: Future Generation, Inc.  
Contract Number: SLD-1537  
Billing Account Number:  
Site Identifier: 16027263  
Funding Commitment: \$3,012.73  
Funds Disbursed to Date: \$3,012.73  
Funds to be Recovered from Applicant: \$3,012.73

Disbursed Funds Recovery Explanation:

After a thorough investigation, it has been determined that funds were improperly disbursed on this funding request. During the course of review, it was determined that the technology plan for this entity was not approved at the time of submission of the Form 486. Program rules require applicants to obtain approval of technology plans by parties qualified to approve technology plans, prior to submitting the Form 486, for services other than basic telecommunications service. Since this is not a request for basic telecommunications service, the technology plan needed to be approved prior to submitting the Form 486 or the start of services, whichever was earlier. Since this requirement was not met, USAC will seek recovery of improperly disbursed funds of \$3,012.73 from the applicant.

Funding Request Number: 1254791  
Services Ordered: INTERNAL CONNECTIONS  
SPIN: 143007891  
Service Provider Name: Future Generation, Inc.  
Contract Number: SLD-1538  
Billing Account Number:  
Site Identifier: 16027263  
Funding Commitment: \$1,556.09  
Funds Disbursed to Date: \$1,556.09  
Funds to be Recovered from Applicant: \$1,556.09

Disbursed Funds Recovery Explanation:

After a thorough investigation, it has been determined that funds were improperly disbursed on this funding request. During the course of review, it was determined that the technology plan for this entity was not approved at the time of submission of the Form 486. Program rules require applicants to obtain approval of technology plans by parties qualified to approve technology plans, prior to submitting the Form 486, for services other than basic telecommunications service. Since this is not a request for basic telecommunications service, the technology plan needed to be approved prior to submitting the Form 486 or the start of services, whichever was earlier. Since this requirement was not met, USAC will seek recovery of improperly disbursed funds of \$1,556.09 from the applicant.

Funding Request Number: 1254800  
Services Ordered: INTERNAL CONNECTIONS  
SPIN: 143007891  
Service Provider Name: Future Generation, Inc.  
Contract Number: SLD-1540  
Billing Account Number:  
Site Identifier: 16027263  
Funding Commitment: \$8,639.82  
Funds Disbursed to Date: \$8,639.82  
Funds to be Recovered from Applicant: \$8,639.82

Disbursed Funds Recovery Explanation:

After a thorough investigation, it has been determined that funds were improperly disbursed on this funding request. During the course of review, it was determined that the technology plan for this entity was not approved at the time of submission of the Form 486. Program rules require applicants to obtain approval of technology plans by parties qualified to approve technology plans, prior to submitting the Form 486, for services other than basic telecommunications service. Since this is not a request for basic telecommunications service, the technology plan needed to be approved prior to submitting the Form 486 or the start of services, whichever was earlier. Since this requirement was not met, USAC will seek recovery of improperly disbursed funds of \$8,639.82 from the applicant.

*PAID*

Funding Request Number: 1254807  
Services Ordered: INTERNAL CONNECTIONS  
SPIN: 143007891  
Service Provider Name: Future Generation, Inc.  
Contract Number: SLD-1539  
Billing Account Number:  
Site Identifier: 16027263  
Funding Commitment: \$5,849.96  
Funds Disbursed to Date: \$5,849.96  
Funds to be Recovered from Applicant: \$5,849.96

Disbursed Funds Recovery Explanation:

After a thorough investigation, it has been determined that funds were improperly disbursed on this funding request. During the course of review, it was determined that the technology plan for this entity was not approved at the time of submission of the Form 486. Program rules require applicants to obtain approval of technology plans by parties qualified to approve technology plans, prior to submitting the Form 486, for services other than basic telecommunications service. Since this is not a request for basic telecommunications service, the technology plan needed to be approved prior to submitting the Form 486 or the start of services, whichever was earlier. Since this requirement was not met, USAC will seek recovery of improperly disbursed funds of \$5,849.96 from the applicant.

Funding Request Number: 1254822  
Services Ordered: INTERNAL CONNECTIONS  
SPIN: 143007891  
Service Provider Name: Future Generation, Inc.  
Contract Number: SLD-1541  
Billing Account Number:  
Site Identifier: 16027263  
Funding Commitment: \$14,125.10  
Funds Disbursed to Date: \$14,125.10  
Funds to be Recovered from Applicant: \$14,125.10

Disbursed Funds Recovery Explanation:

After a thorough investigation, it has been determined that funds were improperly disbursed on this funding request. During the course of review, it was determined that the technology plan for this entity was not approved at the time of submission of the Form 486. Program rules require applicants to obtain approval of technology plans by parties qualified to approve technology plans, prior to submitting the Form 486, for services other than basic telecommunications service. Since this is not a request for basic telecommunications service, the technology plan needed to be approved prior to submitting the Form 486 or the start of services, whichever was earlier. Since this requirement was not met, USAC will seek recovery of improperly disbursed funds of \$14,125.10 from the applicant.

Funding Request Number: 1254831  
Services Ordered: INTERNAL CONNECTIONS  
SPIN: 143007891  
Service Provider Name: Future Generation, Inc.  
Contract Number: SLD-1542  
Billing Account Number:  
Site Identifier: 16027263  
Funding Commitment: \$8,142.80  
Funds Disbursed to Date: \$8,142.80  
Funds to be Recovered from Applicant: \$8,142.80

Disbursed Funds Recovery Explanation:

After a thorough investigation, it has been determined that funds were improperly disbursed on this funding request. During the course of review, it was determined that the technology plan for this entity was not approved at the time of submission of the Form 486. Program rules require applicants to obtain approval of technology plans by parties qualified to approve technology plans, prior to submitting the Form 486, for services other than basic telecommunications service. Since this is not a request for basic telecommunications service, the technology plan needed to be approved prior to submitting the Form 486 or the start of services, whichever was earlier. Since this requirement was not met, USAC will seek recovery of improperly disbursed funds of \$8,142.80 from the applicant.

Funding Request Number: 1254838  
Services Ordered: INTERNAL CONNECTIONS  
SPIN: 143007891  
Service Provider Name: Future Generation, Inc.  
Contract Number: SLD-1543  
Billing Account Number:  
Site Identifier: 16027263  
Funding Commitment: \$3,415.50  
Funds Disbursed to Date: \$3,415.50  
Funds to be Recovered from Applicant: \$3,415.50

Disbursed Funds Recovery Explanation:

After a thorough investigation, it has been determined that funds were improperly disbursed on this funding request. During the course of review, it was determined that the technology plan for this entity was not approved at the time of submission of the Form 486. Program rules require applicants to obtain approval of technology plans by parties qualified to approve technology plans, prior to submitting the Form 486, for services other than basic telecommunications service. Since this is not a request for basic telecommunications service, the technology plan needed to be approved prior to submitting the Form 486 or the start of services, whichever was earlier. Since this requirement was not met, USAC will seek recovery of improperly disbursed funds of \$3,415.50 from the applicant.