

Before the
Federal Communications Commission
Washington, DC 20554

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FCC Mail Room

In the Matter of
Request for Review of a Decision of the
Universal Service Administrator by
Integrity Communications, Ltd.
Corpus Christi, TX
Schools and Libraries Universal Service
Support Mechanism

CC Docket No. 02-6

ORDER

Adopted: January 9, 2012

Released: January 10, 2012

By the Commission:

I. INTRODUCTION

1. In this Order, we dismiss in part and deny in part an Application for Review filed by Integrity Communications, Ltd. (Integrity or Petitioner) of a Wireline Competition Bureau order, denying Integrity's request for review of an audit letter issued by the Universal Service Administrative Company (USAC) under the schools and libraries universal service support mechanism, also known as the E-rate program. We conclude that USAC's actions followed established procedures and did not violate Petitioner's due process rights. Furthermore, we find that USAC was entitled to take the time necessary to appropriately process Integrity's funding requests. We therefore affirm the Bureau's decision and deny Integrity's AFR.

II. BACKGROUND

A. E-rate Rules

2. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access,

1 Application for Review by Integrity Communications, Ltd., CC Docket No. 02-6 (filed Jul. 30, 2010) (AFR).

2 Request for Review by Integrity Communications, Ltd., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 24 FCC Rcd 11186 (Wireline Comp. Bur. 2009) (Bureau Order), reconsideration denied, 25 FCC Rcd 8484 (Wireline Comp. Bur. 2010) (Order on Reconsideration).

3 See Request for Expedited Review by Integrity Communications, Ltd., CC Docket No. 02-6 (filed Dec. 26, 2007) (Request for Review) (appealing USAC's audit letter decisions to the Commission).

4 See Letter from Schools and Libraries Division, Audit Response, USAC, to Stewart Burleigh, Integrity (dated Oct. 24, 2007) (Audit Letter).

and internal connections.⁵ The level of discount, which ranges from 20 percent to 90 percent, is determined primarily by the level of economic disadvantage, with some schools and libraries located in rural areas receiving an additional discount of up to 10 percent.⁶ An eligible school or library must pay the non-discount portion of services or products purchased with E-rate discounts.

3. After delivery of the eligible services, the applicant determines which payment method to use to secure reimbursement from USAC for the services rendered under the E-rate program.⁷ If the applicant pays the full cost of the services, then the applicant must submit an FCC Form 472, Billed Entity Application for Reimbursement (BEAR) form, to secure reimbursement from USAC.⁸ If the applicant pays only the reduced cost of the services, then the service provider must file an FCC Form 474, Service Provider Invoice (SPI) form, to receive its reimbursement.⁹ Based on information provided on the FCC Form 472 or the FCC Form 474, USAC remits the E-rate support payments to the service provider.¹⁰ Prior to remitting support in some cases, USAC may ask the service provider to have the applicant certify that the services covered in the submitted invoice were delivered and installed.¹¹ In the *Schools and Libraries Fifth Report and Order*, the Commission stated that “failure [of the applicant] to pay more than 90 days after completion of service...presumptively violates our rule that the Beneficiary must pay its share.”¹² The Commission stated that “[a]llowing schools and libraries to delay for an extended time their payment for services would subvert the intent of our rules that the beneficiary must pay, at a minimum, ten percent of the cost of supported services.”¹³

4. In general, the applicant must use the funded services within the E-rate funding year,¹⁴ except that the Commission’s rules give applicants three additional months (until September 30

⁵ See 47 C.F.R. §§ 54.501-54.503.

⁶ See 47 C.F.R. § 54.505(c). The maximum discount given to any eligible entity is 90 %. See *id.* § 54.505 (b).

⁷ See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9217-19, paras. 44-50 (2003) (*Schools and Libraries Second Report and Order*); see also USAC website, Form 472 BEAR Filing Guidance, <http://www.sl.universalservice.org/reference/8bear.asp> (last visited Jan. 10, 2012); USAC website, Invoice Filing Information USAC, <http://www.universalservice.org/sl/applicants/step11> (last visited Jan. 10, 2012). Beginning July 1, 2004, the Commission’s rules required the service provider to allow the applicant to select the payment method governing the payment for services rendered in accordance with the E-rate program. See 47 C.F.R. §54.514 (a).

⁸ FCC Form 472, Billed Entity Applicant Reimbursement (BEAR) Form, available at <http://www.universalservice.org/res/documents/sl/pdf/472.pdf> (last visited Jan. 10, 2012).

⁹ FCC Form 474, Service Provider Invoice (SPI) Form, available at <http://www.universalservice.org/res/documents/sl/pdf/474.pdf> (last visited Jan. 10, 2012).

¹⁰ See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Notice of Proposed Rulemaking, 17 FCC Rcd 1914, 1919, para. 9 (2002); see also *Schools and Libraries Second Report and Order*, 18 FCC Rcd at 9217, para. 42.

¹¹ See USAC website, <http://www.usac.org/sl/providers/step09/payment-process-and-status.aspx> (last visited Jan. 12, 2012).

¹² *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order, 19 FCC Rcd 15808, 15816, para. 24 (2004) (*Schools and Libraries Fifth Report and Order*).

¹³ *Id.*

¹⁴ The E-rate funding year starts on July 1 and ends on June 30 of the next calendar year. See 47 C.F.R. § 54.507(b).

following the close of the funding year) to install one-time services known as non-recurring services.¹⁵ In addition, an applicant may request an extension of this deadline if it satisfies one of several criteria.¹⁶

5. According to Commission mandate, USAC is required to take action to prevent waste, fraud, and abuse in the E-rate program.¹⁷ In the *Schools and Libraries Fifth Report and Order*, the Commission directed USAC to submit to the Commission for review a list summarizing all current USAC administrative procedures, including “those procedures that serve to protect against waste, fraud, and abuse.”¹⁸ In accordance with such directions, USAC files a list of its administrative procedures each year, including a description of each procedure, the rules each procedure furthers, and how each procedure furthers program integrity.¹⁹ As directed, USAC’s filing contains procedures to protect against waste, fraud, and abuse, including a procedure for dealing with applicants and service providers who USAC determines to be non-compliant with Commission rules after undergoing an audit.²⁰

B. USAC’s Audit Letter to Integrity

6. Under consideration in this appeal is the Audit Letter issued by USAC in October 2007 to Integrity, a service provider. In the Audit Letter, USAC found that Integrity violated the E-rate rules in connection with its billing for services provided to the San Benito Independent School District (San Benito). The Audit Letter also informed Integrity that USAC would hold the processing of all funding requests involving Integrity until Integrity filed an appropriate compliance plan to avoid future violations.²¹ Consistent with USAC’s procedures, USAC sent copies of the Audit Letter to all of the school districts affected by the funding hold.

7. The Audit Letter stemmed from USAC’s finding that Integrity billed San Benito for progress payments on its service contract, notwithstanding a provision in San Benito’s request for proposal (RFP) prohibiting progress payments.²² Between June 23, 2004, and August 10, 2005, Integrity

¹⁵ See *id.* § 54.507(d); see also *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 13510, 13512, para. 7 (2001) (*Permanent Extension Order*).

¹⁶ See 47 C.F.R. § 54.507(d); *Permanent Extension Order*, 16 FCC Rcd at 13513, para. 12.

¹⁷ See, e.g., 47 C.F.R. § 54.702(g) (requiring USAC to file information annually regarding “administrative action intended to prevent waste, fraud, and abuse”); *Federal-State Joint Board on Universal Service, Petition of the Puerto Rico Department of Education to Release Funds Associated with the Schools and Libraries Universal Service Support Mechanism for Years 2001 and 2002*, CC Docket No. 02-6, Order, 18 FCC Rcd 25417, 25422, para. 15 (2003) (stating that, to guard against waste, fraud, and abuse, it is reasonable for USAC generally to defer action on applications upon receiving evidence of potential program violations); *Schools and Libraries Second Report and Order*, 18 FCC Rcd at 9224, para. 65 (discussing generally USAC’s authority to combat waste, fraud, and abuse); *Request for Review of a Decision of the Universal Service Administrator by United Talmudical Academy, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, CC Docket Nos. 96-45, 97-21, SLD No. 105791, Order, 15 FCC Rcd 423, 428, para. 9 (2000) (discussing the Commission’s mandate that USAC take steps to prevent waste, fraud, and abuse in the E-rate program).

¹⁸ *Schools and Libraries Fifth Report and Order*, 19 FCC Rcd at 15835, para. 80; 47 C.F.R. § 54.702(g).

¹⁹ See, e.g., *Universal Service Administrative Company, Schools and Libraries Division, Administrative Procedures* (filed Oct. 29, 2010) (USAC Administrative Procedures).

²⁰ *Id.* at 52.

²¹ See Audit Letter at 2-3.

²² See San Benito Request for Proposal, December 2001 at 10 para. XXVI (stating *inter alia* that “[n]o progress or advance payments [would]...be made” and payment would be remitted at the completion of the entire project).

(continued...)

submitted five “progress invoices” to San Benito.²³ Each progress invoice stated that payment was “due on receipt.”²⁴ Consistent with the terms of the contract, San Benito did not make payments to Integrity for any of the progress invoices.²⁵ Between June 22, 2004, and August 10, 2005, however, Integrity submitted FCC Forms 474 to USAC requesting payment for the five invoices.²⁶ For each FCC Form 474, San Benito completed a service certification form stating that the services described in Integrity’s invoices were delivered and installed.²⁷ In two instances, San Benito’s service certification form stated that the applicant intended to pay its non-discounted share on November 15, 2005, and November 30, 2005, respectively.²⁸ On November 20, 2006, Integrity issued the “final invoice” to San Benito, and San Benito paid the entire non-discounted portion owed to Integrity in one check on December 4, 2006.²⁹

8. On November 29, 2006, on behalf of USAC, KPMG LLP (KPMG) initiated an E-rate compliance audit of San Benito for funding year 2002.³⁰ On December 11, 2006, San Benito informed Integrity of the audit and requested assistance in responding to some of the audit questions.³¹ Integrity provided the information to San Benito but was otherwise not involved in the KPMG examination.³²

9. On January 19, 2007, KPMG issued its Independent Accountant’s Report, concluding that San Benito was not compliant with E-rate program rules regarding the payment of its non-discounted share of the price of the services.³³ The Audit Report stated that San Benito did not pay the five progress invoices when Integrity issued them, but instead paid one check for the full amount on December 4, 2006, after receiving the final invoice.³⁴ The Audit Report concluded that this was a violation of the Commission’s *Schools and Libraries Fifth Report and Order*, which stated that “failure to pay more than 90 days after completion of service...presumptively violates our rule that the Beneficiary must pay its share.”³⁵ In response, among other things, San Benito stated that Integrity had billed San Benito in violation of the agreement that there would be no advance or progress payments to

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Subsequently, San Benito and Integrity entered into a legally binding agreement that incorporated the payment terms of the RFP. *See* Request for Review at 5. The service delivery dates and contract dates were extended several times, causing the project completion date to be moved to September 30, 2006. *See id.* at 8.

²³ *See* Request for Review at 7-8.

²⁴ *See, e.g.*, Integrity Invoice No. 881726-062304 (dated Jun. 23, 2004).

²⁵ *See, e.g.*, Request for Review at 17 (stating that “Integrity was not paid by SBISD [San Benito] until December 4, 2006, after all of the contemplated work was completed”).

²⁶ *See id.* at 7-8.

²⁷ *See id.*

²⁸ *See* San Benito Service Certifications dated August 18, 2005, and October 18, 2005.

²⁹ *See* Request for Review at 9.

³⁰ *See id.* at 9.

³¹ *See id.* at 10.

³² *See id.*

³³ *See id.* at Attachment, KPMG Independent Accountant’s Report at 1 (Audit Report).

³⁴ *See id.* at 4.

³⁵ *See id.* (citing *Schools and Libraries Fifth Report and Order*, 19 FCC Rcd at 15816, para. 24).

the service provider and that San Benito had reminded Integrity of this in writing.³⁶ In its Management Response to the Audit Report, USAC stated:

Since the Beneficiary stated in the RFP that there would be no advance or progress payments, they were not required to pay their non-discounted portion until completion of the project. USAC does agree, however, that the service provider should not have billed USAC for the progress payments if their contract with the applicant did not allow for such payments.... USAC will not seek recovery from the applicant. However, USAC will take appropriate steps to ensure that in the future the service provider does not prematurely invoice USAC.³⁷

10. On October 24, 2007, USAC sent the Audit Letter to Integrity, informing Integrity that a beneficiary audit had revealed that Integrity was not in compliance with Commission rules because it had prematurely billed USAC for services and equipment.³⁸ Specifically, the Audit Letter stated that Integrity had billed the beneficiary and USAC prior to completion of the project, thereby violating the terms of the RFP, which stated that there would be no advance payments to the service provider before completion of the project.³⁹ In addition, USAC stated that Integrity's actions "indicate that you failed to comply with one or more of the certifications that you made on program forms and/or that your entity has otherwise failed to comply with program requirements."⁴⁰ USAC required Integrity to file within six months a plan to ensure that, when it filed for future reimbursements from USAC, Integrity would have provided the services or equipment to the applicant, and that Integrity's receipt of any progress or advance payments was included in the relevant contract between Integrity and the applicant.⁴¹ USAC informed Integrity that USAC would take no action on funding requests involving Integrity until it reviewed Integrity's plan and determined that it adequately addressed the non-compliance issue.⁴² USAC also stated that it would send a copy of the Audit Letter to all applicants with pending E-rate funding commitments involving Integrity, so that such applicants "may make informed decisions about how to proceed...."⁴³

11. Shortly before USAC sent the Audit Letter to Integrity, the Texas Education Agency released a report alleging that the Donna School District in Texas had violated state purchasing laws when it awarded a \$6.6 million contract to Integrity without opening the bidding to outside bidders.⁴⁴ In September 2007, the Donna School District interim superintendent stated that the Department of Justice and the Federal Communications Commission were conducting an investigation of the Donna School District.⁴⁵ According to news reports, the suspended superintendent at Donna School District who

³⁶ See *id.* at 5.

³⁷ See Universal Service Administrative Company, Management Response to Improper Payment Information Act Audit of the Schools and Libraries Program at San Benito Consolidated Independent School District (dated July 30, 2007).

³⁸ See Audit Letter at 2.

³⁹ *Id.*

⁴⁰ *Id.* at 1.

⁴¹ *Id.*

⁴² *Id.* at 2-3.

⁴³ *Id.* at 2.

⁴⁴ See *Feds Investigating Donna Schools for Use of E-rate Funds*, Education Week, Sept. 21, 2007.

⁴⁵ *Id.*

entered into the contract with Integrity had previously been at the San Benito school district in 2003, when Integrity had a \$2.1 million contract to install a new digital phone system.⁴⁶

12. Rather than file the compliance plan as required by the Audit Letter, Integrity instead contested the validity of the Audit Letter's finding that Integrity violated applicable E-rate rules.⁴⁷ Integrity's November 21, 2007 filing with USAC asserted that there was "no basis for requiring Integrity to put in place any plan...."⁴⁸

13. On December 26, 2007, Integrity sought review by the Wireline Competition Bureau of USAC's decisions to require a compliance plan, to take no action on applications for which Integrity was the service provider, and to send letters to all applicants using Integrity.⁴⁹ Integrity argued that USAC had no authority to take action against Integrity based on an audit of San Benito, and that Integrity had not violated the Commission's rules.⁵⁰ Further, Integrity argued that its due process rights were violated because USAC did not provide it with an opportunity to respond to the Audit Letter prior to distribution.⁵¹ Finally, Integrity requested that the Commission direct USAC to restore processing of its funding requests within 2 days of the Commission's order.⁵² On April 23, 2009 – nearly 18 months after receiving the Audit Letter – Integrity submitted a compliance plan to the Commission describing its invoicing procedures.⁵³

C. The Bureau Order

14. Upon review of Integrity's Request for Review, the Bureau concluded that Integrity's actions were inconsistent with the E-rate rules and that USAC, based on information in the Audit Report, appropriately required Integrity to file a compliance plan to assure USAC that Integrity had established sufficient internal controls to avoid repeating the violation in the future.⁵⁴ The Bureau reviewed the compliance plan filed by Integrity, and concluded that it did not sufficiently address the audit findings.⁵⁵ The Bureau gave Integrity 15 days from the date of the Order to file an acceptable amended compliance plan, and gave USAC seven days after submission of the revised compliance plan to determine whether the revised plan was sufficient.⁵⁶

⁴⁶ *Id.*

⁴⁷ Letter from Cynthia B. Schultz and Paul C. Besozzi, Counsel to Integrity, to USAC (dated Nov. 21, 2007) (Integrity Response Letter).

⁴⁸ *Id.* at 4.

⁴⁹ See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c). The Wireline Competition Bureau considers requests for review from USAC decisions under delegated authority. See 47 C.F.R. § 0.291(i).

⁵⁰ See Request for Review at 16.

⁵¹ See *id.* at 22-24.

⁵² See *id.* at 25-26.

⁵³ See Letter from Paul C. Besozzi, Counsel for Integrity, to Jennifer McKee, FCC, CC Docket No. 02-6, Attach. (filed Apr. 23, 2009) (Integrity Compliance Plan).

⁵⁴ See *Bureau Order*, 24 FCC Rcd at 11191, para. 12.

⁵⁵ See *id.* at 11193-94, para. 17.

⁵⁶ See *id.*

15. With respect to USAC's hold on the processing of disbursements and funding requests, and the sending of the Audit Letter to other parties affected by the processing hold, the Bureau found that USAC followed its existing procedures as set forth in its 2004 Proposed Audit Resolution Plan for Schools and Libraries Support Mechanism Auditees (2004 Audit Resolution Plan).⁵⁷ Those procedures specified that:

the auditee (or service provider if the service provider is determined to be at fault for the non-compliance) is informed that as a result of its noncompliance, no pending or future funding commitments will be made until the auditee (or service provider) is able to provide SLD with assurances that the findings that resulted in the non-compliance have been adequately addressed. The letter proposes a 6-month time frame that can be extended if the auditee provides a reasonable explanation of the need for a longer time period. If the auditee (or service provider) fails to respond, or responds inadequately, USAC will deny pending funding requests. All affected parties including applicants and service providers will receive a copy of the relevant letter(s).⁵⁸

16. In addition, the Bureau noted that USAC's processing hold was in accord with established USAC procedures in light of the publicly acknowledged investigation by the Department of Justice and the Commission's Office of Inspector General of Integrity's actions in the Donna School District.⁵⁹

D. The Bureau's Order on Reconsideration

17. Integrity sought reconsideration of the *Bureau Order*.⁶⁰ Integrity argued that the Bureau's restatement of the 2004 Audit Resolution Plan did not support the Bureau's conclusion that

⁵⁷ See *id.* at 11195, para. 21. USAC's proposed procedures were attached to: Public Notice, Wireline Competition Bureau Seeks Comment on the Universal Service Administrative Company's Audit Resolution Plan, CC Docket No. 02-6, Public Notice, 20 FCC Rcd 1064 (Wireline Comp. Bur. 2004) (*2004 Audit Resolution Plan*).

⁵⁸ See *2004 Audit Resolution Plan*, 20 FCC Rcd at Attachment.

⁵⁹ See Bureau Order, 24 FCC Rcd at 11194-95, para. 20; see also *Feds Investigating Donna Schools for Use of E-rate Funds*, Education Week, Sept. 21, 2007.

⁶⁰ See Petition for Reconsideration by Integrity Communications, Ltd., CC Docket No. 02-6 (filed Sept. 28, 2009) (Petition for Reconsideration). The United States Telecom Association also filed a Petition expressing concern that the *Bureau Order* allowed USAC to make a finding against a service provider in the course of an audit of a school district or other E-rate beneficiary, without first affording the service provider a meaningful opportunity to dispute and respond to those findings. See Petition for Clarification or, in the Alternative, Partial Reconsideration of the United States Telecom Association, Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6 (filed Sept. 28, 2009) (USTelecom Petition). In response, the Bureau sought comments on both the Integrity Petition for Reconsideration and USTelecom Petition. See *Comment Sought on Integrity Communications, Ltd. Petition for Reconsideration and United States Telecom Association Petition for Clarification, or in the Alternative, Partial Reconsideration of the Wireline Competition Bureau's Order Denying Integrity Communications' Request for Review of a Decision of the Universal Service Administrative Company*, CC Docket No. 02-6, Public Notice, 24 FCC Rcd 12741 (Wireline Comp. Bur. 2009). No responding commenter other than Integrity addressed USAC's decision to send letters to other school districts or asserted that USAC's action was inconsistent with USAC's established procedures stated in the *Bureau Order*. See CC Docket No. 02-6 – Comments of AT&T, Inc. (filed Nov. 20, 2009); Comments of Education Networks of America, Inc./ENA Services, LLC (filed Nov. 20, 2009); Reply Comments of Achieve Telecom Network of MA, LLC (filed Dec. 7, 2009); Reply Comments of Verizon Communications, Inc. (filed Dec. 7, 2009); Comments of C.P. McClure, (filed Nov. 19, 2009); Comments of G. Lyons (filed Nov. 20, 2009); Comments of C. Smith (filed Nov. 20, 2009); Comments of L.M. Shores (filed Nov. 20, 2009); Comments of J. J. Vera (filed Nov. 20, 2009).

USAC acted in accordance with established procedures when it distributed copies of the Audit Letter to other school districts that had contracts with Integrity.⁶¹ Integrity claimed again that USAC should have provided it with an opportunity to respond prior to such distribution.⁶² Further, Integrity argued that the funding freeze was effectively a suspension or debarment of Integrity in violation of the Commission's rules governing suspension and debarment.⁶³ Finally, Integrity asked that the Commission require USAC to act on all pending invoices by October 15, 2009, and process all applications by November 30, 2009.⁶⁴

18. In its Order on Reconsideration, the Bureau reaffirmed its conclusion that USAC had acted in accordance with its established policies and denied Integrity's Petition.⁶⁵ First, the Bureau clarified its description of USAC's procedures.⁶⁶ Upon the mailing of an audit letter to a service provider, USAC can immediately send copies of such letter to affected school districts. USAC does not have to wait until it receives a response from a service provider prior to mailing copies of its audit letter.⁶⁷ The Bureau noted that USAC's actions were consistent with this procedure even though the procedure may have been insufficiently summarized in the original Bureau Order.⁶⁸ Next, the Bureau rejected Integrity's argument that the processing hold initiated by the Audit Letter effectively "suspended" and "debarred" Integrity from the E-rate program without the benefit of Commission procedures.⁶⁹ The Bureau noted that, under the Commission's rules, "suspension" and "debarment" have specific definitions – "debarment" is an action to exclude a person from activities related to the E-rate program, and "suspension is an immediate exclusion for a temporary period pending completion of a debarment proceeding."⁷⁰ The Bureau found that neither definition applied to USAC's action in the Audit Letter because the only action in the Audit Letter was a temporary hold on processing of funding requests related to Integrity, not a permanent or temporary exclusion of Integrity (or any other entity) from the E-rate program.⁷¹ Accordingly, the Bureau denied Integrity's Petition for Reconsideration.⁷²

E. Integrity's Application for Review

19. Integrity ultimately contested the Bureau's decision by filing an application for review with the Commission. In its application for review, Integrity asserts that (1) USAC's actions were not in compliance with the 2006 and 2007 published summaries of USAC's audit procedures, which Integrity claims superseded the 2004 Audit Resolution Plan cited by the Bureau; (2) USAC's procedures violated "due process" principles in failing to give Integrity an opportunity to respond to the Audit Letter before USAC initiated the funding hold and sent the Audit Letter to other affected school districts; and

⁶¹ See Petition for Reconsideration at 4.

⁶² See *id.* at 2-6.

⁶³ *Id.* at 4-5.

⁶⁴ See *id.* at 3.

⁶⁵ *Order on Reconsideration*, 25 FCC Rcd at 8487, para. 9.

⁶⁶ See *id.* at 8487-88, paras. 8-9.

⁶⁷ See *id.* at 8488 para. 10.

⁶⁸ See *id.*

⁶⁹ See *id.* at 8488, para. 11.

⁷⁰ See *id.*, citing section 54.8 of the Commission's rules, 47 C.F.R. § 54.8.

⁷¹ See *id.*

⁷² See *id.* at 8488, para. 11.

(3) the Bureau erred in failing to impose a time limit on USAC to process pending invoices and funding requests after acceptance of the compliance plan.⁷³

III. DISCUSSION

20. For the reasons set forth below, we reject as procedurally barred Integrity's argument that USAC's actions were not in compliance with the 2006 and 2007 published summaries of USAC's audit procedures, which Integrity claims superseded the 2004 Audit Resolution Plan cited by the Bureau. In the alternative, we deny this claim on the merits as discussed below in more detail. We also deny on the merits Integrity's claim that USAC's procedures violated "due process" in failing to give Integrity an opportunity to respond to the Audit Letter before USAC initiated the funding hold and sent the Audit Letter to other affected school districts. Finally, we find that the Bureau did not err in failing to impose a time limit on USAC to process pending funding requests involving Integrity after accepting Integrity's compliance plan.⁷⁴

21. ***Integrity's Claim that USAC's Actions Did Not Comply With Established USAC Procedures.*** Integrity raises for the first time in its AFR the claim that USAC's 2004 Audit Resolution Plan, cited in the Bureau Order, was superseded in 2006 and 2007 by procedures that did not include sending a copy of the Audit Letter to other parties affected by the processing hold.⁷⁵ Likewise, Integrity asserts for the first time that, even if the 2004 procedures remained effective, they did not authorize an immediate processing hold and distribution of letters related to that hold prior to any response by Integrity.⁷⁶ Section 1.115(c) of the Commission's Rules provides that "[n]o application for review will be granted if it relies on questions of fact or law upon which the designated authority has been afforded no opportunity to pass."⁷⁷ Because these arguments, which rely on new facts, were not first addressed to the Bureau, they are not properly before the Commission.⁷⁸ Accordingly, we reject these arguments as procedurally barred.⁷⁹

22. We also reject this claim on the alternative and independent ground that it fails on the merits. The Bureau found that USAC's actions with respect to the Integrity Audit Letter complied with the existing USAC procedure in place pursuant to the 2004 Audit Resolution Plan.⁸⁰ To support its claim that these 2004 procedures were superseded in 2006 and 2007, Integrity cites *summaries* of USAC's procedures published in 2006 and 2007, noting that these summaries do not expressly state that USAC will send copies of the audit letter to other affected parties. From that omission alone, Integrity assumes that USAC's procedures changed in 2006 and 2007 and that USAC's action in sending copies of the Integrity Audit Letter to other school districts affected by the processing hold was therefore

⁷³ See AFR at 4-5 (listing the "Issues for Review")

⁷⁴ See *id.*

⁷⁵ See *id.* at 5-7.

⁷⁶ See *id.* at 7.

⁷⁷ 47 C.F.R. § 1.115(c).

⁷⁸ See *generally id.* § 1.106 (setting forth procedures for filing petitions for reconsideration that rely on facts not previously presented under certain circumstances).

⁷⁹ See *e.g.*, *Tama Radio Licenses of Tampa Florida, Inc.*, 25 FCC Rcd 7588, 7589 (2010); *North County Communications Corp. v. MetroPCS California, L.L.C.*, 24 FCC Rcd 14036, 14043 n.67 (2009); *Courtesy Communications, Inc.*, 14 FCC Rcd 4198, 4202-4203 (1999); *Kevin Johnson*, 9 FCC Rcd 2471, 2473 (1993).

⁸⁰ See 24 FCC Rcd at 11195, para. 21& n.82.

inconsistent with USAC procedures in place at the time in October 2007. Contrary to Integrity's assertion, however, USAC's 2004 procedures remained in place throughout the relevant period and were not superseded by the 2006 and 2007 summaries. The summaries, which were required to be published by the Commission's *Schools and Libraries Fifth Report and Order*, had no precedential value and did not constitute an administrative policy or directive.⁸¹ Necessarily, USAC truncated and eliminated certain procedural details. The audit procedures used in the Integrity matter were the same procedures followed by USAC throughout the relevant period between 2004 and 2007, during which more than 100 audit letters were issued, and in each case copies of the audit letter were sent to other parties affected by the temporary processing freeze. Accordingly, there is no basis for Integrity's argument that USAC acted contrary to its established procedures in this matter.

23. Integrity also argues that, even if USAC's 2004 audit procedures remained in place, those procedures did not authorize USAC to freeze funding and send copies of the letter to other school districts unless USAC determined that Integrity had failed to respond adequately to the Audit Letter.⁸² Integrity misreads the 2004 procedures. The procedures clearly provide for a freeze on funding until an auditee files a compliance plan,⁸³ and further provide for immediate notification of the processing hold to the affected school boards.⁸⁴ The procedures further provide that USAC will deny a frozen funding request if there is not a timely and adequate response to the associated audit letter.⁸⁵ In other words, the audit procedures contemplate two separate but related actions – an immediate *hold* on processing (pending a receipt of a compliance plan) and a potential *denial* of funding requests if the response to the audit letter is not adequate. The procedures also require USAC to send letters to notify affected school boards (referring to “letter(s)”).⁸⁶ USAC's action with respect to Integrity was consistent with the 2004 Audit Resolution Plan, and we therefore affirm the Bureau's decision approving USAC's actions and established procedures in this case.⁸⁷

24. **Due Process Claim.** Integrity further asserts that USAC's audit procedure, and the Bureau's affirming order, violated Integrity's right to due process under the Fifth and Fourteenth

⁸¹ See *Schools and Libraries Fifth Report and Order*, 19 FCC Rcd at 15835, para. 80; 47 C.F.R. § 54.702(g).

⁸² See AFR at 7.

⁸³ See *2004 Audit Resolution Plan*, 20 FCC at Attachment (“[T]he auditee (or service provider if the service provider is determined to be at fault for the non-compliance) is informed that as a result of its noncompliance, *no pending or future funding commitments will be made* until the auditee (or service provider) is able to provide SLD [USAC's Schools and Libraries Division] with assurances that the findings that resulted in the non-compliance have been adequately addressed . . .”) (emphasis added).

⁸⁴ See *id.*, (“*All affected parties* including applicants and service providers will receive a copy of the relevant letters(s).”) (emphasis added).

⁸⁵ See *id.* (“If the auditee (or service provider) fails to respond, or responds inadequately, USAC will deny pending funding requests.”).

⁸⁶ See *id.* (“*All affected parties* including applicants and service providers will receive a copy of the relevant letter(s).”).

⁸⁷ We also affirm the Bureau's instructions to USAC that “on a going-forward basis, USAC should not send an audit letter to or hold funding for schools or service providers unless it has evidence and a reasonable basis to believe that the service provider or school is engaged in a violation of the Commission's rules with respect to that specific school district.” Bureau Order, 24 FCC Rcd at 11195, para. 21. The Bureau, exercising its delegated responsibility for overseeing USAC's procedures acted within its authority and discretion requiring USAC to modify its rules and to make that modification prospective only.

Amendments to the Constitution⁸⁸ because USAC did not give Integrity an opportunity to be heard on the findings summarized in the Audit Letter before USAC issued the Audit Letter and before sending the Audit Letter to other affected school districts.⁸⁹ As in its submission to the Bureau,⁹⁰ Integrity in its AFR fails to specify with particularity the factual and legal basis for its constitutional claim, including such matters as how it suffered any cognizable deprivation of “property” under the Fifth and Fourteenth Amendments and why its right to be heard after receipt of the Audit Letter provides insufficient process under the Constitution.⁹¹ Nevertheless, to resolve any doubt regarding this issue, we address this claim on the merits.

25. Under the Fifth and Fourteenth Amendments, only action by the federal or state government is subject to the Due Process Clause.⁹² Under the Due Process Clause, we inquire as to whether the plaintiff has been deprived of a protected interest in ‘liberty’ or ‘property.’ If we find a deprivation of liberty or property, we then look to see if the government’s procedures comport with due process under the standard set out in *Mathews v. Eldridge*.⁹³ We need not consider whether USAC’s audit letter process constitutes “government action” because Integrity’s claim clearly fails for two independent reasons: First, USAC’s actions in connection with the Audit Letter did not deprive Integrity of “property” within the meaning of the Due Process Clause; and second, even if it is assumed that due process requirements do apply, the process accorded to Integrity under USAC procedures and Commission’s rules was adequate under the Fifth Amendment.⁹⁴

26. In order for there to be a cognizable property right subject to the Due Process Clause, there must be “a legitimate claim of entitlement created by law, not a unilateral expectation.”⁹⁵ Benefits

⁸⁸ U.S. CONST. amend. V: “No person shall be . . . deprived of life, liberty, or property, without due process of law . . .” *Id.* amend. XIV: “No State shall . . . deprive any person of life, liberty, or property, without due process of law . . .”

⁸⁹ See AFR at 8.

⁹⁰ See Request for Review at 22-24; see also Petition for Reconsideration at 2-6.

⁹¹ *Red Hot Radio, Inc.*, 19 FCC Rcd 6737, 6745 n. 63 (2004) (“the burden is on the Applicant to set forth fully its argument and all underlying relevant facts in the application for review”). Cf. *Kramer v. Banc of America Securities, LLC*, 355 F.3d 961, 964 n.1 (7th Cir. 2004) (absence of any supporting authority or development of an argument in appellate brief constitutes a waiver of argument on appeal, even where the arguments purport to raise constitutional claims); *L & A Contracting Co. v. Southern Concrete Servs.*, 17 F.3d 106, 113 (5th Cir. 1994) (Issue raised on appeal in one-page document without citation of authority was “inadequately briefed” and therefore deemed abandoned); see also *APS Sports Collectibles, Inc. v. Sports Time, Inc.*, 299 F.3d 624, 631 (7th Cir. 2002) (it is not the court’s responsibility to research and construct parties’ arguments, and conclusory analysis will be construed as a waiver).

⁹² See e.g., *Reno v. Flores*, 507 U.S. 292, 301-302 (1993).

⁹³ *Gen. Elec. Co. v. Jackson*, 610 F.3d 110, 117 (D.C. Cir. 2010), citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); see also *Reno*, 507 U.S. at 302 (due process analysis must start with a “careful description of the asserted right”); *Am. Manuf. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 59 (1999); *Sargeant v. Dixon*, 130 F.3d 1067, 1070 (D.C. Cir. 1997) (“Absent an underlying property or liberty interest, therefore, one has no entitlement to procedural due process and hence no ‘right to be heard.’”).

⁹⁴ See *infra* paras 26-32.

⁹⁵ *Town of Castle Rock v. Gonzales*, 545 U.S. 748, 756 (2005); see also *Board of Regents v. Roth*, 408 U.S. 564, 577 (1972) (“To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it.”).

are not considered protected entitlements “if government officials may grant or deny [them] in their discretion.”⁹⁶ Presumably, Integrity asserts a property interest in payments under its existing school district contracts and the right to funding for future contracts. However, Integrity has neither the absolute right to payment under its existing contracts, nor the right to funding for future requests. Rather, USAC retained the right to grant or deny payment requests based on established criteria.⁹⁷ Thus, at the time of the Audit Letter, Integrity did not possess the property and had only a unilateral expectation of payment, but not a legitimate claim of entitlement to it.⁹⁸ Indeed, once USAC commenced processing the payment requests after Integrity filed its compliance plan, USAC denied many of the payment requests.⁹⁹ In these circumstances, we find that Integrity does not have a cognizable property interest in the expectation of receiving payments.

27. Even if we assume that a cognizable property interest existed, however, the Audit Letter did not “deprive” Integrity of property within the meaning of the Due Process Clause. The Audit Letter imposed merely a temporary “hold” on the processing of Integrity’s requests for payments for current contracts and for future funding requests until Integrity filed a compliance plan to remediate the rule violation found in the Audit Letter.¹⁰⁰ Because the Audit-Letter hold does not deprive Integrity of any of its claimed property rights, we find that it is not within the purview of the Due Process Clause.¹⁰¹ All Integrity had to do to remove the hold was file an acceptable compliance plan demonstrating its control over future billing. Integrity could have done so immediately upon receipt of the Audit Letter or at any time thereafter. But rather than take that simple step, Integrity waited more than 18 months to file the

⁹⁶ *Town of Castle Rock*, 545 U.S. at 756.

⁹⁷ Applicants’ receipt of funding commitments is contingent on their compliance with all statutory, regulatory and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that the funds committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

⁹⁸ See, e.g. *Petition for Waiver by Sprint Corporation*, Order, 22 FCC Rcd 5353, 5355 (Wireline Comp. Bur. 2007) (stating that “the E-rate program is funded on a year-to-year basis and, thus, an applicant has no guarantee that a multi-year contract will continue to be funded for the duration of the contract.”). See also *Clark County School District, et al*, Order, 24 FCC Rcd 12710,12713 (Wireline Comp. Bur., Telecom. Access Policy Div. 2009)

⁹⁹ See, e.g., Letter from USAC to Jorge Montes, III, Zapata Independent School District, copy to Integrity Communications (November 10, 2010) (Zapata Funding Year (FY) 2005 Commitment Adjustment Letter).

¹⁰⁰ See Audit Letter.

¹⁰¹ See *United States v. Register*, 182 F.3d 820, 837 (11th Cir.1999) (a lis pendens filed pursuant to state statute does not constitute a seizure and does not affect property interests to an extent significant enough to implicate the Due Process Clause); *Aronson v. City of Akron*, 116 F.3d 804, 812 (6th Cir.1997) (filing of a lien notice pursuant to the state RICO statute, while it may impair the owner’s ability to sell and taint his credit rating, it does not represent the type of loss which would require prior notice and opportunity to be heard); *URI Student Senate v. Town of Narragansett*, 707 F.Supp.2d 282 (D.R.I. 2010) (town ordinance requiring posting of an orange sticker on a residence when police have responded to a disturbance did not impair a property right within the scope of the Due Process Clause).

its compliance plan, and even that plan was inadequate.¹⁰² When Integrity finally filed an amended plan, USAC lifted the processing hold.¹⁰³ Thus, the delay was not a consequence of USAC's audit-letter process, but rather was primarily attributable to Integrity's decision not to file a timely and adequate compliance plan upon receiving the Audit Letter. Integrity carried the keys to its prison in its own pocket.¹⁰⁴

28. Finally, Integrity claims that USAC violated its right to due process by sending the Audit Letter to other school districts doing business with Integrity.¹⁰⁵ If Integrity means to suggest that its business was injured by the dissemination of the Audit Letter, that allegation fails to state a due process claim. Claimed lost business is not a protected property interest.¹⁰⁶ The Due Process Clause protects against only direct governmental action, not the indirect consequences of third-party actions taken in response to governmental action.¹⁰⁷ Therefore, claimed injuries to Integrity's future business caused by the Audit Letter are not within the interests protected by the Due Process Clause.¹⁰⁸ Indeed, we note that Integrity's AFR does not even attempt to establish a direct causal connection between the dissemination of the Audit Letter and any alleged business-related losses. Integrity fails to demonstrate, for example, that any injury to its reputation and any reluctance of other school boards to engage Integrity stemmed from the Audit Letter, rather than from the public knowledge that Integrity's Donna contract was the subject of a federal investigation by the United States Department of Justice and the Commission's Office of the Inspector General.¹⁰⁹

¹⁰² See *Bureau Order*, 24 FCC Rcd at 11193, para. 17 (explaining the inadequacies of the initial compliance plan filed by Integrity on April 10, 2009 and instructing Integrity to file a revised plan within 15 days of the Order).

¹⁰³ See *id.* (directing USAC to review the revised compliance plan within seven (7) days of receipt, and instructing USAC to resume processing of Integrity's funding requests, consistent with its procedures, including any inquires to confirm that no violations of the Commission's rules occurred, and to ensure that no waste, fraud or abuse of the E-rate funds exist).

¹⁰⁴ See *Gompers v. Buck's Stove & Range Co.*, 221 U.S. 418, 442 (1911) (in cases where a party is imprisoned for refusing to comply with a court order to perform an act, such as turn over property or pay alimony, the party can end the contempt by coming into compliance with the Court's command and thus, "carries the keys of his prison in his own pocket.").

¹⁰⁵ AFR at 8.

¹⁰⁶ See, e.g., *URAI Student Senate*, 707 F.Supp.2d at 301 (finding that "lost rents do not on their own give rise to a due process claim").

¹⁰⁷ See *Nuclear Transp. & Storage v. United States*, 890 F.2d 1348, 1354 (6th Cir. 1989) ("commercial detriment" was "an indirect injury resulting from government action," not a property interest entitled to protection); *General Electric Co.*, 610 F.3d at 119-23 (alleged injuries to GE's stock price, brand value and increased financing costs resulting from an EPA cleanup order under CERCLA, are not within the protections of the Due Process Clause); *Wells Fargo Armored Serv. Corp. v. Georgia P.U.C.*, 547 F.2d 938, 940-941 (5th Cir. 1977) (damage to plaintiffs' business prospects "incidentally" caused by State's issuance of operating permit to competitor was not cognizable injury).

¹⁰⁸ See *Paul v. Davis*, 424 U.S. 693, 712 (1976) (holding "that the interest in reputation asserted in this case is neither 'liberty' nor 'property'" and is therefore not protected by the Due Process Clause); *Asbestec Constr. Servs., Inc. v. EPA*, 849 F.2d 765, 768-69 (2d Cir. 1988) (rejecting Due Process claim where plaintiff alleged that the "taint" of an order under the Clean Air Act would "diminish its competitiveness"); *Mosrie v. Barry*, 718 F.2d 1151, 1158, 1161 (D.C. Cir. 1983) (holding that financial harm caused by a government imposed stigma does not transform an interest in reputation into a liberty interest).

¹⁰⁹ Because, as discussed *supra*, Integrity had no property interest in the payments under the existing and future potential contracts, and because, as discussed *infra*, Integrity was afforded adequate post-deprivation hearing rights, Integrity does not meet the criteria for a "stigma plus" due process claim. See *DiBlasio v. Novello*, 344 F.3d 292,

(continued...)

29. Even if Integrity could show that the Audit Letter impaired a cognizable property interest under the Due Process Clause, the procedural rights afforded Integrity after issuance of the Audit Letter are more than sufficient to meet the procedural due process requirements set forth in *Mathews v. Eldridge*.¹¹⁰ *Mathews* does not require a hearing or other procedural safeguards in every instance prior to administrative action that will affect a private interest. Rather, under *Mathews*, the courts balance three factors to determine whether the particular administrative procedures at issue are constitutionally adequate: “(1) the private interest affected by the official actions; (2) the risk of an erroneous deprivation of the interest and the value, if any, of additional or substitute procedural safeguards; and (3) the government’s interest, including the fiscal and administrative burdens the additional or substitute procedural requirements would impose.”¹¹¹

30. Applying these criteria, it is clear that the USAC and FCC procedures available to Integrity adequately protected its due process rights without an opportunity to contest audit findings before the transmittal of the Audit Letter. Regarding the first *Mathews* element – the nature of the impairment of the property rights – even if the impairment caused by the Audit Letter rose to a constitutional level at all, the Audit Letter did not impose a substantial burden on Integrity’s property rights. The Audit Letter did not have the effect of seizing Integrity’s property, nor did it abrogate any pending or future contracts.¹¹² Integrity’s applications for payment and future funding remained pending and USAC resumed its processing of them once Integrity filed an adequate compliance plan. Moreover, any delay in the processing of its applications was effectively under Integrity’s control; Integrity could have filed its compliance plan earlier and chose not to do so.

31. The second *Mathews* element addresses the risk that the Audit Letter would be sent in error. USAC’s audit letters are based on the reports of professional independent auditors who have received special training in USAC procedures and the Commission’s rules. Each report is the product of a team effort, typically involving multiple layers of review. USAC employees review the audit reports for accuracy regarding the application of USAC procedures and the Commission’s rules and orders.¹¹³ Following this review, the Schools and Libraries Committee and Audit Committee of USAC’s Board of Directors conducts their own reviews of the reports prior to final approval and action.¹¹⁴ These elaborate procedures provided a significant internal check on potential error in connection with the Audit Letter.

32. The third *Mathews* element concerns the government’s interest, including the administrative burdens associated with a pre-deprivation hearing additional procedural requirements.¹¹⁵ The primary goal of the audit program is to identify and prevent waste, fraud, and abuse in the programs
(...continued from previous page) _____

302 (2nd Cir. 2003) (“Stigma plus’ refers to a claim brought for injury to one’s reputation (the stigma) coupled with the deprivation of some ‘tangible interest’ . . . (the plus), without adequate process.”).

¹¹⁰ 424 U.S. at 335.

¹¹¹ *Id.*

¹¹² In contrast, the courts have ruled that pre-judgment garnishments, replevins, and certain liens require a pre-deprivation hearing because those actions seize property from the claimant. See *Peralta v. Heights Med. Ctr.*, 485 U.S. 80, 85 (1988) (lien), *Reardon v. United States*, 947 F.2d 1509 (1st Cir. 1991) (lien), *Fuentes v. Shevin*, 407 U.S. 67 (1972) (writ of replevin); *Sniadach v. Family Fin. Corp. of Bay View*, 395 U.S. 337 (1969) (wage garnishment).

¹¹³ See 2004 Audit Resolution Plan, 20 FCC Rcd at 1065.

¹¹⁴ See *id.*

¹¹⁵ See *Mathews*, 424 U.S. at 335, 347-348.

administered by USAC.¹¹⁶ Audit letters, including the one issued here, provide USAC with essential tools to combat waste, fraud, and abuse. Under USAC's procedures and the Commission's rules, upon receiving the Audit Letter, Integrity had a right to seek review by the Wireline Competition Bureau,¹¹⁷ the full Commission,¹¹⁸ and by a court of appeals under Section 402(a) of the Communications Act.¹¹⁹ These substantial procedural rights for review are ample under the Due Process Clause, particularly when coupled with the fact that Integrity could have resolved the Audit-Letter hold by simultaneously filing a compliance plan and pursuing its appeal rights. In light of the above, affording auditees an opportunity to contest audit findings before USAC issues an audit letter or halts processing of payment requests would unduly burden USAC in its efforts to swiftly and effectively root out waste, fraud, and abuse. Accordingly, even assuming that the Due Process Clause applies here, we find that the Audit Letter and USAC's audit procedures did not deprive Integrity of due process, and we deny Integrity's claim on the merits.

33. ***Integrity's Claim that the Bureau Should Have Limited USAC's Time for Processing Integrity's Funding Requests.*** Integrity's final claim on review asserts that the Bureau erred in failing to set a specific time limit on USAC's review of pending funding applications once the funding hold was lifted by the filing of the compliance plan.¹²⁰ We find no error in the Bureau's decision. As directed by the Bureau, USAC required time to review Integrity's compliance plan for adequacy, perform necessary reviews of the pending funding requests and perform its mandate to avoid fraud, waste and abuse in the E-rate program, while being cognizant of the Department of Justice investigation of alleged competitive bidding violations.¹²¹ We find that USAC acted reasonably in processing the pending applications and we find no error in the Bureau leaving this administrative task to USAC and we therefore deny this element of Integrity's AFR.

IV. ORDERING CLAUSES

34. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.115 of the Commission's rules, 47 C.F.R. § 1.115, that the Application for Review filed by Integrity Communications Ltd on July 30, 2010, is DISMISSED in part and DENIED, as discussed herein.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹¹⁶ See *Schools and Libraries Fifth Report and Order*, 19 FCC Rcd at 15816, para. 24.

¹¹⁷ See 47 C.F.R. § 54.722.

¹¹⁸ See 47 C.F.R. §§ 54.1.115 (a), 54.719(c).

¹¹⁹ See 47 U.S.C. § 402(a).

¹²⁰ See AFR at 11. In its previous filings, Integrity asked the Bureau to set specific time limits on USAC's review. See, e.g., Request for Review at 25-26; Petition for Reconsideration at 3.

¹²¹ See *supra* para. 11.