OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20554

Hampstead Hill Elementary School
Mr. Matthew Hornbeck, Principal
Ms. Ramona Piskor, Education Assistant
500 S. Linwood Avenue
Baltimore, MD 21224

December 19, 2012

RE: Beneficiary Number 23512

Dear Mr. Hornbeck and Ms. Piskor:

The Federal Communications Commission (FCC) Office of Inspector General (OIG) audited Hampstead Hill Elementary School's, Beneficiary Number 23512, compliance with the FCC's rules and orders governing the Schools and Libraries Universal Service Support Mechanism. We specifically looked at disbursements of $ 327,345 made from the Universal Service Fund during the funding years ended June 30, 2008 and June 30, 2009.

Attached is the final report of the audit conducted by our office. It incorporates your written response to the draft report and the response received from Universal Service Administrative Company.

The OIG performed this audit consistent with its authority under the Inspector General Act of 1978, as amended, including, but not limited to section 2(1) and 4(a)(1). It is not intended as a substitute for any agency regulatory compliance review or regulatory compliance audit.

If you have questions, or need additional information, please contact Rachel Stein, Auditor-In-Charge at 202-418-1706 or Rachel.Stein@fcc.gov, Beth Engelmann, Audit Director, USF Program at 202-418-1448 or Beth.Engelmann@fcc.gov, or me at 202-418-0474 or Gerald.Grahe@fcc.gov.

Sincerely,

FOR

David L. Hunt
Inspector General

Attachment – Final Audit Report 10-AUD-11-01

AUDIT REPORT

COMPLIANCE AUDIT OF HAMPSTEAD HILL ELEMENTARY SCHOOL, BALTIMORE, MD

Beneficiary Number 23512

Report No. 10-AUD-11-01

December 19, 2012

Federal Communications Commission Office of Inspector General

Executive Summary: Compliance Audit of Hampstead Hill Elementary School, Baltimore, MD

Why We Did This Audit

Beneficiary compliance audits are part of the Office of Inspector General's (OIG's) Universal Service Fund (USF) Oversight Team efforts to ensure beneficiary compliance with USF Schools and Libraries Program requirements under 47 C.F.R. Section 54 of the Federal Communications Commission's (FCC) rules.

What We Found

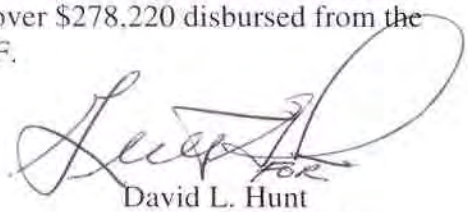
Our audit disclosed that Hampstead Hill Elementary School (School or HHES) did not comply with the FCC rules that relate to (1) procurement matters, (2) reimbursement matters, (3) record retention and (4) assets and inventory records relative to disbursements made from the USF during funding years (FYs) 2008 and 2009. We could not verify that the School complied with FCC rules during its FY 2008 competitive bidding process because the School did not retain documentation, or the documentation was dated after the contract was signed. School records were inadequate to locate E-Rate equipment. We were unable to determine if basic maintenance charges billed to USF by the service provider were eligible due to inadequate records. Also, the School did not pay its portion of some of its USF funded products and services.

What We Recommended

We have recommended recovery of FYs 2008 and 2009 disbursements totaling $292,444. We also recommended that HHES (1) document its competitive bidding and service provider selection process; (2) establish controls to ensure all USF maintenance charges are for eligible components supported with adequate documentation; (3) reconcile USF reimbursements to ensure that its share is paid and (4) implement policy and procedures regarding receipt and tracking of E-Rate fixed assets to maintain an accurate listing of assets.

Beneficiary Comments and Our Response

HHES agreed with the audit findings and recommendations and provided an appropriate action plan for findings 2, 3 and 4. HHES did not agree with our audit finding and recommendations for Finding 1. Universal Service Fund Administrative Company (USAC) Management did not agree with Finding 1 and we did not resolve the recommendations to: 1) document its competitive bidding and service provider selection process and 2) that USAC recover $278,220 disbursed from the USF.



David L. Hunt
Inspector General

Table of Contents

Audit Objective and Scope.....4

Background.....5

Finding 1: Inadequate Evaluation of FY 2008 Competitive Bids and Service Provider Selection.....5

Finding 2: Failure to Verify Maintenance Charged to USF.....13

Finding 3: Failure to Pay Non-discount Portion.....16

Finding 4: Failure to Properly Track Assets.....18

Appendix A – E-mails Attached to HHES's Response.....21

Appendix B - OIG Contact and Staff Acknowledgments..... 23

Appendix C - Report Distribution.....23

Audit Objective and Scope

The objective of the audit was to assess the Hampstead Hill Elementary School's, Beneficiary Number 23512, compliance with applicable requirements of 47 C.F.R Section 54 of the FCC's rules and related orders for the FRNs and disbursements made from the USF relative to FY 2008 and FY 2009 applications listed in detail below:

Table 1 Funding Year 2008 and 2009 Disbursements				
Funding Year 2008				
471 Number	**FRN**	**Disbursement**	**FY Total**	**Grand Total**
634160	1753137	$ 5,605		
634160	1753140	$ 23,670		
634160	1753146	$ 20,332		
634160	1753147	$ 30,780		
634160	1753148	$ 64,942		
635081	1756678	$ 132,891		
			$ 278,220	
Funding Year 2009				
471 Number	**FRN**	**Disbursement**	**FY Total**	**Grand Total**
693282	**1902674**	$ 7,290		
693282	**1902433**	$ 11,786		
693282	**1902566**	$ 7,549		
691971	**1898266**	$ 22,500		
			$ 49,125	
				$ 327,345

We conducted this performance audit in accordance with generally accepted government auditing standards in *Government Auditing Standards, July 2007 revision* (GAO 07-731G), issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis of our findings and conclusions based on our audit objectives. Our examination does not provide a legal determination of the School's compliance with specified requirements.

Background

USF Schools and Libraries Program

The USF Schools and Libraries Program, often called "E-Rate," provides discounts to help schools and libraries in every U.S. state and territory secure affordable telecommunications, Internet access, basic maintenance, and internal connections. Over 31,000 eligible applicants received over $2.2 billion in Schools and Libraries Program support during 2011, bringing telecommunications and Internet services to millions of students and library patrons.

Beneficiary

The Hampstead Hill Elementary School, Beneficiary Number 23512, is a tuition free public charter school located in Baltimore, Maryland serving over 600 students in pre-kindergarten through eighth grade. The School is part of the Baltimore City Public School System ("District") and is operated by the Baltimore Curriculum Project ("BCP"). BCP is a local non-profit organization that operates four public charter schools in the city of Baltimore. In 2002, BCP assumed the operation of the School and converted it to a charter school in 2005. The School received FYs 2008 and 2009 E-Rate funds at an urban discount rate of 90%.

Findings and Recommendations

Finding 1: Inadequate Evaluation of FY 2008 Competitive Bids and Service Provider Selection

Condition: For the FY 2008 competitive bidding and service provider selection process, we could not verify that the School complied with FCC rules; the School could not provide adequate documentation to support their selection process. BCP, the School's operating company, managed the E-Rate procurement for FY 2008. Except for the bids, there was inadequate documentation to support that the School: 1) evaluated the bids or 2) selected the most cost effective service provider for the FY 2008 procurement of internal connections, BMIC, and Internet access services.

The School did retain and provide the bids received including three for Internet access; one for internal connections and one for basic maintenance of internal connections. Although BCP's Director of Development stated that price was a primary factor in its selection of the service provider, the lowest price was not selected for FY 2008 Internet access services.

One company provided a bid for all three requested services while the other two submitted bids on Internet access only. The School's Form 470 did not specify or indicate the School's preference that prospective bidders should provide bids for all requested services.

In the case of Internal Connections and Basic Maintenance of Internal Connections where only one bid was received, BCP's Director of Development stated that he checked the reasonableness of the prices on-line to determine the cost effectiveness of the one bid selected. However, the School's response to the audit report provided e-mails to verify the price evaluation, but the emails provided actually took place after the contract was awarded. There was no documentation to support the price evaluation or service provider selection prior to contract award.

For FY 2008, the School did not have: 1) documentation that all bids were carefully considered and that the most cost effective bid was selected; 2) correspondence between the beneficiary and the bidders; 3) documentation that the bid was evaluated for cost effectiveness and 4) documentation that other bids were solicited where only one bid was received. BCP could not provide any documentation to support their service provider selection decision. As a result, we could not verify that FCC rules on competitive bidding were followed.

Criteria:

Cost Effectiveness

Per the 2007 and 2008 Editions of 47 C.F.R. § 54.511 (a):

> In selecting a provider of eligible services, schools libraries, library consortia, and consortia including any of those entities shall carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers but price should be the primary factor considered.

Per the 2007 and 2008 Editions of 47 C.F.R. § 54.504 (c)(1)(xi) the School certifies that:

> "All bids submitted were carefully considered and the most cost-effective bid for services or equipment was selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals."

Document Retention

Per the October 1, 2007 and October 1, 2008 Editions of the 47 C.F.R. § 54.516 (a):

> "Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of service delivered in a particular Funding Year."

FCC 04-190, Fifth Report and Order, effective date October 13, 2004, paragraph 48 lists documents that service providers and beneficiaries need to retain pursuant to the rules cited

above. Documents used during the bidding process that the beneficiaries must retain include the following but is not limited to:

> ...documents describing the bid evaluation criteria and weighting, as well as the bid evaluation worksheets; all written correspondence between the beneficiary and prospective bidders regarding the products and service sought;... and documents related to the selection of service provider(s).

Cause: For FY 2008, the School evaluated pricing after the contract was signed.

Effect: We could not verify that the competitive bidding and source selection process for the $278,220 FY 2008 procurement of internal connections, BMIC and Internet access was in compliance with FCC rules.

Recommendations: (1) We recommend that the School document its competitive bidding and service provider selection process. (2) We recommend that USAC recover $278,220 disbursed from the USF.

Beneficiary Response: We disagree that the bids that the Charter School retained in connection with its FY 2008 procurement failed to show that the Charter School had complied with the E-rate program's competitive bidding requirements. In addition, we object strongly to the audit team's conclusion that the alleged violation warrants recovery of E-rate funding. Finally, we disagree with the audit team's contention that we failed to examine whether the single bid we received for internal connections and basic maintenance was cost effective. And moreover, even if the Charter School did fail to evaluate the price proposed (which it did not), we submit that "cost effectiveness" is an arbitrary standard that cannot form the basis for the recovery of funds because there are no rules or even guidelines that define or even help to define what a "cost effective" bid actually is.

The Evidence Presented, Including Documentation, Showed Compliance With Program Rules. The Commission has never held that the failure to keep good records constitutes grounds for rescinding a funding commitment. The dispositive issue is whether there is sufficient evidence to show that the applicant actually followed the rules, not whether the applicant kept good records.

We agree that we should have kept better records. To remedy this, we have instituted a new, comprehensive E-rate recordkeeping system in both electronic and paper form. As to the more important issue though --whether the Charter School's procurement in the amount $278,220 for FY2008 for internal connections, BMIC, and Internet access was competitively bid as the rules require --we continue to maintain that it was and that we did follow the rules.

The Charter School solicited bids from service providers via the E-rate Program's Form 470 Competitive Bidding Process. That process is designed to reach out to service providers nationwide. The Charter School was in the market for a comprehensive package of eligible services (internal connections, basic maintenance, and Internet access). Because we are an

extremely small school with very limited resources for administering contracts, overseeing contractors, and for handling the many, varied, and complicated E-rate application and payment processes and procedures, it was important to us to find, if possible, a single provider who could bundle all of those eligible services together for us into one cost-effective package. Therefore, while price was our primary consideration, this consideration was tremendously important to us too.

In response to our Form 470, we received three bids. Only one of them, however, the one from [redacted], offered us all of the services we wanted. The other two bids, the ones from [redacted] and [redacted], were only for Internet access. Since we received only one bid for internal connections and basic maintenance, there were no other bids to which to compare them. The Commission's rules require applicants to "carefully consider all bids submitted," and to select "the most cost effective service offering." (Emphasis added). "Most" is a comparative term. To select the "most" of anything requires at least two items to compare. Since we received only one proposal for internal connections and basic maintenance, there was nothing to compare it to. Also, no other bid besides the one from [redacted] packaged all three of the services we wanted. This, as we have explained already, was extremely important to us. Consequently, there was also no competition among providers capable of filling our need for all three categories of service combined.

Realistically, we had no time to rebid and submit our Form 471 before the filing deadline. And we could not be sure that we would receive more than one bid even if we did. This is an important "fact of E-rate life" that this finding completely ignores. Our hands were tied. To receive E-rate discounts, we had no choice but to select the [redacted] bid for internal connections and basic maintenance, as well as for Internet access. Taking price primarily into consideration, but also taking into account the importance of a single-provider solution and the good sense it made to contract with a company that we had experience working with, it was clear to us that this was our best and, overall, our most cost-effective option.

The Charter School most certainly did not, however, as this finding suggests, simply accept the [redacted] bid without "evaluating" it first. Since the evaluation of this bid appears to be this findings primary concern, it is important to note that [redacted] the Charter School operator's Director of Development, examined the [redacted] bid closely, researched prices online, discussed it with the vendor, AND even secured some changes. *See copy of email thread attached showing discussion between* [redacted] *president of* [redacted] *about the* [redacted] *proposal.* Surely that is enough to satisfy the E-rate program's definition of the term, "evaluation."[1]

Finally, as to the prices quoted for Internet access, it is particularly important to note that the difference between the highest and lowest was only $60/month or $720/year.[2] All things considered, that was not a significant amount, certainly not enough to trump the combination of the Charter School's second most important concern – a single provider solution, and its other very important and legitimate interest -a vendor with which it had had some experience working.

[1] Copies of e-mails, dated February 5, 2008, included in the Beneficiary's response, see Appendix A.

[redacted]

What the facts and records show, therefore, is that the Charter School did evaluate the [redacted] bid for cost effectiveness, concluded that it was, and contracted with [redacted] for that reason. As the Charter School has shown that its FY 2008 procurement did comply with program rules, we request that you eliminate this finding.

A Further Note on Single Bids and Cost Effectiveness. As we explained above, the Charter School reviewed the [redacted] bid for cost effectiveness and concluded that it was, in fact, cost effective. Significantly, there is no allegation or reason to believe that the [redacted] bid as a whole was "too" high or in any other respect not cost effective. But even if by interpretation of the rules that bid could somehow be seen as not cost effective or if the Charter School had not performed a cost effective review, we submit that none of that would actually matter. In those hypothetical circumstances, the Charter School could certainly be accused of exercising poor judgment, but it could not be accused of violating any program rule.

To the best of our knowledge and belief, E-rate program rules do not require applicants to do a cost effective analysis if they receive only one bid. It should be encouraged, but it is not an absolute requirement. If it actually is a requirement, it is by no means clear what that means or what exactly one must entail. As discussed before, program rules require applicants to select the "most" cost effective bid received. If there is only one bid, it is, by definition, the most cost effective one received. If we are correct, then the cost effectiveness issue is entirely moot.

A one-bid cost effective review, as a condition precedent to E-rate funding, simply does not work in the "real" world. To be sure, this is an important subject that the Commission may want to address in a future NPRM, but today, we submit, it is not the law. To illustrate just some of the problems associated with such a requirement, please consider the following:

What if an applicant receives only one bid and it is very high, but the provider has a reputation for outstanding service and technological expertise? Is that a cost effective bid? What if the bid is extremely high, but not necessarily completely unreasonable and the applicant cannot get another provider to bid? Is that bid cost effective? What if the applicant believes that the bid is cost effective or borderline cost effective but is unsure whether it will satisfy the unpublished standards that USAC or, later, an auditor uses to measure cost effectiveness? In determining the cost-effectiveness of a solution to meet educational needs, could an applicant take into account the cost of staff salaries or the total cost of ownership to the school? What if a bid is deemed most cost-effective for the applicant's overall operating budget, but not for the USF fund? Is the applicant not supposed to apply for E-rate discounts in those circumstances? If it does apply, will it have to return those funds years later if an auditor decides that it failed to do a cost effective analysis or, in its opinion, the one bid was not "cost effective?

The bottom line, therefore, is this. Where only one bid is received, E-rate funding cannot be dependent on a cost effective analysis because: (1) the issue of cost effectiveness only arises in multi-bid situations, where applicants are required to select the most cost effective one; (2) the Commission has never explained how an applicant is supposed to determine whether a single bid is "cost effective"; and (3) a requirement like that would disproportionately impact small schools and libraries, especially those in very rural areas, who service providers frequently ignore.

The Recommended Remedy, Recovery of Funds, is Punitive and Therefore Inappropriate. Even if we assume, *strictly for argument's sake*, that the Charter School did not examine for cost effectiveness the single proposal it received for internal connections and basic maintenance, the audit team does not contend, and there is no evidence even to suggest, that it was not cost effective. Nor is there any allegation of waste, fraud or abuse associated with this proposal. In the final analysis, therefore, recovering funds would simply mean recovering funds for failing to follow a process, a process that, even if followed, would not have yielded different results. In these circumstances, therefore, seeking to recover funds would be punitive, and the Commission does not subscribe to punitive remedies for substantive infractions, let alone procedural ones.

FCC – OIG Response: We have updated finding 1 to incorporate the new information provided in the School's response to the audit report. The School did not provide adequate documentation to demonstrate compliance with FCC rules regarding competitive bidding and service provider selection. We recommend recovery of funds since compliance could not be verified; not because the School failed to keep good records. We could not confirm statements by the beneficiary's operating company that price was a primary factor or that it had conducted an evaluation of the bid selected. Therefore, we could not verify that the competitive bidding was a fair and open process.

While there was only one bid for two of the services requested in the Form 470, there were three bids for Internet access. The School did not provide any documentation of the evaluation of the bids or the service provider selection, but stated that the price was a major factor in selecting a service provider. We found that the lowest price bid was *not* selected for Internet access services. The School stated that the decision was made to accept the one service provider that bid on all the services requested in the Form 470; we found no evidence that the School advertised for bundled or comprehensive package.
The School's response to the draft audit report included an e-mail chain as evidence that price was evaluated for the one bid considered to determine cost effectiveness. However, we noted that the e-mails, dated February 5, 2008, were after the date the contract was signed, February 2, 2008. Therefore, we conclude that there was no documentation of bid evaluation or service provider selection prior to signing the contract.

Regarding the School's statement that determining the cost effectiveness of a single bid is unreasonable, the Ysleta FCC Order number FCC 03-313 par. 54 states: "Even if an applicant receives only one bid in response to an FCC Form 470 and/or RFP, it is not exempt from our requirement that applicants select cost-effective services. "USAC provides guidance on how to determine cost effectiveness of a single bid on their website, http://www.usac.org/sl/applicants/step03/evaluation.aspx.

> **One Bid Received?**
>
> If you receive only one bid, we suggest that you memorialize this fact with an email to yourself or a memo to the file. This will help to document that you did not just keep only the winning bid.

> Furthermore, remember that if you only get one bid, that does not automatically make the bid cost effective. You should review the pricing in the bid response to determine whether the costs for the products and services are significantly higher than the costs generally available in the marketplace for the same or similar products or services. If they are significantly higher, then the bid may not be cost effective.

There is no documentation of the School's effort *during the competitive bidding process* to evaluate cost effectiveness of the selected bid. For Internet access services (where there were three bids) for example, a documented effort to negotiate a lower price with the desired service provider prior to signing the contract would satisfy FCC requirements.

Absent documentation of compliance with FCC rules, we recommend recovery of $278,220 disbursed from the USF.

USAC Management Response: The Office of Inspector General (OIG) auditors were unable to determine whether the Beneficiary selected the most cost effective solution during the competitive bidding process, because the Beneficiary failed to retain its competitive bidding documents. Specifically there was a lack of documentation demonstrating how the Beneficiary's disqualification process led them to select the most cost effective solution. The Beneficiary selected the service provider that offered all services requested on the FCC Form 470 and did not evaluate each bid as it related to each specific service requested. Program rules require applicants to retain all documentation relating to the application for E-rate funding for at least five year from the last date of service for a given funding year. Going forward the Beneficiary should retain E-rate documentation. A list of required documentation can be found on USAC's website.

In 2011, the FCC issued the Baltimore City School District Remand Order (DA 11-1368) addressing how disqualification factors are permissible during the E-rate vendor selection process. The Order found that various types of disqualification procedures were acceptable, contrary to USAC's existing procedure. Further, the order stated it had an "expectation" that applicants provide notice of qualification criteria on either the FCC 470 or the RFP. As the Hampstead Hill audit concerns FY2008, Baltimore City cannot be applied to Hampstead Hill. For these reasons, it is not correct to rely on Baltimore City for a recommendation that recovery be sought in this audit.[3]

Based on the FCC's Office of Managing Director (OMD) guidance,[4] USAC management does not concur with the finding and recommendation that the School did not select the most cost effective solution during its competitive bidding process. USAC shall not seek recovery for the competitive bidding violations.

---

[3] FCC guidance. *See* Email from FCC, Office of Managing Director, to Leslie Frelow, USAC, Schools and Libraries (dated Oct. 23, 2012).

[4] Ibid

However, USAC will conduct additional outreach to determine if the services were cost effective. If the services were not cost effective, USAC may seek recovery.

OIG Comments to USAC Management Response: USAC Management did not concur with our finding and recommendation; our recommendation remains unresolved.

We did not cite or rely on FCC's Baltimore City School District Remand Order (DA 11-1368) for our finding. We relied on FCC's Rules, CFR §54 and the Fifth Report and Order that require the applicant to:

- carefully consider all bids;
- select the most cost effective service provider using price as primary factor;
- retain documentation to support their application, receipt and delivery of discount equipment and services including their selection of the service provider.

Since we already have the school's certification that they followed the rules, it would be unnecessary to conduct an audit if a statement alone is sufficient. HHES did not provide evidence that FCC competitive bidding rules were followed. Therefore, no documentation exists to support that: 1) price was the primary factor and 2) the bids were carefully considered in the selection of the service provider.

There is no evidence that price was a primary factor in the selection of a service provider for Internet Access services. While the bid with the lowest price does not have to be selected, HHES needs to produce documentation that price was the primary factor in the service provider selection. The school's Operator stated that "price was a major factor," but when we found that the lowest price was not selected for Internet Access, we requested documentation that would show *how* the selected service provider's offering was the most cost effective with price as the primary factor considered. The school Operator's documentation of e-mail conversation with the selected service provider *after* the contract was signed is not evidence that the bid was selected with price as a primary factor.

There is no evidence that bids were carefully considered. The school did not provide any documentation that it evaluated each Internet Access offer. The school's Operator stated that the one service provider was preferable since it offered all the services, but the Operator did not state that it disqualified the other bid. The school did not provide evidence of an evaluation of the cost of the one bid selected for all services. FCC Order FCC 03-313, par. 54 ("Ysleta Order"), released December 8, 2003, states:

> Even if an applicant receives only one bid in response to an FCC Form 470 and/or RFP, it is not exempt from our requirement that the applicant select cost effective services.

If the school decided to select one bid because it provided all the services it wanted, than we would expect evidence that the most cost effective service offering was selected. When the school stated that the one bid was selected because it provided all the services (i.e. telecommunications, internet access and internal connections), we requested documentation that

a cost effectiveness evaluation was done. Although the school's Operator stated that he reviewed prices online and found that the bid was cost effective, the school could not provide any documentation except the e-mail conversation with the service provider (stated above) that did not support that a cost effectiveness evaluation was performed *prior* to signing a contract.

Recovery of FY 2009 universal service monies was recommended pursuant to the Commission's Fifth Report and Order (FCC 04-190, par. 50), effective date October 13, 2004, that states:

> We also conclude that failure to comply with an authorized audit or other investigation conducted pursuant to section 54.516 of the Commission's rules (e.g. failing to retain records or failing to make available the required documentation) is a rule violation that may warrant recovery of universal support monies that were previously disbursed for the time period for which the information is being sought.

Therefore, we conclude that there is no evidence to support the applicant's certification that it followed the FCC rules concerning competitive bidding. In fact, the evidence provided indicates that the school did not consider the cost effectiveness until after the contract was signed. Since the applicant failed to retain records or failed to provide records to support compliance with FCC rules related to competitive bidding, we recommend recovery of FY 2009 universal service monies.

Finding 2: Failure to Verify Maintenance Charged to USF

Condition: Our review of BMIC disbursements for FYs 2008 and 2009 totaling $65,245 disclosed that there was not adequate support to verify that basic maintenance was performed on eligible components. The School provided network service tickets for FY 2008, and timesheets and a maintenance log for FY 2009 to support $65,245 of maintenance charges. Table 2 details the BMIC by FRN and FY:

Table 2
USF Disbursements for BMIC

Funding Year	FRN	Amount Disbursed
2008	1753140	$23,670
2009	1898266	$22,500
2009	1902433	$11,785
2009	1902674	$7,290
Total		***$65,245***

FY 2008 – NETWORK SERVICE TICKETS: The BMIC disbursements under FRN 1753140 total $23,670. The School provided 37 network service tickets generated by the service provider to substantiate that maintenance performed was eligible for E-Rate payment. Twelve of the thirty-seven tickets included eligible and ineligible E-Rate services. Examples of ineligible services include: 1) setting up a laptop including a printer; 2) setting up Rosetta Stone software; 3) inventorying and tagging equipment and 4) checking the status of a BCPSS ticket for fixing an issue with Microsoft Office software. Additionally, 20 of the 37 tickets included duplicate services reimbursed under the internal connection FRNs 1753147, 1753148 and 1756678:

configuring and installing servers, switches, routers and video distribution equipment. Network service tickets did not specify the hours of labor charged between non E-Rate services and E-Rate services; detail the type of service performed; or detail which piece of equipment was serviced.

FY 2009 – TIMESHEETS AND MAINTENANCE LOG: The BMIC disbursements under FRNs 1902674, 1902433 and 1898266 total $41,575. The School provided timesheets created by the service provider and a maintenance log created by the School to document services performed.

The timesheets reconciled to the service provider bills but because the timesheets did not detail the services performed, we could not verify maintenance charges were for eligible services. The timesheets did not have the following information(1) the services performed; (2) the eligible component serviced; or (3) the hours allocated to eligible services.

The School's maintenance log has 15 requests for assistance including 24 "Item Descriptions" related to: (1) Internet access such as help desk assistance; (2) maintenance of end user equipment such as phones, speakers or computers and (3) installation of additional drops. Of the 24 item descriptions, 12 items were found to be ineligible for BMIC reimbursement:

- Nine descriptions were for maintaining end user equipment.
- Three descriptions were for installation of additional drops which are ineligible because the installation was not part of a contract or bid for eligible components.[5]

We verified that eligible maintenance services were performed for 12 of the 24 items in the maintenance log, and partially eligible maintenance services for 5 of the 37 network service tickets. However, due to the lack of information on the supporting documentation (such as service hours allocated to eligible services and the actual eligible components serviced), we could not verify eligibility of all FY 2008 or FY 2009 BMIC maintenance charges.

Criteria: Per the 2007 and 2008 Editions of the 47 C.F.R. § 54.506 (b):

> Basic maintenance services shall be eligible as an internal connections service if, but for the maintenance at issue, the internal connection would not function and serve its intended purpose with the degree of reliability ordinarily provided in the market place to entities receiving such services. Basic maintenance services do not include services that maintain equipment that is not supported or that enhance the utility of equipment beyond the transport of information, or diagnostic services in excess of those necessary to maintain the equipment's ability to transport information.

Per the 2007 and 2008 Editions of the 47 C.F.R. § 54.516 (a), "Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of service delivered in a particular Funding Year."

---

[5] If drop materials are purchased as part of an internal connections contract that included installation and initial configuration, the installation of drops would be eligible. In this case, the drops were installed under the BMIC contract that provides maintenance of eligible equipment, but not initial installation of equipment.

Per the 2007 and 2008 Editions of the 47 C.F.R. § 54.522,"The administrator shall submit by June 30 of each year a draft list of services eligible for support, based on the Commission's rules, in the following funding year."

Per the 2008 and 2009 Eligible Services List ("ESL"):

> The agreement or contract must specifically identify the eligible components covered, including product name, model number, and location. (Page 19)
> End user devices such as phones, speakers and computers are ineligible components therefore any maintenance performed on these devices are ineligible. (Page 17)
> Installation and initial configuration of eligible components are eligible if they are part of a contract or a bid for eligible components. (Page 21)

Cause: The School did not have adequate support of FY 2008 and FY 2009 basic maintenance service charges.

Effect: We could not determine if a portion of the BMIC invoices reimbursed by USF are valid charges for maintenance of eligible components. USF disbursed $65,245 for BMIC during FY 2008 and FY 2009.

Recommendation: (3) We recommend that the School establish controls to ensure that all maintenance charges to USF are for eligible components supported with adequate documentation.

Beneficiary Response: The Charter School appreciates this feedback and has put procedures in place to ensure that maintenance services on equipment purchased with the help of E-rate funds can be verified.

FCC – OIG Response: The school is responsive to our recommendation.

USAC Management Response: The OIG auditors were unable to determine whether the Beneficiary invoiced USAC for ineligible maintenance service charges of the invoices reviewed. Program rules require applicants and service providers to submit invoices to USAC for only eligible services for eligible entities. The service provider submitted FCC Form 474 (Service Provider Invoices (SPI)). When service providers participate in the E-rate program they complete the Service Provider Annual Certification (FCC Form 473). On FCC Form 473, the Service Provider Annual Certification Form, Block 2, Item 10, the service provider certifies that the Service Provider Invoices Form (FCC Form 474 or SPI) submitted by the service provider "contain requests for universal service support for services which have been deemed eligible for universal service support by the fund administrator."

USAC will review the documentation obtained by the FCC OIG, and determine if any ineligible basic maintenance services were billed to USAC. If any ineligibles are identified, USAC will calculate the recovery amount of ineligible services and seek recovery consistent with FCC Rules and Orders. Going forward the service provider should ensure that USAC is only invoiced

for eligible products and services and retain specific documentation of all maintenance performed.

In addition, pursuant to the Fifth Report and Order both applicants and service provider are required to retain documentation for five years from the last date services are delivered for a particular fund year. Going forward the applicant and service provider should ensure they comply with the documentation retention rule. USAC management concurs with the finding and recommendation.

OIG Comments on USAC Management Response: USAC concurs with our finding and recommendation. We agree with the USAC recommended action to review the maintenance services, identify any ineligible services and seek recovery consistent with FCC rules and orders.

Finding 3: Failure to Pay Non-Discount Portion

Condition: The School did not pay its non-discount portion for USF support of some BMIC services requested and purchased in FY 2009. The School did not pay for its 10% portion of BMIC services totaling $15,804, including maintenance services and three warranties (listed on the Form 471 numbers 693282 and 691971 and the Form 474 in Table 3). USAC paid $14,224 for BMIC services. Table 3 provides a detail of FRNs where the non-discounted portion was not paid.

Table 3
FY 2009 BMIC – Non-Discounted Portion Not Paid

FRN	Form 474 SPI	SP Bills to the School	Total Amount (included on F474)	Discounted Portion	Non-Discounted Portion	Paid by School
1902674	1347443	ARVNT6-30-2010-03	$3,105	$2,795	$310	$0
1902433	1347426	ARVB6-30-2010-02	$2,160	$1,944	$216	$0
1902433	1347426	No Invoice	$4,320	$3,888	$432	$0
1898266	1347399	ARBM6-30-2010-01	$1,219	$1,097	$122	$0
1898266	1347399	No Invoice	$4,480	$4,032	$448	$0
1898266	1347399	No Invoice	$520	$468	$52	$0
			$15,804	**$14,224**	**$1,580**	**$0**

The School did not pay the non-discounted portion of $15,804 or $1,580.

Criteria: Per the 2007 and 2008 Editions of the 47 C.F.R. § 54.523: "An eligible school, library, or consortium must pay the non-discount portion of services or products purchased with universal service discounts."

FCC 04-190, Fifth Report and Order, effective date October 13, 2004, paragraph 24, clarifies beneficiary's responsibility to pay its share:

> ...failure to pay more than 90 days after completion of service (which is roughly equivalent to three billing cycles) presumptively violates our rule that the beneficiary must pay its share...If any amounts remained outstanding at the

conclusion of the audit work that constitutes a rule violation warranting recovery of all amounts disbursed.

Cause: The School was not aware that it did not pay its non-discounted portion or 10% of the services received.

Effect: The School received free services in violation of FCC Rules in the amount of $15,804 because they did not pay its 10% or $1,580 share.

Recommendations: (4) We recommend the School reconcile USF reimbursements to ensure that its share is paid. (5) We also recommend that USAC seek recovery of all amounts disbursed, $14,224.

Beneficiary's Response: This finding is incorrect. The Charter School paid its portion of the eligible services received. The chart below shows the authorized disbursement amount and the non-discounted amount the applicant was ultimately responsible for paying.

FRN	Authorized Disbursement Amount	Applicant Portion of Requested Amount
1902674	$7,290.00	$729.00
1902566	$7,549.20	$754.92
1902433	$11,785.50	$1,178.55
1898266	$22,499.96	$2,250.00
	$49,124.66	**$4,912.47**

When the 2009 Funding Year began, the school did not have an approved funding commitment and therefore paid for services in full. Once a funding commitment decision was received, the Charter School, per FCC guidelines, chose to receive reimbursements using the SPI, or FCC Form 474, method. As such, the Charter School had more than paid its portion for services and was carrying a balance with the provider. Please find copies of checks that show the Charter School did pay for services in excess of the total $4,912.47 it ultimately was responsible for paying.[6] Due to the balance carry forward, there are not applicant checks for all invoices received by the service provider. A list of check dates, numbers and amounts are as follows:

Date	Check Number	Reference	Amount
10/26/2009	8234	AR09-23-09-03	$945.00
10/26/2009	8235	AR09-23-09-02	$1,350.00
10/26/2009	8236	AR09-23-09-01	$7,781.25
11/27/2009	8477	Equipment	$6,503.87
1/28/2010	8818	AR01-15-10-01	$6,000.00
5/5/2012	9349	ARR19-1-10-01	$200.00
5/5/2010	9350	ARVB19-1-10-02	$391.50
5/5/2010	9351	ARVNT19-1-10-03	$310.05
8/30/2010	9764	AR06-01-10-T1	$838.80
		Total Paid	**$24,320.47**

[6] The copies of checks sent with the Beneficiary's response are not included in this report.

In the event it is decided that there was a program violation, E-rate program rules require that USAC seek recovery of funds from the party responsible for the rule violation, either the applicant or the service provider. Inasmuch as we have paid our share, it is evident that the service provider is responsible for the rule violation and not us. The service provider invoiced the SLD and filed the FCC Form 474 without invoicing the school first for certain services. This is in direct violation of the Form 474 instructions and the certifications the service provider made on the FCC Form 473, Service Provider Annual Certification (SPAC). Therefore, if any action for the recovery of these funds is taken, it should be directed solely toward the service provider.

FCC OIG Response: The checks submitted by the School did not include the School's share of the following invoices: ARVNT6-30-2010-03, ARVB6-30-2010-02 and ARBM6-30-2010-01. Also, there was no check for the School's share of the warranties (the service provider did not invoice the School for the warranties). We acknowledge that you initially paid the full amount of some services to the service provider, but you failed to consider that:

1. The total amount of check number 8477 included payment for some ineligible items, therefore the total amount of the check cannot be attributable to E-Rate services.
2. The service provider reimbursed the School for E-Rate eligible services it paid in full.
3. In your table, you applied 10% to the discounted amount (USF disbursement) instead of the undiscounted amount. Since the total undiscounted amount for FY 2009 E-Rate services was $54,583, the applicant's portion is $5,458 (10% of $54,483).

As of the conclusion of our fieldwork, we found that the School did not pay their share of E-Rate services for the following service provider invoices to the School: ARVNT6-30-2010-03, ARVB6-30-2010-02 and ARBM6-30-2010-01, and the warranties not invoiced to the School (but invoiced to USF and paid by USF).

USAC Management Response: It was determined that the Beneficiary did not pay its E-rate services non-discount share. Further, the service provider failed to invoice the Beneficiary for services received. Program rules require applicants pay its non-discount share. Program rules also require service providers invoice applicants for non-discount services delivered.

USAC will review the documentation obtained by the FCC OIG, and determine how the applicant payments were applied to eligible services, non-discounted share and ineligible services. USAC will conduct additional outreach to the Beneficiary, if necessary, to request additional payment documentation. Based upon USAC's review results, USAC will seek more information and determine if there is any other violation and if recovery is warranted. If warranted, USAC would seek recovery from the applicant for not paying its share and seek recovery from the service provider for billing USAC for ineligible services. USAC management concurs with the finding.

FCC OIG Comments to USAC Management Response: USAC Management concurs with our finding and recommendations.

Finding 4: Failure to Properly Track Assets

Condition: The School did not maintain adequate records for E-Rate equipment. The School provided a "FY 2008 Equipment Asset Information" document for its fixed asset list ("FAL") of E-Rate equipment.

A reconciliation of the FCC Form 471 and the Service Provider Invoice or SPI to the FAL disclosed E-Rate equipment not included on the inventory list. The FAL was incomplete because it did not include four Holland Agile Demodulators and an Encoder shelf for a cabinet totaling $2,000. This equipment was ordered on the Form 471, invoiced on Form 474, and paid with FY 2008 (FRN number 1756678) USF.

Also, a physical inventory disclosed missing E-Rate equipment. The inventory of 79 pieces of E-Rate equipment failed to locate one 48-port Cisco Router, Catalyst 2960-48TT totaling $2,495 that was listed on the FAL.

Criteria: Per the 2007 and 2008 Editions of the 47 C.F.R. § 54.516 (a) (1), "Schools and libraries shall maintain asset and inventory records of equipment purchased as components of supported internal connections services sufficient to verify the actual location of such equipment for a period of five years after purchase."

FCC 04-190, Fifth Report and Order, effective October 13, 2004, paragraph 48, seventh bullet, "Beneficiaries must retain asset and inventory records of equipment purchased and components of supported internal connections services sufficient to verify the location of such equipment."

Cause: The School did not have any written policies and procedures to properly track assets. The School's unofficial policy is to record E-Rate equipment when delivered using the packing slips. This internal control weakness represents a risk to safeguarding assets.

Effect: We were unable to locate a piece of E-Rate equipment supported by the USF with a disbursement in the amount of $2,246 (90% of the non-discounted amount or $2,495).

Recommendation: (6) We recommend that the School implement policy and procedures regarding receipt and tracking of E-Rate fixed assets and maintain an accurate listing of assets so that equipment can be located. (7) We also recommend that USAC seek recovery of $2,246 disbursed from the USF.[7]

Beneficiary Response: The Charter School has always tracked E-rate fixed assets and, as a result of this audit, is in the process of improving its system in accordance with the audit team's recommendations.

To the best of our knowledge and belief, the Cisco router that was missing was "swapped out" by BCPSS technology staff while work was being performed on our network. Unfortunately, neither BCPSS nor we documented that event.

[7] The recovery amount is part of the recovery amount recommended in the prior Findings, the total USF disbursements audited.

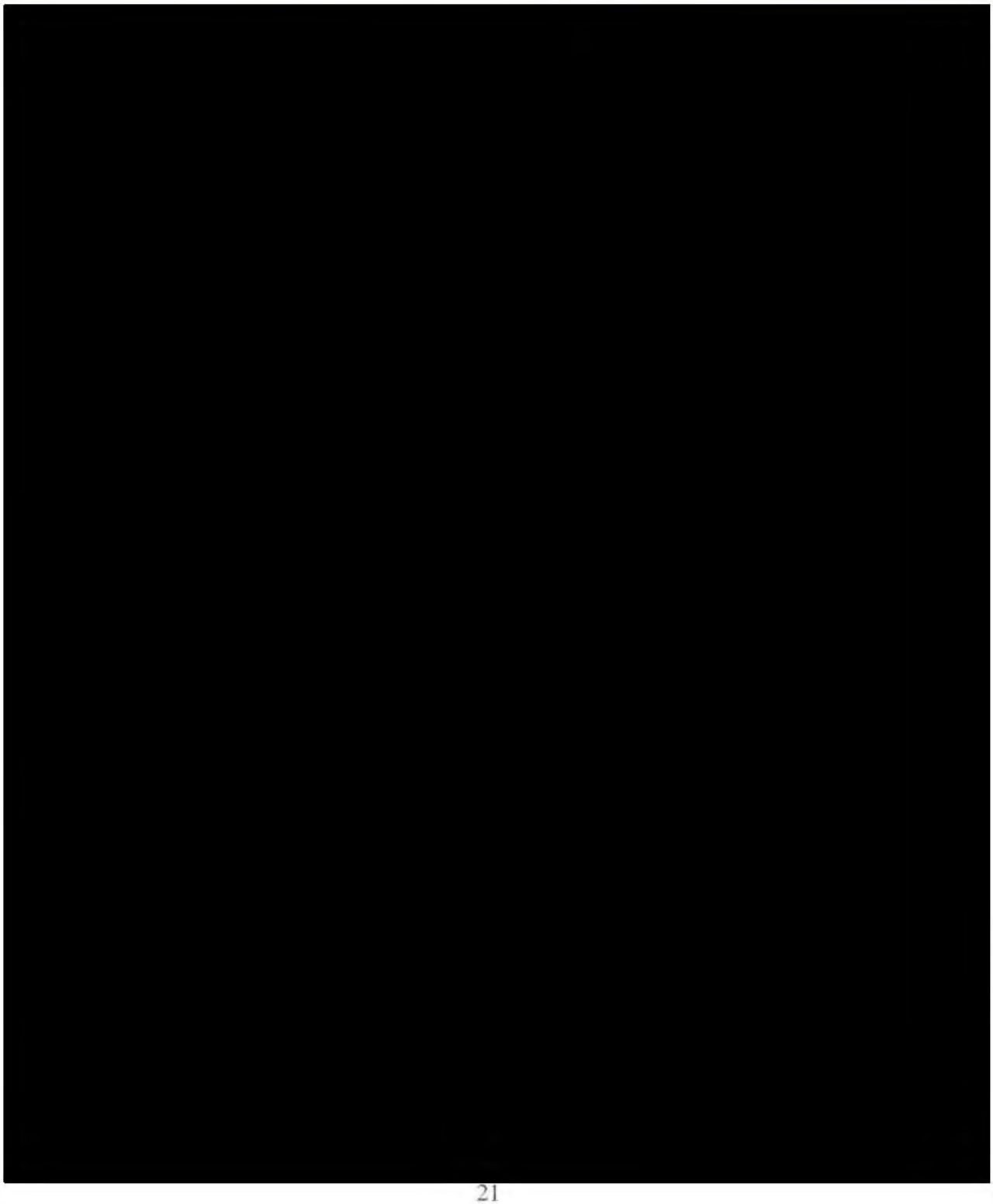
FCC OIG Response: The School's response satisfies our recommendation. The School also needs to ensure that they follow USF guidelines for "swapping" of equipment.

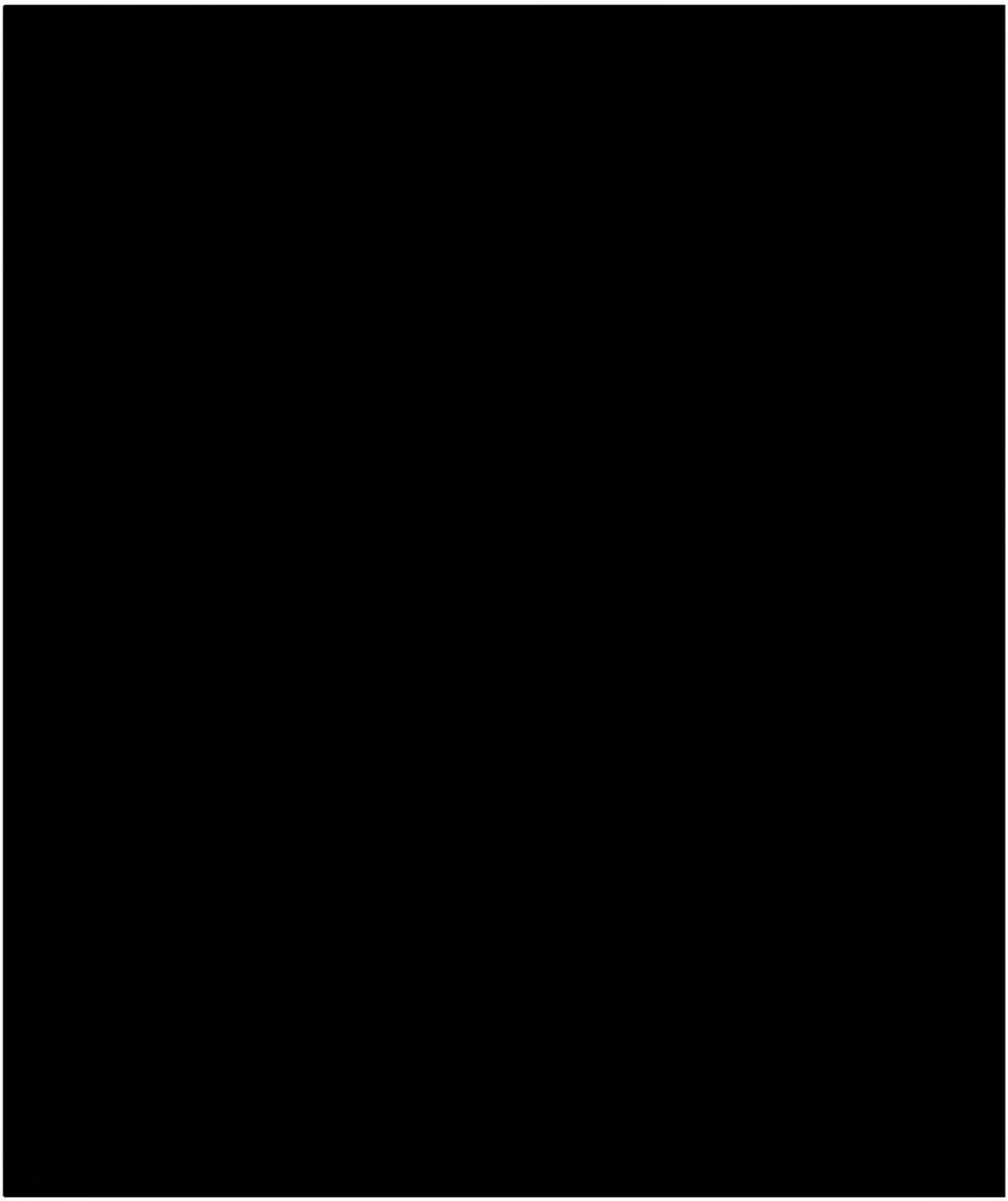
USAC Management Response: During the audit, the 48-port Cisco Router, Catalyst 2960-48TT was not located. The Beneficiary was not able to demonstrate the equipment was installed and in use. Program rules require applicants to retain equipment for three years from the last date of service. Further program rules require applicants to retain asset and inventory records of all equipment purchased with E-rate funds for a period of five years after the last day of service delivered for a particular funding year. Therefore, USAC will seek recovery for the missing 48-port Cisco Router, Catalyst 2960-48TT. USAC will reach out to the Beneficiary to ensure it implemented policy and procedures regarding receipt and tracking of E-Rate fixed assets and maintain an accurate listing of assets so that equipment can be located. The Beneficiary can find additional guidance on USAC's website.[8] USAC will seek more information and determine if there is any other violation and if recovery is warranted.

FCC OIG Comments on USAC Management Response: USAC Management concurs with our finding and recommendations.

[8] *See* USAC Website, http://www.usac.org/_res/documents/sl/pdf/samples/.

Appendix A – Emails Attached to HHES's Response





Appendix B – OIG Contact and Staff Acknowledgments

Contact	For more information about this report, please contact the OIG at (202) 418-0470.
Contributors	Beth Engelmann, Audit Director, USF Programs Larry Rufai, Senior Auditor Rachel Stein, Senior Auditor Kathleen O'Reilly, Special Counsel USF

Appendix C – Report Distribution

FCC Distribution

Office of Managing Director
Wireline Competition Bureau

Non-FCC Distribution

Universal Service Administrative Company