



OFFICE OF INSPECTOR GENERAL

MEMORANDUM

DATE: June 7, 2004

TO: Chairman

FROM: Inspector General

SUBJECT: Report on Audit of the E-rate Program at United Talmudical Academy

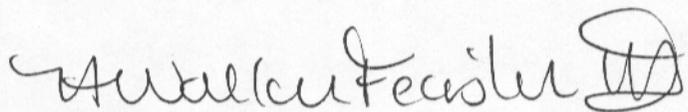
The Office of Inspector General (OIG) has completed an audit at the United Talmudical Academy (UTA), a beneficiary of the Universal Service Fund (USF). A copy of our draft audit report no. 02-AUD-02-04-006, entitled "Report on Audit of the E-rate Program at United Talmudical Academy" is attached. The objective of this audit was to assess the beneficiary's compliance with the rules and regulations of the USF program and to identify areas in which to improve the program.

We have concluded that UTA was not compliant with the requirements of the program for funding year 1999. The audit resulted in four (4) findings and \$934,300 identified as potential fund recoveries. We recommend that the Wireline Competition Bureau direct the Universal Service Administrative Company (USAC) to recover the amount of \$934,300. In addition, we recommend that the Wireline Competition Bureau take steps to ensure that funding requests are adequately reviewed in accordance with existing program rules and implementing procedures to ensure that funding requests associated with such systemic noncompliance with program rules and regulations are not approved. Further, we recommend that the Wireline Competition Bureau review those program rules and implementing procedures governing the areas of noncompliance cited in this report to ensure that those program rules and implementing procedures are adequate to protect the interests of the fund.

We held an exit conference with the beneficiary's representatives on April 30, 2004 and requested their comments on the results of the audit. They concurred with two of the three audit findings and did not concur with the third finding. Comments they provided at the exit conference are included in the report as appropriate. Due to a major revision in our findings and recommendations between the draft and final audit reports, we held a supplemental entrance conference with the beneficiary's representatives on June 4, 2004 and have incorporated additional comments from them in the report.

We provided management with a copy of our draft report on May 3, 2004 and requested they provide comments on their concurrence with the findings of the audit. In a response dated May 11, 2004, the Wireline Competition Bureau (WCB) indicated that they concurred with two of our three audit recommendations. They presented an alternative recommendation for the third issue. In lieu of our reporting a lack of timely payment of the beneficiary's non-discount portion as an other matter, they provided guidance that the circumstances are not compliant with Commission rules and recommended a recovery of \$934,300, which is 100% of the internal connections funding disbursed for FY 1999. We agree with their recommendation and have revised our audit report accordingly. WCB's response is included in its entirety in the Appendix to this report.

If you have any questions, please contact Thomas Cline, Assistant Inspector General for Audits, at (202) 418-7890.



H. Walker Feaster III

Attachment

Copy furnished:

Mozes Greenfeld, E-rate Coordinator, United Talmudical Academy
George McDonald, Vice President, Schools and Libraries Division, USAC
Chief, Wireline Competition Bureau
Performance Evaluation and Records Management, Office of Managing Director

FEDERAL COMMUNICATIONS COMMISSION

OFFICE OF INSPECTOR GENERAL



Report on Audit of the E-rate Program at
United Talmudical Academy

Report No. 02-AUD-02-04-006

June 7, 2004

Handwritten signature of H. Walker Feaster III in cursive.

H. Walker Feaster III
Inspector General

Handwritten signature of Thomas D. Bennett in cursive.

Thomas D. Bennett
Assistant Inspector General for USF
Oversight

Handwritten signature of Vince Amalfitano in cursive.

Vince Amalfitano
Senior Auditor

Handwritten signature of Thomas C. Cline in cursive.

Thomas C. Cline
Assistant Inspector General for Audit

Report on Audit of the E-rate Program at United Talmudical Academy

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Report on Audit of the E-rate Program at United Talmudical Academy

EXECUTIVE SUMMARY

On May 7, 1997, the FCC adopted a Universal Service Order implementing the Telecommunications Act of 1996. Included in this Order was the Schools and Libraries Support Mechanism of the USF (hereinafter known as the E-rate program) in which all eligible schools and libraries can receive discounts from the USF on eligible communication services ranging from 20 to 90 percent, depending on economic need and location. The OIG has designed a program of audit oversight to provide FCC management with a reasonable level of assurance that beneficiaries are complying with program rules and that program controls are adequate to prevent fraud, waste and abuse.

The OIG has completed an audit of the United Talmudical Academy (UTA). The objective of this audit was to assess the beneficiary's compliance with the rules and regulations of the USF program and to identify areas in which to improve the program. UTA is a Jewish orthodox school located in the Borough of Brooklyn, New York City. This school has an enrollment of over 7,000 PreK-12 grade students and occupies 13 building locations in the Williamsburg section of Brooklyn. The period of our audit was from July 1, 1999 to June 30, 2000, which comprises Funding Year (FY) 1999 of the E-rate program.

For FY 1999 UTA received funding commitments of \$1,321,931 of which \$1,001,936 was for internal connections. A total of \$1,055,256 was disbursed. Of this amount, \$934,300 was for internal connections paid to Communications Data & Security, Inc. (CD&S). The remaining \$120,956 represented disbursements for telecommunications services, i.e., local, Centrex, long distance and wireless provided by various service providers that were billed and reimbursed via FCC Form 472 BEAR (Billed Entity Applicant Reimbursement) forms.

The audit resulted in four (4) findings and \$934,300 identified as potential fund recoveries. We recommend that the Wireline Competition Bureau direct the Universal Service Administrative Company (USAC) to recover the amount of \$934,300. In addition, we recommend that the Wireline Competition Bureau take steps to ensure that funding requests are adequately reviewed in accordance with existing program rules and implementing procedures to ensure that funding requests associated with these areas of noncompliance with program rules and regulations are not approved. Further, we recommend that the Wireline Competition Bureau review those program rules and implementing procedures governing the areas of noncompliance cited in this report to ensure that those program rules and implementing procedures are adequate to protect the interests of the fund.

We held an exit conference with the beneficiary's representatives on April 30, 2004 and requested their comments on the results of the audit. They concurred with two of the three audit findings and did not concur with the third finding. Comments they provided at the exit conference are included in the report as appropriate. Due to a major revision in our findings and recommendations between the draft and final audit reports, we held a

Report on Audit of the E-rate Program at United Talmudical Academy

supplemental entrance conference with the beneficiary's representatives on June 4, 2004 and have incorporated additional comments from them in the report.

We provided management with a copy of our draft report on May 3, 2004 and requested they provide comments on their concurrence with the findings of the audit. In a response dated May 11, 2004, the Wireline Competition Bureau (WCB) indicated that they concurred with two of our three audit recommendations. They presented an alternative recommendation for the third issue. In lieu of our reporting a lack of timely payment of the beneficiary's non-discount portion as an other matter, they provided guidance that the circumstances are not compliant with Commission rules and recommended a recovery of \$934,300, which is 100% of the internal connections funding disbursed for FY 1999. We agree with their recommendation and have revised our audit report accordingly. WCB's response is included in its entirety in the Appendix to this report.

BACKGROUND INFORMATION

In accordance with the Inspector General Act of 1978, as amended, the Office of Inspector General (OIG) at the Federal Communications Commission (FCC) has oversight responsibilities for the Universal Service Fund (USF) as a federal program of the FCC. The USF provides affordable access to specified communications services for schools, libraries, rural health care providers, low-income consumers and companies serving high-cost areas. On May 7, 1997, the FCC adopted a Universal Service Order implementing the Telecommunications Act of 1996. Included in this Order was the Schools and Libraries Funding Mechanism of the USF (hereinafter known as the E-rate program) in which all eligible schools and libraries can receive discounts from the USF on eligible communication services ranging from 20 to 90 percent, depending on economic need and location. The Universal Service Administrative Company (USAC) is responsible for administering the Fund under the direction of the FCC's Wireline Competition Bureau (WCB). The Schools and Libraries Division (SLD) of USAC administers the E-rate program.

USF discounts can be applied to three kinds of services and products:

- Telecommunication services, including basic phone service.
- Internet access.
- Internal connections, including wiring and network equipment needed to bring information directly to classrooms or library patrons.

UTA is a Jewish orthodox school located in Borough of Brooklyn, New York City. This school has an enrollment of over 7,000 PreK-12 grade students and occupies 13 building locations in the Williamsburg section of Brooklyn. The period of our audit was from July 1, 1999 to June 30, 2000, which comprises Funding Year (FY) 1999 of the E-rate program.

Report on Audit of the E-rate Program at United Talmudical Academy

For FY 1999 UTA received funding commitments of \$1,321,931 of which \$1,001,936 was for internal connections. A total of \$1,055,256 was disbursed. Of this amount, \$934,300 was for internal connections paid to Communications Data & Security, Inc. (CD&S). The remaining \$120,956 represented disbursements for telecommunications services, i.e., local, Centrex, long distance and wireless provided by various service providers that were billed and reimbursed via FCC Form 472 BEAR (Billed Entity Applicant Reimbursement) forms.

AUDIT OBJECTIVES AND SCOPE

The OIG has designed a program of audit oversight to provide FCC management with a reasonable level of assurance that beneficiaries are complying with program rules and that program controls are adequate to prevent fraud, waste and abuse. The objective of this audit was to assess the beneficiary's compliance with the rules and regulations of the USF program and to identify areas in which to improve the program.

The scope of this audit was designed to test beneficiary compliance with program requirements contained in Title 47, Part 54 of the Code of Federal Regulations (47 CFR 54.500 through 47 CFR 54.520) which provide that:

- The beneficiary determines its discount percentage by the percentage of their student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a federally-approved alternative mechanism.
- A process has been established to select the most cost effective service provider.
- Equipment and services are purchased in accordance with applicable procurement rules and regulations, and the applicant has paid its portion of the pre-discounted costs.
- Services rendered are consistent with what the beneficiary presented on its application for E-rate funds and were installed or provided before the installation deadline.
- The beneficiary has adequate resources, as certified, to use the discounted service for which funding has been provided.
- The beneficiary has an approved technology plan, as certified.

The period of our audit was for FY 1999 covering July 1, 1999 to June 30, 2000.

This audit was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States. As part of the scope of our audit, we obtained an understanding of the specific management controls relevant to the E-rate program. Because of inherent limitations, a study and evaluation made for the limited purposes of our audit would not necessarily disclose all material weaknesses in the control structure. However, we identified significant management weaknesses as discussed in the Audit Results section of this report and in Finding Numbers 1, 2 and 3.

AUDIT FINDINGS AND RECOMMENDATIONS

Our audit of the use of E-rate program funds at UTA disclosed that UTA was not compliant with the requirements of the program for FY 1999. The following findings resulted in noncompliant and/or inappropriate disbursements:

1. The beneficiary has not paid the entire non-discount portion of FY 1999 funding on a timely basis, resulting in a recommended funding recovery of \$934,300.
2. The service provider billed and received payment for recurring monthly maintenance services for wiring and equipment that were not provided, resulting in overpayments of \$27,478 (note that these overpayments are duplicated in the funding recovery discussed in Finding 1 of 4).
3. There was no documentation to support a competitive bidding process.
4. UTA included ineligible charges for telecommunications services that were inappropriately reimbursed on FCC Form 472 Billed Entity Applicant Reimbursement (BEAR) Forms.

In addition, we have reported as an Other Matter in this report that management controls to monitor purchases of E-rate equipment and asset inventory records were inadequate to ensure the funds are being utilized efficiently.

AUDIT FINDINGS

Finding 1 of 4 - The beneficiary has not paid the entire non-discount portion of FY 1999 funding on a timely basis, resulting in a recommended funding recovery of \$934,300.

Although UTA budgeted for their technology costs and booked their non-discounted portion of the E-rate costs as an account payable, they have not paid the entire non-discounted portion for FY 1999 and over three years have passed since the goods and services were provided.

For FY 1999, SLD disbursed \$1,055,256 (the pre-discount amount was \$1,172,507) of program funds to vendors that provided E-rate services and products to UTA. UTA's non-discounted portion was \$117,251. As of April 30, 2003, UTA's accounting records indicated that an unpaid balance of \$42,282 was owed to the service provider that installed and maintained the internal connections for FY 1999. UTA's FY 1999 budget contained a specific line item for "Communications (E-Rate)" with a budgeted amount of \$250,000. However, copies of the cancelled checks show that UTA did not make any payments in FY 1999 and most of payments were made in 2002 and 2003. Two of the checks that were dated in May of 2001 were not cleared by the bank until 2002. UTA representatives stated that they intend to pay the outstanding balance, but that the school's funds were tight and the service provider, CD&S, has been "patient". UTA

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provided additional documents that supported additional payments of \$56,141 to CD&S after we had ended our on-site field work, however, were not able to ascertain if these payments were for the FY 1999 non-discount balance or other funding years. Further, the additional invoices provided appear to be for ineligible items, such as telephones and hardware.

WCB has provided guidance that, when a beneficiary budgets for and does not pay the non-discounted portion, it is technically a rule violation that may authorize full recovery of funds. Additionally, WCB has also informed us that program rules do not establish a timeframe in which the E-rate beneficiary must make payment. Based on this guidance, we cited this issue as an other matter in lieu of an audit finding in our draft audit report issued on May 3, 2004. However, in their response to the draft audit report (see the Appendix to this report), WCB provided guidance that, while the rules do not contain an explicit deadline for payment of the non-discount portion for a particular funding year, the failure to make payment for such supported services more than three years after the delivery of service is sufficient to establish noncompliance with Commission rules and recommended a recovery of \$934,300, which is 100% of the internal connections funding disbursed for FY 1999. We agree with their recommendation and have incorporated it into the results of our audit.

During our supplemental exit conference on June 4, 2004, UTA's representatives stated they do not concur with this finding as they believe it is inappropriate to apply this interpretation of the rules on a retroactive basis and they do not believe their payments can be considered untimely, since there is no rule identifying what should be considered timely. While these arguments may have merit, our opinion is that nonpayment for a three year period is sufficient to bring into question the ability and intent to make payment, and we continue to support WCB's current interpretation.

Finding 2 of 4 - The service provider billed and received payment for recurring monthly maintenance services for wiring and equipment that were not provided, resulting in overpayments of \$27,478.

For FY 1999, UTA's service provider, Communication Data & Security, Inc. (CD&S), billed and was paid \$30,772 for maintenance of the local area network (LAN) and public exchange (PBX) phone system installed at UTA. According to CD&S, the internal connections equipment was installed between March 2000 and September 2000. They provided documentation that indicated that, as of September 30, 2000, some of the locations were completed and other locations were installed but needed final work described as "hook-up & program." The service provider did not maintain service requests or logs for work performed at UTA. Consequently, we were unable to determine whether any maintenance was provided during FY 1999. Based on this information, we conclude that maintenance charges for FY 1999 should have been prorated to be commensurate with the time period that these systems were installed and became operational.

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To estimate the over-billed maintenance charges we used the installation completion dates provided by the service provider and allowed an estimated 45 day timeframe as a reasonable period to complete the installation and testing phase. This generally includes drilling, wiring/cabling, placing the drops for the PBX stations and LAN nodes connections, installing the equipment, powering the equipment, running diagnostics, and testing the connections. Our estimates resulted in 1.5 months of allowable maintenance costs for those locations where the installation was completed by September 30, 2000 and no allowable maintenance costs for those locations installation was not complete as of September 30, 2000. Our calculations of the estimated overpayment are too voluminous for inclusion in this report, however, they will be made available upon request. Using the estimates described above, we determined that the service provider was paid \$27,478 for maintenance services that were not provided in FY 1999. Note however, that this amount is duplicated in the \$934,300 recommended fund recovery in Finding 1 of 4.

On the FCC Form 473 (Service Provider Certification Form), the service provider certifies that charges reflected on the FCC Form 474 (Service Provider Invoice Form) will be based on bills or invoices billed to the beneficiary. Moreover, instructions to Form 474 require that the service provider provide the products and services and bill the school or library prior to submitting a FCC Form 474 to USAC/SLD. In addition, the FCC Rules in Sec. 54.507 (b) states that a funding year for purposes of the schools and libraries cap shall be the period July 1 through June 30; and Section 54.507(e) states that if schools and libraries enter into long term contracts for eligible services, the Administrator (USAC/SLD) shall only commit funds to cover the pro rata portion of such a long term contract scheduled to be delivered during the funding year for which universal service support is sought.

During the April 30, 2004 exit conference, the beneficiary's representatives concurred with this finding. They stated, however, that the service provider billed the maintenance costs as a one-time charge for the whole year in lieu of a monthly charge. In our opinion, this practice would enable the service provider to collect more maintenance than they would be entitled to and we will not revise our audit finding based on the rationale provided.

Finding 3 of 4 - No Documentation to Support a Competitive Bidding Process.

For FY 1999 UTA contracted with eight different services providers; seven were telecommunications service providers and one was Communications Data & Securities (CD&S) for internal connections. The seven telecommunications service providers consisted of providers for local and long distance telephone services, Centrex services and wireless services. For the most part these services providers' charges were based on tariff rates or competitive prevailing market prices. The contract for digital Centrex services with Verizon was signed on January 2, 1997 and was exempt from competitive bidding since it was signed before July 10, 1997, pursuant to Section 54.511.

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The contract with CD&S was for the installation of a PBX phone system and LAN system in each of the 14 building locations. The UTA E-rate coordinator stated that he learned of the E-rate program at a work-group hosted by a Jewish Orthodox Schools Association and had performed his own market research by calling other schools for recommendations on service providers for the e-rate program. Since the notes on this research performed were written in Yiddish (Hebrew), we requested a translated copy. The school claimed that they received no calls during the 28-day posting period on USAC/SLD's web-site. CD&S claimed to have contacted the school as a result of a routine sales call as part of their attempts to contact all the E-rate eligible schools in the area rather than as a result of the 28-day posting. Since CD&S had been previously recommended to UTA by another school, UTA eventually selected them as their service provider for internal connections. However, UTA has not provided any supporting documentation, other than the assertions described above, to support that they conducted a competitive procurement using price as the major selection factor. They have also not provided a translated copy of their market research to this date.

Title 47 CFR 54.504, Requests for Service (a) competitive bidding requirement, provides that all eligible schools, libraries and consortia including those entities shall participate in a competitive bidding process, pursuant to the requirement established in this subpart, but this requirement will not preempt state or local competitive bidding requirements. Section 54.511, Ordering Service, (a) Selecting a provider of eligible services, provides that in selecting a provider of eligible services, schools, libraries and consortia including any of those entities shall carefully consider all bids submitted and may consider relevant factors other than the pre-discounted prices submitted by providers. UTA has not able to provide documents that would support the soundness of their management of the E-rate contracting process or compliance with Title 47 CFR 54.504 and 511.

During the April 30, 2004 exit conference, the beneficiary's representatives did not concur with this finding because they only received one bid. In our opinion, this does not preclude the beneficiary from considering cost as a factor in reaching agreement with the bidder, nor does it preclude the beneficiary from documenting their decision process. We will not revise our audit finding based on the rationale provided.

Finding 4 of 4 - UTA included ineligible charges for telecommunications services that were inappropriately reimbursed on FCC Form 472 Billed Entity Applicant Reimbursement (BEAR) Forms.

SLD disbursed \$120,956 for telecommunications services submitted by UTA via FCC Form 472 BEAR (Billed Entity Applicant Reimbursement) forms for FY 1999. These forms were submitted by UTA during February 2000 through December 2000. We reviewed the support for these charges, to include a judgmental sample of invoices. In reviewing the charges on these invoices, we noted that some of the line item charges represented late payment charges ranging from \$0.30 to \$1.50 per invoice. In addition, the invoices for wireless services included line items for such services as voice mail, caller ID, equipment and accessory insurance, and late fee charges, which ranged from \$0.28 to \$10.74 per

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invoice. In discussions with representatives for the wireline and wireless carriers, we were informed that, at present beneficiaries are instructed to deduct these charges from the amounts requested and that the service providers generally check the requests for accuracy and adjust them, if needed. However, they acknowledged that in the beginning of the E-rate program this may have been inadvertently overlooked.

In the Fourth Order on Reconsideration in CC Docket No. 96-45 (FCC 97-420), released December 30, 1997 and codified in Section 54.502, the FCC concluded that the universal service support mechanisms will cover all reasonable charges, including federal and state taxes, that are incurred by obtaining an eligible telecommunications service. Avoidable charges for termination liability, penalty surcharges, and other charges not included in the cost of obtaining the eligible service will not be covered by the universal service support mechanisms. The imposition of such charges typically results from a party's failure to discharge its duty of performance under a contract and supporting such charges does not advance program goals. According to the USAC/SLD Eligible Services List (1/24/01) allowed under CC Docket 96-45, provides that the cost of cellular (wireless) services is eligible for discount, but the cost of telephones and maintaining the equipment is not E-rate eligible for discount.

Our judgmental review indicated the overall impact of these charges was minimal and we were unable to calculate a recommended funding recovery, due to the large volume of invoices involved. However, claiming these charges as eligible for reimbursement is not compliant with the rules of the E-rate program and we believe that actions should be taken to preclude the reoccurrence of this noncompliance.

During the April 30, 2004 exit conference, the beneficiary's representatives concurred with this finding and informed us that they have implemented procedures to preclude this from happening in the future.

RECOMMENDATIONS

Recommendation 1 of 3 - We recommend that the Wireline Competition Bureau direct the Universal Service Administrative Company to recover the amount of \$934,300 disbursed on behalf of UTA in funding year 1999.

Recommendation 2 of 3 - We recommend that the Wireline Competition Bureau take steps to ensure that funding requests are adequately reviewed in accordance with existing program rules and implementing procedures to ensure that funding requests associated with these areas of noncompliance with program rules and regulations are not approved.

Recommendation 3 of 3 - We recommend that the Wireline Competition Bureau review those program rules and implementing procedures governing the areas of noncompliance cited in this report to ensure that those program rules and implementing procedures are adequate to protect the interests of the fund.

OTHER MATTER

Management controls to monitor purchases of E-rate equipment and asset inventory records were inadequate to ensure the funds are being utilized efficiently.

To determine the physical existence of the E-rate equipment installed in FY 1999 and to ascertain that it was functioning for its intended use, we selected seven UTA locations to inventory. These seven locations received funding commitments of \$653,215, representing 65% of the total amount committed for FY 1999. We were informed that one location, the 19 Heyward St. building, was vacated and demolished and that the E-rate equipment was relocated to other buildings. We also learned there were equipment substitutions at other building locations. UTA did not request approval for any product substitutions. UTA did not maintain the asset records, lacked proof that all E-rate funded internal connections have been received and installed by the cut-off date, and was unable to support that E-rate funded services were provided within the allowable period.

We were able to utilize the list of equipment for the selected locations listed in Item 17 attachment of the approved FCC Form 471 and information provided by the service provider to perform the inventory. However, the records were inadequate for us to independently determine whether the equipment observed was installed in FY 1999 or subsequent years and to conduct a complete inventory of the wiring drops for PBX systems stations and PC connections. The service provider provided a reconciliation of equipment and wiring substitutions as well as the equipment list by funding year, and the PBX wiring and network wiring reconciled with the wiring installed and billed.

As part of the certification on the FCC Form 471 and other forms, schools and libraries are put on notice that they may be audited; thus, they commit to retain for five years any and all worksheets and other records used to fill the application(s) for E-rate program funds. However, WCB has informed us that the certification does not establish an adequate basis for a rule violation. Therefore, we have not cited this condition as an audit finding, but we believe the inability to hold beneficiaries responsible for maintaining adequate documentation to support their E-rate applications and use of E-rate funds is a significant program weakness. UTA representatives informed us that they implemented formal inventory procedures for E-rate equipment in FY 2002.

FEDERAL COMMUNICATIONS COMMISSION

OFFICE OF INSPECTOR GENERAL



Report on Audit of the E-rate Program at
United Talmudical Academy

Report No. 02-AUD-02-04-006

APPENDIX – Management Response

Memorandum

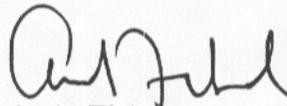
DATE: May 12, 2004

TO: Inspector General

FROM: Managing Director

SUBJECT: Draft Reports on Audits of E-Rate Programs at St. Augustine School and United Talmudical Academy

Attached are the Wireline Competition Bureau's responses to the draft reports on the audits of the e-rate programs at St. Augustine School and United Talmudical Academy. We had asked the Bureau to submit its responses to you through the Office of Managing Director. If you have any questions or concerns please contact Jerry Cowden. Thank you.



Andy Fishel

Attachments:

1. Response to Draft Report on Audit of the E-rate Program at St. Augustine School
2. Response to Draft Report on Audit of the E-rate Program at United Talmudical Academy



Wireline Competition Bureau

MEMORANDUM

DATE: May 11, 2004

TO: Inspector General

FROM: William F. Maher, Jr. *WFM*
Chief, Wireline Competition Bureau

SUBJECT: Report on Audit of the E-rate Program at United Talmudical Academy

Attached please find WCB's response to the OIG's audit report on United Talmudical Academy

United Talmudical Academy

Recommendation 1 of 3: recover the amount of \$27,478 disbursed in funding year 1999.

Wireline Competition Bureau Response: Do Not Concur

Explanation: WCB agrees that funds should be recovered for funding year 1999, but believes that full recovery of all funds disbursed for internal connections (\$934,300) is appropriate. OIG notes in other matter #1 that UTA failed to pay the entire non-discounted portion of its Funding Year 1999 internal connections services. Commission rules do not contain an explicit deadline for payment of the non-discounted portion. In WCB's view, however, the failure to make payment for such supported services more than three years after the delivery of service is sufficient to establish noncompliance with the Commission's rules. Thus, WCB recommends full recovery of all FY 1999 discounts disbursed for internal connections.

Recommendation 2 of 3: WCB should take steps to ensure that funding requests are adequately reviewed in accordance with existing program rules and implementing procedures to ensure that funding requests associated with this area of noncompliance with program rules are not approved.

Wireline Competition Bureau Response: Concur

Explanation: We agree with the OIG that we should take steps to ensure that funding requests are adequately reviewed in accordance with Commission rules and USAC procedures. We will work with USAC to determine whether additional procedures are warranted to address the issues identified in the report.

Recommendation 3 of 3: WCB should review those program rules and implementing procedures governing the area of noncompliance cited to in this report to ensure that those program rules and implementing procedures are adequate to protect the interests of the fund.

Wireline Competition Bureau Response: Concur

Explanation: We agree with the OIG that we should review the existing program rules and implementing procedures governing the areas of noncompliance to ensure that program rules and implementing procedures are adequate to protect the interests of the fund. We are already taking action in this regard as discussed below.

In January 2002, based on WCB's recommendation, the Commission initiated a rulemaking to consider, among other things, measures to limit fraud, waste and abuse in the e-rate program. In April 2003, the Commission sought further comment on additional issues relating to E-rate. In December 2003, the Commission adopted an Order that adopted additional measures to limit fraud, waste and abuse and sought comment on other issues relating to E-rate.

With respect to findings #1, #2, #3 and other matter #2, the Commission has sought comment on whether program participants should be required to retain records demonstrating compliance with Commission rules relating service requests and delivery, for a period of five years. Also, with respect to finding #3, the Commission is seeking comment on the competitive bidding process that governs the e-rate program.

In addition, WCB is considering the other aspects of the findings as part of our ongoing efforts to improve the Commission's oversight over the E-rate program and reduce occurrences of waste, fraud and abuse.