

Proposed Audit Resolution Plan for
Schools and Libraries Support Mechanism Auditees

Background

In the Fifth Report and Order¹ the Federal Communications Commission (FCC or Commission) directed USAC to submit a proposed plan for resolving audit findings. The FCC stated that “a standardized, uniform process for resolving audit findings is necessary” and directed USAC to submit a plan no later than 45 days after publication of the Fifth Report and Order in the Federal Register.² The Commission further stated that “USAC’s audit resolution plan should detail USAC’s proposed procedures for resolving audit findings arising from audits conducted by USAC’s internal audit department, independent public accounting firms under contract with USAC, or government audit organizations. In addition, USAC’s audit resolution plan should specify deadlines to ensure audit findings are resolved in a timely manner.”

The Audit Process for Schools and Libraries Support Mechanism Auditees

Authority for Performing Audits

Commission rules authorize USAC to conduct compliance audits of beneficiaries of the schools and libraries support mechanism.³ USAC’s audit program consists of audits by USAC Internal Audit Division (IAD) staff and by independent external auditors under contract with USAC. The auditors follow a designated audit plan for each audit performed. In addition, audits of beneficiaries of the schools and libraries support mechanisms are performed by government audit organizations such as the FCC’s Office of Inspector General (OIG) and, under arrangements with the FCC OIG and USAC, OIGs of other Federal agencies. The interactions between the auditors and USAC described below generally apply only to audits performed by IAD staff and auditors under contract to USAC. The audit steps to resolve audit findings described below apply to all audits of schools and libraries beneficiaries.

Selection of Auditees

IAD performs random audits, targeted audits to address allegations of program rule violations, and audits of large and/or at-risk applicants. Auditors perform fraud investigations as part of the audits, as necessary. In addition to audits performed by IAD, USAC also contracts with outside auditing firms to conduct beneficiary audits. The FCC OIG and the OIGs of the U.S. Department of Interior and the U.S. Department of

¹ See *Schools and Libraries Universal Service Support Mechanism*, , CC Docket No. 02-6, FCC 04-190, Fifth Report and Order, FCC 04-190 (2004)(*Fifth Report and Order*).

² *Id.* ¶ 74.

³ See 47 C.F.R. § 54.516.

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Education have performed and are performing beneficiary audits. These audits have been both targeted and random.

Planning

Once the auditee has been selected, relevant underlying documentation is provided to the auditors. The auditors review this documentation to become familiar with the facts specific to each auditee. The auditee is informed by means of a letter that it will be audited. The auditee is told the date(s) that the fieldwork will occur, and advised to have relevant documentation available for auditor review. This process generally takes between 5 and 10 days.⁴

Fieldwork and the Audit Report

The auditors perform the fieldwork, draft audit findings, discuss audit findings with the applicant, and draft the report. The time range from performing the fieldwork through providing the draft report to USAC is generally 10 days, and no longer than 25 days. This time range is the result of the ongoing communication between the auditors and the auditee and depends upon the complexity of the issues that need to be resolved. When auditees become slow to respond or non-responsive, auditors establish deadlines for auditee response. Once the deadline passes, the auditors will finalize the draft report and indicate that no response was received from the auditee.

The draft reports are reviewed by USAC's Schools and Libraries Division (SLD) management. The purpose of this review is to ensure the audit procedures were performed in accordance with Commission rules. For example, if an audit report contains a finding based on a rule violation, but the rule was not in effect during the relevant year, that finding will be clarified in the report. SLD management review of the draft report generally takes 7 days, and no longer than 14 days.

After any issues are resolved, the auditors issue the final report to USAC. From the time the auditors receive SLD management comments to the time the auditors issue the final report generally takes 2 days, and no longer than 5 days.

SLD Management Review

SLD management reviews the audit report and contacts the applicant to verify any audit findings. As part of this review and verification, SLD management provides the applicant with a final opportunity to present additional documentation and/or evidence to

⁴ The last two pages of this plan contains a chart that provides an overview of the timeframes and deadlines for each step of the process.

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clear any audit findings. The applicant can submit written documentation or provide a verbal response, depending on the information that is needed. For example, if the audit report indicated that the applicant could not provide a bill from its service provider to support a service provider invoice that USAC paid, SLD management would give the applicant a final opportunity to provide the documentation. If the applicant cannot produce a bill, the service provider may be given an opportunity to produce the bill and document that the bill was sent to the applicant and paid. Or, if the audit report indicated that the applicant did not provide a copy of the Technology Plan approval letter, SLD management would give the applicant a final opportunity to provide a copy of the letter. If the applicant's response is that it does not have such a letter, SLD management would ask for a letter to that effect or document the applicant's verbal response in an e-mail back to the applicant.

The time range for SLD management to complete its review of the audit report is generally 14 days, and no longer than 60 days. As stated above, this time range is the result of the ongoing communication between SLD management and the auditee and depends upon the complexity of the issues that need to be resolved. When auditees become slow to respond or non-responsive, SLD management establishes deadlines for auditee response. Once the deadline passes, SLD management will finalize the Management Response and indicate that no response was received from the auditee.

Resolution of Audit Findings

SLD resolves each audit finding in one of three ways:

- (1) The audit finding is cleared because the applicant provides responsive documentation or other evidence after being given a final opportunity to do so.

IAD reviews a sample of SLD determinations that audit findings have been cleared to ensure that SLD's determination is based upon proper documentation.

- (2) The audit finding is determined not to be a program rule violation.

SLD determines whether the audit finding is a program rule violation. In making this determination, SLD considers whether the finding is based on a clear rule violation, and whether that rule was in effect for the funding year at issue. If SLD is uncertain whether a particular situation constitutes a rule violation, it seeks guidance from the FCC's Wireline Competition Bureau (WCB).

The time frame for resolving these types of issues varies from one day to several weeks, depending upon complexity of the issue and whether WCB has the authority

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to provide the required guidance. In some cases, only the full Commission may provide the appropriate guidance.

(3) The audit finding is a program rule violation.

Once an IAD or contractor audit report has been deemed final by the Audit Committee of the USAC Board, a Commitment Adjustment and/or Recovery of Improperly Disbursed Funds, as applicable, processes is initiated.⁵

In addition to taking specific action in response to each audit finding, such as processing a Commitment Adjustment and potential recovery, or Recovery of Improperly Disbursed Funds, each finding is also addressed at a programmatic level. SLD identifies whether action was taken subsequent to the relevant funding year that effectively addresses the finding or whether the audit finding indicates that additional outreach and education needs to be undertaken. SLD also identifies, as appropriate, rule and policy issues that need to be referred to the FCC WCB. The USAC Schools and Libraries Committee and Audit Committee review each audit report as further explained below, and if a Committee has concerns about the resolution of any issue, it will direct staff to revisit the issue with the FCC WCB.

Timeframe for Delivery of Final Audit Report through SLD Management Review Document

As stated above, the timeframe from the delivery of an audit report to SLD through to the final SLD Management Review will generally be 14 days, but no longer than 60 days. To the extent that FCC WCB guidance is necessary, USAC proposes to formalize its communication by use of a form that would indicate a proposed deadline for response from WCB.

Preparation for Presentation to the USAC Board of Directors

To finalize the report for presentation to the USAC Board of Directors, IAD creates an Executive Summary for each audit report prepared by outside auditors and SLD prepares a Management Response to accompany the audit report. The Executive Summary

⁵ USAC's responsibility to adjust commitments and seek recovery of funds are set out, *inter alia*, in the following FCC Orders. See *Changes to the Board of Directors of the National Exchange Carrier Association*, CC Docket Nos. 97-21, 96-45, FCC 99-291 (rel. October 8, 1999); *Commitment Adjustment Order*; *Changes to the Board of Directors of the National Exchange Carrier Association*, CC Docket Nos. 97-21, 96-45, FCC 00-350 (rel. October 26, 2000); *Federal-State Joint Board on Universal Service*, Order on Reconsideration and Fourth Report and Order, CC Docket Nos. 96-45, 97-21, 02-6, FCC 04-181 (rel. July 30, 2004)(*Fourth Report and Order*); *Schools and Libraries Universal Service Support Mechanism*, , CC Docket No. 02-6, FCC 04-190, Fifth Report and Order, FCC 04-190 (2004)(*Fifth Report and Order*).

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provides an overview of the audit findings and indicates whether the auditee has been determined to be (1) compliant, (2) generally compliant, or (3) not compliant with program requirements. USAC IAD and the FCC OIG jointly developed these categories based on a sliding scale of the number of audit findings and the amount of recovery required compared to amount of funding disbursed. These descriptive categories began to be used with the Round 3 KPMG audits. The Management Response details SLD's response to each audit finding. The final audit report also indicates whether a law enforcement referral will be made.

Presentation of the Final Audit Report to the USAC Board of Directors

The audit reports are presented to the Schools and Libraries Committee and the Audit Committee of the USAC Board of Directors. The Audit Reports are provided to the members of each committee for their review, usually two weeks prior to the meeting at which the reports will be presented. USAC Board of Directors and Committee meetings are held quarterly, with interim meetings held as necessary. From the time that the audit report and SLD management response is complete until presentation to the Board of Directors is no longer than 120 days.

The Committees review the reports consistent with the Commission regulations pertaining to the Schools and Libraries Committee⁶ and the Audit Committee charter.⁷ The audit reports are first presented to the Schools and Libraries Committee as Action Items by the USAC Vice President, IAD. If the audit was performed by an Independent Auditing Firm, representatives of that firm are available during the meeting to answer questions. The Schools and Libraries Committee considers the reports during its open meeting, or in Executive Session as appropriate. The Schools and Libraries Committee then votes whether to recommend to the Audit Committee that each report be deemed final.⁸ The Schools and Libraries Committee reports its action to the full Board of Directors at the subsequent Board of Directors meeting.

The audit reports are then presented to the Audit Committee as Action Items by the USAC Vice President, IAD. If the audit was performed by an Independent Auditing Firm, representatives of that firm are available during the meeting to answer questions. The Audit Committee considers the reports during its open meeting, or in Executive Session, as appropriate. The Audit Committee then votes whether to accept the recommendation of the Schools and Libraries Committee that each report be deemed

⁶ See 47 C.F.R. § 54.705(a).

⁷ See Universal Service Administrative Company, Audit Committee Charter, January 2004, attached. The Audit Committee was created by the USAC Board of Directors on December 16, 2002.

⁸ See, e.g., Universal Service Administrative Company, Schools & Libraries Committee Meeting, Action on Six Schools and Libraries Support Mechanism Beneficiary Audit Reports, Action Item #aSL03, January 26, 2004, attached.

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final.⁹ The Audit Committee reports its action to the full Board of Directors at the subsequent Board of Directors meeting.

If either Committee votes to not deem a report final, the Committee identifies the issue(s) and directs SLD to seek further guidance with respect to that issue from the FCC WCB. After receiving this guidance, SLD presents the report anew to each Committee and the process described above occurs again.

After the audit reports are deemed final, they are made available for public release unless the auditee or one of its service providers is already known to be under law enforcement investigation, or if USAC determines that it will refer the matter to the FCC OIG for law enforcement investigation. In addition, a summary of findings is posted on the USAC website.

Process after the Audit Report is Deemed Final

For generally compliant or non-compliant auditees, SLD takes any and all appropriate follow up action. This action may include Commitment Adjustments and potentially the Recovery of Funds and/or Recovery of Improperly Disbursed Funds.

USAC has sought guidance from the FCC on the following issues related to Commitment Adjustments and Recoveries that will impact this section of the plan: 1) Whether USAC should issue a demand payment letter when an appeal is pending; 2) approval of revised Commitment Adjustment and Recovery letters and Recovery of Improperly Disbursed Funds letters based on the Fourth and Fifth Reports and Orders; 3) guidance on standards for the party from whom to seek recovery; and 4) what action to take when both parties repay the funds. To date, USAC has not received this guidance.

Commitment Adjustments

If SLD's management response determines that funds were committed in violation of program rules, USAC is required by FCC orders to reduce those funding commitments and, if dollars were improperly disbursed, to seek recovery of those funds. Below is an overview of that process.

Commitment Adjustment Process	Timing
SLD informs contractor that certain Funding Request Numbers (FRNs) need to be subject to Commitment Adjustment.	Goal is two weeks after the USAC Board has deemed the audit report final.

⁹ See e.g., Universal Service Administrative Company, Audit Committee Meeting, Action on Six Schools and Libraries Support Mechanism Beneficiary Audit Reports, Action Item #aAC04, January 26, 2004, attached.

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Commitment Adjustment Letter is issued.	Goal is 45 days after receipt.
If no appeal is received, a 1 st Demand Payment Letter is issued.	After the appeal window is closed, that is, 60 days after the COMAD Letter.
If no response is received to the 1 st demand letter, a 2 nd Demand Payment Letter is issued.	31 st day after the 1st Demand Payment Letter.
If no response is received, the receivable is referred to the FCC.	61 st day after the 1st Demand Payment Letter.
If no response is received, the receivable is transferred to the FCC via the DCIA Process.	91 st day after the 1st Demand Payment Letter.

Recovery of Improperly Disbursed Funds

If SLD's management response determines that funds were improperly disbursed, SLD must recover those funds. Below is an overview of that process.

Recovery of Improperly Disbursed Funds (RIDF)	Timing
SLD informs contractor that for certain Funding Request Numbers (FRNs), recovery needs to be instituted.	Goal is two weeks after finalization of the audit reports.
Issue RIDF Letter	Goal is 60 days after receipt.
If no appeal is received, issue 1 st Demand Payment Letter.	61 st day after the initial REDF Letter.
If no response received issue 2 nd Demand Payment Letter.	31 st day after 1 st Demand Payment Letter
If no response is received, the receivable is referred to the FCC.	61 st day after the 1st Demand Payment Letter.
If no response is received, the receivable is transferred to the FCC via the DCIA Process.	91 st day after the 1st Demand Payment Letter.

The USAC Board of Directors is kept apprised of the number of COMADs and RIDFs in process and the status of the recoveries pertaining to specific audits until completion at each quarterly meeting, and more often upon request. The FCC WCB is provided copies of the reports that are provided to the USAC Board.

Application and Invoicing Review Follow Up

SLD takes appropriate follow up action with regard to the review of applications from the applicant that was audited, and/or in the review of applications associated with the service provider that provided services to the audited applicant. For example, if the audit report indicated that the applicant did not have an approved Technology Plan, pending and/or subsequent applications from that applicant may be flagged, and SLD may require the applicant to demonstrate that it has a Technology Plan that is approved or that will be

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approved before the start of service before SLD will commit funding for subsequent years.

SLD also takes appropriate follow up action with regard to the review of invoices for services provided to the applicant that was audited, and/or in the review of invoices from service provider(s) associated with the applicant that was audited. For example, if the audit report indicated that the service provider received disbursements for goods and services that were not provided, SLD may flag invoices from that service provider to require verification from the applicant that the goods and services have been provided before USAC disburses funds.

Non-Compliant Auditee Letter

On October 13, 2004, WCB approved USAC's proposed Non-Compliant Auditee Letter. This letter will be sent to all auditees that have been determined to be not compliant with program rules. In this letter, 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 non-compliance, 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).

Law Enforcement Referrals

Law enforcement referrals are made by USAC's General Counsel's office consistent with criteria established by the USAC Board of Directors. In general, the criteria for making a referral are whether the auditee was determined to be not compliant with program rules and whether the audit findings are based on serious rule violations with potential criminal implications.

IAD Audit Follow-Up

IAD maintains a database of all finalized audit reports along with the audit findings and management action to address the findings. On a quarterly basis, IAD coordinates with SLD to determine the status of the follow up action taken to address the audit findings. IAD continues to perform follow up action until the disbursed funds recommended for recovery have been collected and/ or the commitment adjustment has been posted to the Funding Request Number (FRN). After adequate follow up action has been noted, this

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information is reported to the Schools and Libraries Committee and the Audit Committee.

USAC Follow-Up

Consistent with the Fifth Report and Order, USAC will “submit a report to the Commission on a semi-annual basis summarizing the status of all outstanding audit findings.”¹⁰

¹⁰ *Fifth Report and Order* ¶ 77.

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Overview of TimeFrames and Deadlines

STAGE	AVERAGE TIMEFRAME	DEADLINE
Selection of Auditee through Planning and Notification letter	5 days	No more than 10 days
Field Work through Draft Audit Report	10 days	No more than 25 days
SLD Review of Draft Audit Report	7 days	No more than 14 days
Delivery of Audit Report to SLD	2 days	No more than 5 days
SLD Management Review	14 days	No more than 60 days
Presentation of Executive Summary, Audit Report, and SLD Management Response to USAC Board of Directors ¹¹		No more than 120 days
Approval by USAC Board Committees ¹²		No more than 120 days
Commitment Adjustment/Recovery of Erroneously Disbursed Funds letter		Goal is no more than 74 days
Initial Fund Recapture letter/Request for Payment letter		60 days unless an appeal is filed
Referral to FCC OMD for Enforcement, as necessary		91 days after the initial recapture letter
Non-compliant Auditee letter sent	30 days after report deemed final	No more than 90 days after report deemed final

¹¹ Once the Audit Report is ready for presentation to the USAC Board of Directors, it is generally held until the next quarterly board meeting.

¹² This assumes that the USAC Schools and Libraries and Audit Committees deem the Audit Report final. If the report is not so deemed, it is returned to USAC/SLD management for appropriate action as directed by the Committees. If this occurs, the Audit Report would then be presented to the Committees generally at the next quarterly Board meeting, 120 days later.

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Law Enforcement Referral	30 days after report deemed final	No more than 90 days after report deemed final
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