



### **Factual Background**

- FCC Form 471#181033559 includes FRN 1899064539, which encompasses two line items for one-year CiscoBase (SmartNet) contracts.
- The two part numbers for these line items are as follows:
  - FRN line item .001 = CON-SNTP-N9508B3
  - FRN line item .002 = CON-SNTP-5672UP16
- Both contracts support eligible items.
- The contracts entitle the purchaser to certain support services, such as operating system updates and bug fixes, as well as help desk and online information access.
- The costs of these contracts are one-time, non-recurring costs to the Applicant.
- Upon receipt of the funding commitment for this FRN, the undersigned noticed that PIA had changed the amounts for both FRN line items from one-time, non-recurring costs to monthly recurring costs.
- Consequently, PIA divided the amounts evenly by 12, thereby fundamentally altering the nature of the funding request and ignoring the reality that these contracts are one-time costs to the Applicant.
- Upon learning of PIA's action, the undersigned opened Case number 246783 to inquire about the change.
- The Customer Service Bureau's response indicated that this change is required by Program rules.
- When asked to point to either the FCC decision or specific rule in the CFR that mandated this change under the Second Modernization Order, CSB simply referenced the 2012 Eligible Services List.
- Contrary to CSB's instruction, the 2012 Eligible Services List does not include a rule or FCC directive that expressly requires these types of contracts to be treated as monthly recurring services.
- The Revised Funding Commitment Decision letter dated November 6, 2018 (attached hereto as "Exhibit A"), states in pertinent part, "As required by FCC Rules, funding requests for Basic Maintenance of Internal Connections are determined as recurring charges since it is for services to be delivered within the July 1 to June 30 funding year."
- Neither the Applicant nor the undersigned has been able to identify any purported "FCC rule(s)" requiring the change of this FRN from non-recurring costs to monthly recurring costs.
- Page 12 of the Eligible Services List, under the section "Eligibility limitations for basic maintenance", specifically states that "Support for basic maintenance will be paid for the actual work performed under the agreement or contract. ***Support for bug fixes, security patches, and technical support is not subject to this limitation.***"

### Request

Based on these facts, Bridgewater respectfully requests that the FCC grant this Appeal and instruct USAC to re-open its review of FRN 1899064539 and recognize this type of contract as a one-time, non-recurring cost.

As a threshold matter, both the CSB and USAC state that "FCC rules" necessitate the change. However, the only source material referenced in either case is the 2012 Eligible Services List. Contrary to CSB's assertion in the regard, the 2012 ESL does not contain a "rule" that instructs applicants or USAC to treat annual support contracts such as CiscoBase as functionally equivalent to monthly time-and-materials contracts. In the absence of an FCC directive or mandate to that effect, any such measures taken by USAC are arbitrary and outside the scope of its authority to administer the E-rate Program.

Moreover, under the section "Eligibility limitations for basic maintenance" on page 12 of the Eligible Services List, it specifically states that "Support for basic maintenance will be paid for the actual work performed under the agreement or contract. ***Support for bug fixes, security patches, and technical support is not subject to this limitation.***" CiscoBase is precisely the type of service/support that is not subject to the stated limitation and therefore should not be subject to a "time and materials", monthly recurring cost categorization.

This issue is an important one because it implicates USAC's current invoicing processes. PIA's change in this case may ultimately impact the Applicant's ability to collect the discounts to which it is entitled for these eligible products/services unless the cost of its one-year support contracts can somehow be demonstrated as twelve monthly payments, despite the fact that they are in actuality one-time, non-recurring costs.

Furthermore, these types of contracts are tied to specific pieces of equipment and run for a period of twelve months from the date of deployment. USAC's approach here by converting a one-time, non-recurring cost into a monthly recurring cost potentially creates two absurd results. First, if the contract is not purchased on or before July 1, 2018, then apparently only a pro-rated portion of the contract is eligible for E-rate support. For example, if the Applicant does not deploy the piece of equipment to which a contract relates until October, then the Applicant is necessarily forfeiting 25% of the CiscoBase contract cost because there is no mechanism in place to recover those three months' cost in the subsequent funding year.

Notably, this change also essentially forces applicants to wait until the funding year has run its course to apply for reimbursement on these contracts, rather than any time after the time of purchase. Surely, there is no reasonable basis to force applicants to wait until the end of the funding year to recover discount(s) relating to one-time, non-recurring costs incurred many months earlier. In this regard, the

resultant administrative burden on both applicants and USAC's invoicing team should also not be ignored when it could be so easily avoided.

For these reasons, Bridgewater respectfully requests that the FCC grant this Appeal and instruct USAC recognize the two CiscoBase service contracts at issue as one-time, non-recurring costs.

Please direct all inquiries concerning this Appeal and related correspondence to the following individual:

Vincent LaForgia  
Phone: 973.200.4815 x101  
Fax: 973.338.1673  
Email: vince@erateconsulting.com

Respectfully Submitted,



Vincent LaForgia

## **EXHIBIT A**

# Revised Funding Commitment Decision Letter

## Funding Year 2018

**Contact Information:**

Vincent LaForgia  
BRIDGEWATER-RARITAN SCH DIST  
836 NEWMAN'S LANE  
BRIDGEWATER, NJ 08807  
[vince@erateconsulting.com](mailto:vince@erateconsulting.com)

**BEN:** 123503**Post Commitment Wave:** 11

### Totals

Original Commitment Amount	\$2,981.28
<b>Revised Commitment Amount</b>	<b>\$2,981.28</b>

### What is in this letter?

Thank you for submitting your post-commitment request for Funding Year 2018 Schools and Libraries Program (E-rate) funding. Attached to this letter, you will find the revised funding statuses and/or post commitment changes to the original Funding Commitment Decision Letter (FCDL) you received. Below are the changes that were made:

- Appeals

The Universal Service Administrative Company (USAC) is providing this information to both the applicant(s) and the service provider(s) so that all parties are aware of the post-commitment changes related to their funding requests and can work together to complete the funding process for these requests.

### Next Steps

1. **File the FCC Form 486**, Service Confirmation and Children's Internet Protection Act (CIPA) Certification Form, for any FRNs included in this RFCDL, if you have not already done so. Please review the CIPA requirements and file the form(s).





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- o **If USAC approved funding on an FRN in your original FCDL**, the deadline to submit the FCC Form 486 is 120 days from the date of the original FCDL or from the service start date (whichever is later).
  - o **If a new FRN was created for this RFCDL or funding was not approved on an FRN in your original FCDL but is approved in this RFCDL**, the deadline to submit the FCC Form 486 is 120 days from the date of this RFCDL or from the service start date (whichever is later).
2. **Invoice USAC**, if you or your service provider have not already done so. Work with your service provider(s) to determine if your bills will be discounted or if you will request reimbursement from USAC after paying your bills in full.
- **If you (the applicant) are invoicing USAC:** You must pay your service provider(s) the full cost for the services you receive and file the [FCC Form 472](#), the Billed Entity Applicant Reimbursement (BEAR) Form, to invoice USAC for reimbursement of the discounted amount.
  - **If your service provider(s) is invoicing USAC:** The service provider(s) must provide services, bill the applicant for the non-discounted share, and file the [FCC Form 474](#), the Service Provider Invoice (SPI) form, to invoice USAC for reimbursement for the discounted portion of costs. Every funding year, service providers must file an [FCC Form 473](#), the Service Provider Annual Certification Form, to be able to submit invoices and to receive disbursements.
  - **To receive an invoice deadline extension, the applicant or service provider** must request an extension on or before the last date to invoice. **If you anticipate, for any reason, that invoices cannot be filed on time**, USAC will grant a one-time, 120-day invoice deadline extension if timely requested.

## How to Appeal or Request a Waiver of a Decision

You can appeal or request a waiver of a decision in this letter **within 60 calendar days** of the date of this letter. Failure to meet this deadline will result in an automatic dismissal of your appeal or waiver request.

**Note:** The Federal Communications Commission (FCC) will not accept appeals of USAC decisions that have not first been appealed to USAC. However, if you are seeking a waiver of E-rate program rules, you must submit your request to the FCC and not to USAC. USAC is not able to waive the E-rate program rules.

- **To submit your appeal to USAC**, visit the Appeals section in the [E-rate Productivity Center \(EPC\)](#) and provide the required information. USAC will reply to your appeal submissions to confirm receipt. Visit USAC's [website](#) for additional information on submitting an appeal to USAC, including step-by-step instructions.
- **To request a waiver of the FCC's rules or appeal USAC's appeal decision**, please submit it to the FCC in proceeding number CC Docket No. 02-6 using the [Electronic Comment Filing System](#) (ECFS). Include your contact information, a statement that your filing is a waiver request,



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identifying information, the FCC rule(s) for which you are seeking a waiver, a full description of the relevant facts that you believe support your waiver request and any related relief, and any supporting documentation.

For appeals to USAC or to the FCC, be sure to keep a copy of your entire appeal, including any correspondence and documentation, and provide a copy to the affected service provider(s).

## Obligation to Pay Non-Discount Portion

Applicants are required to pay the non-discount portion of the cost of the eligible products and/or services to their service providers. Service providers are required to bill applicants for the non-discount portion of costs for the eligible products and/or services. The FCC stated that requiring applicants to pay the non-discounted share of costs ensures efficiency and accountability in the program. If using the BEAR invoicing method, the applicant must pay the service provider in full (the non-discount plus discount portion) **before** seeking reimbursement from USAC. If using the SPI invoicing method, the service provider must first bill the applicant **before** invoicing USAC.

## Notice on Rules and Funds Availability

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





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## Revised Funding Commitment Decision Overview

### Funding Year 2018

Funding Request Number (FRN)	Service Provider Name	Request Type	Revised Committed	Review Status
1899064539	Core BTS, Inc.	Appeals	\$2,981.28	Denied



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<b>Post Commitment Request Number:</b> 127036	<b>Post Commitment Request Type:</b> Appeals	<b>Post Commitment Decision:</b> Denied
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<b>FRN:</b> 1899064539	<b>Service Type:</b> Basic Maintenance of Internal Connections	<b>Original Status:</b> Funded	<b>Revised Status:</b> Funded
<b>FCC Form 471: 181033559</b>			

Dollars Committed			
Monthly Cost		One-Time Cost	
Months of Service	12		
Total Eligible Recurring Charges	\$7,453.20	Total Eligible One Time Charges	\$0.00
Total Pre-Discount Charges		\$7,453.20	
Discount Rate		40.00%	
Revised Committed Amount		\$2,981.28	

Dates	
Service Start Date	7/1/2018
Contract Expiration Date	9/30/2019
Contract Award Date	3/20/2018
Service Delivery Deadline	9/30/2019
Expiration Date (All Extensions)	

Service Provider and Contract Information	
Service Provider	Core BTS, Inc.
SPIN (498ID)	143030838
Contract Number	
Account Number	
Establishing FCC Form 470	180028369

Consultant Information	
Consultant Name	Vincent LaForgia
Consultant's Employer	E-Rate Consulting Inc.
CRN	16043594

<b>Revised Funding Commitment Decision Comments:</b>
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<b>Post Commitment Rationale:</b>
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As required by FCC Rules, funding requests for Basic Maintenance of Internal Connections are determined as recurring charges since it is for services to be delivered within the July 1 to June 30 funding year. In your appeal, you did not show that USAC's determination was incorrect. Consequently, your appeal is denied.