

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20054**

In the Matter of:	]	
	]	CC Docket 02-6
Request for Review by <b>ITHACA PUBLIC</b>	]	
<b>SCHOOL DISTRICT</b> of Decision by the	]	Funding Request Nos. 932,622, 1081674
Administrator of Universal Service	]	
Administrative Company	]	Form 471 Application Nos. 346373, 395738
	]	

**REQUEST FOR REVIEW**

**BY**

**ITHACA PUBLIC SCHOOL DISTRICT**

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October 27, 2017

## INTRODUCTION

More than 12 years after approving the FY 2004–2005 request for Ithaca Public School District, USAC issued Adjustment Letters in June 2017 that sought to recover \$48,684.96 from the rural school district in Michigan. Citing only the existence of a Stock Purchase Agreement relating to a consulting firm, USAC made an initial determination that the rural school district was responsible for unfairly influencing the outcome of the competition among service providers.

In response, Ithaca Public School District established that the consulting firm in question did not even exist until well after the first of the two funding years in question. Moreover, Ithaca Public School District established that its staff's efforts with respect to the second funding year completely complied with the rules and policies of USAC and the Commission. When presented with this information, USAC did not close the matter. Instead, it ignored the information, and issued Denial Letters that proffered completely new justifications for why Ithaca Public School District was required to repay more than \$48,000 to USAC.

USAC's more recent justification fails because USAC (i) ignored the facts presented in Ithaca's Appeal, (ii) raised completely new justifications without providing any supporting evidence, and (iii) ignored well-established Commission precedent that places the responsibility for any required reimbursement on the parties that were in the best position to know about the purported violations.

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In the Matter of:	]	
	]	CC Docket 02-6
Request for Review by <b>ITHACA PUBLIC</b>	]	
<b>SCHOOL DISTRICT</b> of Decision by the	]	Funding Request Nos. 932622, 1081674
Administrator of Universal Service	]	
Administrative Company	]	Form 471 Application Nos. 346373, 395738
	]	

**REQUEST FOR REVIEW**

Pursuant to Section 54.719(b) of the Commission’s rules, Ithaca Public School District (“Ithaca”), by and through its attorney, submits this **REQUEST FOR REVIEW** of the August 29, 2017, decision by the Administrator of the Universal Service Administrative Company (“USAC”) that denied Ithaca’s appeal of the “Commitment Adjustment Letter” for Funding Year July 1, 2003 – June 30, 2004, and the “Commitment Adjustment Letter” for Funding Year July 1, 2004 – June 30, 2005 (the “Adjustment Letters”) dated June 9, 2017.<sup>1</sup>

Ithaca timely filed its appeal of the Adjustment Letters on August 3, 2017, pursuant to Section 54.719(a) of the Commission’s rules, and USAC issued identical letters on August 29, 2017, that denied Ithaca’s appeal (the “USAC Denials”).<sup>2</sup> For the reasons set forth below, the Commission must rescind or otherwise set aside the USAC Denials, close this matter, and cease collection efforts from Ithaca.

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<sup>1</sup> Copies of the Adjustment Letters are attached hereto as Exhibit One.

<sup>2</sup> Copies of the USAC Denials are attached hereto as Exhibit Two. This Request for Review is submitted within 60 days of the issuance of the USAC Denials. 47 C.F.R. § 54.720.

The sole basis provided by USAC for issuing the identical Adjustment Letters was that USAC had determined that there was commonality of ownership interest between Elite Fund, Inc. (“Elite Fund”) and Crystal Automation Services, Inc. (“Casair”). This determination was made by USAC apparently because USAC learned of a July 1, 2006, Stock Purchase Agreement between the owner of Casair, Mr. Steve Meinhardt, and Mr. Roger Hoezee, whereby Mr. Meinhardt sold his stock in Elite Fund to Mr. Hoezee. No other information or evidence of rule violations was provided in the Adjustment Letters.

Ithaca provided evidence to USAC that Elite Fund was not incorporated until September 2003, and therefore could not have had an impermissible role in the preparation and processing of Ithaca’s FY 2003–2004 funding applications, which were completed at least seven months prior to the incorporation of Elite Fund.<sup>3</sup> Moreover, Ithaca provided evidence that Elite Fund did not impermissibly participate in Ithaca’s 2004–2005 funding process and, to the extent that USAC determined otherwise, that Ithaca should not be held responsible for the repayment of funds in light of the purported coordinated efforts of Elite Fund and Casair.

The USAC Denials do not make any mention of the original basis for issuing the Adjustment Letters, nor do the USAC Denials make any mention of the information provided by Ithaca in its Appeal. Instead, USAC proffers entirely new justifications for requiring Ithaca to refund the USAC payments that were received in 2003–2005.

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<sup>3</sup> A copy of Ithaca’s Appeal is provided as Exhibit Three.

Rather than acknowledging that the basis for issuing the Adjustment Letters had been proven incorrect and closing the matter, USAC stated in the denials that Ithaca was now to be held responsible for the repayment of the FY 2003–2004 and FY 2004–2005 payments because of completely new justifications, including (i) similar IP addresses; (ii) Elite Fund and Casair operating from the same location; and (iii) “‘carbon copy’ FCC Forms 470 across a series of applications.”<sup>4</sup>

Ignoring the obvious fact that USAC had never presented these justifications previously, and thus Ithaca had no notice that USAC was demanding a response, the USAC Denials merely stated “[o]n appeal, you have not demonstrated that USAC’s determination was incorrect. Consequently, your appeal is denied.”<sup>5</sup>

Thus, not only did USAC ignore the information presented by Ithaca to refute the original basis of the Adjustment Letters, USAC fundamentally changed the basis for attempting to recover the disputed funding without providing Ithaca any advance notice or opportunity to comment. Making matters worse, USAC failed to provide any evidence to support these new justifications. Therefore, the Commission must grant this Request for Review, and issue a decision that (i) sets aside the Adjustment Letter, (ii) closes this matter without further payment obligations imposed upon Ithaca, and (iii) if necessary, recover any past disbursements from Casair or Elite.<sup>6</sup>

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<sup>4</sup> See USAC Denials, pp. 2, 4.

<sup>5</sup> See USAC Denials, pp. 2, 4.

<sup>6</sup> Pursuant to Section 54.721(d) of the Commission’s rules, a copy of this Request for Review is being served on Casair and Elite Fund.

## BACKGROUND

Ithaca Public School District is a rural school district in Gratiot County, Michigan, consisting of two elementary schools and one junior/senior high school. Gratiot County is a rural county in Michigan,<sup>7</sup> and the school boundaries for Ithaca stretch the entire width of the county.<sup>8</sup> In light of the rural nature of the school district, and the historical lack of broadband accessibility in the area, it has been a top priority of Ithaca to provide access to high-speed Internet to its students.

For Funding Year 2003-2004, Ithaca filed its Form 470 application on October 10, 2002.<sup>9</sup> That application included the required RFP, outlining the services to be offered to Ithaca by interested bidders. On November 13, 2002, CASAIR submitted its bid, and the Form 471 was filed on February 13, 2003.<sup>10</sup> As noted above, Elite Fund, Inc., was incorporated well after the Form 471 was submitted by Ithaca. In fact, Elite Fund was not incorporated until seven months later, on September 17, 2003.<sup>11</sup> For Funding Year 2004-2005, Ithaca PSD filed its Form 470 application on December 17, 2002.<sup>12</sup> On January 6, 2004, CASAIR submitted its bid, and the Form 471 was filed on February 13, 2003.<sup>13</sup>

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<sup>7</sup> See *Appeal*, Exhibit B.

<sup>8</sup> See *Appeal*, Exhibit C.

<sup>9</sup> See *Appeal*, Exhibit D.

<sup>10</sup> See *Appeal*, Exhibit E.

<sup>11</sup> See *Appeal*, Exhibit F.

<sup>12</sup> See *Appeal*, Exhibit G.

<sup>13</sup> See *Appeal*, Exhibit H.

Most important for the instant matter is the fact that Elite Fund did not participate in Ithaca PSD's review of the bid proposals for either funding year. Instead, Mr. Steve Netzley, the Assistant Superintendent of Ithaca PSD, was listed as the Contact Person for both years, received the bid proposals for both years, and the decision to accept CASAIR's bids was made by Mr. Netzley and the Ithaca PSD's Board of Education.

## **DISCUSSION**

The above-referenced information was provided to USAC with the reasonable expectation that USAC would review and address the evidence in a subsequent decision. Instead, USAC sidestepped the proffered information and created completely new justifications for requiring Ithaca to repay the full amount for the two funding years.

### **A. THE STANDARD OF REVIEW.**

Pursuant to Section 54.723 of the Commission's rules, the Wireline Competition Bureau or the Commission will conduct a *de novo* review of a decision issued by USAC.<sup>14</sup> As set forth below, neither the original justification for issuing the Adjustment Letters, nor the *post hoc* justifications offered in the USAC Denials are correct with respect to the facts as applied to Ithaca. Because USAC has offered different justifications in the USAC Denials than was provided in the Adjustment Letters, Ithaca addresses both in the discussion below.

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<sup>14</sup> 47 C.F.R. § 54.723.



## **B. ISSUES RAISED IN ADJUSTMENT LETTERS.**

The sole basis for USAC's issuance of the Adjustment Letter for Funding Year 2003–2004 was USAC's determination that Elite Fund was “involved in the preparation or certification” of a Form 470, while at the same time being “part of Casair.”<sup>15</sup> USAC rests this finding solely on a Stock Purchase Agreement between Steve Meinhardt and Roger Hoezee, effective July 1, 2006. USAC apparently concluded that because there was a Stock Purchase Agreement in 2006, Casair and Elite Funding must have been commonly owned when Ithaca prepared its Form 470 and Form 471 for Funding Year 2003–2004.

However, Elite Fund did not come into existence until **September 17, 2003**, well after the funding process had completed for FY 2003–2004. As such, it would have been impossible for Elite Fund to provide consultant services when Ithaca submitted its Form 470 on October 10, 2002, and its Form 471 on February 13, 2003. The Adjustment Letter did not provide any other facts to support its determination that Elite Fund and Casair were a single entity in late 2002 and early 2003 when Ithaca sought bids for FY 2003–2004 funding and submitted its forms.

Moreover, the Adjustment Letter did not include any justification for finding Ithaca responsible for repaying USAC for “funds disbursed in violation of the programs’ competitive bidding rules” other than its erroneous finding that Elite Fund and Casair were the same entity. Because it was impossible for Elite Fund to provide services to

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<sup>15</sup> See Adjustment Letters, p. 1.

Ithaca before Elite Fund came into existence, and in the absence of any other allegations (or evidence) of program rule violations, the Adjustment Letter for Funding Year 2003–2004 was clearly in error, and Ithaca is not responsible for repayment of \$35,685.00.

The Adjustment Letter for Funding Year 2004–2005 made the identical finding that Elite Fund and Casair were the same entity and stated its intention to collect \$12,999.96 from Ithaca for violations of the SLD program’s competitive bidding rules. As with the FY 2003–2004 Adjustment Letter, USAC’s sole basis for issuing the FY 2004–2005 Adjustment Letter was the “evidence of a Stock Purchase Agreement between Steve Meinhardt and Roger Hoezee. In light of this “evidence,” USAC concludes—quite erroneously—that Elite Fund was responsible for acting on Ithaca’s behalf to “negotiate for eligible products and services with potential service providers.”

However, USAC presented no evidence that Elite Fund held this role when working on behalf of Ithaca for FY 2004–2005. Instead, both the Form 470 and the Form 471 filed by Ithaca for that funding period lists Mr. Netzley as the contact person and as the person authorized to sign the forms on behalf of Ithaca. Elite Fund did not “negotiate for eligible products and services” on behalf of Ithaca. Instead, as noted above, that responsibility rested with Mr. Netzley. Moreover, the final decision was not made by Elite Fund or by Mr. Netzley, but rather by the Ithaca Board of Education.

Thus, while it may be correct that Elite Fund and Casair shared a common sole shareholder, Mr. Steve Meinhardt, at some point during the period in question, there is no evidence that, in the instant matter, as applied to Ithaca, the common control of Elite

Fund and Casair led to SLD program violations with respect to Ithaca. Instead, Mr. Netzley served as contact person and chief negotiator for the requested goods and services to be obtained from service providers.

Mr. Netzley was the only person authorized to sign on Ithaca's behalf and was the only listed person to receive the bids from potential service providers. In light of the controlling FCC precedent at the time with respect to the preparation of FCC Forms 470 and 471, there was no basis for USAC to conclude in the Adjustment Letter that there were violations of the SLD program's competitive bidding rules.<sup>16</sup>

The Commission has determined that the FCC Form 470 contact person is in a unique position to influence the decision-making process. In particular, the Commission has found that the "contact person exerts great influence over an applicant's competitive bidding process by controlling the dissemination of information regarding the services requested."<sup>17</sup> Therefore, so long as a service provider – be it Elite Fund or Casair – provided neutral advice in 2003 and 2004 when Ithaca prepared its forms, there is clear precedent, both in the guidance information provided by USAC at that time,<sup>18</sup> and in the

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<sup>16</sup> See *Request for Review by MasterMind Internet Services, Inc., et al.*, 16 FCC Rcd 4028, 4034–35 ("To the extent that the applications at issue here were denied by SLD in instances that the Applicant did not name a MasterMind employee as the contact person and a MasterMind employee did not sign the associated Forms 470 or 471, we do not believe that there has been a violation of the competitive bidding process.").

<sup>17</sup> *Id.*, 16 FCC Rcd at 4033.

<sup>18</sup> See *USAC Service Provider Manual*, Chapter 5, rev. May 17, 2004, attached hereto as Exhibit Four ("It is permissible for Service Providers, acting in a neutral, advisory role, to provide basic information about the E-rate Program and the application process.").

review of USAC decisions by the Commission, to find that Ithaca did not violate the SLD program rules.<sup>19</sup>

In light of USAC's failure to provide any evidence in the Adjustment Letters to support its claims, and because USAC has apparently abandoned those claims in the USAC Denials, the appropriate action for the Commission would be to close these matters with no further collection efforts.

### **C. NEW ISSUES RAISED IN USAC DENIALS**

As noted, the USAC Denials did not provide any additional information or evidence in support of the initial determinations that were made in the Adjustment Letters. In fact, with respect to the purported impact of the common ownership of Elite Fund and Casair during FY 2003–2004 and FY 2004–2005, the USAC Denials shifted gears, and offered a completely new justification.

Specifically, for the first time, USAC asserted in the USAC Denials that Ithaca Public School District should be held responsible for repayment of the FY 2003–2004 and FY 2004–2005 disbursements because:

Elite Fund and [Casair] are under common ownership and were housed in the same location, clearly a relationship that is a conflict of interest for applicants who used both Elite Fund as a consultant and [Casair] as a service provider.<sup>20</sup>

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<sup>19</sup> See *Caldwell Parish School District, et al.*, Order, 23 FCC Rcd 2784, 2789 (2008) (We...find that each of the applicants' responses identifies school personnel as the parties responsible for filling out and submitting the FCC Forms 470 and that a service provider was not involved with these tasks.").

<sup>20</sup> See USAC Denials, pp. 1, 3.

Nowhere in the Adjustment Letters did USAC assert that the common location of the Casair and Elite Fund offices was an independent basis for finding Ithaca responsible for violating the SLD program rules.

Additionally, for the first time in any communication with Ithaca, USAC alleged that Casair:

was improperly involved in the competitive bidding process...[because]...it was determined that the IP address used to submit both the FY2003 and 2004 Forms 470 and Form 471 for the school district is the same address that [Casair] used to submit service provider invoices. This shows that [Casair] had improper involvement in the competitive bidding process on behalf of the school district and that the school district served in a role in that involvement, i.e., allowing the service provider to submit Forms on their behalf.<sup>21</sup>

Finally, USAC, for the first time, alleged that:

In cases where the Administrator finds “carbon copy” FCC Forms 470 across a series of applications, especially where the services and products requested are complex or substantial, and when the same service provider is involved, it is appropriate for the Administrator to subject such applications to more searching scrutiny to ensure there has been no improper service provider involvement in the competitive bidding process.<sup>22</sup>

None of these new justifications were included in the Adjustment Letters, nor can it be said that Ithaca’s August 9, 2017 Appeal of the Adjustment Letters introduced new facts that USAC could use to make the findings it presented in the USAC Denials.

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<sup>21</sup> See USAC Denials, pp. 1, 3.

<sup>22</sup> See USAC Denials, pp. 2, 4.

## I. COMMERCIAL OFFICE BUILDING

First, because USAC did not raise this argument in the Adjustment Letters, Ithaca did not address the purported connection between office location and SLD program violations. Setting aside the complete lack of legal notice by USAC that it would attempt to reclaim past funding from the Ithaca Public School District, disbursed more than 12 years ago, based on the respective office locations of Elite Fund and Casair, USAC also failed to supply any explanation as to why the fact that both companies had separate offices in the same commercial office building “clearly” established a conflict of interest.<sup>23</sup>

This failure to provide any analysis for why (i) the sharing of a commercial office space, necessarily lead to (ii) a “clear” conflict of interest, is inconsistent with past precedent. Specifically, the federal courts have clearly established a bright-line standard for agencies such as the Commission and USAC:

Conclusory explanations for matters involving a central factual dispute where there is considerable evidence in conflict do not suffice to meet the deferential standards of our review. Basic principles of administrative law require the agency to “‘examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.’”<sup>24</sup>

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<sup>23</sup> *Id.*

<sup>24</sup> See *AT&T Wireless Servs., Inc. v. FCC*, 270 F.3d 959, 968 (D.C. Cir. 2001) (citing *U.S. Telecom Ass’n v. FCC*, 227 F.3d 450, 461 (D.C. Cir. 2000) (quoting *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983))).

Moreover, it is black-letter law that a decision maker must provide some analysis beyond merely offering conclusory statements such as those provided in the USAC Denials.<sup>25</sup>

In contrast to these requirements, nowhere in the USAC Denials was an explanation provided on how Elite Fund and Casair (and Area Wide Accounting) being located in the same commercial office building clearly established that a conflict of interest existed, and that “the competitive bidding process [was] tainted.”<sup>26</sup>

Even if the commercial office building issue “clearly” led to USAC’s conclusion of a “tainted” competitive bidding process – which it does not – USAC never provided Ithaca notice or opportunity to respond to USAC’s concern prior to denying Ithaca’s Appeal. However, Casair apparently has addressed this concern at least twice before. In both its Appeal filed with USAC on August 1, 2017, and then in its Request for Review filed on September 22, 2017, Casair provided additional information about the common location of Elite Fund and Casair during this period.<sup>27</sup>

According to Casair, at least three companies, Elite Fund, Area Wide Accounting, and Casair, all were located in the same commercial office building from Elite Fund’s incorporation in September 2003 until July 1, 2006, when Elite Fund moved to a new

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<sup>25</sup> See *Home Box Office, Inc. v. FCC*, 567 F.2d 9, 28, 33 (D.C. Cir.) (finding the Commission’s “generalities” crossed “the line from the tolerably terse to the intolerably mute” and rejecting “a naked allegation, unsupported in the record.”). See also *Greater Boston Television Corp. v. FCC*, 444 F.2d 841 (D.C. Cir.).

<sup>26</sup> See USAC Appeals, pp. 1, 3.

<sup>27</sup> See *Request for Review by Crystal Automation Services, Inc. of USAC Denial of Appeals*, CC Docket 02-6, filed Sept. 22, 2017 (<https://www.fcc.gov/ecfs/filing/1092280739226>) (“Casair Request”).

location.<sup>28</sup> Casair provided information in its request regarding this issue, and any further questions should be directed to Casair and Elite Fund.

## II. “IP ADDRESS” COMMONALITY

As in the case of the commercial office building issue, USAC introduced for the first time in the USAC Denials its determination that the common IP address between the forms submitted by Ithaca and Casair must mean that Casair “had improper involvement in the competitive bidding process.”<sup>29</sup>

Previously, the Commission gave “clear” guidance to USAC that it may not simply assume that there are connections between consultants and service providers without conducting follow-up research or analysis. Instead, the Commission directed USAC to:

review these applications fully, and should not issue summary denials of requests for funding solely because applications contain similar language. If an entity is able to demonstrate that it fully complied with all program rules and did not, for example, violate the Commission’s competitive bidding rules, then USAC should not deny funding on the basis of the “pattern analysis” procedure.<sup>30</sup>

The Commission concluded by stating that “it is incumbent on USAC to conduct further investigation and analysis prior to denying funding.”<sup>31</sup> The issue of a common “IP address” is similar to that of USAC’s finding with respect to the commercial office building finding discussed above.

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<sup>28</sup> See *id.*, p. 21.

<sup>29</sup> See USAC Denials, pp. 1, 3.

<sup>30</sup> See *Academy of Careers and Technologies*, 21 FCC Rcd 5398, ¶¶ 7-8 (2006).

<sup>31</sup> *Id.*



As was the case regarding the commercial office building, the USAC Denials failed to provide any reasoned analysis as to the connection between the common IP address and SLD program violations. However, Casair has provided additional information in its appeal filed on September 22, 2017, regarding the common IP address. According to Casair, the internet connection and firewall for the offices located in the commercial office building were configured in a way that would have generated the same IP address for all of the offices.<sup>32</sup>

Therefore, to the extent that Casair provided Ithaca vendor-neutral assistance in 2003, and Elite Fund provided vendor-neutral assistance in 2004, the “single Internet-facing IP address” completely explains why USAC would have found a common IP address. What is not explained by USAC, and why the USAC Denials must be set aside, is that USAC utterly failed to do any additional research or investigation as required by *Academy of Careers and Technologies*. Instead, it merely issued the USAC Denials, supplying conclusory statements in violation of the clear precedent established in *Home Box Office, Inc.* and *AT&T Wireless Services, Inc.*<sup>33</sup>

### **III. “CARBON COPY” FORMS**

Finally, as with the commercial office space and common IP address, the USAC Denials failed to provide any evidence that there were “‘carbon copy’ FCC Forms 470.”

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<sup>32</sup> See *Casair Request*, pg. 21 (noting the existence of a “single Internet-facing IP address.”).

<sup>33</sup> See *supra*, nts. 24, 25.

In fact, USAC did not even provide the identities of those submitting “carbon copy” forms with which Ithaca was to be associated.

As a result, the USAC Denials violated the requirements of *Academy of Careers and Technologies* by referencing “‘carbon copy’ FCC Forms 470 across a series of applications” without any evidence that USAC conducted the additional analysis required by the Commission when it reviewed Ithaca’s applications.<sup>34</sup> At the very least, USAC should have informed Ithaca which forms supplied by other applicants were “carbon copies.” In light of the requirements set forth in *Academy of Careers and Technologies*, USAC should have sought additional information from Ithaca and determined whether Ithaca could establish that the SLD program rules were not violated.

Instead, USAC did not give Ithaca an opportunity prior to the issuance of the USAC Denials to answer questions raised by USAC. In fact, USAC did not provide any information or other evidence connecting the applications submitted by Ithaca to any other application, nor did USAC even identify the other serial applications with which Ithaca was to be associated as “carbon copies.” Therefore, the USAC Denial with respect to FY 2003-2004 and FY 2004-2005 must be set aside, and the matter must be closed with no further attempt to recover funds from Ithaca.

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<sup>34</sup> *USAC Denials*, pp. 2, 4.

**D. IF NECESSARY, USAC MUST LOOK TO CASAIR AND ELITE FUND TO RECOVER DISBURSEMENTS.**

Finally, to the extent that the Commission agrees with USAC that Casair or Elite Fund played an impermissible role of both consultant and service provider during either of the two funding periods under review, the Commission must look to Casair and/or Elite Fund to recover the disbursements in question.

As noted, there should be no question that Elite Fund could not have served as Ithaca's consultant for FY 2003–2004 because it did not come into existence until seven months after that year's Form 471 had been filed. Moreover, it is clear that Ithaca's Assistant Superintendent, Steve Netzley, served as the sole point of contact and authorized person to receive bids for both funding periods. In fact, the only evidence presented by USAC in the Adjustment Letters to support its allegation that there were SLD program violations in either FY 2003–2004 or FY 2004–2005 is the existence of the 2006 Stock Purchase Agreement. This error was compounded in the USAC Denials by USAC complete failure to address the evidence filed by Ithaca; instead USAC proffered three completely new justifications.

Therefore, the only evidence provided by USAC to support SLD program violations was the reference to a 2006 Stock Purchase Agreement between Casair and Elite Fund. As such, it is clear that USAC should have found that Elite Fund and Casair were in the sole position “to prevent these rule violations” because “there is no evidence in the record demonstrating that [Ithaca was] aware of the relationship between” Elite

Fund and Casair.<sup>35</sup> Further, even if the Commission was to ignore the lack of notice and opportunity to respond to the three new justifications presented in the USAC Denials, it is clear that USAC did not provide any evidence that it completed the additional research required under *Academy of Careers and Technologies*.

Previously, the Commission has directed USAC to discontinue recovery efforts against the educational institutions, and to “continue its recovery actions against” the entities responsible for the deception.<sup>36</sup> In fact, when the Commission modified its rules and policies in 2004 to enhance USAC’s recovery procedures, it directed USAC to determine liability on the basis of which parties were in a “better position” to prevent the rule violations.<sup>37</sup>

Because USAC failed in both the Adjustment Letters and the USAC Denials to provide any evidence that anyone associated with Ithaca had knowledge of the purported common ownership of Casair and Elite Fund by Steve Meinhardt, the Commission must set aside the USAC Denials, immediately cease recovery efforts against Ithaca, and look to Casair and Elite Fund to return any necessary disbursements for the respective funding periods.

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<sup>35</sup> See *Achieve Telecom Network of MA*, 30 FCC Rcd 3653, 3672 (WCB 2015).

<sup>36</sup> *Id.*, 30 FCC Rcd at 3655, n.11 (citing *Request for Review of the Decision by the Universal Service Administrator by Bell South Telecommunications, Inc. and Union Parish School Board*, Order, 27 FCC Rcd 11208 (WCB 2012)).

<sup>37</sup> See *Federal-State Joint Board on Universal Service; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.; Schools and Libraries Universal Service Support Mechanism*, Order on Reconsideration and Fourth Report and Order, 19 FCC Rcd 15252, 15257 (2004).

## CONCLUSION

Therefore, it is clear that Ithaca Public School District should not be held responsible for any potential competitive bidding rule violations that may have occurred between 2003 and 2005 with respect to the shareholders of Casair and Elite Fund. Not only did Elite Fund not even exist prior to the submission of Ithaca's FY 2003–2004 applications, Ithaca has demonstrated that it was in complete control of its applications and the decision-making process throughout the time period.

USAC's initial justification for recovering disbursed funds from Ithaca was demonstrated to be impossible in light of Elite Fund's lack of corporate existence. The USAC Denials also fail because USAC (i) ignored the facts presented in Ithaca's Appeal, (ii) raised completely new justifications without providing any supporting evidence, and (iii) ignored well-established Commission precedent that places the responsibility for any required reimbursement on the parties that were in the best position to know about the purported violations.

As a publically-funded, rural school district, it would be inequitable for USAC or the Commission to require Ithaca to repay USAC 12-year-old disbursements, especially when USAC has utterly failed to establish an obligation to do so. While Ithaca acknowledges that the Commission and USAC have a vested interest in requiring those parties that receive USAC funds to comply with its rules, Ithaca respectfully submits that it has demonstrated, without question, that its actions during the period in question complied with all applicable Commission rules and policies.

As such, Ithaca Public School District requests that the Commission set aside the USAC Denials issued on August 29, 2017, and direct USAC to immediately cease collection efforts against it. If the Commission ultimately determines that the competitive bidding rules were compromised through the common ownership of Casair and Elite Fund by Mr. Meinhardt, Ithaca respectfully urges the Commission to pursue recovery only from the parties that were responsible for the rule violations.

Respectfully submitted,

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## **EXHIBIT ONE**

2003 Funding Commitment  
Adjustment Report

Funding Commitment Adjustment Report for  
Form 471 Application Number: 346373

Funding Request Number: 932622  
Services Ordered: INTERNET ACCESS  
SPIN: 143004346  
Service Provider Name: Crystal Automation Systems Inc  
Contract Number: CAS1914  
Billing Account Number: N/A  
Site Identifier: 131221  
Original Funding Commitment: \$35,685.00  
Commitment Adjustment Amount: \$35,685.00  
Adjusted Funding Commitment: \$0.00  
Funds Disbursed to Date \$35,685.00  
Funds to be Recovered from Applicant: \$35,685.00  
Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. USAC has evidence of a stock purchase agreement between Steven R Meinhardt of Casair, Inc., and Roger Hoezee, which was effective July 1, 2006. In this agreement, Meinhardt sold Elite Fund to Hoezee. This purchase demonstrates that the two companies, Casair and Elite Fund, were a single entity prior to July 1, 2006. During the time when Elite Fund, Inc. was a part of Casair, Inc., Elite is considered a service provider and therefore cannot act as an independent consultant on behalf of applicant or assist them with those tasks that service providers are prohibited from undertaking. The FCC Form 470 must be completed by the entity that will negotiate for eligible products and services with potential service providers and cannot be a service provider. Furthermore, service providers that participate in the competitive bidding process as a bidder cannot be involved in the preparation or certification of the entity's FCC Form 470. Because Elite Fund executed these tasks while it was part of Casair, the applicant was not in compliance with FCC rules which require applicants to conduct a fair and open competitive bidding process free from conflicts of interest. Accordingly, the applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. By having the service provider engaged in the preparation and submission of its Form 470, the applicant surrendered control of the competitive bidding process to the service provider who participated in the competitive bidding process as a bidder. Accordingly, the commitment will be rescinded in full and USAC will seek recovery of any funds disbursed in violation of the programs competitive bidding rules from the applicant and the service provider.



2004 Funding Commitment  
Adjustment Report

Funding Commitment Adjustment Report for  
Form 471 Application Number: 395738

Funding Request Number: 1081674  
Services Ordered: INTERNET ACCESS  
SPIN: 143004346  
Service Provider Name: Crystal Automation Systems Inc  
Contract Number: CAS2557  
Billing Account Number:  
Site Identifier: 131221  
Original Funding Commitment: \$13,000.00  
Commitment Adjustment Amount: \$13,000.00  
Adjusted Funding Commitment: \$0.00  
Funds Disbursed to Date \$12,999.96  
Funds to be Recovered from Applicant: \$12,999.96  
Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. USAC has evidence of a stock purchase agreement between Steven R Meinhardt of Casair, Inc., and Roger Hoezee, which was effective July 1, 2006. In this agreement, Meinhardt sold Elite Fund to Hoezee. This purchase demonstrates that the two companies, Casair and Elite Fund, were a single entity prior to July 1, 2006. During the time when Elite Fund, Inc. was a part of Casair, Inc., Elite is considered a service provider and therefore cannot act as an independent consultant on behalf of applicant or assist them with those tasks that service providers are prohibited from undertaking. The FCC Form 470 must be completed by the entity that will negotiate for eligible products and services with potential service providers and cannot be a service provider. Furthermore, service providers that participate in the competitive bidding process as a bidder cannot be involved in the preparation or certification of the entity's FCC Form 470. Because Elite Fund executed these tasks while it was part of Casair, the applicant was not in compliance with FCC rules which require applicants to conduct a fair and open competitive bidding process free from conflicts of interest. Accordingly, the applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. By having the service provider engaged in the preparation and submission of its Form 470, the applicant surrendered control of the competitive bidding process to the service provider who participated in the competitive bidding process as a bidder. Accordingly, the commitment will be rescinded in full and USAC will seek recovery of any funds disbursed in violation of the programs competitive bidding rules.

## **EXHIBIT TWO**



**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on Appeal – Funding Year 2003-2004**

August 29, 2017

Alan Galloway  
David Wright Tremaine LLP  
1300 SW Fifth Avenue, Suite 2400  
Portland, OR 97201

Re: Applicant Name: ITHACA PUBLIC SCHOOL DISTRICT  
Billed Entity Number: 131221  
Form 471 Application Number: 346373  
Funding Request Number(s): 932622  
Your Correspondence Dated: August 01, 2017

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2003 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 932622  
Decision on Appeal: **Denied**  
Explanation:

- USAC determined that the service provider was improperly involved in the competitive bidding process. During the review it was determined that the IP address used to submit both FY 2003 and 2004 Forms 470 and Form 471 for the school district is the same IP address that Crystal Automation Services (CAS) used to submit service provider invoices. This shows that CAS had improper involvement in the competitive bidding process on behalf of the school district and that the school district served a role in that involvement, i.e., allowing the service provider to submit Forms on their behalf. Additionally, Elite Fund and CAS are under common ownership and were housed in the same location, clearly a relationship that is a conflict of interest for applicants who used both Elite Fund as a consultant and CAS as a service provider. Thus, the competitive bidding process is tainted and recovery is warranted. USAC gave you an opportunity to demonstrate that the competitive bidding process was not compromised and you failed to

do so. On appeal, you have not demonstrated that USAC's determination was incorrect. Consequently, your appeal is denied.

FCC rules require that, except under limited circumstances, an eligible school, library or consortium that includes an eligible school or library shall seek competitive bids for all services eligible for support and must conduct a fair and open competitive bidding process. See 47 C.F.R. sec. 54.503(a) and (b). **An applicant violates the FCC's competitive bidding requirements when it surrenders control of the bidding process to a service provider who participated in the competitive bidding process as a bidder.** See Request for Review of the Decisions of the Universal Service Administrator by Mastermind Internet Services, Inc, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket Nos. 96-45, Order, 16 FCC Rcd 4028, FCC 00-167 para. 9-10 (rel. May 23, 2000). In cases where the Administrator finds "carbon copy" FCC Forms 470 across a series of applications, especially where the services and products requested are complex or substantial, and when the same service provider is involved, it is appropriate for the Administrator to subject such applications to more searching scrutiny to ensure there has been no improper service provider involvement in the competitive bidding process. See Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, El Paso, Texas, et al., Federal State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., SLD Nos. 321479, et al., CC Docket Nos. 96-45, 97-21, Order, FCC 03-313 para. 30 (rel. Dec. 8, 2003). The FCC's Fifth Report and Order requires recovery of all funds disbursed for any funding request for which the competitive bidding rules have been violated. See Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Rcd 15815- 15816, FCC 04-190 para. 21 (rel. Aug. 13, 2004).

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company



**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on Appeal – Funding Year 2004-2005**

August 29, 2017

Alan Galloway  
David Wright Tremaine LLP  
1300 SW Fifth Avenue, Suite 2400  
Portland, OR 97201

Re: Applicant Name: ITHACA PUBLIC SCHOOL DISTRICT  
Billed Entity Number: 131221  
Form 471 Application Number: 395738  
Funding Request Number(s): 1081674  
Your Correspondence Dated: August 01, 2017

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2004 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1081674  
Decision on Appeal: **Denied**  
Explanation:

- USAC determined that the service provider was improperly involved in the competitive bidding process. During the review it was determined that the IP address used to submit both FY 2003 and 2004 Forms 470 and Form 471 for the school district is the same IP address that Crystal Automation Services (CAS) used to submit service provider invoices. **This shows that CAS had improper involvement in the competitive bidding process on behalf of the school district and that the school district served a role in that involvement, i.e., allowing the service provider to submit Forms on their behalf.** Additionally, Elite Fund and CAS are under common ownership and were housed in the same location, **clearly a relationship that is a conflict of interest for applicants who used both Elite Fund as a consultant and CAS as a service provider. Thus, the competitive bidding process is tainted and recovery is warranted.** USAC gave you an opportunity to demonstrate that the competitive bidding process was not compromised and you failed to

do so. On appeal, you have not demonstrated that USAC's determination was incorrect. Consequently, your appeal is denied.

FCC rules require that, except under limited circumstances, an eligible school, library or consortium that includes an eligible school or library shall seek competitive bids for all services eligible for support and must conduct a fair and open competitive bidding process. See 47 C.F.R. sec. 54.503(a) and (b). **An applicant violates the FCC's competitive bidding requirements when it surrenders control of the bidding process to a service provider who participated in the competitive bidding process as a bidder.** See Request for Review of the Decisions of the Universal Service Administrator by Mastermind Internet Services, Inc, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket Nos. 96-45, Order, 16 FCC Rcd 4028, FCC 00-167 para. 9-10 (rel. May 23, 2000). In cases where the Administrator finds "carbon copy" FCC Forms 470 across a series of applications, especially where the services and products requested are complex or substantial, and when the same service provider is involved, it is appropriate for the Administrator to subject such applications to more searching scrutiny to ensure there has been no improper service provider involvement in the competitive bidding process. See Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, El Paso, Texas, et al., Federal State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., SLD Nos. 321479, et al., CC Docket Nos. 96-45, 97-21, Order, FCC 03-313 para. 30 (rel. Dec. 8, 2003). The FCC's Fifth Report and Order requires recovery of all funds disbursed for any funding request for which the competitive bidding rules have been violated. See Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Rcd 15815-15816, FCC 04-190 para. 21 (rel. Aug. 13, 2004).

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company

### **EXHIBIT THREE**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20054**

In the Matter of:	]	Administrator Correspondence: June 9, 2017
	]	
Request for Review Of A Decision	]	
By the Schools and Libraries Division	]	<u>Requestor:</u> Ithaca Public School District
for Ithaca Public Schools, Ithaca,	]	<u>Billed Entity Number:</u> 131221
Michigan	]	<u>FCC Registration Number:</u> 0011-9894-56
	]	<u>Funding Request Numbers:</u> 932622, 1081674
Schools and Libraries Universal Service	]	<u>Form 471 Numbers:</u> 346373, 395738
Support Mechanism	]	

**APPEAL**

Ithaca Public School District (“Ithaca PSD”), by and through its attorney, and pursuant to Section 54.719(a) of the Commission’s rules,<sup>1</sup> hereby submits this Appeal of the “Commitment Adjustment Letter” for Funding Year July 1, 2003 – June 30, 2004 (the “2003 Adjustment Letter”), and the “Commitment Adjustment Letter” for Funding Year July 1, 2004 – July 30, 2005 (the “2004 Adjustment Letter”), issued by the Schools and Libraries Division (“SLD”) of the Universal Service Administrative Company (“USAC”) on June 9, 2017.

The 2003 Adjustment Letter requests that Ithaca PSD repay USAC the amount of \$35,685.00, and the 2004 Adjustment Letter requests the repayment of \$12,999.96. In both instances, the requested repayment amounts represent all but \$0.04 of the full amount received by Ithaca PSD from USAC for the respective funding years.<sup>2</sup>

The sole basis expressed in both Adjustment Letters was that the service provider selected in those two years – Crystal Automation Systems, Inc. (“CASAIR”), and Ithaca PSD's consultant – Elite Fund, Inc., were commonly owned by Mr. Steven Meinhardt during the two funding periods in question. Because of the common ownership of CASAIR and Elite Fund, the

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<sup>1</sup> See 47 C.F.R. §54.719(a) (2017).

<sup>2</sup> Copies of the Funding Commitment Adjustment Reports are attached as Exhibit A



Adjustment Letter determined that Elite Fund could not serve as a consultant. Based on this finding, the Adjustment Letter indicated that "USAC will seek recovery of any funds disbursed in violation of the programs competitive bidding rules from the applicant and the service provider." *Id.*

As discussed below, Ithaca PSD requests that USAC reconsider this determination. First, the Adjustment Letter's determination that Elite Fund assisted with the preparation of Ithaca PSD's Funding Year 2003-2004 Form 470 and Form 471 is in error. Ithaca PSD did not use Elite Fund to assist in the preparation of these forms, as they were submitted prior to the incorporation of Elite Fund in September 2003. Therefore, the determination that the SLD's program competitive bidding procedures were compromised for the Funding Year 2003-2004 is in error, and should be reversed.

Moreover, Ithaca PSD complied with the SLD's program rules by correctly identifying one of its own employees as the point of contact and party authorized to negotiate for eligible products and services during both funding periods. Elite Fund was not identified in the forms submitted with USAC, and the final decision was made by Ithaca PSD personnel and the Ithaca PSD Board of Education.

Finally, the recovery of disbursements from Ithaca PSD made during either funding year would be inappropriate because Ithaca PSD was not aware that Elite Fund and CASAIR were commonly owned prior to the submission of the Funding Year 2004-2005 forms. In dealing with Ithaca PSD, both entities maintained separate points of contact with Ithaca PSD and represented to Ithaca PSD that they were two separate entities with different officers. Under well-established precedent, the parties most likely to know there had been a possible violation of USAC's rules and procedures were CASAIR and Elite Funding, not Ithaca PSD.

Thus, as discussed below, the determination that the Funding Year 2003-2004 payments should be recovered due to the common ownership of Elite Fund and CASAIR is in error. Furthermore, to the extent that USAC seeks to recover the Funding Year 2004-2005 payments, that recovery should come from the parties seeking to obfuscate their relationship, and not a rural school district which acted in good faith to comply with USAC's rules and policies.

## **BACKGROUND**

Ithaca PSD is a rural school district in Gratiot County, Michigan, consisting of two elementary schools, and one junior/senior high school. Gratiot County is a rural county in Michigan,<sup>3</sup> and the school boundaries for Ithaca PSD stretch the entire width of the county.<sup>4</sup> In light of the rural nature of the school district, and the historical lack of broadband accessibility in the area, it has been a top priority of Ithaca PSD to provide access to high-speed Internet to its students.

For Funding Year 2003-2004, Ithaca PSD filed its Form 470 application on October 10, 2002.<sup>5</sup> That application included the required RFP, outlining the services to be offered to Ithaca PSD by interested bidders. On November 13, 2002, CASAIR submitted its bid, and the Form 471 was filed on February 13, 2003.<sup>6</sup> As noted above, Elite Fund, Inc., was incorporated well after the Form 471 was submitted by Ithaca PSD. In fact, Elite Fund was not incorporated until seven months later, on September 17, 2003.<sup>7</sup> For Funding Year 2004-2005, Ithaca PSD filed its

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<sup>3</sup> See Exhibit B.

<sup>4</sup> See Exhibit C.

<sup>5</sup> See Exhibit D.

<sup>6</sup> See Exhibit E.

<sup>7</sup> See Exhibit F.

Form 470 application on December 17, 2002.<sup>8</sup> On January 6, 2004, CASAIR submitted its bid, and the Form 471 was filed on February 13, 2003.<sup>9</sup>

Most important for the instant matter is the fact that Elite Fund did not participate in Ithaca PSD's review of the bid proposals. Instead, Mr. Steve Netzley, the Assistant Superintendent of Ithaca PSD, was listed as the Contact Person, received the bid proposals, and the decision to accept CASAIR's bid was made by Mr. Netzley and the Ithaca PSD's Board of Education.

### **DISCUSSION**

The Adjustment Letters erroneously assumed that Elite Fund played a role in the preparation of the Funding Year 2003-2004 application. This assumption served as the sole basis for the issuance of the 2003 Adjustment Letter, and must be reconsidered in light of Elite Fund's lack of corporate existence until well after the funding decisions were made by USAC. Therefore, the Adjustment Letter for Funding Year 2003-2004 must be reconsidered.

Further, to the extent that Elite Fund played a role in the preparation of Ithaca PSD's Form 470 or Form 471 for Funding Year 2004-2005, that assistance was provided to Ithaca PSD without Elite Fund or CASAIR informing Ithaca PSD that the two entities were commonly owned by Steve Meinhardt. As such, under well-established Commission precedent, and in light of USAC's efforts to also collect the funding from CASAIR, the Adjustment Letter for Funding Year 2004-2005 must be reconsidered.

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<sup>8</sup> See Exhibit G.

<sup>9</sup> See Exhibit H.

**A. Elite Fund Did Not Exist During Applicable Period for Funding Year 2003-2004.**

The sole basis for USAC's issuance of the 2003 Adjustment Letter was USAC's determination that Elite Fund was "involved in the preparation or certification" of a Form 470, while at the same time being "part of CASAIR."<sup>10</sup> USAC rests this finding solely on a Stock Purchase Agreement between Steve Meinhardt and Roger Hoezee, effective July 1, 2006. USAC apparently concluded that because there was a Stock Purchase Agreement in 2006, CASAIR and Elite Funding must have been commonly owned when Ithaca PSD prepared its Form 470 and Form 471 for Funding Year 2003-2004.

However, as provided above, Elite Fund did not come into existence until September 17, 2003. As such, it would have been impossible for Elite Fund to provide consultant services when Ithaca PSD submitted Form 470 and Form 471 more than seven months earlier. The Adjustment Letter did not provide any other facts to support its determination that Elite Fund was "part of CASAIR" in late 2002 and early 2003 when Ithaca PSD sought bids for Funding Year 2003-2004.

Moreover, the Adjustment Letter did not include any justification for finding Ithaca PSD responsible for repaying USAC for "funds disbursed in violation of the programs' competitive bidding rules" other than its erroneous finding that Elite Fund and CASAIR were the same entity.<sup>11</sup> Because it was impossible for Elite Fund to provide services to Ithaca PSD before Elite Fund came into existence, and in the absence of any other allegations (or evidence) of program rule violations, the 2003 Adjustment Letter must be reconsidered and Ithaca PSD must not be found liable for repayment of \$35,685.00.

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<sup>10</sup> See 2003 Adjustment Letter, Exhibit A (emphasis added).

<sup>11</sup> *Id.*

**B. USAC Erroneously Credited Elite Fund With Role in Negotiation for Products and Services.**

The 2004 Adjustment Letter made the identical finding that Elite Fund and CASAIR were the same entity, and stated its intention to collect \$12,999.96 from Ithaca PSD for violations of the SLD program's competitive bidding rules. As noted above, the sole basis for issuing the Adjustment Letter was the "evidence of a Stock Purchase Agreement between Steve Meinhardt and Roger Hoezee."<sup>12</sup> In light of this "evidence," USAC concludes – quite erroneously – that Elite Fund was responsible for acting on Ithaca PSD's behalf to "negotiate for eligible products and services with potential services providers."<sup>13</sup>

However, USAC presented no evidence that Elite Fund held this role when working on behalf of Ithaca PSD. Instead, both the Form 470 and the Form 471 filed by Ithaca PSD for that funding period lists Mr. Netzley as the contact person, and as the person authorized to sign the forms on behalf of Ithaca PSD. Elite Fund did not "negotiate for eligible products and services" on behalf of Ithaca PSD. Instead, as noted above, that responsibility rested with Mr. Netzley. Moreover, the final decision was not made by Elite Fund, but rather by Mr. Netzley and the Ithaca PSD Board of Education.

Thus, while it may be correct that Elite Fund and CASAIR shared a common sole shareholder, Mr. Steve Meinhardt, during the period in question, there is no evidence that, in the instant matter, the common control of Elite Fund and CASAIR led to SLD program violations. Instead, Mr. Netzley served as contact person and chief negotiator for the requested goods and services to be obtained from service providers.

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<sup>12</sup> See Exhibit A. (emphasis added).

<sup>13</sup> *Id.*

The Commission has determined that the FCC Form 470 contact person is in a unique position to influence the decision making process.<sup>14</sup> In particular, the Commission has found that the “contact person exerts great influence over an applicant’s competitive bidding process by controlling the dissemination of information regarding the services requested.”<sup>15</sup> In the instant case, Mr. Netzley was the only person authorized to sign on Ithaca PSD’s behalf, and the only listed person to receive the bids from potential service providers. Thus, USAC failed to provide any justification for its conclusion that there were violations of the SLD program’s competitive bidding rules.

**C. USAC Must Look to CASAIR and Elite Fund To Recover Disbursements.**

Finally, even if USAC concludes that Elite Fund played the dual role of consultant and service provider during either of the two funding periods, USAC must look to CASAIR and Elite Fund to recover disbursements in question.

As noted, there should be no question that Elite Fund could not have served as Ithaca PSD’s consultant for Funding Year 2003-2004 because it did not come into existence until seven months after the Form 471 was filed. Moreover, it is clear that Ithaca PSD’s Assistant Superintendent, Steve Netzley, served as the sole point of contact and authorized person to receive bids for both funding periods. In fact, the only evidence presented by USAC to support its allegation that there were SLD program violations in either Funding Year 2003-2004 or Funding Year 2004-2005 is the existence of the 2006 Stock Purchase Agreement.

Therefore, to the extent that the 2006 Stock Purchase Agreement is evidence of a SLD program violation, it is clear that Elite Fund and CASAIR were in the sole position “to prevent these rule violations” because “there is no evidence in the record demonstrating that [Ithaca PSD

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<sup>14</sup> See *Request for Review by MasterMind Internet Services, Inc., et al.*, 16 FCC Rcd 4028 (2000).

<sup>15</sup> *Id.*, 16 FCC Rcd at 4033.

was] aware of the relationship between” Elite Fund and CASAIR.<sup>16</sup> In past occasions with similar circumstances, the Commission has directed USAC to discontinue recovery efforts against the educational institutions, and “continue its recovery actions against” the entities responsible for the deception.<sup>17</sup> In fact, when the Commission modified its rules and policies in 2004 to enhance USAC’s recovery procedures, it directed USAC to determine liability based on which parties were in a “better position” to prevent the rule violations.<sup>18</sup>

Finally, in its unauthorized submission of an Appeal on behalf of Ithaca PSD,<sup>19</sup> Elite Fund stated:

Ithaca [PSD] was unaware of any improper relationship between [Elite Fund and CASAIR.] Any violation resets with the vendor and not Ithaca. Any recovery efforts should be aimed at the vendor, not Ithaca.<sup>20</sup>

Because USAC failed to provide any evidence that anyone associated with Ithaca PSD had knowledge of the apparent common ownership of CASAIR and Elite Fund by Steve Meinhardt, USAC must immediately cease recovery efforts against Ithaca PSD, and look to CASAIR and Elite Fund to return any necessary disbursements for the respective funding periods.

## CONCLUSION

Ithaca PSD has provided clear evidence that it followed the SLD program rules as they relate to the institutions seeking funding from USAC. The only evidence presented by USAC to the contrary is the existence of a 2006 Stock Purchase Agreement between Steve Meinhardt and

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<sup>16</sup> See *Achieve Telecom Network of MA*, 30 FCC Rcd 3653, 3672 (WCB 2015).

<sup>17</sup> *Id.*, 30 FCC Rcd at 3655, nt. 11 (citing *Request for Review of the Decision by the Universal Service Administrator by Bell South Telecommunications, Inc. and Union Parish School Board*, Order, 27 FCC Rcd 11208 (WCB 2012)).

<sup>18</sup> See *Federal-State Joint Board on Universal Service; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.; Schools and Libraries Universal Service Support Mechanism*, Order on Reconsideration and Fourth Report and Order, 19 FCC Rcd 15252, 15257 (2004).

<sup>19</sup> See Appeal, filed June 6, 2017, by Janelle Morgan, Consultant, Elite Fund. On July 13, 2017, Ithaca PSD, through its counsel, withdrew the unauthorized Appeal without prejudice.

<sup>20</sup> See Appeal, pg. 4.

Roger Hoezee. From the mere existence of this agreement, USAC has made the erroneous jump to conclude that Elite Fund “executed tasks” relating to the negotiation for eligible products and services on behalf of Ithaca PSD more than 14 years ago.

In response, Ithaca PSD has demonstrated that it was impossible for Elite Fund to provide these consulting services prior to Elite Fund’s incorporation, thus invalidating the reclamation of the Funding Year 2003-2004 disbursements. Moreover, Ithaca PSD has provided evidence that its Assistant Superintendent, Mr. Steve Netzley, was the sole point of contact and the person authorized to sign the Form 470 and Form 471 for both funding periods. Finally, to the extent that USAC seeks to recover any of the disbursed funds, it must look to CASAIR and Elite Fund as these entities are the parties that were best positioned to prevent the SLD program violations.

Therefore, Ithaca Public School District respectfully requests that the Universal Service Administrative Company reconsider the determinations made in the Funding Commitment Adjustment Reports, and cease attempting to recover from Ithaca PSD the disbursements for Funding Years 2003-2004 and 2004-2005.

Respectfully submitted,

**ITHACA PUBLIC SCHOOL DISTRICT**

By: 

Lee G. Petro

**DRINKER BIDDLE & REATH LLP**

1500 K Street N.W.

Suite 1100

Washington, DC 20005-1209

(202) 230-5857

*Its Counsel*

August 3, 2017



**EXHIBIT A**

2003 Funding Commitment  
Adjustment Report

Funding Commitment Adjustment Report for  
Form 471 Application Number: 346373

Funding Request Number: 932622  
Services Ordered: INTERNET ACCESS  
SPIN: 143004346  
Service Provider Name: Crystal Automation Systems Inc  
Contract Number: CAS1914  
Billing Account Number: N/A  
Site Identifier: 131221  
Original Funding Commitment: \$35,685.00  
Commitment Adjustment Amount: \$35,685.00  
Adjusted Funding Commitment: \$0.00  
Funds Disbursed to Date \$35,685.00  
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Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. USAC has evidence of a stock purchase agreement between Steven R Meinhardt of Casair, Inc., and Roger Hoezee, which was effective July 1, 2006. In this agreement, Meinhardt sold Elite Fund to Hoezee. This purchase demonstrates that the two companies, Casair and Elite Fund, were a single entity prior to July 1, 2006. During the time when Elite Fund, Inc. was a part of Casair, Inc., Elite is considered a service provider and therefore cannot act as an independent consultant on behalf of applicant or assist them with those tasks that service providers are prohibited from undertaking. The FCC Form 470 must be completed by the entity that will negotiate for eligible products and services with potential service providers and cannot be a service provider. Furthermore, service providers that participate in the competitive bidding process as a bidder cannot be involved in the preparation or certification of the entity's FCC Form 470. Because Elite Fund executed these tasks while it was part of Casair, the applicant was not in compliance with FCC rules which require applicants to conduct a fair and open competitive bidding process free from conflicts of interest. Accordingly, the applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. By having the service provider engaged in the preparation and submission of its Form 470, the applicant surrendered control of the competitive bidding process to the service provider who participated in the competitive bidding process as a bidder. Accordingly, the commitment will be rescinded in full and USAC will seek recovery of any funds disbursed in violation of the programs competitive bidding rules from the applicant and the service provider.

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Site Identifier: 131221  
Original Funding Commitment: \$13,000.00  
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Funds to be Recovered from Applicant: \$12,999.96  
Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. USAC has evidence of a stock purchase agreement between Steven R Meinhardt of Casair, Inc., and Roger Hoezee, which was effective July 1, 2006. In this agreement, Meinhardt sold Elite Fund to Hoezee. This purchase demonstrates that the two companies, Casair and Elite Fund, were a single entity prior to July 1, 2006. During the time when Elite Fund, Inc. was a part of Casair, Inc., Elite is considered a service provider and therefore cannot act as an independent consultant on behalf of applicant or assist them with those tasks that service providers are prohibited from undertaking. The FCC Form 470 must be completed by the entity that will negotiate for eligible products and services with potential service providers and cannot be a service provider. Furthermore, service providers that participate in the competitive bidding process as a bidder cannot be involved in the preparation or certification of the entity's FCC Form 470. Because Elite Fund executed these tasks while it was part of Casair, the applicant was not in compliance with FCC rules which require applicants to conduct a fair and open competitive bidding process free from conflicts of interest. Accordingly, the applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. By having the service provider engaged in the preparation and submission of its Form 470, the applicant surrendered control of the competitive bidding process to the service provider who participated in the competitive bidding process as a bidder. Accordingly, the commitment will be rescinded in full and USAC will seek recovery of any funds disbursed in violation of the programs competitive bidding rules.

**EXHIBIT B**

Table 8.

**Population and Housing Units: 1990 to 2010; and Area Measurements and Density: 2010—Con.**

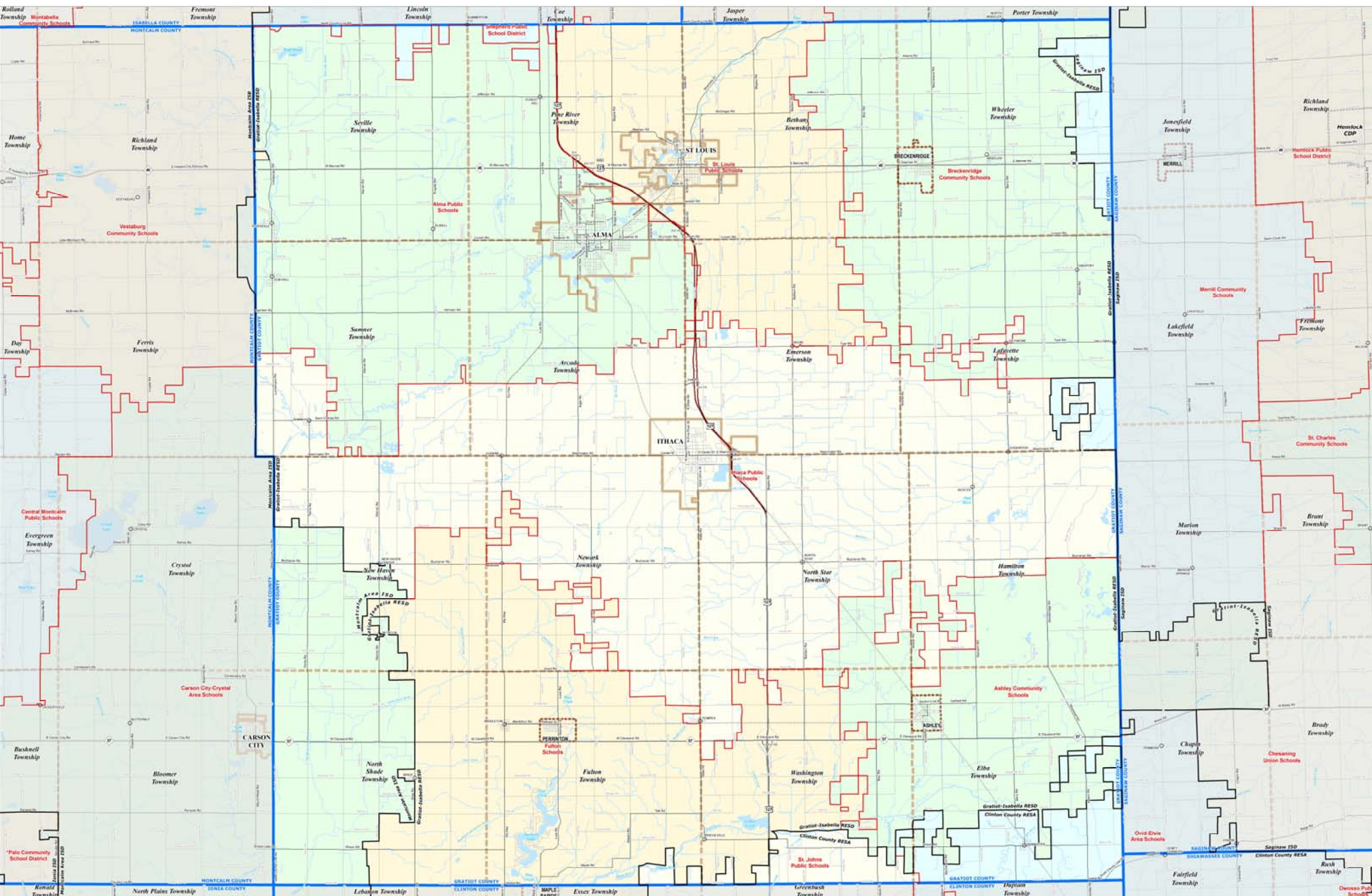
[For information concerning historical counts and geographic change, see "User Notes." For information on confidentiality, nonsampling error, and definitions, see Appendixes]

State County/County Equivalent County Subdivision Place	Population			Housing units			Area measurements in square miles		Average per square mile of land	
	2010	2000	1990	2010	2000	1990	Total area	Land area	Population density	Housing unit density
<b>Michigan—Con.</b>										
Gratiot County—Con.										
Fulton township . . . . .	2,521	2,413	2,114	1,073	963	824	35.81	34.99	72.0	30.7
Perrinton village . . . . .	406	439	393	175	173	169	0.64	0.63	644.4	277.8
Hamilton township . . . . .	465	491	489	213	191	187	34.87	34.66	13.4	6.1
<b>Ithaca city . . . . .</b>	<b>2,910</b>	<b>3,098</b>	<b>3,009</b>	<b>1,293</b>	<b>1,289</b>	<b>1,198</b>	<b>5.28</b>	<b>5.23</b>	<b>556.4</b>	<b>247.2</b>
Lafayette township . . . . .	591	656	683	262	261	265	36.01	36.00	16.4	7.3
Newark township . . . . .	1,093	1,149	1,138	452	420	389	34.41	34.38	31.8	13.1
New Haven township . . . . .	1,004	1,016	972	428	377	344	35.65	35.57	28.2	12.0
North Shade township . . . . .	665	706	758	254	260	277	35.62	35.61	18.7	7.1
North Star township . . . . .	888	996	1,055	397	395	412	34.16	34.10	26.0	11.6
Pine River township . . . . .	2,279	2,451	2,064	984	983	897	30.48	30.31	75.2	32.5
St. Louis city . . . . .	7,482	5,453	4,309	1,638	1,575	1,554	3.53	3.34	2,240.1	490.4
Seville township . . . . .	2,173	2,375	2,217	962	907	818	35.91	35.54	61.1	27.1
Sumner township . . . . .	1,930	1,911	1,799	798	744	669	35.92	35.65	54.1	22.4
Washington township . . . . .	870	909	1,029	359	352	372	35.44	35.25	24.7	10.2
Wheeler township . . . . .	2,786	2,785	2,926	1,195	1,147	1,138	35.89	35.88	77.6	33.3
Breckenridge village . . . . .	1,328	1,339	1,308	595	580	560	1.08	1.07	1,241.1	556.1
Hillsdale County . . . . .	46,688	46,527	43,431	21,757	20,189	18,547	607.01	598.13	78.1	36.4
Adams township . . . . .	2,493	2,498	2,339	1,118	1,036	938	36.02	35.64	69.9	31.4
North Adams village . . . . .	477	514	512	219	215	205	0.52	0.52	917.3	421.2
Allen township . . . . .	1,657	1,631	1,412	754	708	621	36.23	36.01	46.0	20.9
Allen village . . . . .	191	225	201	94	93	94	0.16	0.16	1,193.8	587.5
Amboy township . . . . .	1,173	1,224	978	745	631	464	30.64	29.96	39.2	24.9
Cambria township . . . . .	2,533	2,546	2,372	1,361	1,264	1,200	36.14	34.81	72.8	39.1
Camden township . . . . .	2,047	2,088	1,984	940	872	831	42.60	42.36	48.3	22.2
Camden village . . . . .	512	550	482	211	214	204	0.84	0.84	609.5	251.2
Montgomery village . . . . .	342	386	388	146	148	140	1.00	1.00	342.0	146.0
Fayette township . . . . .	3,326	3,350	3,190	1,451	1,387	1,303	23.11	22.83	145.7	63.6
Jonesville village . . . . .	2,258	2,337	2,283	983	975	947	2.92	2.89	781.3	340.1
Hillsdale city . . . . .	8,305	8,233	8,175	3,383	3,274	3,176	6.19	5.92	1,402.9	571.5
Hillsdale township . . . . .	2,033	1,965	1,781	845	805	766	12.89	12.32	165.0	68.6
Jefferson township . . . . .	3,063	3,141	3,083	1,574	1,569	1,416	36.10	35.49	86.3	44.4
Litchfield city . . . . .	1,369	1,458	1,317	616	604	535	2.53	2.50	547.6	246.4
Litchfield township . . . . .	1,003	969	957	437	382	369	33.05	32.97	30.4	13.3
Moscow township . . . . .	1,470	1,445	1,353	630	554	509	35.43	35.15	41.8	17.9
Pittsford township . . . . .	1,603	1,600	1,595	673	611	579	35.59	35.42	45.3	19.0
Ransom township . . . . .	932	982	911	372	353	337	30.18	30.08	31.0	12.4
Reading city . . . . .	1,078	1,134	1,127	435	432	436	1.01	1.01	1,067.3	430.7
Reading township . . . . .	1,765	1,781	1,768	1,187	1,147	1,161	35.01	33.98	51.9	34.9
Scipio township . . . . .	1,884	1,822	1,479	790	660	553	29.45	29.21	64.5	27.0
Somerset township . . . . .	4,623	4,277	3,416	2,602	2,161	1,728	35.56	33.41	138.4	77.9
Wheatland township . . . . .	1,351	1,258	1,225	554	497	444	35.68	35.65	37.9	15.5
Woodbridge township . . . . .	1,325	1,337	1,160	506	466	435	30.08	30.05	44.1	16.8
Wright township . . . . .	1,655	1,788	1,809	784	776	746	43.52	43.35	38.2	18.1
Waldron village . . . . .	538	590	581	253	249	234	1.00	1.00	538.0	253.0
Houghton County . . . . .	36,628	36,016	35,446	18,636	17,748	17,296	1,501.50	1,009.10	36.3	18.5
Adams township . . . . .	2,573	2,747	2,388	1,189	1,160	1,131	47.56	47.05	54.7	25.3
South Range village . . . . .	758	727	745	395	378	390	0.36	0.36	2,105.6	1,097.2
Calumet charter township . . . . .	6,489	6,968	7,015	3,595	3,573	3,612	33.29	33.16	195.7	108.4
Calumet village . . . . .	726	850	818	512	491	542	0.20	0.20	3,630.0	2,560.0
Copper City village . . . . .	190	205	198	112	110	115	0.08	0.08	2,375.0	1,400.0
Laurium village . . . . .	1,977	2,126	2,268	1,059	1,082	1,116	0.65	0.65	3,041.5	1,629.2
Chassell township . . . . .	1,812	1,822	1,686	983	955	846	51.77	48.33	37.5	20.3
Duncan township . . . . .	236	280	304	428	399	390	177.66	176.11	1.3	2.4
Elm River township . . . . .	177	169	159	338	319	336	93.25	91.26	1.9	3.7
Franklin township . . . . .	1,466	1,320	1,164	632	574	560	20.60	19.86	73.8	31.8
Dollar Bay CDP (part) . . . . .	182	(X)	(X)	61	(X)	(X)	1.93	1.73	105.2	35.3
Hancock city . . . . .	4,634	4,323	4,547	2,111	1,983	2,008	2.97	2.60	1,782.3	811.9
Hancock township . . . . .	461	408	287	273	274	224	16.89	15.89	29.0	17.2
Houghton city . . . . .	7,708	7,039	7,498	2,516	2,222	2,121	4.68	4.45	1,732.1	565.4
Laird township . . . . .	555	634	582	445	436	399	189.38	187.30	3.0	2.4
Osceola township . . . . .	1,888	1,908	1,878	921	894	886	25.98	24.82	76.1	37.1
Dollar Bay CDP (part) . . . . .	890	(X)	(X)	423	(X)	(X)	2.35	2.20	404.5	192.3
Hubbell CDP (part) . . . . .	293	372	388	170	164	165	0.50	0.50	586.0	340.0
Portage charter township . . . . .	3,221	3,156	2,941	1,672	1,584	1,500	116.57	112.09	28.7	14.9

**EXHIBIT C**

# GRATIOT COUNTY SCHOOL DISTRICTS

0 1 2 Miles



\*Note: Non K-12 School Districts identified with Asterisk (\*) in Name

Information provided is for informational purposes only. It is not intended to be used for legal or financial purposes. The information is provided as a service to the public and is subject to change without notice. The information is provided as a service to the public and is subject to change without notice.



10/15/13

Intermediate School District

School District

City

Township

Village

Census Designated Place

County

Unincorporated Place

Freeway

Highway

Primary Road

Local Road

 Railroad
 
 Water Feature
 
 River, Stream, or Drain
 

Source: Michigan Geographic Framework, v13a



**EXHIBIT D**



**470**

## Schools and Libraries Universal Service Description of Services Requested and Certification Form

Estimated Average Burden Hours Per Response: 4.0 hours

This form is designed to help you describe the eligible telecommunications-related services you seek so that this data can be posted on the Fund Administrator website and interested service providers can identify you as a potential customer and compete to serve you.

Please read instructions before beginning this application.

(To be completed by entity that will negotiate with providers.)

### Block 1: Applicant Address and Identifications

<b>Form 470 Application Number: 422190000420196</b>		
<b>Applicant's Form Identifier: Internet</b>		
<b>Application Status: CERTIFIED</b>		
<b>Posting Date: 10/16/2002</b>		
<b>Allowable Contract Date: 11/13/2002</b>		
<b>Certification Received Date: 10/18/2002</b>		
<b>1. Name of Applicant:</b> <b>ITHACA PUBLIC SCHOOL DISTRICT</b>		
<b>2. Funding Year:</b> <b>07/01/2003 - 06/30/2004</b>		<b>3. Your Entity Number</b> <b>131221</b>
<b>4a. Applicant's Street Address, P.O.Box, or Route Number</b> <b>710 UNION ST</b>		
<b>City</b> <b>ITHACA</b>	<b>State</b> <b>MI</b>	<b>Zip Code</b> <b>48847 - 1314</b>
<b>b. Telephone number</b> <b>(989) 875- 3700</b>		<b>c. Fax number</b> <b>(989) 875- 4538</b>
<b>d. E-mail Address</b> <b>steven@ithacaschools.net</b>		
<b>5. Type Of Applicant</b>		
<input type="radio"/> Individual School (individual public or non-public school) <input type="radio"/> School District (LEA; public or non-public [e.g., diocesan] local district representing multiple schools) <input type="radio"/> Library (including library system, library branch, or library consortium applying as a library) <input type="radio"/> Consortium (intermediate service agencies, states, state networks, special consortia)		
<b>6a. Contact Person's Name:</b> Steve Netzley		
<i>First, fill in every item of the Contact Person's information below that is different from Item 4, above. Then check the box next to the preferred mode of contact. (At least one box MUST be checked.)</i>		
<b>6b. Street Address, P.O.Box, or Route Number</b> <b>710 UNION ST</b>		
<b>City</b> <b>ITHACA</b>	<b>State</b> <b>MI</b>	<b>Zip Code</b> <b>48847 - 1314</b>
<input checked="" type="checkbox"/> <b>6c. Telephone Number</b> <b>(989) 875- 3700</b>		

<input checked="" type="checkbox"/>	6d. Fax Number	(989) 875- 4538
<input checked="" type="checkbox"/>	6e. E-mail Address	steven@ithacaschools.net

**Block 2: Summary Description of Needs or Services Requested**

<b>7 This Form 470 describes (check all that apply):</b>
a. <input checked="" type="checkbox"/> Tariffed services - telecommunications services, purchased at regulated prices, for which the applicant has no signed, written contract. A new Form 470 must be filed for tariffed services for each funding year.
b. <input checked="" type="checkbox"/> Month-to-month services for which the applicant has no signed, written contract. A new Form 470 must be filed for these services for each funding year.
c. <input checked="" type="checkbox"/> Services for which a new written contract is sought for the funding year in Item 2.
d. <input checked="" type="checkbox"/> A multi-year contract signed on or before 7/10/97 but for which no Form 470 has been filed in a previous program year.
<b>NOTE: Services that are covered by a signed, written contract executed pursuant to posting of a Form 470 in a previous program year OR a contract signed on/before 7/10/97 and reported on a Form 470 in a previous year as an existing contract do NOT require filing of a Form 470.</b>

<b>What kinds of service are you seeking: Telecommunications Services, Internet Access, or Internal Connections? Refer to the Eligible Services List at <a href="http://www.sl.universalservice.org">www.sl.universalservice.org</a> for examples. Check the relevant category or categories (8, 9, and/or 10 below), and answer the questions in each category you select.</b>
<b>8 <input checked="" type="checkbox"/> Telecommunications Services</b> <i>Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?</i>
a <input checked="" type="checkbox"/> YES, I have an RFP. It is available on the Web at <a href="http://usf.crystalauto.com/ithaca.htm">usf.crystalauto.com/ithaca.htm</a> or via (check one): <input type="checkbox"/> the Contact Person in Item 6 or <input type="checkbox"/> the contact listed in Item 11.
b <input checked="" type="checkbox"/> NO , I do not have an RFP for these services. <b>If you answered NO, you must list below the Telecommunications Services you seek. Specify each service or function (e.g., local voice service) and quantity and/or capacity(e.g., 20 existing lines plus 10 new ones). See the Eligible Services List at <a href="http://www.sl.universalservice.org">www.sl.universalservice.org</a> for examples of eligible Telecommunications Services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Add additional lines if needed.</b>
<b>9 <input checked="" type="checkbox"/> Internet Access</b> <i>Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?</i>
a <input checked="" type="checkbox"/> YES, I have an RFP. It is available on the Web at <a href="http://usf.crystalauto.com/ithaca.htm">usf.crystalauto.com/ithaca.htm</a> or via (check one): <input type="checkbox"/> the Contact Person in Item 6 or <input type="checkbox"/> the contact listed in Item 11.
b <input checked="" type="checkbox"/> NO , I do not have an RFP for these services. <b>If you answered NO, you must list below the Internet Access Services you seek. Specify each service or function (e.g., monthly Internet service) and quantity and/or capacity(e.g., for 500 users). See the Eligible Services List at <a href="http://www.sl.universalservice.org">www.sl.universalservice.org</a> for examples of eligible Internet Access services. Add additional lines if needed.</b>
<b>10 <input checked="" type="checkbox"/> Internal Connections</b> <i>Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?</i>
a <input checked="" type="checkbox"/> YES, I have an RFP. It is available on the Web at or via (check one): <input type="checkbox"/> the Contact Person in Item 6 or <input type="checkbox"/> the contact listed in Item 11.
b <input checked="" type="checkbox"/> NO , I do not have an RFP for these services.

**If you answered NO**, you must list below the Internal Connections Services you seek. Specify each **service or function** (e.g., local area network) and quantity and/or capacity(e.g., connecting 10 rooms and 300 computers at 56kbps or better). See the Eligible Services List at [www.sl.universalservice.org](http://www.sl.universalservice.org) for examples of eligible Internal Connections services. Add additional lines if needed.

**11** (Optional) Please name the person on your staff or project who can provide additional technical details or answer specific questions from service providers about the services you are seeking. This need not be the contact person listed in Item 6 nor the signer of this form.

Name:

Title:

Telephone number

0 -

Fax number

0 -

E-mail Address

**12.** ☐ Check here if there are any restrictions imposed by state or local laws or regulations on how or when providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures, and/or provide Web address where they are posted and a contact name and telephone number for service providers without Internet access.

**13. If you intend to enter into a multi-year contract based on this posting or a contract featuring an option for voluntary extensions you may provide that information below. If you have plans to purchase additional services in future years, or expect to seek new contracts for existing services, summarize below (including the likely timeframes).**

### Block 3: Technology Assessment

**14.** ☐ **Basic telephone service only:** If your application is for basic local and long distance telephone service (wireline or wireless) only, check this box and skip to Item 16.

**15.** Although the following services and facilities are ineligible for support, they are usually necessary to make effective use of the eligible services requested in this application. Unless you indicated in Item 14 that your application is ONLY for basic telephone service, you must check at least one box in (a) through (e). You may provide details for purchases being sought.

**a.** Desktop communications software: Software required ☒ has been purchased; and/or ☐ is being sought.

**b.** Electrical systems: ☒ adequate electrical capacity is in place or has already been arranged; and/or ☐ upgrading for additional electrical capacity is being sought.

**c.** Computers: a sufficient quantity of computers ☒ has been purchased; and/or ☐ is being sought.

**d.** Computer hardware maintenance: adequate arrangements ☒ have been made; and/or ☐ are being sought.

**e.** Staff development: ☒ all staff have had an appropriate level of training /additional training has already been scheduled; and/or ☐ training is being sought.

**f.** Additional details: Use this space to provide additional details to help providers to identify the services you desire.

### Block 4: Recipients of Service

**16. Eligible Entities That Will Receive Services:**

Check the ONE choice (a,b or c) that best describes this application and the eligible entities that will receive the services described in this application. You will then list in Item 17 the entity/entities that will pay the bills for these services.

a. ☒ Individual school or single-site library.

b. ☒ Statewide application for (enter 2-letter state code) representing (check all that apply):

- ☐ All public schools/districts in the state:  
☐ All non-public schools in the state:  
☐ All libraries in the state:

If your statewide application includes INELIGIBLE entities, check here. ☐ If checked, complete Item 18.

c. ☒ School district, library system, or consortium application to serve multiple eligible entities:

<b>Number of eligible entities</b>	<b>5</b>
<i>For these eligible sites, please provide the following</i>	
<b>Area Codes (list each unique area code)</b>	<b>Prefixes associated with each area code (first 3 digits of phone number) separate with commas, leave no spaces</b>
<b>989</b>	<input type="text" value="875"/>
If your application includes INELIGIBLE entities, check here. <input type="checkbox"/> If checked, complete Item 18.	

**17. Billed Entities**

List the entity/entities that will be paying the bills directly to the provider for the services requested in this application. These are known as Billed Entities. At least one line of this item must be completed. Attach additional sheets if necessary.

Entity Number	Entity
56571	ITHACA JR/SR HIGH SCHOOL
131221	ITHACA PUBLIC SCHOOL DISTRICT
56570	NORTH ELEMENTARY SCHOOL
56573	SOUTH ELEMENTARY SCHOOL
56572	ITHACA JR/ SR HIGH SCHOOL

**18. Ineligible Participating Entities**

Does your application also seek bids on services to entities that are not eligible for the Universal Service Program? If so, list those entities here (attach pages if needed):

Ineligible Participating Entity	Area Code	Prefix
---------------------------------	-----------	--------

**Block 5: Certification****19. The applicant includes:(Check one or both)**

- a. ☒ schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. Secs. 7801(18) and (38), that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or
- b. ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to elementary and secondary schools, colleges and universities).

**20. All of the individual schools, libraries, and library consortia receiving services under this application are covered by:**

- a. ☒ individual technology plans for using the services requested in the application, and/or
- b. ☐ higher-level technology plans for using the services requested in the application, or
- c. ☐ no technology plan needed; application requests basic local and/or long distance telephone service only.

**21. Status of technology plans (if representing multiple entities with mixed technology plan status, check both a and b):**

- a. ☒ technology plan(s) has/have been approved by a state or other authorized body.
- b. ☐ technology plan(s) will be approved by a state or other authorized body.
- c. ☐ no technology plan needed; application requests basic local and long distance telephone service only. .

22. ☒ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.

23. ☒ I recognize that support under this support mechanism is conditional upon the school(s) or library(ies) I represent securing access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to use the services purchased effectively.

24. ☒ I certify that I am authorized to submit this request on behalf of the above-named entities, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

25. Signature of authorized person: ☒

26. Date (mm/dd/yyyy): **10/17/2002**

27. Printed name of authorized person: **Steve Netzley**

28. Title or position of authorized person: **Assistant Superintendent**

**29a.** Address of authorized person:

City: State: Zip:

**29b.** Telephone number of authorized person: **(989) 875 - 3700**

**29c.** Fax number of authorized person: **()**

**29d.** E-mail address number of authorized person:

**Persons willfully making false statements on this form can be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.**

**Service provider involvement with preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests. For more information, refer to the "Service Provider Role in Assisting Customers" at [www.sl.universalservice.org/vendor/manual/chapter5.doc](http://www.sl.universalservice.org/vendor/manual/chapter5.doc) or call the Client Service Bureau at 1-888-203-8100.**

**NOTICE:** Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of a FCC statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, information provided in or submitted with this form or in response to subsequent inquiries may also be subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law.

If you owe a past due debt to the federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:

**SLD-Form 470  
P.O. Box 7026  
Lawrence, Kansas 66044-7026  
1-888-203-8100**

For express delivery services or U.S. Postal Service, Return Receipt Requested, mail this form to:

**SLD-Form 470**  
**c/o Ms. Smith**  
**3833 Greenway Drive**  
**Lawrence, Kansas 66046**  
**1-888-203-8100**

FCC Form 470  
April 2002

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**EXHIBIT E**



## Schools and Libraries Universal Service Program Services Ordered and Certification Form 471 Application Display

### Block 1: Billed Entity Information

**Applicant's Form Identifier:** Internet

**471 Application Number:** 346373

**Cert. Postmark Date:** 02/05/2003

**Out of Window Letter Date:** Not applicable

**Funding Year:**

07/01/2003 - 06/30/2004

**Form Status:** CERTIFIED - In Window

**Billed Entity Number:**

131221

**RAL Date:** 02/13/2003

**Name:** ITHACA PUBLIC SCHOOL DISTRICT

**Address:** 710 UNION ST

**City:** ITHACA **State:** MI **Zip:** 48847 1314

**Contact Name:** Steve Netzley

**Address:** 710 UNION ST

**City:** ITHACA **State:** MI **Zip:** 48847 1314

**Type of Application:** SCHOOL DISTRICT

**Ineligible Orgs:** N

### Block 3: Impact of Services Ordered in THIS Application

**Number of students to be served:** 1750

**Number of library patrons to be served:**

SERVICE DESCRIPTION	BEFORE ORDER	AFTER ORDER
b. High-bandwidth voice/data/video service: How many buildings served before and after your order?	0	0
c. High-bandwidth voice/data/video service: Highest speed to a building before and after your order?	100MB	100MB
f. Direct connections to the Internet: How many before and after your order?	1	1
g. Direct connections to the Internet: Highest speed before and after your order?	1.5MB	45MB
h. Internet access(for schools): How many rooms have Internet access before and after your order?	75	75
j. Internet Access: How many computers (or other devices) with Internet access before and after your order?	350	375

### Block 4: Worksheets

**Worksheet A No:** 438167      **Student Count:** 1493  
**Weighted Product (Sum. Column 8):** 976.6

**Shared Discount:** 65%

**1. School Name:** ITHACA JR/SR HIGH SCHOOL  
**2. Entity Number:** 56571    **3. Rural/Urban:** Rural  
**4. Student Count:** 685    **5. NSLP Students:** 151    **6. NSLP Students/Students:** 22.043%  
**7. Discount:** 60%      **8. Weighted Product:** 411

**1. School Name:** NORTH ELEMENTARY SCHOOL  
**2. Entity Number:** 56570    **3. Rural/Urban:** Rural  
**4. Student Count:** 465    **5. NSLP Students:** 172    **6. NSLP Students/Students:** 36.989%  
**7. Discount:** 70%      **8. Weighted Product:** 325.5

**1. School Name:** SOUTH ELEMENTARY SCHOOL  
**2. Entity Number:** 56573    **3. Rural/Urban:** Rural  
**4. Student Count:** 343    **5. NSLP Students:** 140    **6. NSLP Students/Students:** 40.816%  
**7. Discount:** 70%      **8. Weighted Product:** 240.1

### Block 5: Discount Funding Request(s)

<b>FRN:</b> 932622 <b>FCDL Date:</b> 06/23/2003	
<b>11. Category of Service:</b> Internet Access	<b>12. 470 Application Number:</b> 422190000420196
<b>13. SPIN:</b> 143004346	<b>14. Service Provider Name:</b> Crystal Automation Systems, Inc.
<b>15. Contract Number:</b> CAS1914	<b>16. Billing Account Number:</b> N/A
<b>17. Allowable Contract Date:</b> 11/13/2002	<b>18. Contract Award Date:</b> 12/13/2002
<b>19a. Service Start Date:</b> 07/01/2003	<b>19b. Service End Date:</b>
<b>20. Contract Expiration Date:</b> 06/30/2004	
<b>21. Attachment #:</b> Internet Access	<b>22. Block 4 Worksheet No.:</b> 438167
<b>23a. Monthly Charges:</b> \$4,575.00	<b>23b. Ineligible monthly amt.:</b> \$.00
<b>23c. Eligible monthly amt.:</b> \$4,575.00	<b>23d. Number of months of service:</b> 12
<b>23e. Annual pre-discount amount for eligible recurring charges ( 23c x 23d):</b> \$54,900.00	
<b>23f. Annual non-recurring (one-time) charges:</b> 0	<b>23g. Ineligible non-recurring amt.:</b> 0
<b>23h. Annual pre-discount amount for eligible non-recurring charges ( 23f - 23g):</b> \$0.00	
<b>23i. Total program year pre-discount amount ( 23e + 23h):</b> \$54,900.00	
<b>23j. % discount (from Block 4):</b> 65	
<b>23k. Funding Commitment Request ( 23i x 23j):</b> \$35,685.00	

### Block 6: Certifications and Signature

**24a. Schools:** Y

**24b. Libraries or Library Consortia:** N

**26a. Individual Technology Plan:** Y

**26b. Higher-Level Technology Plan(s):** N

**26c. No Technology Plan Needed:**

27a. Approved Technology Plan(s): Y  
27b. State Approved Technology Plan: N  
27c. No Technology Plan Needed:

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<< Previous

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**EXHIBIT F**

# ***Michigan Department of Consumer and Industry Services***

## ***Filing Endorsement***

***This is to Certify that the ARTICLES OF INCORPORATION - PROFIT***

***for***

***ELITE FUND, INC.***

***ID NUMBER: 05846D***

***received by facsimile transmission on September 17, 2003 is hereby endorsed filed on  
September 19, 2003 by the Administrator. The document is effective on the date filed,  
unless a subsequent effective date within 90 days after received date is stated in the  
document.***



Sent by Facsimile Transmission 03262

***In testimony whereof, I have hereunto set my  
hand and affixed the Seal of the Department,  
in the City of Lansing, this 19th day  
of September, 2003.***

***, Director***

***Bureau of Commercial Services***

**EXHIBIT G**

**470**

## Schools and Libraries Universal Service Description of Services Requested and Certification Form

Estimated Average Burden Hours Per Response: 4.0 hours

This form is designed to help you describe the eligible telecommunications-related services you seek so that this data can be posted on the Fund Administrator website and interested service providers can identify you as a potential customer and compete to serve you.

Please read instructions before beginning this application.

(To be completed by entity that will negotiate with providers.)

### Block 1: Applicant Address and Identifications

Form 470 Application Number: **863640000479627**Applicant's Form Identifier: **Tel/Int**Application Status: **CERTIFIED**Posting Date: **12/09/2003**Allowable Contract Date: **01/06/2004**Certification Received Date: **12/17/2003****1. Name of Applicant:****ITHACA PUBLIC SCHOOL DISTRICT****2. Funding Year:****07/01/2004 - 06/30/2005****3. Your Entity Number****131221****4a. Applicant's Street Address, P.O.Box, or Route Number****710 UNION ST**

City

**ITHACA**

State

**MI**

Zip Code

**48847 - 1314****b. Telephone number**

ext.

**(517) 875- 3700****c. Fax number****(517) 875- 4538****d. E-mail Address****5. Type Of Applicant**

Individual School (individual public or non-public school)



School District (LEA; public or non-public[e.g., diocesan] local district representing multiple schools)



Library (including library system, library branch, or library consortium applying as a library)



Consortium (intermediate service agencies, states, state networks, special consortia)

**6a. Contact Person's Name:** Steve Netzley

*First, fill in **every** item of the Contact Person's information below **that is different from Item 4, above**. Then check the box next to the preferred mode of contact. (At least one box **MUST** be checked.)*

**6b. Street Address, P.O.Box, or Route Number****710 Union St.**

City

**Ithaca**

State

**MI**

Zip Code

**48847****6c. Telephone Number (989) 875- 3700****6d. Fax Number (989) 875- 4538**

6e. E-mail Address [steven@ithacaschools.net](mailto:steven@ithacaschools.net)**Block 2: Summary Description of Needs or Services Requested**

<b>7 This Form 470 describes (check all that apply):</b>
a. <input type="checkbox"/> Tariffed services - telecommunications services, purchased at regulated prices, for which the applicant has no signed, written contract. A new Form 470 must be filed for tariffed services for each funding year.
b. <input type="checkbox"/> Month-to-month services for which the applicant has no signed, written contract. A new Form 470 must be filed for these services for each funding year.
c. <input type="checkbox"/> Services for which a new written contract is sought for the funding year in Item 2.
d. <input type="checkbox"/> A multi-year contract signed on or before 7/10/97 but for which no Form 470 has been filed in a previous program year.
<b>NOTE: Services that are covered by a signed, written contract executed pursuant to posting of a Form 470 in a previous program year OR a contract signed on/before 7/10/97 and reported on a Form 470 in a previous year as an existing contract do NOT require filing of a Form 470.</b>

<b>What kinds of service are you seeking: Telecommunications Services, Internet Access, or Internal Connections? Refer to the Eligible Services List at <a href="http://www.sl.universalservice.org">www.sl.universalservice.org</a> for examples. Check the relevant category or categories (8, 9, and/or 10 below), and answer the questions in each category you select.</b>
<b>8 <input type="checkbox"/> Telecommunications Services</b> <i>Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?</i>
a <input type="checkbox"/> YES, I have an RFP. It is available on the Web at <a href="http://www.elitefund.com/usf/ithaca.htm">www.elitefund.com/usf/ithaca.htm</a> or via (check one): <input type="checkbox"/> the Contact Person in Item 6 or <input type="checkbox"/> the contact listed in Item 11.
b <input type="checkbox"/> NO , I do not have an RFP for these services. <b>If you answered NO, you must list below the Telecommunications Services you seek. Specify each service or function (e.g., local voice service) and quantity and/or capacity(e.g., 20 existing lines plus 10 new ones). See the Eligible Services List at <a href="http://www.sl.universalservice.org">www.sl.universalservice.org</a> for examples of eligible Telecommunications Services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Add additional lines if needed.</b>
<b>9 <input type="checkbox"/> Internet Access</b> <i>Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?</i>
a <input type="checkbox"/> YES, I have an RFP. It is available on the Web at <a href="http://www.elitefund.com/usf/ithaca.htm">www.elitefund.com/usf/ithaca.htm</a> or via (check one): <input type="checkbox"/> the Contact Person in Item 6 or <input type="checkbox"/> the contact listed in Item 11.
b <input type="checkbox"/> NO , I do not have an RFP for these services. <b>If you answered NO, you must list below the Internet Access Services you seek. Specify each service or function (e.g., monthly Internet service) and quantity and/or capacity(e.g., for 500 users). See the Eligible Services List at <a href="http://www.sl.universalservice.org">www.sl.universalservice.org</a> for examples of eligible Internet Access services. Add additional lines if needed.</b>
<b>10 <input type="checkbox"/> Internal Connections</b> <i>Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?</i>
a <input type="checkbox"/> YES, I have an RFP. It is available on the Web at or via (check one): <input type="checkbox"/> the Contact Person in Item 6 or <input type="checkbox"/> the contact listed in Item 11.
b <input type="checkbox"/> NO , I do not have an RFP for these services.



**If you answered NO**, you must list below the Internal Connections Services you seek. Specify each **service or function** (e.g., local area network) and quantity and/or capacity (e.g., connecting 10 rooms and 300 computers at 56kbps or better). See the Eligible Services List at [www.sl.universalservice.org](http://www.sl.universalservice.org) for examples of eligible Internal Connections services. Add additional lines if needed.

**11** (Optional) Please name the person on your staff or project who can provide additional technical details or answer specific questions from service providers about the services you are seeking. This need not be the contact person listed in Item 6 nor the signer of this form.

Name:	Title:
Telephone number 0 -	
Fax number 0 -	
E-mail Address	

**12.** ☐ Check here if there are any restrictions imposed by state or local laws or regulations on how or when providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures, and/or provide Web address where they are posted and a contact name and telephone number for service providers without Internet access.

**13. If you intend to enter into a multi-year contract based on this posting or a contract featuring an option for voluntary extensions you may provide that information below. If you have plans to purchase additional services in future years, or expect to seek new contracts for existing services, summarize below (including the likely timeframes).**

### Block 3: Technology Assessment

**14.** ☐ **Basic telephone service only:** If your application is for basic local and long distance telephone service (wireline or wireless) only, check this box and skip to Item 16.

**15.** Although the following services and facilities are ineligible for support, they are usually necessary to make effective use of the eligible services requested in this application. Unless you indicated in Item 14 that your application is ONLY for basic telephone service, you must check at least one box in (a) through (e). You may provide details for purchases being sought.

**a.** Desktop communications software: Software required ☒ has been purchased; and/or ☐ is being sought.

**b.** Electrical systems: ☒ adequate electrical capacity is in place or has already been arranged; and/or ☐ upgrading for additional electrical capacity is being sought.

**c.** Computers: a sufficient quantity of computers ☒ has been purchased; and/or ☐ is being sought.

**d.** Computer hardware maintenance: adequate arrangements ☒ have been made; and/or ☐ are being sought.

**e.** Staff development: ☒ all staff have had an appropriate level of training /additional training has already been scheduled; and/or ☐ training is being sought.

**f.** Additional details: Use this space to provide additional details to help providers to identify the services you desire.

### Block 4: Recipients of Service

**16. Eligible Entities That Will Receive Services:**

Check the ONE choice (a,b or c) that best describes this application and the eligible entities that will receive the services described in this application. You will then list in Item 17 the entity/entities that will pay the bills for these services.

a. ☐ Individual school or single-site library.

b. ☐ Statewide application for (enter 2-letter state code) representing (check all that apply):

☐ All public schools/districts in the state:

☐ All non-public schools in the state:

☐ All libraries in the state:

If your statewide application includes INELIGIBLE entities, check here. ☐ **If checked, complete Item 18.**

c. ☐ School district, library system, or consortium application to serve multiple eligible entities:

<b>Number of eligible entities</b>	<b>4</b>
<i>For these eligible sites, please provide the following</i>	
<b>Area Codes (list each unique area code)</b>	<b>Prefixes associated with each area code (first 3 digits of phone number) separate with commas, leave no spaces</b>
<b>989</b>	875
If your application includes INELIGIBLE entities, check here. <input type="checkbox"/> <b>If checked, complete Item 18.</b>	

**17. Billed Entities**

List the entity/entities that will be paying the bills directly to the provider for the services requested in this application. These are known as Billed Entities. At least one line of this item must be completed. Attach additional sheets if necessary.

Entity Number	Entity
131221	ITHACA PUBLIC SCHOOL DISTRICT

**18. Ineligible Participating Entities**

Does your application also seek bids on services to entities that are not eligible for the Universal Service Program? If so, list those entities here (attach pages if needed):

Ineligible Participating Entity	Area Code	Prefix

## Block 5: Certification

### 19. The applicant includes:(Check one or both)

- a. ☒ schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. Secs. 7801(18) and (38), that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or
- b. ☒ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to elementary and secondary schools, colleges and universities).

### 20. All of the individual schools, libraries, and library consortia receiving services under this application are covered by:

- a. ☒ individual technology plans for using the services requested in the application, and/or
- b. ☒ higher-level technology plans for using the services requested in the application, or
- c. ☒ no technology plan needed; application requests basic local and/or long distance telephone service only.

### 21. Status of technology plans (if representing multiple entities with mixed technology plan status, check both a and b):

- a. ☒ technology plan(s) has/have been approved by a state or other authorized body.
- b. ☒ technology plan(s) will be approved by a state or other authorized body.
- c. ☒ no technology plan needed; application requests basic local and long distance telephone service only. .

22. ☒ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.

23. ☒ I recognize that support under this support mechanism is conditional upon the school(s) or library(ies) I represent securing access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to use the services purchased effectively.

24. ☒ I certify that I am authorized to submit this request on behalf of the above-named entities, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

25. Signature of authorized person: ☒

26. Date (mm/dd/yyyy): **12/12/2003**

27. Printed name of authorized person: **STEVE NETZLEY**

28. Title or position of authorized person: **ASSISTANT SUPERINTENDENT**

29a. Address of authorized person: **710 Union St.**

City: **Ithaca** State: **MI** Zip: **48847**

29b. Telephone number of authorized person: **(989) 875 - 3700**

**29c.** Fax number of authorized person: **(989) 8754538**

**29d.** E-mail address number of authorized person: **steven@ithacaschools.net**

**Persons willfully making false statements on this form can be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.**

**Service provider involvement with preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests. For more information, refer to the "Service Provider Role in Assisting Customers" at [www.sl.universalservice.org/vendor/manual/chapter5.doc](http://www.sl.universalservice.org/vendor/manual/chapter5.doc) or call the Client Service Bureau at 1-888-203-8100.**

**NOTICE:** Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of a FCC statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, information provided in or submitted with this form or in response to subsequent inquiries may also be subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law.

If you owe a past due debt to the federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:

**SLD-Form 470  
P.O. Box 7026  
Lawrence, Kansas 66044-7026  
1-888-203-8100**

For express delivery services or U.S. Postal Service, Return Receipt Requested, mail this form to:

**SLD-Form 470  
c/o Ms. Smith  
3833 Greenway Drive  
Lawrence, Kansas 66046  
1-888-203-8100**

FCC Form 470  
April 2002

New Search

Return To Search Results

**EXHIBIT H**

## Schools and Libraries Universal Service Program Services Ordered and Certification Form 471 Application Display

### Block 1: Billed Entity Information

**Applicant's Form Identifier:** Internet

**471 Application Number:** 395738

**Cert. Postmark Date:** 01/22/2004

**Out of Window Letter Date:** Not applicable

**Funding Year:**

07/01/2004 - 06/30/2005

**Form Status:** CERTIFIED - In Window

**Billed Entity Number:**

131221

**RAL Date:** 02/16/2004

**Name:** ITHACA PUBLIC SCHOOL DISTRICT

**Address:** 710 UNION ST

**City:** ITHACA **State:** MI **Zip:** 48847 1314

**Contact Name:** Steve Netzley

**Address:** 710 Union Street

**City:** Ithaca **State:** MI **Zip:** 48847

**Type of Application:** SCHOOL DISTRICT

**Ineligible Orgs:** N

### Block 3: Impact of Services Ordered in THIS Application

**Number of students to be served:** 1750

**Number of library patrons to be served:**

SERVICE DESCRIPTION	BEFORE ORDER	AFTER ORDER
b. High-bandwidth voice/data/video service: How many buildings served before and after your order?	3	3
c. High-bandwidth voice/data/video service: Highest speed to a building before and after your order?	100MB	100MB
f. Direct connections to the Internet: How many before and after your order?	1	1
g. Direct connections to the Internet: Highest speed before and after your order?	1.5MB	45MB
h. Internet access(for schools): How many rooms have Internet access before and after your order?	75	75
j. Internet Access: How many computers (or other devices) with Internet access before and after your order?	375	375

### Block 4: Worksheets

**Worksheet A No:** 533004      **Student Count:** 1489  
**Weighted Product (Sum. Column 8):** 974.1

**Shared Discount:** 65%

**1. School Name:** ITHACA JR/SR HIGH SCHOOL  
**2. Entity Number:** 56571    **3. Rural/Urban:** Rural  
**4. Student Count:** 682    **5. NSLP Students:** 148    **6. NSLP Students/Students:** 21.700%  
**7. Discount:** 60%      **8. Weighted Product:** 409.2

**1. School Name:** NORTH ELEMENTARY SCHOOL  
**2. Entity Number:** 56570    **3. Rural/Urban:** Rural  
**4. Student Count:** 463    **5. NSLP Students:** 163    **6. NSLP Students/Students:** 35.205%  
**7. Discount:** 70%      **8. Weighted Product:** 324.1

**1. School Name:** SOUTH ELEMENTARY SCHOOL  
**2. Entity Number:** 56573    **3. Rural/Urban:** Rural  
**4. Student Count:** 344    **5. NSLP Students:** 131    **6. NSLP Students/Students:** 38.081%  
**7. Discount:** 70%      **8. Weighted Product:** 240.8

### Block 5: Discount Funding Request(s)

<b>FRN:</b> 1081674 <b>FCDL Date:</b> 06/30/2004	
<b>11. Category of Service:</b> Internet Access	<b>12. 470 Application Number:</b> 863640000479627
<b>13. SPIN:</b> 143004346	<b>14. Service Provider Name:</b> Crystal Automation Systems, Inc.
<b>15. Contract Number:</b> CAS2557	<b>16. Billing Account Number:</b>
<b>17. Allowable Contract Date:</b> 01/06/2004	<b>18. Contract Award Date:</b> 01/08/2004
<b>19a. Service Start Date:</b> 07/01/2004	<b>19b. Service End Date:</b>
<b>20. Contract Expiration Date:</b> 06/30/2005	
<b>21. Attachment #:</b> Internet Access	<b>22. Block 4 Worksheet No.:</b> 533004
<b>23a. Monthly Charges:</b> \$4,575.00	<b>23b. Ineligible monthly amt.:</b> \$.00
<b>23c. Eligible monthly amt.:</b> \$4,575.00	<b>23d. Number of months of service:</b> 12
<b>23e. Annual pre-discount amount for eligible recurring charges ( 23c x 23d):</b> \$54,900.00	
<b>23f. Annual non-recurring (one-time) charges:</b> 35	<b>23g. Ineligible non-recurring amt.:</b> 0
<b>23h. Annual pre-discount amount for eligible non-recurring charges ( 23f - 23g):</b> \$35.00	
<b>23i. Total program year pre-discount amount ( 23e + 23h):</b> \$54,935.00	
<b>23j. % discount (from Block 4):</b> 65	
<b>23k. Funding Commitment Request ( 23i x 23j):</b> \$35,707.75	

### Block 6: Certifications and Signature

**24a. Schools:** Y  
**24b. Libraries or Library Consortia:** N

**26a. Individual Technology Plan:** Y  
**26b. Higher-Level Technology Plan(s):** N  
**26c. No Technology Plan Needed:**



27a. Approved Technology Plan(s): Y  
27b. State Approved Technology Plan: N  
27c. No Technology Plan Needed:

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## **EXHIBIT FOUR**

11 captures

28 Jul 2003 - 12 Apr 2005

DEC

APR

MAY

2004

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Chapter 5 - Service Provider Role in Assisting Customers

Advise in a neutral way and foster open competition

The fundamental principle on which the E-rate Program is based is that the applicant has conducted a fair and open competitive procurement by which they decided upon the services they are ordering for E-rate discounts. In order to be sure that such a fair and open competition is achieved, it is imperative that Service Providers remember that their marketing discussions with applicants must be neutral, so as not to taint the competitive bidding process. That is, the applicant should not have a relationship with the Service Provider prior to the competitive bidding that would unfairly influence the outcome of a competition nor would furnish the Service Provider with "inside" information or allow them to unfairly compete in any way.

The applicant also must be in a position to accept bids once the Form 470 is posted on the SLD web site. The applicant must take an affirmative role in the evaluation of such bids. The FCC has ruled that the applicant may not delegate this evaluation role to anyone associated with a Service Provider.

Encourage compliance with Program rules

Service Providers can play an important role in reinforcing the importance of compliance with Program rules. If questions come up about either the applicant's or service provider's role in the competitive bidding process, they can be raised either in an email to [CUSTOMER SERVICE BUREAU](#). To submit a question, click "Continue" on the "Submit a Question" Page, choose "Competitive Bid Process" from the "Topic Inquiry" list on the next page, and then follow the instructions. Also please watch the [SLD WEBSITE](#) for any program updates.

Consequences for lack of compliance

In the event that SLD determines that the Service Provider has not acted in compliance with Program rules or the applicant has not acted in compliance with Program rules it can result in denial of funding, reduction in funding, cancellation of funding (a commitment adjustment), audit or other investigation. The Service Provider or applicant may also be subject to enforcement action. Again, check with the SLD if you in doubt about whether a specific action is acceptable.

Proper assistance in Form 470 process

Basic information about the Program and process

It is permissible for Service Providers, acting in a neutral, advisory role, to provide basic information about the E-rate Program and the application process. Customers should be directed to the official source of information, the [SLD web site](#). Service Providers should familiarize themselves with the web site, especially the Reference Area listings and What's New, in order to be able discuss the E-rate Program with customers.

Deadlines; timelines

Service Providers can remind applicants about the appropriate deadlines and timelines for filing application forms. Remember that the Form 471 has a "filing window" period, usually running from sometime in November to sometime in the following January. Applications that are properly filed and received within the filing window are treated as having arrived at the same time. Depending on available funding, commitments are made first to the applications received within the filing window and then to applications received outside the window. For the majority of Funding Years, there has not been sufficient money to fund applications received outside the window.

It is important to remind applicants that their obligation to meet deadlines does not end with the Form 471 application. Once the applicant has received a Funding Commitment Decision Letter, the applicant must file their Form 486 to indicate that services have started. Service Providers should not invoice USAC without having confirmation (through a 486 Notification Letter) that the Form 486 has been filed.

Assist in Request for Proposal (RFP) development

The FCC understands that applicants sometimes need to seek assistance from service providers in developing RFPs. Such assistance is permissible even if the service provider plans to submit a bid in response to that RFP as long as the service provider's assistance is neutral. For example, RFPs may not be written in such a way that only the service provider who rendered the assistance could win the bid. Or, an applicant may not reveal information to the service provider assisting in the preparation of the bid that the applicant does not share with all prospective bidders. These are just two examples of assistance that would not be considered neutral. If you need further assistance in determining whether actions are permissible, [send an email](#)



QUICK LINKS

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Reference Area

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Changes & Corrections

Suspensions & Debarments

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Submit a Question

Contact Us

Whistleblower Hotline - Report Waste, Fraud, & Abuse

SITE HELP

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Site Tour

Website Policy

https://web.archive.org/web/20050412094951/http://www.sl.universalservice.org:80/ContentInc/vendor/manual/chapter5.asp[10/25/2017 6:06:24 PM]

or call the Client Service Bureau at 1-888-203-8100.

## Assist customers with technology plan requirement

### Familiarize customers with Program requirements

Information about the Technology Plan requirements can be found in the Reference Area of the SLD web site. Service Providers should be familiar with that material and may review it with their customers.

### Provide technical assistance

Service Providers may offer technical assistance on the development of a technology plan, so long as that assistance can be interpreted as neutral and in no way as having an undue influence on the applicant's ability to conduct a fair and open competition for the necessary technology services and products.

## Proper assistance in Form 471 process

It is important to remember that the applicant has to wait at least 28 days from the day their Form 470 is **posted** on SLD's web site before choosing their Service Provider or signing a contract. Once the applicant has chosen their Service Provider (vendor) or signed the contract, the applicant can proceed to file the Form 471.

### Provide guidance on services and functionality

The chosen Service Provider is expected to be a resource to the applicant for information about the technology, the products and the services that are being furnished to the applicant. The Service Provider should provide information that the applicant can include with their application, as the supporting documentation which describes in detail the services being ordered.

This role may not end with the Funding Commitment Decision Letter. If the applicant decides to do a service substitution, the Service Provider can play a valuable role in detailing how the functionality of the original request is being met by the newly desired configuration.

### Provide account information for customers on existing services

Service Providers should be sure that the applicant is clear about Billing Account Numbers (if applicable), contract numbers, ineligible components (if any), and other details of existing services. Service Providers should discuss with applicants what will happen to discounts being provided if the Funding Commitment Decision Letter on existing services is delayed beyond the beginning of the subsequent Funding Year for some reason.

Service Providers should also be sure that the applicant has all the current information about SPIN numbers and company names (especially in a era of rapid changes due to mergers and acquisitions).

### Serve as contact for questions about services, technology

Both the applicant and Service Provider can be resources to Program Integrity Assurance (PIA) staff during application review, whether that occurs prior to the original funding commitment or at a later stage due to a change in circumstances.

## Inappropriate Roles for Service Providers

### Signature on Applicant Forms

No person associated with a Service Provider should ever sign the Form 470 or Form 471. There should never be a situation where a person is authorized by an applicant to make decisions for the applicant and at the same time be associated in any capacity with the Service Provider who submits bids in response to the Form 470 and appears on the Form 471. If such a relationship is discovered it may lead to enforcement action and denial of funding.

### Contact on 470

The FCC has ruled that if a representative or employee of a Service Provider serves as the contact person on a Form 470 such action will have the effect of compromising the competitive bidding process. It is unlikely that the applicant can have a fair and open competitive process if the bids are submitted to and the evaluation is carried out by a representative or employee of a Service Provider who participated in the bidding process.

It should be noted that the presence of a representative or employee of a Service Provider as the contact on the Form 470, or any contact information associated with a service provider on the Form 470, renders that Form 470 invalid, if the services sought on the Form 470 include the type of services which the Service Provider furnishes. For example, if a representative or employee of a Service Provider which furnishes Internal Connections serves as the contact on a Form 470 seeking telecom- munications services and Internal Connections, that entire Form 470 is rendered invalid and cannot be cited to support any FRNs. That is because there is a rebuttable presumption that the Service Provider is participating in the competitive bidding process if the Form 470 seeks the type of services furnished by the Service Provider.

The applicant can rebut the presumption by proving that, in fact, the Service Provider did not participate in the competitive bidding.

If, on the other hand, the Form 470 which listed as a contact a representative or employee of a Service Provider which furnishes Internal Connections sought only telecommunications services, that Form 470 would be considered valid (to the extent everything else about that Form 470 complied with Program rules).

**Approve technology plan**

Service Providers may not act as technology plan approvers. Please see the material in the Reference Area on the SLD web site concerning technology plans.

**Make final determinations about eligibility**

It is the role of SLD (with approval from the FCC) to make determinations as to product and service eligibility for E-rate discounts. If a customer asks questions about specific products or services, and you do not know the SLD position, it is appropriate for the Service Provider to seek a determination on the eligibility of the item in question. Such determinations can be requested by [via email](#).

**Provide completed or duplicate RFPs**

Service Providers should not be preparing Requests for Proposals (RFPs) for the applicants. The applicants are responsible for this part of the competitive bidding process. While Service Providers may contribute information to help applicants prepare the RFP, the Service Provider may not provide the completed product.

In order to be effective, an RFP must contain sufficient detail about location and quantity of products or services sought to give prospective bidders enough information to prepare a responsive bid. For this reason, duplicate RFPs, where all of the details are identical except for the name of the customer seeking bids, are not allowable. The use of such RFPs may be used as evidence that the applicant failed to have a fair and open competitive bidding process.

**Provide funding for applicant's undiscounted portion**

In order for the applicant to truthfully certify that it has *on hand or fully committed* the necessary resources (including money) to make effective use of the products and services on which it is seeking discounts, such resources must be clearly available in the applicant's budget *at the time the applicant files the Form 471*. This means that the Service Provider may not seek other resources (such as grants or foundations) to pay the undiscounted portion of the products or services, unless such funds are committed to the applicant prior to the applicant filing the Form 471. Please see the Reference Area of the SLD web site, where you will find in the alphabetical listing an item titled Obligation to Pay Non-Discount Portion, which explains this requirement in detail.

**Waive applicant's undiscounted portion**

One of the prime considerations of the FCC in making the E-rate a discount program was that applicants would have to spend some of their own money on the products and services, thereby providing the applicants with an incentive to make the most appropriate and cost effective decisions about procuring products and services. For this reason, it is a violation of Program rules for the Service Provider to waive the applicant's undiscounted portion or otherwise not require payment. If SLD becomes aware of such a situation it can result in denial of funding, reduction of funding or cancellation of funding (commitment adjustment) and may also result in the Service Provider being subjected to enforcement action.

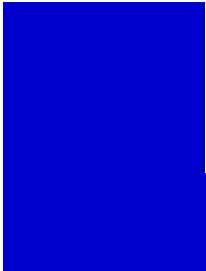
**Coercion or pressure to use a specific Service Provider**

The E-rate Program is built on a foundation of state and local procurement laws. It is a violation generally of these laws for a Service Provider to exert undue influence on a customer in order to induce that customer to enter into a contract or otherwise purchase products or services from the Service Provider. If the SLD determines that a Service Provider has engaged in coercive practices (or if SLD receives a complaint from an applicant), an investigation may lead to enforcement actions and possible reduction or loss of funding.

Coercive actions include but are not limited to, contracts that presume a relationship with subcontractors or other Service Providers not chosen by the applicant, the inducement to contract with the Service Provider as a result of "free" assistance in completing application forms, the offer of free or greatly reduced equipment as an inducement to sign a contract or purchase order, and contracts that contain penalty clauses.

**Interfere with competitive bidding**

Service Providers, through the actions of their representatives and employees, may not interfere with or obstruct the competitive bidding process. The applicant has an affirmative duty to conduct a fair and open competition, seeking the most cost effective solution to its technology needs. Price must be the most important factor in consideration (the factor with the greatest weight), but need not be the only consideration. Other factors may include the Service Provider's experience, the ability of the Service Provider to meet time deadlines or geographical needs, the quality of the work, and



the ability of the Service Provider to provide necessary maintenance and assistance.

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Content Last Modified: May 17, 2004

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## CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of October, 2017, a true and authorized copy of this Request for Review was served by electronic mail upon the following:


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