

5/26/2017

Letter of Appeal
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554
CC Docket No. 02-6

Re: Request for Review of Funding Commitment Decision Letter for funding Year 2016, issued March 3rd, 2017

I am submitting this letter of appeal and appeal deadline waiver request regarding denial of E-rate FY 2016 funding request for denial of funding requests 1699058981 1699059023, on the grounds that, the entity was not brought under its Category 2 budget. A budget allocation was submitted during USAC PIA that correctly brought the entity under budget. Between the USAC clerical errors to deny the application and the procedural, not substantive late filing of the appeal are subject to remain consistent with previous FCC Orders to restore full funding to these funding requests.

Appellant Name:	e2e Exchange, LLC
Applicant Name:	Gestalt Community Schools
471 Application Number:	161004068
Billed Entity Number:	16068392
FRN:	1699058981, 1699059023
Service Provider:	Datacomm Services Company, GKR Systems Inc.

SLD Explanation for denial: "DR1: The Category Two budget for BEN 16050141 is \$59,850.00. Your total requested Category Two pre-discount funding amount for BEN 16050141 exceeds this entity's Category Two Budget by: \$59,530.43. This funding request is being denied because you have not authorized sufficient modifications to the Category Two funding requests to bring this BEN within its allowable Category Two budget.; DR2: The Category Two budget for BEN 16074252 is \$45,600.00. Your total requested Category Two pre-discount funding amount for BEN 16074252 exceeds this entity's Category Two Budget by: \$72,459.71. This funding request is being denied because you have not authorized sufficient modifications to the Category Two funding requests to bring this BEN within its allowable Category Two budget.; DR3: The Category Two budget for BEN 16074253 is \$63,150.00. Your total requested Category Two pre-discount funding amount for BEN 16074253 exceeds this entity's Category Two Budget by: \$70,202.64. This funding request is being denied because you have not authorized sufficient modifications to the Category Two funding requests to bring this BEN within its allowable Category Two budget.; DR4: The Category Two budget for BEN 16084392 is \$9,200.00. Your total requested Category Two pre-discount funding amount for BEN 16084392 exceeds this entity's Category Two Budget by: \$172,871.99. This funding request is being denied because you have not authorized sufficient modifications to the Category Two funding requests to bring this BEN within its allowable Category Two budget.; DR5: The Category Two budget for BEN 17006988 is \$9,200.00. Your total requested Category Two pre-discount funding amount for BEN 17006988 exceeds this entity's Category Two Budget by: \$35,090.60. This funding request is being denied because you have not authorized sufficient modifications to the Category Two funding requests to bring this BEN within its allowable Category Two budget.; DR6: The Category Two budget for BEN 16068394 is \$85,050.

The issue in this case boils down simply to this: The denial of funding was based on a clerical error from the PIA reviewer as these entities were both brought under budget. The response was submitted via e-mail on 1/13/16 as there was an error with the EPC portal.

There were six entities all over budget as outlined in the spreadsheet that was provided in PIA. Amounts to be removed from each BEN were given in the response and each amount is equal to or less than the overage amount for each BEN. This would have brought each entity within their allocated Category 2 budget. No further outreach was conducted by the PIA reviewer and this is normal practice for PIA responses that meet the requirements of the request. No denial notification or any other follow up requested which is also common practice if more information is needed.

The division between having to submit inquiries via e-mail and PIA appear to be part of the issue with the application denial. All needed information was submitted so there should have been no reason for denial other than human error in the processing of the information.

The EPC system's notification procedure for FCDL commitments is a hindrance to all applicants and especially to consultants, who deal with potentially of hundreds of notifications and requests that populate through the newsfeed on a daily basis. Effectively USAC has taken a data dump approach by not directly notifying consultants or applicants that FCDLs are issued and available. There is no longer any direct contact made from USAC when FCDLs are issued. When direct contact is not made with the applicant or consultant the chain of communication between the program and its patrons breaks down. It is unacceptable for USAC to put applicants in this position. Without a firm and clear communication link between the parties involved the program is straying from its core mission. In the EPC system that has been administered USAC has effectively taken no accountability for the well-being of the applicants they are in place to service. Issuing FCDLs in a newsfeed in amongst countless other posts of verifying importance is inefficient at best. Overall the EPC system places a massive burden on consultants to be able to pick out each action item from the newsfeed. Treating FCDLs in the same way social media treats content and advertising is indirect, unreliable, and irresponsible from USAC. This is not social media – there are massive amounts of funding at stake for applicants. So much time, energy and resources are put at stake because USAC feels the best method is to post notifications on a wall as if it were Facebook. There is no e-mail sent to the consultant, no hard-copy mailed to an address, and no alert that these are even available. The entire review and post commitment process has become completely disengaged by way of the EPC portal. If USAC does not want to engage applicants and consultants on their funding it becomes impossible to get applications properly funded and properly disbursed. It is not reasonable for USAC to place so much red-tape around the E-rate process that it effectively inhibits funding that schools and libraries are eligible to receive by following the rules and regulations of the E-rate process. The proper discourse would be to waive the 60 and 30 day appeal deadlines from USAC and the FCC respectively to free this application from the burden USAC has placed on it.

Given that the denial of funding in this case was based on merely on a clerical error from the PIA reviewer and the Parties respectfully request that the SLD process this Letter of Appeal and approve the funding commitment for Gestalt Community Schools. The denial of funding for an administrative error places a particular hardship on a school district such as Gestalt Community Schools that otherwise should have been approved for and received Erate funding for its application.

Furthermore we request a waiver of the 60 day USAC Appeal deadline and the subsequent 30 day FCC Appeal deadline. In accordance with FCC Order 07-36, the missed appeals deadlines are a procedural error, and not a failure to adhere to the core program requirement or misuse of funds. Violations that were procedural, not substantive should not be completely rejected. We would also refer back to the Bishop Perry, that overturns denials based on administrative errors and in this case the error was USAC's. If they had not made the initial error in denying this application this appeal would not be necessary. All responses were timely filed to USAC with the information being 100% correct.

The FCC is fully aware of the administrative and processing failures of the EPC portal and USAC as a whole. We requested that this application be restored to full funding to protect the district from USAC's mishandling of the E-rate process and to stay true to USAC's and the FCC's mission of assisting schools and libraries in bridging the Wi-Fi and connectivity gap.

We respectfully request that you overturn the denial and restore full funding of these FRNs. Thank you for reviewing this appeal. Please use the contact information below.

Sean Cuskey, Director of Operations, E2e Exchange LLC, PO Box 451, Syracuse, NY 13206, Tel. 315.422.7608, Fax 866.283.9332, stc@e2eexchange.com

Sincerely,

Sean Cuskey

Director of Operations

Enclosures – PIA submission to bring entity under budget submitted on 1/13/17