

FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Request for Review of Decision of Universal Service Administrator by

KIPP New York City

Schools and Libraries Universal Service Support Mechanism

CC Docket No. 02-6

File No. FCC Form 471 Application
Numbers 1048346

To: Federal Communications Commission

KIPP NEW YORK CITY
REQUEST FOR REVIEW

KIPP New York City (“KIPP NYC”),¹ pursuant to Section 54.719(b) of the Federal Communications Commission’s (“FCC”) rules,² hereby requests review of the decision of the Universal Service Administrative Company (“USAC”) with respect to the above-captioned application.

As discussed more fully below, KIPP NYC filed a funding year 2015 application for E-rate funding. During USAC’s subsequent review of the application, it discovered an issue with the competitive bidding documents provided. Specifically, USAC found that the date listed on a vendor bid evaluation was dated *after* the contract award date. Thus, USAC alleged that KIPP NYC violated E-rate program competitive bidding rules. KIPP NYC acknowledged that the dates were inconsistent but explained during the review that it was simply a mistake. It provided a corrected timeline and supporting documentation, making clear that it had selected the vendor more than two weeks before memorializing the agreement. Nevertheless, USAC denied funding for the funding request (“FRN”) at issue. KIPP NYC filed an appeal with USAC, and USAC denied the appeal.

¹ Billed Entity Number 16045589.

² See 47 C.F.R. § 54.719(b) (permitting parties aggrieved by an action taken by the Administrator, after seeking review from the Administrator, to seek review from the Commission).

KIPP NYC respectfully requests that the Commission (1) reverse USAC's decision on appeal and (2) instruct USAC to issue a revised funding commitment approving the funding request at issue. Given the facts and circumstances of this case, there are ample grounds to reverse USAC's decision.

I. BACKGROUND

On December 8, 2014, KIPP NYC posted an FCC Form 470, seeking bids for internet services.³ Three proposals were received. Beginning February 10, 2015, KIPP NYC reviewed and evaluated the proposals at its monthly Selection Team meeting. A final recommendation was made on March 17, 2015 to award the service agreement to Sprint Communications. The contract was signed on April 3, 2015.⁴

On April 16, 2015, nearly two weeks after executing the contract, KIPP NYC filed its funding year 2015 FCC Form 471 ("Form 471"). That same date, a copy of the completed bid evaluation was printed for KIPP NYC to include in its E-rate document retention file.⁵ A KIPP NYC employee dated the bid evaluation document April 16, 2015, as the employee mistakenly believed that the Form 471 submission date was required on the evaluation.

The error went unnoticed until, April 7, 2016, when USAC notified KIPP NYC during the course of a subsequent Selective Review:

Based on the documentation you provided during your 2015 Selective Review, we have determined that your vendor selection documentation was created after the Contract Award Date. The vendor selection was done on 4/16/15, which is after the memorialized date of contract on 4/3/15. Program rules required that the vendor evaluation process should be completed and documented prior to the selection of a winning vendor and/or signing and dating a contract. Since this requirement was not met, FCC Form application 1048346, FRN 2868941 will be denied.

KIPP NYC explained in its response that it had selected the vendor *prior to* submitting the application.⁶ It provided a timeline of events – from the procurement stage to the filing process – and notes from its February 2015 and March 2015 Selection Team meeting, during which KIPP NYC

³ FCC Form 470 Number 884940001265519.

⁴ A copy of the executed service agreement is attached as Exhibit A.

⁵ A copy of the completed bid evaluation form is attached as Exhibit B.

⁶ KIPP NYC's response to USAC's information request is attached as Exhibit C.

evaluated the bids received and awarded the agreement to Sprint. Finally, KIPP NYC provided declarations of two KIPP NYC officials directly involved in the procurement process, confirming the vendor selection date and explaining the mistake. The declarations made clear that the vendor selection took place prior to signing the agreement and submitting the Form 471:

On April 16, 2015, KIPP NYC finalized and submitted its Funding Year 2015 Form 471 . . . On that same date, a copy of the bid evaluation was printed for the school's E-rate document retention file. I [Lauren Taiclet] prepared the bid evaluation document for Ed Laux (Managing Director of IT, KIPP NYC) and dated it April 16, 2015, as we thought that, under E-rate program rules, it was permissible and preferred to have the date on the bid evaluation match the date on the Form 471 posted for the services. We now understand that this represents a misunderstanding on our part of the program rules . . . ⁷

On April 16, 2015, KIPP NYC finalized and submitted its Funding Year 2015 Form 471 . . . On that same date, a copy of the bid evaluation was printed for the school's E-rate document retention file. The bid evaluation was prepared for me [Edward C. Laux Jr.] by Lauren Taiclet (Director of IT, KIPP NYC). She dated it April 16, 2015, as we thought that, under E-rate program rules, it was permissible and preferred to have the date on the bid evaluation match the date on the Form 471 posted for the services. We now understand that this represents a misunderstanding on our part of the program rules . . . ⁸

Nevertheless, on November 10, 2017, KIPP NYC received notification that USAC denied funding for the request. USAC provided the following explanation for the funding commitment decision:

DR1: The vendor selection was done on 4/16/15, which is after the memorialized date of contract on 4/3/15. Program rules required that the vendor evaluation process should be completed and documented prior to the selection of a winning vendor and/or signing and dating a contract. Since this requirement was not met, FCC Form application 1048346, FRN 2868941 will be denied.

On January 8, 2018, KIPP NYC filed an appeal with the Administrator, which USAC ultimately denied.⁹

⁷ Declaration of Edward C. Laux, Jr., attached as Exhibit D.

⁸ Declaration of Lauren Taiclet, attached as Exhibit E.

⁹ The appeal and a copy of the USAC decision letter is attached as Exhibit F.

II. DISCUSSION

Based on documentation provided during the application review, USAC charges that KIPP NYC failed to complete the vendor evaluation process before awarding and executing the contract with the service provider. KIPP NYC respectfully disagrees.

KIPP NYC acknowledges that it included the wrong date on the evaluation form. USAC correctly identified the error, and its concern was justified, at least initially. However, KIPP NYC explained during the review process, and then again on appeal, that it had selected the vendor on March 17, 2015 and signed the resulting agreement more than two weeks later, on April 3, 2015. KIPP NYC also provided notes from the Selection Team meeting, a detailed timeline of events, and the declarations of two KIPP NYC officials explaining the mistake and confirming the dates at issue.

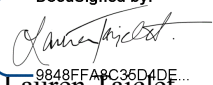
Because of a simple, easily explained documentation error during the competitive bidding process, USAC has denied KIPP NYC's \$984,490 internet funding request in its entirety. Should the Commission enforce USAC's decision, it would have a devastating effect on KIPP NYC, its students, and its resources. Such a result would be particularly unfair under the facts and circumstances in this case, where the applicant conducted a fair and open competitive bidding process that in all respects complied with program rules and regulations.

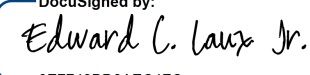
It is important to note that KIPP NYC went above and beyond the minimum requirements of the competitive bidding process. Neither USAC requirements nor Commission rules require applicants to use a matrix and/or date a vendor evaluation document. Applicants are only required to construct an evaluation using cost of the eligible equipment or services as the highest weighted criteria. A spreadsheet matrix is one form of documentation and committee procurement notes may be another. The guidance provided by USAC includes a sample matrix without a date or signatures of approval by the evaluation committee. KIPP NYC signs, dates, and prints these documents to ensure its compliance with competitive bidding and document retention rules – though not required. Unfortunately, in this case, its efforts actually caused USAC to deny the funding request at issue.

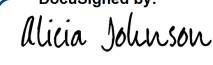
III. RELIEF SOUGHT

For the foregoing reasons, KIPP NYC respectfully requests that the Commission (1) reverse USAC's decision on appeal and (2) instruct USAC to issue a revised funding commitment approving the funding request.

Respectfully submitted,

DocuSigned by:

9848FFA8C36D4DE...
Lauren Faiclet
Director of Technology

DocuSigned by:

E-10E7743BDB8A8C4FC
Edward C. Laux, Jr.
Senior Managing Director of Technology & Facilities

DocuSigned by:

66D88380D8DD4DD...
Alicia Johnson
President & Chief Operating Officer

KIPP New York City
470 7th Avenue
10th Floor
New York, NY 10018

erate@kippnyc.org
(267) 249-6219

July 16, 2018

Exhibit A



April 3, 2015

Sprint

Attn: Annette M. Bisbee

12502 Sunrise Valley Drive

Reston, VA 20196

Mailstop: VARESA0208-2D408

Annette,

Please find attached two (2) original executed agreements for the Sprint products/services contained therein, as it relates to the Third Amendment to our existing contract.

Once the Amendment has been executed by Sprint, please send a countersigned original as follows for our records:

KIPP NYC
470 7th Avenue
10th Floor
New York, NY 10018
Attn: Ed Laux / Tech Team

Thank you again for all your assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ed Laux Jr.", written over a blue circular stamp or seal.

Edward C. Laux Jr.
KIPP NYC, Managing Director

KIPP NYC 470 7th Avenue, 10th Floor, New York, NY 10018 p: 212-991-2600 f: 646-556-8950

KIPP Academy Elementary School • KIPP Academy Middle School • KIPP AMP Middle School

KIPP Infinity Elementary School • KIPP Infinity Middle School • KIPP STAR Elementary School • KIPP STAR Middle School

KIPP Washington Heights Academy • KIPP NYC College Prep High School • KIPP Through College

www.KIPPNYC.org

**THIRD AMENDMENT TO
INTEREXCHANGE SERVICES AGREEMENT
(Private K12 Education)
#CNMN03112014r1**

This Third Amendment (CNMN03242015) is made to the INTEREXCHANGE SERVICES AGREEMENT (Private K12 Education) #CNMN03112014r1 between **SPRINT SOLUTIONS, INC.** as contracting agent on behalf of the applicable Sprint affiliates providing the Products and Services ("Sprint") and **KIPP NYC, LLC** ("Customer"), signed by Customer on March 24, 2014 and Sprint on March 24, 2014 (the "Agreement") as amended by:

AMENDMENT NUMBER	Reference #	CUSTOMER SIGNATURE DATE	SPRINT SIGNATURE DATE
First	CNMN09242014	September 29, 2014	October 2, 2014
Second	CNMN10142014	November 6, 2014	November 13, 2014

The following modified and added terms and conditions are made a part of the Agreement effective on the first day of the first billing month after this Third Amendment is signed by Sprint and Customer ("Third Amendment Commencement Date").

To facilitate contract administration, the parties agree that Sprint Solutions, Inc. may sign on behalf of the Sprint entities providing the Products and Services. Sprint Solutions, Inc. represents and warrants that it has the requisite authority to sign on behalf of, and bind, the applicable Sprint entities that are parties to the Agreement. The Sprint affiliated entity providing the Products and Services will be identified in the applicable pricing attachment.

Sprint and Customer agree as follows:

1. The Agreement is amended by deleting Section 3 ("ADDITIONAL PROVISIONS"), Subsection 3.3 ("ATTACHMENTS") in its entirety and replacing it as follows:

Attachment A: Sprint Interexchange (Long Distance) Service Plans & Policies
Attachment A-1: Wireline Data Services: Quote No. DB-1409-67830, dated September 22, 2014
Attachment A-2: Wireline Data Services: Quote No. DB-1409-67537, dated September 22, 2014
Attachment A-3: Wireline Data Services: Quote No. DB-1409-67831, dated September 22, 2014
Attachment A-4: Wireline Data Services: Quote No. DB-1410-68323, dated October 1, 2014
Attachment A-5: Wireline Data Services: Quote No. DB-1410-68327, dated October 1, 2014
Attachment A-6: Wireline Data Services: Quote No. DB-1410-68338, dated October 2, 2014
Attachment A-7: Wireline Data Services: Quote No. DB-1410-68340, dated October 2, 2014
Attachment A-8: Wireline Data Services: Quote No. DB-1410-68344, dated October 2, 2014
Attachment A-9: Wireline Data Services: Quote No. DB-1503-81226, dated March 9, 2015
Attachment B: Sprint Dedicated Internet Access Product Annex
Attachment C: Sprint Global MPLS VPN Product Annex
Attachment D: SIP Trunking Service Product Annex
Attachment E: Sprint Managed Network Solutions Product Annex
Attachment F: Sprint Global MPLS Virtual Private Network ("MPLS VPN") Services Service Level Agreements
Attachment G: Global Sprint Dedicated IP Services Service Level Agreements
Attachment H: Sprint SIP Trunking Service Level Agreement

2. The Agreement is amended by deleting Attachment A ("INTEREXCHANGE (LONG DISTANCE) SERVICE PLANS AND POLICIES"), Section 2 ("CHARGES") in its entirety and replacing it as follows:

2. **CHARGES.** Sprint will provide the Services at the prices specified in **QUOTE NO. DB-1409-67830, dated September 22, 2014**, as attached to this Agreement as **Attachment A-1** and incorporated by this reference; the Services the prices specified in **QUOTE NO. DB-1409-67537, dated September 22, 2014**, as attached to this Agreement as **Attachment A-2** and incorporated by this reference; the Services the prices specified in **QUOTE NO. DB-1409-67831, dated September 22, 2014**, as attached to this Agreement as **Attachment A-3** and incorporated by this reference; the Services the prices specified in **QUOTE NO. DB-1410-68323, dated October 1, 2014**, as attached to this Agreement as **Attachment A-4** and incorporated by this reference; the Services the prices specified in **QUOTE NO. DB-1410-68327, dated October 1, 2014**, as attached to this Agreement as **Attachment A-5** and incorporated by this reference; the Services the prices specified in **QUOTE NO. DB-1410-68338, dated October 2, 2014**, as attached to this Agreement as **Attachment A-6** and incorporated by this reference; the Services the prices specified in **QUOTE NO. DB-1410-68340, dated October 2, 2014**, as attached to this Agreement as **Attachment A-7** and incorporated by this reference; the Services the prices specified in **QUOTE NO. DB-1410-68344, dated October 2, 2014**, as attached to this Agreement as **Attachment A-8** and incorporated by this reference; and the Services the prices specified in **QUOTE NO. DB-1503-81226, dated March 9, 2015**, as attached to this Agreement as **Attachment A-9** and incorporated by this reference. The Terms and Conditions of this Agreement will take precedence over any contrary statements in the Quotes.

3. The Agreement is amended by adding a new Attachment A-9 ("WIRELINE DATA SERVICES: QUOTE NO. DB-1503-81226, DATED MARCH 9, 2015") attached hereto.

4. All other terms and conditions in the Agreement, not amended above, will remain in effect. This Third Amendment and any information concerning its terms and conditions are Sprint's proprietary information and are governed by the Confidential Information provision of the Agreement. Alterations to this Third Amendment will not be valid unless accepted in writing by a Sprint officer or authorized designee. To become effective, this Third Amendment must be: (a) signed by a Customer representative; (b) delivered to Sprint; (c) and signed by a Sprint officer or authorized designee.

KIPP NYC, LLC

By: _____

Authorized Signature

Date: _____

Name and Title: _____

(please type or print)

Address: _____

470 7th Avenue, FL 10

New York, NY 10018

SPRINT SOLUTIONS, INC.

as contracting agent on behalf of the applicable Sprint affiliated entities providing the Products and Services

By: _____

Authorized Signature

Date: _____

Name and Title: _____

(please type or print)

Address: _____

12502 Sunrise Valley Drive

Mailstop: VARESA0208

Reston, VA 20196

Sprint — Approved
as to Legal FormSMW
Apr 2, 2014

ATTACHMENT A-9
WIRELINE DATA SERVICES

QUOTE NO. DB-1503-81226

DATED MARCH 9, 2015

[PLACEHOLDER]

No.: DB-1503-81226
Approval Date: March 9, 2015
Customer Name: KIPP NYC

QUOTE

Customer Name: KIPP NYC
Address: 470 7th Avenue, 10th Floor
New York, NY 10018

Thank you for the opportunity to provide this non-binding pricing estimate for Sprint Solutions, Inc. ("Sprint") products and services. **This estimate is provided for informational purposes only and is not an agreement for services.** It is intended to show an estimate of Sprint services based upon information provided by the Customer as of this date. This price quote will remain valid for a period of 30 days from the approval date. These prices do not reflect promotions, offers, or discounts that may be offered by Sprint at the time of service activation. Prices also do not include any taxes or other applicable surcharges that Sprint may bill Customer. Sprint's provision of services will be subject to additional terms and conditions.

This price quote is Sprint's confidential and proprietary information and Customer agrees not to disclose this price quote or its contents to any third party, except as may be permitted by a non-disclosure agreement between Customer and Sprint.

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WIRELINE DATA SERVICES

SUMMARY

* 36 month Contract

Product/Service	Quantity	Net MRC	Net NRC
MNS	9	\$703.80	\$1,350.00
Global MPLS VPN	9	\$44,461.00	\$0.00
		\$45,164.80	\$1,350.00

Global MPLS VPN

Port/Bundle Description	Port/Bundle Minimum MRC	List NRC	Net NRC	Access Bandwidth	Vendor	Location
300 MEG ETHERNET PORT/ACCESS BUNDLE - AGGREGATED	\$6,850.00	\$15,500.00	\$0.00	300M	VERIZON NEW YORK	BRONX, NY
100 MEG ETHERNET PORT/ACCESS BUNDLE - AGGREGATED	\$3,626.00	\$15,500.00	\$0.00	100M	VERIZON NEW YORK	BRONX, NY
100 MEG ETHERNET PORT/ACCESS BUNDLE - AGGREGATED	\$3,626.00	\$15,500.00	\$0.00	100M	VERIZON NEW YORK	BROOKLYN, NY
300 MEG ETHERNET PORT/ACCESS BUNDLE - AGGREGATED	\$6,850.00	\$15,500.00	\$0.00	300M	VERIZON NEW YORK	MANHATTAN, NY
300 MEG ETHERNET PORT/ACCESS BUNDLE - AGGREGATED	\$6,850.00	\$15,500.00	\$0.00	300M	VERIZON NEW YORK	BRONX, NY
100 MEG ETHERNET PORT/ACCESS BUNDLE - AGGREGATED	\$3,626.00	\$15,500.00	\$0.00	100M	VERIZON NEW YORK	MANHATTAN, NY
100 MEG ETHERNET PORT/ACCESS BUNDLE - AGGREGATED	\$3,626.00	\$15,500.00	\$0.00	100M	VERIZON NEW YORK	MANHATTAN, NY
200 MEG ETHERNET PORT/ACCESS BUNDLE - AGGREGATED	\$5,781.00	\$15,500.00	\$0.00	200M	VERIZON NEW YORK	MANHATTAN, NY
100 MEG ETHERNET PORT/ACCESS BUNDLE - AGGREGATED	\$3,626.00	\$15,500.00	\$0.00	100M	VERIZON NEW YORK	MANHATTAN, NY
9	\$44,461.00		\$0.00			

MNS

Pricing Component	# Sites	Net MRC	List NRC	Net NRC	Total Net MRC	Total Net NRC
MNS Complete Solutions	9	\$78.20	\$300.00	\$150.00	\$703.80	\$1,350.00

ADDITIONAL TERMS AND CONDITIONS WILL APPLY.

Exhibit B

School/District KIPP NYC Schools

Funding Year 2015-16

DIA

Selection Criteria	Weight*	Sprint	Zayo	Windstream	
		Score	Score	Score	Score
Price of Eligible Services/Equipment	45%	5	8	7	
Service at Site?	35%	6	0	0	
Prior Experience with our Schools/Region	20%	10	0	0	
Overall Score	100%	6.35	3.6	3.15	0

Vendor Selected: Sprint

Approved By: Ed Laux

Title: Managing Director of IT

Date: 4/16/2015

Notes:

* Percentage weights must add up to 100%. Price must be weighted the heaviest.

** Evaluated on a scale of 1 to 10: 1=worst, 10=best.

*** Overall score is the sum of the individual selection criteria scores (1-10) multiplied by the corresponding weight

Ex. (Score 1 x Weight 1) + (Score 2 x Weight 2) + (Score 3 x Weight 3)

Evaluation Criteria Explanation

Price of Eligible Services/Equipment	45%	Evaluated by comparing the bid prices and services offered.
Service at Site?	35%	Evaluated by determining if vendor already has equipment at demarc at sites
Prior Experience with our Schools/Region	20%	Evaluated by determining if the schools/region have previously used the vendor.

Exhibit C

Program Integrity Assurance Response

Funding Year 2015

Applicant Name: **KIPP New York City**

Billed Entity Number: **16045589**

Form 471 Application Number: **1048346**

Item 1

Based on the documentation you provided during your **2015** Selective Review, we have determined that your vendor selection documentation was created after the Contract Award Date. The vendor selection was done on 4/16/15, which is after the memorialized date of contract on 4/3/15. Program rules required that the vendor evaluation process should be completed and documented prior to the selection of a winning vendor and/or signing and dating a contract. Since this requirement was not met, **FCC Form application 1048346, FRN 2868941** will be denied.

Item 1 Response

KIPP NYC selected the WAN service provider prior to submission of its Form 471 application. Below is a timeline of events:

WAN Vendor Selection and E-rate Application Timeline

December 8, 2014	Form 470 #884940001265519 posted requesting Internet access.
March 17, 2015	Top-ranked vendor for Internet access selected.
April 3, 2015	Internet service agreement signed.
April 16, 2015	Form 471 application #1048346 submitted to USAC.

Form 470 submission

On December 8, 2014, KIPP NYC declared its intent to seek proposals for Internet access for its facilities by posting Form 470 #884940001265519 with an allowable contract date of January 5, 2015.

Vendor Evaluation

Three proposals were received. KIPP NYC reviewed and evaluated the proposals beginning February 10, 2015. Only one vendor provided a proposal that met the entire scope of the KIPP NYC Internet access request. A final recommendation was made on March 17, 2015 to award the service agreement to Sprint Communications. Copies of the evaluation discussion and evaluation are attached.

Service Agreement Signed

The service agreement between KIPP NYC and Sprint Communications was signed on April 3, 2015.

Form 471 Application

On April 16, 2015, KIPP New York City finalized and submitted its FY 2015 E-rate application 1048346. On that same date, a copy of the bid evaluation was printed for the school's E-rate

document retention file. (This is the document that seems to be the source of USAC's confusion regarding the award date.)

DISCUSSION

A review of this calendar of events makes clear the fact that that KIPP NYC evaluated and awarded its Internet contract prior to submission of the Form 471 application. Simple logic dictates that the evaluation of proposals occurs before the award of a contract. This clear fact is supported by the meeting notes and evaluation documents included in this response.

Please acknowledge receipt of this information and let us know if you require any additional clarification.

2015-02-10 Local E-Rate Decisions

Wednesday, February 04, 2015 2:13 PM

Last Date to Post Form 471s (the request) -- 3/26/2015 at 11:59 PM. Preferably we will have all Form 471 posted no later than March 18, earlier if possible.

1. Category 2 Network Equipment

- a. [REDACTED]
- ii. [REDACTED]
- iii. [REDACTED]
- iv. [REDACTED]
- b. Stuff for Cores (All 4507s)
 - 1. [REDACTED]
 - 2. [REDACTED]
 - 3. [REDACTED]
 - 4. [REDACTED]
 - 5. [REDACTED]
 - 6. [REDACTED]
 - 7. [REDACTED]

2. Category 1 POTS and PRI Telecom Provider --- revisit in the next week

- a. Overall
 - i. [REDACTED]
 - ii. [REDACTED]
 - iii. [REDACTED]
- b. [REDACTED]
 - i. [REDACTED]
- c. [REDACTED]
 - i. [REDACTED]
 - 1. [REDACTED]
 - 2. [REDACTED]
 - ii. [REDACTED]
 - 1. [REDACTED]
 - 2. [REDACTED]
 - iii. [REDACTED]
- d. [REDACTED]
 - i. [REDACTED]
- e. [REDACTED]

- [REDACTED]
- f. [REDACTED]

3. Category 1 Cell Phone

- a. [REDACTED]
- b. [REDACTED]
- i. [REDACTED]
- c. [REDACTED]
- i. [REDACTED]
- d. [REDACTED]
- i. [REDACTED]

4. Category 1 Internet

- a. Had several bidders in addition to Sprint
- b. Need to review bids for accuracy

5. Category 2 Cabling

- a. [REDACTED]
- b. [REDACTED]
- c. [REDACTED]

2015-03-17 Check In

Monday, March 09, 2015 1:14 PM

1. Sign E-Rate Contracts (extended deadline is now in April)

- a. PRI/POTS
- b. Cabling
- c. Network Equipment
- d. MPLS/DIA

2. [REDACTED]

3. [REDACTED]

a. [REDACTED]

4. [REDACTED]

5. [REDACTED]

a. [REDACTED]

b. [REDACTED]

6. SST Acoustics

a. [REDACTED]

b. [REDACTED]

c. [REDACTED]

7. iPhone Feature Friday [TRANSITION IT DOWN THE ROAD]

a. [REDACTED]

b. [REDACTED]

i. [REDACTED]

ii. [REDACTED]

iii. [REDACTED]

iv. [REDACTED]

8. From DL & HB

a. Team Events

i. [REDACTED]

ii. [REDACTED]

b. [REDACTED]

i. [REDACTED]

c. [REDACTED]

9. Things to Discuss

a. [REDACTED]

b. [REDACTED]

- i. [REDACTED]
- c. [REDACTED]
[REDACTED]
- i. [REDACTED]
- d. Space Changes
 - i. [REDACTED]
 - 1) [REDACTED]
[REDACTED]
 - a) [REDACTED]
 - ii. [REDACTED]
 - 1) [REDACTED]
[REDACTED]

School/District KIPP NYC Schools

Funding Year 2015-16

DIA

Selection Criteria	Weight*	Sprint	Zayo	Windstream	
		Score	Score	Score	Score
Price of Eligible Services/Equipment	45%	5	8	7	
Service at Site?	35%	6	0	0	
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Overall Score	100%	6.35	3.6	3.15	0

Vendor Selected: Sprint

Approved By: Ed Laux

Title: Managing Director of IT

Date: 4/16/2015

Notes:

* Percentage weights must add up to 100%. Price must be weighted the heaviest.

** Evaluated on a scale of 1 to 10: 1=worst, 10=best.

*** Overall score is the sum of the individual selection criteria scores (1-10) multiplied by the corresponding weight

Ex. (Score 1 x Weight 1) + (Score 2 x Weight 2) + (Score 3 x Weight 3)

Evaluation Criteria Explanation

Price of Eligible Services/Equipment	45%	Evaluated by comparing the bid prices and services offered.
Service at Site?	35%	Evaluated by determining if vendor already has equipment at demarc at sites
Prior Experience with our Schools/Region	20%	Evaluated by determining if the schools/region have previously used the vendor.

Exhibit)



**DECLARATION OF EDWARD C. LAUX, JR.
ON BEHALF OF KIPP NEW YORK CITY PUBLIC CHARTER SCHOOLS**

1. I am Edward C. Laux, Jr., the Managing Director and Head of IT for KIPP New York City Public Charter Schools ("KIPP NYC"), a New York-based network of free, open-enrollment public charter schools.
2. The purpose of my declaration is to describe the ministerial and clerical error that resulted in the incorrect date being included on the bid evaluations that I signed for Funding Year 2015-16 for Internet Access and WAN transport, for FCC Form application 1048346, FRN 2868941.
3. On December 8, 2014, KIPP NYC declared its intent to seek proposals for Internet access for its facilities by posting a Form 470 (Form Number: 884940001265519). The allowable contract date was January 5, 2015.
4. Three proposals were received, which KIPP NYC reviewed and evaluated beginning February 10, 2015.
5. Only one vendor provided a proposal that met the entire scope of the KIPP NYC Internet access request. A final recommendation was made on March 17, 2015 to award the service agreement to Sprint Communications. Copies of the evaluation discussion and bid evaluation are attached. See the following pages.
6. The service agreement between KIPP NYC and Sprint Communications was signed on April 3, 2015.
7. On April 16, 2015, KIPP NYC finalized and submitted its Funding Year 2015 Form 471 (Application Number: 1048346).
8. On that same date, a copy of the bid evaluation was printed for the school's E-rate document retention file. The bid evaluation was prepared for me by Lauren Taiclet (Director of IT, KIPP NYC). She dated it April 16, 2015, as we thought that under program rules, it was permissible and preferred to have the date on the Bid Evaluation match the date of the Form 471 posting for the services. She and I now understand that this represents a misunderstanding on our part of the program rules around Bid Evaluations and dates.
9. KIPP was notified of the mistake and the potential loss of funding due to the clerical error during a subsequent PIA review. And because the evaluation sheet was mistakenly dated April 16, 2015, USAC has expressed concern that KIPP NYC did not evaluate bids prior to awarding the contract.
10. KIPP NYC and its students will suffer significant undue hardship if KIPP NYC does not receive funding for Internet access for its facilities. Specifically, KIPP NYC will be forced to make budget reductions that may negatively impact students and their academic performance.

I hereby declare and affirm that the foregoing is true and correct to the best of my information and belief.

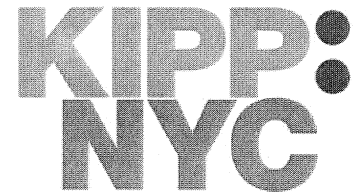


Edward C. Laux, Jr.

4/27/2016

Date

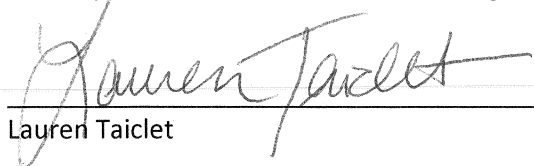
Exhibit -



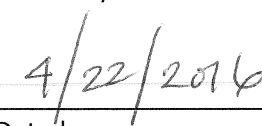
**DECLARATION OF LAUREN TAICLET
ON BEHALF OF KIPP NEW YORK CITY PUBLIC CHARTER SCHOOLS**

1. I am Lauren Taiclet, the Director of IT for KIPP New York City Public Charter Schools ("KIPP NYC"), a New York-based network of free, open-enrollment public charter schools.
2. The purpose of my declaration is to describe the ministerial and clerical error that resulted in the incorrect date being included on the bid evaluations for Funding Year 2015-16 for Internet Access and WAN transport for FCC Form application 1048346, FRN 2868941.
3. On December 8, 2014, KIPP NYC declared its intent to seek proposals for Internet access for its facilities by posting a Form 470 (Form Number: 884940001265519). The allowable contract date was January 5, 2015.
4. Three proposals were received, which KIPP NYC reviewed and evaluated beginning February 10, 2015.
5. Only one vendor provided a proposal that met the entire scope of the KIPP NYC Internet access request. A final recommendation was made on March 17, 2015 to award the service agreement to Sprint Communications. Copies of the evaluation discussion and bid evaluation are attached. See the following pages.
6. The service agreement between KIPP NYC and Sprint Communications was signed on April 3, 2015.
7. On April 16, 2015, KIPP NYC finalized and submitted its Funding Year 2015 Form 471 (Application Number: 1048346).
8. On that same date, a copy of the bid evaluation was printed for the school's E-rate document retention file. I prepared the bid evaluation document for Ed Laux (Managing Director of IT, KIPP NYC Schools) and dated it April 16, 2015, as we thought that under E-Rate program rules, it was permissible and preferred to have the date on the Bid Evaluation match the date of the Form 471 posted for the services. We now understand that this represents a misunderstanding on our part of the program rules around Bid Evaluations and dates.
9. KIPP was notified of the mistake and the potential loss of funding due to the clerical error during a subsequent PIA review. And because the evaluation sheet was mistakenly dated April 16, 2015, USAC has expressed concern that KIPP NYC did not evaluate bids prior to awarding the contract.
10. KIPP NYC and its students will suffer significant undue hardship if KIPP NYC does not receive funding for Internet access for its facilities. Specifically, KIPP NYC will be forced to make budget reductions that may negatively impact students and their academic performance.

I hereby declare and affirm that the foregoing is true and correct to the best of my information and belief.



Lauren Taiclet



Dated

Exhibit F

January 8, 2018

Universal Service Administrative Company
Schools and Libraries Division
30 Lanidex Plaza West
Parsippany, NJ 07054

LETTER OF APPEAL

Applicant:	KIPP New York City
Billed Entity Number:	16045589
Funding Year:	2015
FCC Form 471 Application Number:	1048346
Funding Request Number:	2868941

KIPP New York City (“KIPP”) hereby appeals the decision of the Schools and Libraries Division (“SLD”) to deny the funding request (“FRN”) in the above-captioned application.

I. BACKGROUND

On December 8, 2014, KIPP posted an FCC Form 470, seeking bids for internet services.¹ Three proposals were received. Beginning February 10, 2015, KIPP reviewed and evaluated the proposals at its monthly Selection Team meeting. A final recommendation was made on March 17, 2015 to award the service agreement to Sprint Communications. The agreement was signed on April 3, 2015.²

On April 16, 2015, nearly two weeks after signing the agreement, KIPP filed its funding year 2015 FCC Form 471. That same date, a copy of the completed bid evaluation was printed for KIPP to include in its E-rate document retention file.³ A KIPP employee dated the bid evaluation document April 16, 2015, as the employee mistakenly believed that the Form 471 submission date was required on the evaluation.

The error went unnoticed until, April 7, 2016, when the SLD notified KIPP during the course of a subsequent Selective Review:

Based on the documentation you provided during your 2015 Selective Review, we have determined that your vendor selection documentation was created after the Contract Award Date. The vendor selection was done on 4/16/15, which is after the memorialized date of contract on 4/3/15. Program rules required that the vendor evaluation process should be completed and documented prior to the selection of a winning vendor and/or signing and dating a contract. Since this requirement was not met, FCC Form application 1048346, FRN 2868941 will be denied.

KIPP explained in its response that it *had* selected the vendor prior to submitting the application.⁴ It provided a timeline of events – from the procurement stage to the filing process – and notes from its

¹ FCC Form 470 Number 884940001265519.

² A copy of the executed service agreement is attached as Exhibit A.

³ A copy of the completed bid evaluation form is attached as Exhibit B.

⁴ KIPP’s response to the SLD’s information request is attached as Exhibit C.

February 2015 and March 2015 Selection Team meeting, during which KIPP evaluated the bids received and awarded the agreement to Sprint. Finally, KIPP provided declarations of two KIPP employees, confirming the vendor selection date and explaining the mistake. The declarations made clear that the internet contract was awarded to Sprint prior to signing the agreement and submitting the Form 471:

On April 16, 2015, KIPP NYC finalized and submitted its Funding Year 2015 Form 471 . . . On that same date, a copy of the bid evaluation was printed for the school's E-rate document retention file. I [Lauren Taiclet] prepared the bid evaluation document for Ed Laux (Managing Director of IT, KIPP NYC) and dated it April 16, 2015, as we thought that, under E-rate program rules, it was permissible and preferred to have the date on the bid evaluation match the date on the Form 471 posted for the services. We now understand that this represents a misunderstanding on our part of the program rules . . . ⁵

On April 16, 2015, KIPP NYC finalized and submitted its Funding Year 2015 Form 471 . . . On that same date, a copy of the bid evaluation was printed for the school's E-rate document retention file. The bid evaluation was prepared for me [Edward C. Laux Jr.] by Lauren Taiclet (Director of IT, KIPP NYC). She dated it April 16, 2015, as we thought that, under E-rate program rules, it was permissible and preferred to have the date on the bid evaluation match the date on the Form 471 posted for the services. We now understand that this represents a misunderstanding on our part of the program rules . . . ⁶

Nevertheless, on November 10, 2017, KIPP received notification that the SLD denied funding for the internet access FRN. The SLD provided the following explanation for the funding commitment decision:

DR1: The vendor selection was done on 4/16/15, which is after the memorialized date of contract on 4/3/15. Program rules required that the vendor evaluation process should be completed and documented prior to the selection of a winning vendor and/or signing and dating a contract. Since this requirement was not met, FCC Form application 1048346, FRN 2868941 will be denied.

II. DISCUSSION

The issue in this case is this: KIPP mistakenly included the Form 471 submission date on its bid evaluation instead of the date the vendor evaluation and selection took place, nearly a month earlier.

While the SLD's concern was certainly warranted, at least initially, KIPP explained during the application review process that it had selected the vendor on March 17, 2015 and signed the resulting agreement on April 3, 2015, two weeks prior to submitting the Form 471. KIPP also provided notes from the Selection Team meeting, a detailed timeline of events, and the declarations of two KIPP employees explaining the mistake and confirming the dates at issue. It is difficult to imagine what more it could have done to alleviate the SLD's concerns about the alleged rule violation.

⁵ Declaration of Edward C. Laux, Jr., attached as Exhibit D.

⁶ Declaration of Lauren Taiclet, attached as Exhibit E.

The SLD has since denied KIPP's \$957,787.63 internet service funding request entirely. Should the SLD's funding commitment decision stand, it would have a devastating effect on KIPP, its students, and its resources. This is particularly true in a case such as this, where the applicant properly conducted all other aspects of the competitive bidding process.

III. RELIEF SOUGHT

For the foregoing reasons, KIPP New York City respectfully requests that USAC reverse the SLD's decision and issue a revised funding commitment decision approving FRN 2868941.

Respectfully submitted,

Lauren Taiclet
Director of Technology

KIPP New York City
470 7th Avenue
10th Floor
New York, NY 10018

erate@kippnyc.org
(267) 249-6219

Lauren Taiclet
Kipp Nyc
470 7th Avenue, Floor 10
New York, NY 10018



Billed Entity Number: 16045589
Form 471 Application Number: 1048346
Form 486 Application Number:



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2015-2016

May 21, 2018

Lauren Taiclet
Kipp Nyc
470 7th Avenue, Floor 10
New York, NY 10018

Re: Applicant Name: KIPP NYC
Billed Entity Number: 16045589
Form 471 Application Number: 1048346
Funding Request Number(s): 2868941
Your Correspondence Dated: January 08, 2018

After review of the information and documentation provided, 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 commitment decision for the FCC Form 471 Application Number and funding requests number(s) (FRN(s)) referenced above. This letter provides an explanation for USAC's decision. The date of this letter also begins the sixty (60) day time period for appealing this decision. If your Letter of Appeal included more than one FCC Form 471 Application Number, please note that you will receive a separate decision for each funding application.

Funding Request Number(s): 2868941
Decision on Appeal: **Denied**
Explanation:

- The record shows that the vendor selection was done on 4/16/15, which is after the memorialized contract date of 4/3/15. Program rules required that the vendor evaluation process be completed and documented prior to the selection of a winning vendor and/or signing and dating a contract. Since this requirement was not met, FCC Form application 1048346, FRN 2868941 was denied. In your appeal, you did not demonstrate that USAC's decision was incorrect. Consequently, your appeal is denied.

If you wish to appeal this decision, you may file an appeal pursuant to 47 C.F.R. Part 54, Subpart I. Detailed instructions for filing appeals are available at:
<http://www.usac.org/sl/about/program-integrity/appeals.aspx>.

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

Schools and Libraries Division
Universal Service Administrative Company