



# PARADIGM SCHOOLS

11577 South 3600 West, South Jordan, UT 84095  
www.paradigmschools.org (p) 801-676-1018 (f) 801-676-1036

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20054

REQUEST FOR REVIEW OF A DECISION OF THE UNIVERSAL SERVICE  
ADMINISTRATIVE COMPANY BY PARADIGM HIGH SCHOOL SOUTH JORDAN, UTAH

September 19, 2019  
CC Docket: 02-6

**Contacts:**

Fernando Seminario, Director  
11577 S 3600 W  
South Jordan, UT 84095  
Phone: 801.676.1018  
Email: fseminario@paradigmhigh.org

Gavin Swenson, E-rate Consultant  
4507 W Kootenai St  
Riverton UT, 84096  
Phone: 801.597.4131  
Email: gavin@kmconsult.org

**Applicant:**

Paradigm High School  
Billed Entity # 16044438  
FCC Form 471: 161054677  
FRN: 1699126417

Pursuant to sections 54.719 and 54.722 of the Commission's rules, Paradigm High School (the applicant or Paradigm) requests the Federal Communications Commission's (FCC) to review the July 29, 2019, decision by the Schools and Libraries Division of the Administrator of the Universal Service Administrative Company (USAC) that denied an appeal of the Commitment Adjustment Letter (COMAD), dated May 31, 2019. We are seeking a reversal of the decision to deny funding based on a conflict of interest between the applicant's consultant/school official and the selected service provider.

USAC should have granted the appeal because (1) the school was completely compliant with USAC and FCC competitive bidding requirements, (2) was not influenced by any outside parties, including Charter Solutions, and in no way could have tainted the competitive bid process, (3) and the final bid selection solely rest with the authorized leadership of Paradigm High School. We respectfully ask that the Bureau reverse USAC's decision and reinstate the funding for Funding Year 2016.

## **Background**

Paradigm High School used KM Consulting, an outside consulting firm, for all of its E-rate needs, including guidance, instruction, and evaluation of the bid responses received after the filing of the FCC Form 470 for E-rate compliance. KM Consulting filed all E-rate forms with USAC for Funding Year 2016 and has an existing Letter of Agency (LOA) with the consulting firm to act on behalf of the Paradigm regarding all USAC filings.

On April 25, 2016, Paradigm High School filed its Funding Year FCC Form 470 Number 160045227 (Attachment A). Gavin Swenson of KM Consulting was named as the authorized person. Paradigm High School sought bids for equipment listed on the Form 470 that was completed with the assistance of a third-party consultant. No service provider who participated in the competitive process as a bidder was involved in preparing Form 470 on behalf of Paradigm High School. The consulting firm also compiled and participated in the evaluation of all bids that were received during the competitive bidding period.

On May 24, 2016, after the 28-day competitive bidding period, a meeting was held at the school to evaluate every bid received during the competitive bidding process and to choose a service provider. That meeting was attended by Fernando Seminario, School Director at Paradigm; Diane Hansen, Business Manager at Paradigm; and Gavin Swenson, the consultant at KM Consulting. During that meeting, all bids received were reviewed and evaluated using a standard bid matrix with price being the most important factor and weighted the highest (see Attachment B). The final bid selection was made solely by the school director after all bids were reviewed and evaluated. At the conclusion of that meeting, the director of Paradigm High School, Fernando Seminario, made the decision to award the contract to H-Wire Technology Solutions because it was the most cost effective option for the school. Subsequently, KM Consulting filed the FCC Form 471 seeking Category Two services from H-Wire Technology.

On September 9, 2016 the applicant received a Funding Commitment Decision Letter (Attachment C) for FRN 1699126417 committing \$12,034.09 in Category Two funding.

On May 31, 2019, USAC issued a Commitment Adjustment Letter and rescinded the funding commitment for FRN 1699126417. Specifically, the COMAD denial states: "After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. Charter Solutions, is determined to be associated with the service provider H-Wire Technology Solutions for the FRN(s). Specifically, the President of Charter Solutions, Lincoln Fillmore maintains a minority interest in H-Wire Technology Solutions. Additionally, Charter Solutions and H-Wire Technology Solutions are physically located in the same building. FCC rules require applicants to submit a FCC Form 470 to initiate the competitive bidding process and to conduct a fair and open process. Neither the applicant nor any individual or organization working on the applicant's behalf should 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. Since H-Wire Technology Solutions (H-Wire Technology) has engaged in an improper relationship with Charter Solutions and its president, which represents a conflict of interest and compromises the competitive bidding process, the commitment has been rescinded in full and USAC will seek



recovery of any improperly disbursed funds from the applicant and service provider.”  
(Attachment D)

On August 30, 2019, Paradigm High School appealed the denial of funding. The applicant submitted a signed appeals letter (see Attachment E) that explained the following:

### **Explanation**

“This finding is incorrect. Paradigm High School has complied with all E-rate competitive bid requirements. There is no, nor has there ever been any, conflict of interest between Charter Solutions, the E-rate Program, and Paradigm High School. Neither I (Fernando Seminario) nor my staff has ever been influenced by any Charter Solutions employee, much less its principal, in conducting the competitive bid process and selecting a service provider for E-rate services. Neither does the COMAD identify any fact or point to any specific detail in drawing this conclusion, because none exists to support this finding. Charter Solutions simply provides business consulting services for Paradigm...There was unequivocally no outside influence from other parties, including Charter Solutions or H-wire, in any of these decisions.”

“The COMAD states that Charter Solutions has an association with H-Wire Technology. That association has never allowed for “inside information” to transfer to H-Wire Technology or for an unfair bid process, because all bids are reviewed and chosen independently by Paradigm. H-wire was the lowest and most cost-effective bid that Paradigm High School received during the competitive bidding process, as demonstrated by the bid evaluation matrix attached hereto.”

“The decision to award the contract to H-wire was completely compliant with USAC and FCC competitive bidding requirements, was not influenced by any outside parties, including Charter Solutions, and in no way could have tainted the competitive bid process, because the final decision always rest with the authorized leadership of Paradigm High School. Paradigm requests that the FCC grant this appeal, rescind the COMAD, and reinstate the funding for Funding Year 2016.”

On July 29, 2019, USAC issued denial of the appeal. The USAC post commitment rationale was that, “Neither the applicant nor any individual or organization working on the applicants behalf should 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.”

### **Discussion**

There is no, nor has there ever been any, conflict of interest between Charter Solutions, the E-rate Program, and Paradigm High School. No Charter Solutions employee, much less its principal, has interfered in conducting the competitive bid process and selecting a service provider for E-rate services at Paradigm High School.

The applicant (Paradigm High School) took steps to ensure it conducted a fair and open competitive bidding process, consistent with all requirements set forth in Code of Federal Regulations § 54.503, as follows:

- a. Paradigm High School does not have a relationship with a service provider that would unfairly influence the outcome of a competition;
- b. Paradigm did not furnish any service provider with inside information;
- c. Paradigm engaged the services of an independent third party consultant to provide administration and assistance throughout the process, which consultant (KM Consulting) did not have a relationship with any service provider;
- d. Paradigm prepared, signed, and submitted Form 470 and certification, without any assistance from a service provider;
- e. Paradigm did not list a service provider representative as a contact person in its Form 470
- f. Paradigm did not allow any service provider to participate in the competitive bidding process;
- g. Paradigm did not allow any service provider to participate in the bid evaluation or vendor selection process in any way;
- h. Paradigm does not have any employee with a role in the service provider selection process who also has an ownership interest in a service provider seeking to participate in the competitive bidding process; and
- i. Paradigm's Form 470 described the supported services with sufficient specificity to enable interested service providers to submit responsive bids.

Paradigm High School sought competitive bids, pursuant to the requirements established in this subpart, for all services eligible for support, by doing the following:

- a. Posting of FCC Form 470.
- b. Paradigm High School submitted a completed FCC Form 470 to initiate the competitive bidding process.
- c. Paradigm's Form 470 included the following information:
  1. A list of specified services for which Paradigm High School requests bids;
  2. Sufficient information to enable bidders to reasonably determine the needs of the applicant; and
  3. An indication of the types of products and services sought by Paradigm High School.

Fernando Seminario, who is a person authorized to request bids on behalf of the Paradigm High School hereby certifies under oath that:

- a. The school meets the statutory definition as defined in §54.500 of the CFR, does not operate as for-profit businesses, and does not have endowments exceeding \$50 million.
- b. Paradigm High School secured access to all of the resources, including computers, training, software, maintenance, internal connections, and electrical connections necessary to use the services purchased effectively.
- c. Fernando Seminario, who is authorized to both request bids and order services on behalf of the Paradigm High School hereby certifies under oath that:
  1. The services Paradigm High School purchased at discounts were used primarily for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value; and

2. All bids submitted for eligible products and services were carefully considered, with price being the primary factor, and the bid selected will be for the most cost-effective service offering.

### **Conclusion**

In summary, the applicant, Paradigm High School is requesting reinstatement of the funding commitment on FRN 1699126417 in the amount of \$12,034.09.

Respectfully submitted,



Fernando Seminario  
Director  
Paradigm High School



Gavin Swenson  
Consultant,  
KM Consulting

### Attachments:

- A. Form 470 # 160045227
- B. FY16 Bid Matrix for Paradigm
- C. Funding Commitment Decision Letter
- D. Commitment Adjustment Letter
- E. USAC Appeals Letter



## FCC Form 470 – Funding Year 2016

Form 470 Application Number: 160045227

Paradigm FY2016 470 Cat 2

### Billed Entity

PARADIGM HIGH SCHOOL (CHARTER)  
11577 SOUTH 3600 WEST  
SOUTH JORDAN, SALT LAKE, UT 84095  
801-676-1018  
fseminario@paradigmhigh.org

### Contact Information

Gavin Swenson  
gavin@kmconsult.org  
801-597-4131

**Billed Entity Number:** 16044438

**FCC Registration Number:** 0025521287

### Application Type

**Applicant Type:** School

**Recipients of Services:** Charter School; Public School

**Number of Eligible Entities:** 1

### Consulting Firms

Name	Consultant Registration Number	Phone Number	Email
KM Consulting	17004673	801-597-4131	Jessica@kmconsult.org

### Consultants

Name	Phone Number	Email
Gavin Swenson	801-597-4131	gavin@kmconsult.org

### RFPs

Id	Name
18697	ParadigmHighRFPFY2016

### Category One Service Requests

Service Type	Function	Other	Minimum Capacity	Maximum Capacity	Entities	Quantity	Unit	Installation and Initial Configuration?	Maintenance and Technical Support?	Associated RFPs
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### Description of Other Functions

Id	Name
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### Narrative

### Category Two Service Requests

Service Type	Function	Manufacturer	Other	Entities	Quantity	Unit	Installation and Initial Configuration?	Associated RFPs
Internal Connections	Wireless Controller	No Preference			1	Each	Yes	18697
Internal Connections	WAP	No Preference			20	Each	Yes	18697



Service Type	Function	Manufacturer	Other	Entities	Quantity	Unit	Installation and Initial Configuration?	Associated RFPs
Internal Connections	Firewall Service and Components	No Preference			1	Each	Yes	18697
Internal Connections	Switches	No Preference			4	Each	Yes	18697
Internal Connections	Cabling	No Preference		1	6000	Feet	Yes	18697

### Description of Other Manufacturers

<b>Id</b>	<b>Name</b>
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#### **Narrative**

Please read the attached RFP carefully. All questions must be submitted via email to gavin@kmconsult.org 14 days prior to bid close. Responses to all questions asked will be forwarded to the group of vendors who asks questions.

### Technical Contact

### State and Local Procurement Restrictions

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### Recipients of Service

<b>Billed Entity Number</b>	<b>Billed Entity Name</b>
16044438	PARADIGM HIGH SCHOOL (CHARTER)

### Certifications

I certify that the applicant includes:

I certify that the applicant includes schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801 (18) and (38), that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million.

#### Other Certifications

I certify that this FCC Form 470 and any applicable RFP will be available for review by potential bidders for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology goals.

I certify that I have reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that I have complied with them. I acknowledge that persons willfully making false statements on this form may be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.

I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program.

I certify that I will retain required documents for a period of at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification) after the later of the last day of the applicable funding year or the service delivery deadline for the associated funding request. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the form for, receipt of, and delivery of services receiving schools and libraries discounts. I acknowledge

that I may be audited pursuant to participation in the schools and libraries program. I certify that the services the applicant purchases at discounts provided by 47 U.S.C. § 254 will be used primarily for educational purposes, see 47 C.F.R. § 54.500, and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. § 54.513. Additionally, I certify that the entity or entities listed on this form have not received anything of value or a promise of anything of value, other than services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.

I acknowledge that support under this support mechanism is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that I have considered what financial resources should be available to cover these costs. I certify that I am authorized to procure eligible services for the eligible entity(ies). I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this form, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

#### NOTICE:

In accordance with Section 54.503 of the Federal Communications Commission's ("Commission") rules, certain schools and libraries ordering services that are eligible for and seeking universal service discounts must file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F.R. § 54.503. 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. § 54.503. Schools and libraries 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 requested in this form. We will use the information you provide to determine whether you have complied with the competitive bidding requirements applicable to requests for universal service discounts. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, the information you provide in this form 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 you provide in this form 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 in this form 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 or Universal Service Administrator may return your form without action or deny a related request for universal service discounts.

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 3.5 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. We also will accept your comments via the email if you send them to [PRA@FCC.gov](mailto:PRA@FCC.gov). DO NOT SEND COMPLETED WORKSHEETS TO THESE ADDRESSES.



**Authorized Person**

Gavin Swenson  
KM Consulting  
4507 W Kootenai St.  
Riverton, UT 84096  
801-597-4131  
gavin@kmconsult.org

**Certified Timestamp**

04/25/2016 01:36 PM EDT

Bid Evaluation Matrix for **PARADIGM HIGH** FY 2016 (Cat 2)

Categories	Points Available	Vendor 1	Vendor 2	Vendor 3	Vendor 4	Vendor 5
Price and Supporting Budgets	40	40	36.27	32.56		
Design, Quality, Mehodology, Functionality (meeting all criteria listed on RFP)	30	30	30	30		
Prior experience with applicant	10	0	0	0		
Local Vendor	10	10	10	5		
Delivery plan, installation schedule, execution ability	5	5	5	2		
Project management, Organized plan	5	4	4	5		
Total	100	89	85.27	74.56	0	0

Vendor 3: Vendor contracts install to local provider

List of Disqualified Bidders:

Name: Reason:

	Name	Date of submission
Vendor 1	H-Wire	5/17/2016
Vendor 2	Xtelesis	5/20/2016
Vendor 3	VLCM	5/23/2016
Vendor 4		

**EPC Notification - E-rate Funding Commitment Decision Letter (FCDL) available for Application 161054677**

1 message

**EPC Application Administrator** <EPC.Application.Administrator@usac.org>  
To: gavin@kmconsult.org

Thu, Sep 8, 2016 at 10:01 PM



Hello,

The Funding Commitment Decision Letter (FCDL) for application 161054677 (PARADIGM 471 CAT 2 FY 2016), filed by PARADIGM HIGH SCHOOL (CHARTER) (BEN: 16044438), has been issued. To view the FCDL, login to USAC's E-rate Productivity Center (EPC) by clicking on the link below. From your landing page, navigate to the Notification Center and click on Generate Notification for this application. If the notification has already been generated, you will instead see a link that says View Notification; click on View Notification or navigate to your News Feed to view the FCDL details.

[Login to EPC](#)

If you have questions, or believe that you received this notification in error, please [Contact Us](#) or call the USAC Client Service Bureau at (888) 203-8100 for assistance.

Thank you,

Universal Service Administrative Company

*NOTE: Please do not reply to this email.*

This message has been sent by EPC



## Commitment Adjustment Letter

Fernando Seminario  
 PARADIGM HIGH SCHOOL  
 (CHARTER)  
 11577 SOUTH 3600 WEST  
 SOUTH JORDAN, UT 84095

05/31/2019

Our review of your Schools and Libraries Universal Service Support Program (or E-rate) funding request has determined funds were committed in violation of Federal Communications Commission (FCC) rules. You have 60 days from the date of this letter to appeal the following decision(s). For more detailed information see below.

**Total commitment adjustment:** \$12,034.09

**Total amount to be recovered:** \$-12,810.59

FCC Form 471	FRN	Commitment adjustment	Total amount to be recovered	Explanation(s)	Party to recover from
161054677	1699126417	\$12,034.09	\$-12,810.59	Conflict of interest: Improper relationship between the applicant's consultant/ school official and the selected service provider	BEN AND SPIN

See Attached Adjustment Report for more information on the specific FRNs and Explanations listed above.

### Commitment Adjustment

FCC rules require the Universal Service Administrative Company (USAC) to rescind commitments and recover funding when it is determined that funding was committed and disbursed in violation of the rules. This letter notifies you that USAC will be adjusting your funding commitment(s) and provides information on how to appeal this decision.

This is NOT a bill. If disbursed funds need to be recovered, USAC will issue a Demand Payment Letter. The debt referenced in the Demand Payment Letter will be due within 30 days of that letter's date. Failure to pay the debt may result in interest, late payment fees, and administrative charges and will invoke the FCC's "Red Light Rule."

### FCC's Red Light Rule

The FCC Red Light Rule requires USAC to dismiss pending FCC Form 471 applications, appeals, and invoices or to net disbursements offsetting the debt if the entity responsible for paying the outstanding debt owed to the FCC has not paid the debt or made satisfactory arrangements to pay the debt within 30 days of the Demand Payment Letter. For information on the Red Light Rule, see

<https://www.fcc.gov/licensing-databases/fees/debt-collection-improvement-act-implementation>.

### To Appeal This Decision

If you wish to contest any part of this letter, you must first file an appeal with USAC to seek review of the decision. Parties that have filed an appeal with USAC and received an adverse decision may, if they choose, appeal USAC's decision to





the FCC. Parties seeking a waiver of a codified FCC rule should file a request for waiver directly with the FCC because USAC cannot waive FCC rules. Your appeal to USAC or waiver request to the FCC must be filed within 60 days of the date of this letter.

All appeals filed with USAC must be filed in EPC by selecting "Appeal" from the menu in the top right hand corner of your landing page and providing the requested information.

Your appeal should include the following information. (Because you file the appeal through your EPC account, the system will automatically fill in some of these components for you).

- 1) Name, address, telephone number, and email address for the contact person for this appeal.
- 2) Indicate specifically that your letter is an appeal. Include the following to identify the USAC decision letter (e.g., Commitment Adjustment Letter) and the decision you are appealing:
  - a. Appellant name;
  - b. Applicant name and service provider name, if different from appellant;
  - c. Applicant BEN and Service Provider Identification Number (SPIN);
  - d. FCC Form 471 Application Number and the Funding Request Number (FRN) or Numbers as assigned by USAC;
  - e. "Commitment Adjustment Letter," AND the exact text or the decision that you are appealing.
- 3) Identify the problem and the reason for the appeal and explain precisely the relief sought. Please keep your appeal to the point, and provide supporting documentation. Be sure to keep a copy of your entire appeal, including any correspondence and documentation. A copy will automatically be saved for you in EPC. USAC will reply to your appeal submission to confirm receipt.

For more information on submitting an appeal to USAC including step by step instructions on how to file the appeal through EPC, please see "Appeals" in the Schools and Libraries section of the USAC website.

As mentioned, parties seeking a waiver of FCC rules or that have filed an appeal with USAC and received a decision may file a request for waiver or appeal USAC's decision to the FCC. Waiver requests or appeals to the FCC must be made within 60 days of the issuance of USAC's decision and include all of the information referenced above for appeals to USAC.

The FCC recommends filing appeals or waiver requests with the Electronic Comment Filing System (ECFS) to ensure timely filing. Electronic waiver requests or appeals will be considered filed on a business day if they are received at any time before 11:59 PM ET. If you have questions or comments about using the ECFS, please contact the FCC directly at (202) 418-0193.

For more information about submitting waiver requests or appeals to the FCC, including options to submit the waiver request or appeal via U.S. mail or hand delivery, visit the FCC's website.

Schools and Libraries Division



## Adjustment Report

FCC Form 471 Application Number:	161054677
Funding Request Number:	1699126417
Commitment Adjustment:	\$12,034.09
Total Amount to Be Recovered:	\$-12,810.59
Explanation(s):	Conflict of interest: Improper relationship between the applicant's consultant/ school official and the selected service provider BEN AND SPIN
Party to Recover From:	BEN AND SPIN
Funding Year:	2016
Billed Entity Number:	16044438
Services Ordered:	Internal Connections
Service Provider Name:	H-Wire Technology Solutions
SPIN:	143036050
Original Funding Commitment:	\$12,034.09
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$11,257.59

## Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. Charter Solutions, is determined to be associated with the service provider H-Wire Technology Solutions for the FRN(s). Specifically, the President of Charter Solutions, Lincoln Fillmore maintains a minority interest in H-Wire Technology Solutions. Additionally, Charter Solutions and H-Wire Technology Solutions are physically located in the same building. FCC rules require applicants to submit a FCC Form 470 to initiate the competitive bidding process and to conduct a fair and open process. Neither the applicant nor any individual or organization working on the applicants behalf should 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. Since H-Wire Technology Solutions has engaged in an improper relationship with Charter Solutions and its president, which represents a conflict of interest and compromises the competitive bidding process, the commitment has been rescinded in full and USAC will seek recovery of \$11,257.59 in improperly disbursed funds from the service provider.



# PARADIGM SCHOOLS

11157 South 3600 W South Jordan, UT 84095

[www.paradigmschools.org](http://www.paradigmschools.org) (p) 801-676-1018 (f) 801-676-1036

July 25, 2019

## USAC APPEAL

### Applicant:

Paradigm High School  
BEN: 16044438  
11577 South 3600 West  
South Jordan, UT 84095

### Contact Persons:

Fernando Seminario  
School Director  
[fseminario@paradigmhigh.org](mailto:fseminario@paradigmhigh.org)  
(801) 676-1018

and

Gavin Swenson  
[gavin@KMConsult.org](mailto:gavin@KMConsult.org)  
(801) 597-4131

FCC Form 471 Application Number: 161054677 Funding Request Number: 1699126417 Commitment Adjustment: \$12,034.09 Total Amount to Be Recovered: \$11,257.59
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### To Whom It May Concern:

Paradigm Charter High School is appealing the USAC Commitment Adjustment Letter (COMAD), dated May 31, 2019. We are seeking a reversal of the decision to deny funding based on a conflict of interest between the applicant's consultant/school official and the selected service provider.

Specifically, the COMAD denial states: "After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. Charter Solutions, is determined to be associated with the service provider H-Wire Technology Solutions for the FRN(s). Specifically, the President of Charter Solutions, Lincoln Fillmore maintains a minority interest in H-Wire Technology Solutions. Additionally, Charter Solutions and H-Wire Technology Solutions are physically located in the same building. FCC rules require applicants to submit a FCC Form 470 to initiate the competitive bidding process and to conduct a fair and open process. Neither the applicant nor any individual or organization working on the applicants behalf should 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. Since H-Wire Technology Solutions (H-Wire Technology) has engaged in an improper relationship with Charter Solutions and its president, which represents a conflict of interest and compromises the competitive bidding process, the commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant and service provider (Attachment A).

This finding is incorrect. Paradigm High School has complied with all E-rate competitive bid requirements. There is no, nor has there ever been any, conflict of interest between Charter Solutions, the E-rate Program, and Paradigm High School. Neither I nor my staff has ever been influenced by any Charter Solutions employee, much less its principal, in conducting the competitive bid process and selecting a service provider for E-rate services. Neither does the COMAD identify any fact or point to any specific detail in drawing this conclusion, because none exists to support this finding. Charter Solutions simply provides business consulting services for Paradigm.

Moreover, Paradigm High School uses KM Consulting, an outside consulting firm, for all of its E-rate needs, including guidance, instruction, and evaluation of the bid responses received after the filing of the FCC Form 470 for E-rate compliance. KM Consulting filed all E-rate forms with USAC for Funding Year 2016 and has an existing Letter of Agency (LOA) with the consulting firm to act on behalf of the Paradigm regarding all USAC filings.

Paradigm High School filed its Funding Year FCC Form 470 Number 160045227 on April 25, 2016 (Attachment B). Gavin Swenson of KM Consulting was named as the authorized person. The consulting firm also compiled and participated in the evaluation of all bids that were received during the competitive bidding period. On May 24, 2016, a meeting was held at the school to evaluate every bid received during the competitive bid process and to choose a service provider. That meeting was attended by Fernando



Seminario, School Director at Paradigm; Diane Hansen, Business Manager at Paradigm; and Gavin Swenson, the consultant at KM Consulting. During that meeting, all bids received were reviewed and evaluated using a standard bid matrix with price being the most important factor and weighted the highest (see Attachment C). The final bid selection was made solely by the school director after all bids were reviewed and evaluated.

At the conclusion of that meeting the director of Paradigm High School, Fernando Seminario, made the decision to award the contract to H-Wire Technology Solutions. Subsequently, KM Consulting filed the FCC Form 471 seeking Category Two services from H-Wire Technology. There was unequivocally no outside influence by Charter Solutions in any of these decisions.

Lastly, the COMAD states that Charter Solutions has an association with H-Wire Technology. That association has never allowed for "inside information" to transfer to H-Wire Technology or for an unfair bid process, because all bids are reviewed and chosen independently by Paradigm. H-wire was the lowest and most cost-effective bid that Paradigm High School received during the competitive bidding process, as demonstrated by the bid evaluation matrix attached hereto.

In conclusion, the decision to award the contract to H-wire was completely compliant with USAC and FCC competitive bidding requirements, was not influenced by any outside parties, including Charter Solutions, and in no way could have tainted the competitive bid process, because the final decision always rest with the authorized leadership of Paradigm High School. Paradigm requests that USAC grant this appeal, rescind the COMAD, and reinstate the funding for Funding Year 2016.

Sincerely,



Fernando Seminario  
Director  
Paradigm High School

cc: Gavin Swenson, KM Consulting

# Revised Funding Commitment Decision Letter

## Funding Year 2016

**Contact Information:**

Gavin Swenson  
PARADIGM HIGH SCHOOL (CHARTER)  
11577 SOUTH 3600 WEST  
SOUTH JORDAN, UT 84095  
[gavin@kmconsult.org](mailto:gavin@kmconsult.org)

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## Totals

Original Commitment Amount	\$12,034.09
<b>Revised Commitment Amount</b>	<b>\$0.00</b>

## What is in this letter?

**Thank you for submitting your post-commitment request for Funding Year 2016 Schools and Libraries Program (E-rate) funding.** Attached to this letter, you will find the revised funding statuses and/or post commitment changes to the original Funding Commitment Decision Letter (FCDL) you received. Below are the changes that were made:

- Appeals

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

## Next Steps

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



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

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

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

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

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



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

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

## Obligation to Pay Non-Discount Portion

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

## Notice on Rules and Funds Availability

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





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## Revised Funding Commitment Decision Overview

### Funding Year 2016

Funding Request Number (FRN)	Service Provider Name	Request Type	Revised Committed	Review Status
1699126417	H-Wire Technology Solutions	Appeals	\$0.00	Denied



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<b>Post Commitment Request Number:</b> 151728	<b>Post Commitment Request Type:</b> Appeals	<b>Post Commitment Decision:</b> Denied
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<b>FRN:</b> 1699126417	<b>Service Type:</b> Internal Connections	<b>Original Status:</b> Funded	<b>Revised Status:</b> Funded
<b>FCC Form 471:</b> 161054677			

Dollars Committed			
Monthly Cost		One-Time Cost	
Months of Service	12		
Total Eligible Recurring Charges	\$0.00	Total Eligible One Time Charges	\$0.00
Total Pre-Discount Charges		\$0.00	
Discount Rate		50.00%	
Revised Committed Amount		\$0.00	

Dates	
Service Start Date	7/1/2016
Contract Expiration Date	6/30/2017
Contract Award Date	5/24/2016
Service Delivery Deadline	9/30/2017
Expiration Date (All Extensions)	

Service Provider and Contract Information	
Service Provider	H-Wire Technology Solutions
SPIN (498ID)	143036050
Contract Number	H22197
Account Number	H22197
Establishing FCC Form 470	160045227

Consultant Information	
Consultant Name	Gavin Swenson
Consultant's Employer	KMConsulting
CRN	17004673

**Revised Funding Commitment Decision Comments:**

**Post Commitment Rationale:**

After a thorough investigation, it was determined that this funding commitment must be rescinded in full. Charter Solutions, was determined to be associated with the service provider H-Wire Technology Solutions for the FRN(s). Specifically, the President of Charter Solutions, Lincoln Fillmore maintains a minority interest in H-Wire Technology Solutions. Additionally, Charter Solutions and H-Wire Technology Solutions are physically located in the same building. FCC rules require applicants to submit a FCC Form 470 to initiate the competitive bidding process and to conduct a fair and open process. Neither the applicant nor any individual or organization working on the applicants behalf should 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



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compete in any way. Since H-Wire Technology Solutions has engaged in an improper relationship with Charter Solutions and its president, which represents a conflict of interest and compromises the competitive bidding process, the commitment has been rescinded in full and USAC sought recovery of any improperly disbursed funds from the applicant and service provider. On appeal, you have not demonstrated that USAC's determination was incorrect. Consequently, your appeal is denied.