בס"ד

CHABAD HEBREW ACADEMY

WISDOM ✡ UNDERSTANDING ✡ KNOWLEDGE

December 7, 2016

To: Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Subject: Appeal of USAC Funding Decision - Docket 02-6

Request for Review

From: Chabad Hebrew Academy
David Smoller
BEN: 197225

471 Application 1047710
FRN 2859694

Introduction and Background

FRN 2859694 was approved by USAC on 7/17/2015. This FRN was fully utilized and the service provider invoiced USAC for 90% and the funds were subsequently disbursed. On August 15, 2016 we received a revised funding decision letter that stated "Our routine review of schools and library funding commitments has revealed certain applications where funds were committed in violation of SLP rules. After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. The application failed to produce at the request of the administrator the following documentation pertaining to its competitive bidding process, specifically all bids that were received.

As far as we are aware we had provided USAC all bids during a Selected Review. We appealed this decision directly to USAC when we provided copies of all bids received and we also provided our vendor matrix.

USAC Decision on Appeal

We received the "Administrator's Decision on Appeal dated October 12, 2016 stating that our appeal was denied. The reason as follows;

• *During the appeal review of your FCC Form 471# 1047710 you requested reversal of the CO MAD decision to seek recovery of improperly disbursed funds. It has been determined that you failed to provide the correct bids for FRN 2859694. In your appeal, you did not demonstrate that USAC's determination was incorrect. Therefore, the commitment has been rescinded in full consequently, your appeal is denied.*

• *FCC rules require that applicants select the most cost-effective products and/or services offering with price being the primary factor. Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor.*

Our appeal to the FCC

We are appealing this decision as we did provide to USAC all bids pertaining to this FRN. We are also disagreeing with the suggestion made by USAC that price was not given more weight than any other single factor. That is entirely inaccurate.

We believe that USAC misunderstood our evaluation matrix. As on our bid evaluation matrix (on line 1) "price" is actually the most heavily weighted factor. As price, has the highest number of Points Available, which on our Matrix is "35 total points available". We than have (on line 2) as the next highest factor, "prior positive experience". This on our Matrix has "a total of 25 points available". By "prior positive experience" we meant; what kind experience we had in dealing with a particular company not necessary the services that we are requesting at this time." Positive experience" includes returning phone calls on a timely manner, providing quality and quick customer service, being easy to deal with, dealing with any problems in a timely fashion. We than have (on line 3) as the next highest factor, "experience". This on our Matrix has "a total of 15 points available". By "experience" we meant; that the company has a lot of experience in providing this particular service (not necessary to our school). Being that this FRN is for a somewhat unique service (distance learning) that very few companies provide we preferred a company that has more experience/knowhow in providing this service.

We believe that USAC misunderstood line's 2 and 3 in our matrix to be considered "one factor" and therefore determined that "price" was not the highest factor in selecting our vendor. But as previously explained line's 2 and 3 are two totally separate factors thus price was actually the highest factor in selecting our vendor.

We appreciate this opportunity.

David Smoller

Director

Notification of Commitment Adjustment Letter

Funding Year 2015: July 1, 2015 - June 30, 2016

August 15, 2016

David Smoller
CHABAD HEBREW ACADEMY
10785 POMERADO RD
SAN DIEGO, CA 92131

Re: Form 471 Application Number:	**1047710**
Funding Year:	**2015**
Applicant's Form Identifier:	**chabad DL-R2**
Billed Entity Number:	**197225**
FCC Registration Number:	**0020672259**
SPIN:	**143045283**
Service Provider Name:	**VC Services LLC**
Service Provider Contact Person:	**Jonathan Viner**

Our routine review of Schools and Libraries Program (SLP) funding commitments has revealed certain applications where funds were committed in violation of SLP rules.

In order to be sure that no funds are used in violation of SLP rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the required adjustments to your funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see https://www.fcc.gov/encyclopedia/red-light-frequently-asked-questions.

TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter to USAC, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.

2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Number(s) (FRNs) you are appealing. Your letter of appeal must include the
- Billed Entity Name,
- Form 471 Application Number,
- Billed Entity Number, and
- FCC Registration Number (FCC RN) from the top of your letter.

3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.

4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.

5. Provide an authorized signature on your letter of appeal.

We strongly recommend that you use one of the electronic filing options. To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org or submit your appeal electronically by using the "Submit a Question" feature on the USAC website. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Program - Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

For more information on submitting an appeal to USAC, see "Appeals" in the "Schools and Libraries" section of the USAC website.

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. See the "Guide to USAC Letters" posted at http://www.usac.org/sl/tools/samples.aspx for more information on each of the fields in the Report. USAC is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on the FRN(s), a separate letter will be sent to the service provider detailing the necessary service provider action.

Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or your service provider(s) submits to USAC are consistent with SLP rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Program
Universal Services Administrative Company

cc: Jonathan Viner
VC Services LLC

Funding Commitment Adjustment Report for
Form 471 Application Number: 1047710

Funding Request Number:	2859694
Services Ordered:	TELCOMM SERVICES
SPIN:	143045283
Service Provider Name:	VC Services LLC
Contract Number:	22450
Billing Account Number:	
Site Identifier:	197225
Original Funding Commitment:	$54,216.00
Commitment Adjustment Amount:	$54,216.00
Adjusted Funding Commitment:	$0.00
Funds Disbursed to Date	$54,216.00
Funds to be Recovered from Applicant:	$54,216.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. The applicant failed to produce at the request of the Administrator the following documentation pertaining to its competitive bidding process, specifically all bids that were received. FCC rules require schools and libraries as well as service providers to retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least ten years after the last day of service delivered in a particular Funding Year and to produce such records upon a request of an auditor or other authorized representative. FCC rules further provide that a non-compliance with the FCC?s recordkeeping and auditing rules by failure to retain records or to make available required documentation is a rule violation that warrants recovery of any disbursed funds for the time period for which the information/documentation is being sought. Since you failed to produce the above specified documentation upon request of an authorized representative, your funding commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

Bid Evaluation Matrix - DL Services

Factors	Total Points	VC Services	All Day Techs
Cost	35	32	14
prior positive experience	25	10	10
Experience	15	15	10
Local/in state Vendor	10	9	9
Language	10	9	7
Cost of Ineligable Products	5	3	3
	100	78	53

All Day Techs Inc.

QUOTE

14 Van Buren
Irvine, CA 92620

Phone: (949) 355-1000

DATE	1/21/2015
QUOTE #	63443
CUSTOMER ID	188
VALID UNTIL	2/20/2015

CUSTOMER

Name: Chabad Educational Center
Adress: 10785 Pomerado Rd
City, state, Zip: San Diego, CA 92131

Phone: (858) 556-1996

DESCRIPTION	UNIT PRICE	QTY	TAXED	AMOUNT
DLS Services (Distance Learning Services)- Real Time DLC:	895.00	12		10,740.00
WAN Access- Multile port access				
Distribution of Full HD Quality Video connection				-
120/Day Continues WAN Services Package				-
Full HD Bridging for Distance Learning service				-
System includes deducated T1 Service				-
DL Circuit Service- T-1 (ATM) Circuit Service				-
*** Cisco 2600 family router - SKU CISCO 2621XM ***				-
				-
				-
DL WAN Service Package- Digital Transmission Servces				-
*** Video Conferencing Only ***	9,350.00	12		112,200.00
				-
				-
				-

Subtotal	$	122,940.00
Taxable	$	-
Tax rate		8.000%
Tax due	$	-
Other	$	-
TOTAL	$	122,940.00

TERMS AND CONDITIONS

1. Customer will be billed after indicating acceptance of this quote
2. Payment will be due prior to delivery of service and goods
3. Project and pricing are contengent upon E-Rate funding.

Customer Acceptance (sign below):

x _____

Print Name:

If you have any questions about this price quote, please contact
[Eldad (949) 355-1000

Thank You For Your Business!

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Price Quote

VC Services LLC

Online Service Solutions

3972 Barranca Prkwy Ste. J437
Irvine CA 92606
Phone: 702-727-4616
Fax: 800-801-4678

QUOTE NO. 22450
DATE February 2, 2015
CUSTOMER ID CEC-SD-01

CUSTOMER Chabad Education Center
10785 Pomerado Rd
San Diego, CA 92131
Phone: (858) 566-1996

LOCATION Chabad Education Center
10785 Pomerado Rd
San Diego, CA 92131
Phone: (858) 566-1996

SPIN Number	TERMS	START DATE
143045283	Annual Contract	7/1/15

QTY	ITEM #	DESCRIPTION	UNIT PRICE	LINE TOTAL
1.00	DTS-DL	Distance Learning Circuit for 1 school	$ 60,240.00	$ 60,240.00
		25 Simultaneous connections		
		Complete HD Service		
			SUBTOTAL	$ 60,240.00
			SALES TAX	
			TOTAL	$ 60,240.00

1. Please call for any questions or information.
2. Send all correspondence to:

VC Services LLC
3972 Barranca Prkwy #J437
Irvine CA 92606
Phone: 702-4727-4616
Fax: 800-801-4678
info@vcservicesllc.com

Universal Service Administrative Company
Schools & Libraries Division

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

October 12, 2016

Leah Lax
S. Gold Consulting Ltd.
5 Yale Drive
Monsey, NY 10952

Re:	Applicant Name:	CHABAD HEBREW ACADEMY
	Billed Entity Number:	197225
	Form 471 Application Number:	1047710
	Funding Request Number(s):	2859694
	Your Correspondence Dated:	September 08, 2016

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 decision to adjust the funding commitment amount for the FCC Form 471 Application and funding request 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):	2859694
Decision on Appeal:	**Denied**
Explanation:	

- During the appeal review of your FCC Form 471# 1047710 you requested reversal of the COMAD decision to seek recovery of improperly disbursed funds. It has been determined that you failed to provide the correct bids for FRN 2859694. In your appeal, you did not demonstrate that USAC's determination was incorrect. Therefore, the commitment has been rescinded in full. Consequently, your appeal is denied.

- FCC rules require that applicants select the most cost-effective products and/or services offering with price being the primary factor. Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. *See* 47 C.F.R. sec. 54.511(a); also, Request for Review of the Decision of the Universal Service Administrator by

Ysleta Independent School District, El Paso, Texas, et al., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., SLD Nos. 321479, et al., CC Docket Nos. 96-45, 97-21, Order, 18 FCC Rcd 26407, 26429, FCC 03-313 para. 50 (rel. Dec. 8, 2003). Ineligible products and services may not be factored into the cost-effective evaluation. *See* Common Carrier Bureau Reiterates Services Eligible for Discounts to Schools and Libraries, CC Docket No. 96-45, Public Notice, 13 FCC Rcd 16570, DA 98-1110 (rel. Jun. 11, 1998).

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

cc: David Smoller

Leah Lax
S. Gold Consulting Ltd.
5 Yale Drive
Monsey, NY 10952

Billed Entity Number: 197225
Form 471 Application Number: 1047710
Form 486 Application Number: