January 4, 2015

Request for Appeal –CC Docket No. 02-6
Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

Request for APPEAL
SLD Administrator's Decision on Erate Yr 17 (2014/15) Commitment Decision Letter

Dear Sir or Madam,

- Billed Entity Number: **142906**
- Name of BEN: **Alhambra Elementary School Dist # 68**
- Contact person name: **Nan Williams**
- Contact information: Director of Technology
  4510 N. 37th Ave.
  Phoenix, AZ 85019-3206
  (602) 336-2953
  FAX (602)336-0313
  nanwilliams@alhambraesd.org

- Form 471 Application Number: **943752**
- **Funding year : 2014-2015 – Erate yr 17**
- Funding Request Numbers (FRNs): **2573924**
- SLD Action Appealed: **November 5, 2014, - Administrator's Commitment Decision letter**

We are appealing the USAC Administrators' funding commitment decision;

Please note - This FRN is for the same service as the prior appeal filed with the FCC for Erate Yr 16 –

- Form 471 Application Number: **900314**
- **Funding year : 2013-2014 – Erate yr 16**
- Funding Request Numbers (FRNs): **2517082**
- SLD Action Appealed: **June 5, 2014, - Administrator's Commitment Decision letter**

	ALHAMBRA YEAR 16 REPORT													
471 Application Number	FRN	Applicant Name	BEN	SPIN	Service Provider Name	Commitment Status	486 SSD	Last Date to Invoice	Cmtd Category of Service	Requested Amount	Cmtd Total Cost	Cmtd Commitment Request	Invoicing Mode	Total Authorized Disbursement
900314	2517082	ALHAMBRA EL	142906	143024051	Gaggle.net, I	NOT FUNDED		10/28/2014	INTERNET ACC	$41,865.00	$0.00	$0.00	NOT SET	

USAC
Universal Service Administrative Company

Schools and Libraries Division

FUNDING COMMITMENT DECISION LETTER
(Funding Year 2014: 07/01/2014 - 06/30/2015)

November 5, 2014

Dr. Nan Williams
ALHAMBRA ELEM SCH DISTRICT 68
4510 N 37TH AVE
PHOENIX, AZ 85019-3206

Re: FCC Form 471 Application Number: 943752
Billed Entity Number (BEN): 142906
Billed Entity FCC Registration Number (FCC RN): 0007472632
Applicant's Form Identifier: 471 - Tecom_IA

Thank you for your Funding Year 2014 application for Universal Service Support and for any assistance you provided throughout our review. The current status of the funding request(s) in the FCC Form 471 application cited above and featured in the Funding Commitment Report(s) (Report) at the end of this letter is as follows.

- The amount, $458,355.13 is "Approved."
- The amount, $37,459.69 is "Denied."

FUNDING COMMITMENT REPORT
Billed Entity Name: ALHAMBRA ELEM SCH DISTRICT 68
BEN: 142906
Funding Year: 2014

Comment on RAL corrections: FRN modified in accordance with a RAL request.

FCC Form 471 Application Number: 943752
Funding Request Number: 2573924
Funding Status: Not Funded
Category of Service: Internet Access
FCC Form 470 Application Number: 191800001108740
SPIN: 143024051
Service Provider Name: Gaggle.net, Inc.
Contract Number: N/A
Billing Account Number: 602 336 2920
Multiple Billing Account Numbers: N
Service Start Date: 07/01/2014
Service End Date: N/A
Contract Award Date: 03/12/2013
Contract Expiration Date: 06/30/2017
Shared Worksheet Number: 1627230
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: $24,999.96
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $24,999.96
Discount Percentage Approved by the USAC: 90%
Funding Commitment Decision: $0.00 - Selective - Bidding Violation
Funding Commitment Decision Explanation: MR1: The Contract Award Date was changed from 03/08/2013 to 03/12/2013 to agree with the documentation provided during the review of the FCC Form 471. <><><><><> DR1: Documentation provided during the review demonstrates that the cost of the proposals evaluated during your competitive bidding process included costs of both eligible and ineligible products and services. FCC rules require applicants to carefully consider all bid solutions and chose the most cost effective solution with price of only the eligible products and services being the highest weighted factor in the bid evaluation process. The cost of ineligible products and services can be included in the bid evaluation matrix as long as it is a separate factor and is not included with the eligible portion of the products and services as the primary factor. Because you included the cost of ineligible products and services in your evaluation of the price of each proposal, funding will be denied.

FCDL Date: 11/05/2014
Wave Number: 026
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2015

Reason for Appeal and Request for Waiver:

1 – Alhambra Elementary School District requested Erate funding for CIPA Compliant Student Email accounts for our District. CIPA compliance is mandatory under the ERate program for Internet access.

2 - In addition, we stated the need for Interface (database linking) with the current web portal provider due to an existing multiyear contract with the web hosting provider (Centrifuge Solutions, LLC/edline) Spin # 143028153, as well as a prior multiyear contract with the email provider (Gaggle). This provided single log-on to the web site (Schoolfusion) via the email hosting provider (Gaggle). In addition, the databases from both sites were linked as needed by the District for data integration (technical capabilities to support the upload/download of data required to sync with other District databases). In our form 470, we posted both of the special requirements.

During our bid evaluation, we used 6 bid criteria for scoring with price being the most heavily weighted factor. However, when scoring, we errored by not using a pass/fail determination and the multi tiered bid selection criteria.

There were two bids received, Gaggle and Sharpschool.

3 - The Gaggle bid was fully compliant for CIPA, fully compliant for the single log in, fully compliant in its support of the portal links, and the contract wording did not conflict with Arizona Procurement rules.

4 - The Sharpschool bid was ***not*** CIPA compliant (thus by choosing this vendor the District would not be CIPA compliant and in violation of FCC rules), it did not support single log in, it did not support portal links and the contract language violated Arizona procurement rules due to item #7 on service contract page 1 of 2 (***performance shall be governed in all respects by the laws of Ontario), (Canada***).

5 - Lastly, the Form 470 posting requested a multiyear option (the prior radio button option was removed from the new form 470 regarding multiyear options, so it was included in the Service block of the Form 470).
However the Sharpschool Item #3 on service contract page 1of 2 states "***This Agreement shall become effective on the date written below and shall remain in full force and effect for a term of 3 years beginning from the Service Installation Date".***

This removes any option on the part of the District to award a contract less than 3 years and conflicts with Arizona State Procurement.

We request a waiver for the procedural error by not correctly identifying in the scoring, a pass/fail scenario for three areas - (4) compliance with terms, (5) capability to perform, and (6) confirms to specifications. Each of these should have been marked as (0) zero. This would have created a correct overall scoring of (60) for Gaggle and (30) for Sharpschool with price being the most heavily weighted factor and the most cost effect service offering. In addition would meet Arizona Procurement standards for responsive bids received.

We appeal the decision not to fund this FRN by USAC based on the fact that the Sharpschool bid does not meet the definition of " cost effective solution" since it is not "CIPA" compliant, therefore would not an eligible service when filing the District's Form 486. In addition, if Sharpschool had been awarded it would have been in conflict with Arizona Procurement rules, which then would also conflict with FCC bidding rules.

The USAC denial does not serve the public interest, does not further the FCC's policy goals and the request will not lead to an undue advantage in funding.

6 - We requested Erate funding for CIPA Compliant Student Email accounts for our District. In the USAC Funding commitment letter it states ***"your competitive bidding process included costs of both eligible and ineligible products and services." "FCC rules require applicants to carefully consider all bid solutions and choose the most cost effective solution with price of only the eligible products and services being the highest weighted factor in the bid evaluation process"***

Funding Commitment Decision Explanation: Documentation provided during the review demonstrates that the cost of the proposals evaluated during your competitive bidding process included costs of both eligible and ineligible products and services. FCC rules require applicants to carefully consider all bid solutions and chose the most cost effective solution with price of only the eligible products and services being the highest weighted factor in the bid evaluation process. The cost of ineligible products and services can be included in the bid evaluation matrix as long as it is a separate factor and is not included with the eligible portion of the products and services as the primary factor. Because you included the cost of ineligible products and services in your evaluation of the price of each proposal, funding will be denied.

<u>We assert USAC is in error on this determination</u>. We do not find identical language in the FCC dockets supporting "***with price of only the eligible products and services being the highest weighted factor in the bid evaluation process" "cost of ineligible services can be included" "as long as it is a separate factor". The Gaggle email bid was 100% eligible versus 98% for Sharpschool, and the Gaggle training was 100% eligible versus 0% for Sharpschool making it more cost effective to the District.***

Federal Communications Commission **FCC 10-175**

(a) <u>Selecting a provider of eligible services</u>. In selecting a provider of eligible services, schools, libraries, library consortia, and consortia including any of those entities shall carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers, but price should be the primary factor considered.

(vii) All bids submitted for eligible products and services will be carefully considered, with price being the primary factor, and the bid selected will be for the most cost-effective service offering consistent with § 54.511.

(e) Mixed eligibility services. A request for discounts for a product or service that includes both eligible and ineligible components must allocate the cost of the contract to eligible and ineligible components.

(1) Ineligible components. If a product or service contains ineligible components, costs must be allocated to the extent that a clear delineation can be made between the eligible and ineligible components. The delineation must have a tangible basis, and the price for the eligible portion must be the most cost-effective means of receiving the eligible service.

(2) Ancillary ineligible components. If a product or service contains ineligible components that are ancillary to the eligible components, and the product or service is the most cost-effective means of

61

Thank you for processing our appeal and request for waiver,

Sincerely,

Signed: Susan N. Williams

Title
Director of Technology

Nan Williams
Director of Technology
4510 N. 37th Ave.
Phoenix, AZ 85019-3206
(602) 336-2953
FAX (602)336-0313
nanwilliams@alhambraesd.org

Attachments –

Pages 5 -	USAC FCDL
Page 6 -	Form 470 insert. Page 8 of SRIR
Page 7 -	Page 5 of SRIR, multi yr frn details – Web and Email hosting FRNs
Page 8 -	USAC 2012 training inserts re bidding
Page 9 -	Sharpschool bid –pricing and terms
Pages 10 – 11	Gaggle pricing and terms
Pages 12 -13	Relevant clarification emails to both bidders
Pages 14 – 15	Gaggle features / compliance with Form 470 request
Page 16 -	Arizona State Procurement inserts
Page 17 - 23	FCC Dockets 10-175, 10-83, 11-723, 11-1554, 11-1368, 14-344.

USAC
Universal Service Administrative Company

Schools and Libraries Division

FUNDING COMMITMENT DECISION LETTER
(Funding Year 2014: 07/01/2014 - 06/30/2015)

November 5, 2014

Dr. Nan Williams
ALHAMBRA ELEM SCH DISTRICT 68
4510 N 37TH AVE
PHOENIX, AZ 85019-3206

Re: FCC Form 471 Application Number: 943752
Billed Entity Number (BEN): 142906
Billed Entity FCC Registration Number (FCC RN): 0007472632
Applicant's Form Identifier: 471 - Tecom_IA

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BEN: 142906
Funding Year: 2014

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FCC Form 470 Application Number: 191800001108740
SPIN: 143024051
Service Provider Name: Gaggle.net, Inc.
Contract Number: N/A
Billing Account Number: 602 336 2920
Multiple Billing Account Numbers: N
Service Start Date: 07/01/2014
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Contract Award Date: 03/12/2013
Contract Expiration Date: 06/30/2017
Shared Worksheet Number: 1627230
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: $24,999.96
Annual Pre-discount Amount for Eligible Non-recurring Charges: $.00
Pre-discount Amount: $24,999.96
Discount Percentage Approved by the USAC: 90%
Funding Commitment Decision: $0.00 - Selective - Bidding Violation
Funding Commitment Decision Explanation: MR1: The Contract Award Date was changed from 03/08/2013 to 03/12/2013 to agree with the documentation provided during the review of the FCC Form 471. <><><><><> DR1: Documentation provided during the review demonstrates that the cost of the proposals evaluated during your competitive bidding process included costs of both eligible and ineligible products and services. FCC rules require applicants to carefully consider all bid solutions and chose the most cost effective solution with price of only the eligible products and services being the highest weighted factor in the bid evaluation process. The cost of ineligible products and services can be included in the bid evaluation matrix as long as it is a separate factor and is not included with the eligible portion of the products and services as the primary factor. Because you included the cost of ineligible products and services in your evaluation of the price of each proposal, funding will be denied.

FCDL Date: 11/05/2014
Wave Number: 026
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2015
Consultant Name:
Consultant Registration Number (CRN):
Consultant Employer:

Application Status: CERTIFIED	Posting Date: 02/08/2013
Allowable Contract Date: 03/08/2013	Certification Received Date: 02/08/2013

9Internet Access

If you check YES to indicate you have a Request for Proposals (RFP) that specifies the services you are seeking, your RFP must be available to all interested bidders for at least 28 days. If your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

a ☐ YES, I have released or intend to release an RFP for these services. It is available or will become available on the Internet at:
or via (check one) ☐ the contact person in Item 6 or ☐ the contact person listed in Item 12

Your RFP Indentifier:

b ☑ NO, I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Internet Access services you seek. Specify each service (e.g., monthly Internet service) and quantity and/or capacity (e.g., for 500 users).

Service	**Quantity and/or Capacity**
Multi-year contract for monitored and CIPA compliant email accounts for students- Must interface seamlessly with current web portal -School Fusion	10000 accounts

lective Review Information Request
ge 8 of 11
sponse due: 11/9/13

Vendor Scoring (use additional worksheets if necessary)

Service Category	internet -Email	$ 2,500.00	$ 2,525.00
		Gaggle	Sharp Schools
criteria	points scale	points per criteria	points per criteria
1 price	1 to 11	11	10
2 qualifications	1 to 10	10	10
3 financial stability	1 to 10	10	10
4 compliance with terms	1 to 10	10	10
5 capability to perform	1 to 10	10	10
6 conforms to specifications	1 to 9	9	9
	60 point total	60	59

Gaggle (existing) Annual 100% Eligible $25,000.00 - Student web Hosting Total $12,500, eligible $ 11875.00; Out of Pocket 10% + ineligible - 4186.50+635= $4821.5 email only - $2500
Sharp Schools Annual $21,400 Eligible $20,972 - ineligible - $428 no Student Web; Out of Pocket 10% + ineligible - 2097.20+428 = $2525.20

Evaluation Team Names
Nan Williams
Jeff Holder

3) BID RESPONSES

- Indicate the number of bids/proposals received for all funding requests
- Provide complete copies of any and all proposals, bid responses, etc., received in response to the FCC Form 470, and/or any RFP, or other solicitation in any way associated with the applicant's funding request and/or with the selection of the service provider that appears on the applicant's funding requests.

  Bids for application 900314 are compressed in attachment labeled: BIDS - 471 App#900314.zip (11.5 mb)
- This information should be provided for all funding requests including tariff, month-to-month and contracted services.

App #	FRN #	#of bids received	Vendor selected	Service
900314	2484752	3	Qwest	100 mb IA
900314	2516906	4	Qwest	400 mb IA
900314	2517082	2	Gaggle	Student Email

FRN 2484752 – Bidding From Yr 14 470 App#188800000888372

Qwest, Cox and TW Telecom

FRN 2516906 Yr 16 - 470

Centurylink, Cox, Integra, and Cogent

FRN 2517082 Yr 16 470

Gaggle and Sharp Schools

ALHAMBRA YEAR 12 REPORT

471 Application Number	FRN	Applicant Name	BEN	SPIN	Service Provider Name	Commitment Status	486 SSD	Last Date to Invoice	Cmtd Category of Service	Committed Amount	Cmtd Total Cost	Cmtd Commitment Request	Invoicing Mode	Total Authorized Disbursement
674340	1844875	ALHAMBRA EL	142906	143024051	Gaggle.net, I	FUNDED	7/1/2009	10/28/2010	INTERNET ACC	$12,500.04	$12,500.04	$11,125.04	SPI	$11,125.00

ALHAMBRA YEAR 13 REPORT

471 Application Number	FRN	Applicant Name	BEN	SPIN	Service Provider Name	Commitment Status	486 SSD	Last Date to Invoice	Cmtd Category of Service	Committed Amount	Cmtd Total Cost	Cmtd Commitment Request	Invoicing Mode	Total Authorized Disbursement
740551	1999935	ALHAMBRA EL	142906	143024051	Gaggle.net, I	FUNDED	7/1/2010	1/30/2012	INTERNET ACC	$12,500.04	$12,500.00	$11,125.00	SPI	$11,125.00
740556	2001077	ALHAMBRA EL	142906	143028153	Centrifuge S	FUNDED	7/1/2010	10/28/2011	INTERNET ACC	$12,480.00	$12,480.00	$11,107.20	SPI	$11,107.20

ALHAMBRA YEAR 14 REPORT

471 Application Number	FRN	Applicant Name	BEN	SPIN	Service Provider Name	Commitment Status	486 SSD	Last Date to Invoice	Cmtd Category of Service	Requested Amount	Cmtd Total Cost	Cmtd Commitment Request	Invoicing Mode	Total Authorized Disbursement
792775	2166379	ALHAMBRA EL	142906	143028153	Edline, LLC	FUNDED	7/1/2011	1/28/2013	INTERNET ACC	$12,480.00	$12,480.00	$10,982.40	SPI	$10,652.93
792775	2166381	ALHAMBRA EL	142906	143024051	Gaggle.net, I	FUNDED	7/1/2011	1/28/2013	INTERNET ACC	$24,999.96	$24,999.96	$21,999.96	SPI	$21,780.00

ALHAMBRA YEAR 15 REPORT

471 Application Number	FRN	Applicant Name	BEN	SPIN	Service Provider Name	Commitment Status	486 SSD	Last Date to Invoice	Cmtd Category of Service	Requested Amount	Cmtd Total Cost	Cmtd Commitment Request	Invoicing Mode	Total Authorized Disbursement
828905	2257957	ALHAMBRA EL	142906	143028153	Edline, LLC	FUNDED	7/1/2012	1/23/2013	INTERNET ACC	$12,480.00	$12,480.00	$11,107.20	SPI	$10,773.98
858987	2337826	ALHAMBRA EL	142906	143024051	Gaggle.net, I	FUNDED	7/1/2012	7/10/2012	INTERNET ACC	$36,875.04	$36,875.04	$32,818.79	SPI	$32,818.75

Fair and Open Competition

FCC Form 470

- Indicates the services and categories of service which entities are seeking.
- Must be based on tech plan for Priority 2 services.
- Must be posted for at least 28 days.
- Indicates if you are planning/have issued an RFP.
- Indicates any special requirements and/or disqualification factors.
- Indicates who will be receiving the services.

Fair and Open Competition

Imposing Restrictions

- Set some eligible services requirements
  - Applicants may require service providers to provide services that are compatible with one kind of system over another (e.g., Cisco **compatible**).
- Bidder disqualification criteria must be spelled out in FCC Form 470 and/or RFP and be available to all.
- Applicants cannot state that the procurement is subject to sole source bidding and therefore exempt from the FCC's competitive bidding requirements.

Vendor Selection

Bid Evaluation

- Applicants may use a multi-tier vendor selection process when evaluating bids, but ultimately, price must be the primary factor in selecting a qualified vendor
- Technical capabilities, such as scope or quality of service, may be the first tier to assess the bid
  - This tier may be evaluated on a pass-fail basis or scored numerically, where a minimum score is required to advance to the next tier of the evaluation process.

SharpSchool
Helping Schools Succeed

SharpSchool SPIN #143031119

Appendix A: Pricing

Alhambra Elem Sch District 68

District Eligibility: 89%

Service Starts: July 1, 2013
Service Ends: June 30, 2016
February 22, 2013

Pricing Summary			SharpSchool Eligibility *			Estimated District Costs	
						District Eligibility: 89%	
SharpSchool Edition Hosting	**Premium Units**	**Price**	**Eligibility**	**E-Rate Eligible**	**E-Rate Ineligibl**	**E-Rate Pays**	**District Pays**
Intranet Web Hosting	0	$0	97%	$0	$0	$0	$0
Student Email (Standard)	0	$0	100%	$0	$0	$0	$0
Student Email (Premium)	10,000	$21,400	98%	$20,972	$428	$18,665	$2,735
Hosting Total (Per Year)		**$21,400**		**$20,972**	**$428**	**$18,665**	**$2,735**
Professional Services	**Units**	**Price**	**Eligibility**	**E-Rate Eligible**	**E-Rate Ineligibl**	**E-Rate Pays**	**District Pays**
Training							
Administrator Onsite	0	$0	0%	$0	$0	$0	$0
Online	0	$0	0%	$0	$0	$0	$0
Graphic Design	0	$0	0%	$0	$0	$0	$0
Services Total (One Time)		**$0**		**$0**	**$0**	**$0**	**$0**
Totals		**Price**		**E-Rate Eligible**	**E-Rate Ineligibl**	**E-Rate Pays**	**District Pays**
Total Cost		**$21,400**		**$20,972**	**$428**	**$18,665**	**$2,735**

Sample Cost Breakdowns after E-Rate	
Cost for Entire District	
Per Year	$0
Per Month	$0
Cost Per School	
Per Year	N/A
Per Month	N/A

Training Options	
1 Day Onsite	$1,500
2 Days Onsite	$2,500
3 Days Onsite	$3,500
Online Training	$350

*Travel expenses for onsite are extra

* Based on SharpSchool's e-Rate Eligibility for the 2013 e-rate funding year. Rates are subject to change by USAC.

3. TERM AND TERMINATION

Term. This Agreement shall become effective on the date written below and shall remain in full force and effect for a **term of 3 years ("Contract Term")** beginning from the Service Installation Date. This contract allows for multi-year renewal and renews automatically for subsequent one-year terms unless SharpSchool receives written notice from Customer 30 days prior to end of effective Contract Term. If an e-Rate funding request by Customer is not granted by USAC and Customer wishes to terminate this agreement as a result of not receiving the necessary funding the Customer may do so as long as they have notified SharpSchool prior to the Service Installation Date.

7. GENERAL

This Agreement and its validity, construction, and performance shall be governed in all respects by the laws of the province of Ontario and exclusive jurisdiction and venue for all matters relating to this Agreement shall be in the province of Ontario. Except as otherwise specifically set forth herein, all notices shall be in writing and shall be forwarded by registered or certified mail, or by overnight express courier requiring signature of the recipient to complete delivery. All notices sent to SharpSchool shall be addressed "Attention: Director."

FRN 2517082

Gaggle.Net, Inc.
P.O. Box 1352, Bloomington, IL 61702-1352
800-288-7750 Fax: 309-665-0171
SPIN:143024051 / FEIN:04-3602422

Gaggle.Net Contract

Prepared for

ALHAMBRA ELEMENTARY SCHOOL DISTRICT 68

Item 21 Attachment-2013

Applicant: ALHAMBRA ELEMENTARY SCHOOL DISTRICT 68	Attachment:
BEN: 142906	Application:
State: AZ	

Narrative Description: Gaggle is a web-based hosted email service for K-12 education. Pricing is based on an annual subscription fee per mailbox. Gaggle hosted email is a recurring cost. However, it is a one time annual subscription fee for the school/district.

Service Description	Quantity	Unit Cost	Erate% Eligibility	Ineligible Cost	Eligible Cost	Total Cost
Student/Moderator Email Accounts	10,000	$2.50	100%	$0.00	$25,000.00	$25,000.00
Student Web Hosting Tools	10,000	$1.25	95%	$625.00	$11,875.00	$12,500.00
Gaggle Administrative Training (Optional)	2	$2,495.00	100%	$0.00	$4,990.00	$4,990.00
TOTAL				$625.00	$41,865.00	$42,490.00

If the number of accounts changes from the Quantity stated in this contract, the Unit Cost is subject to change.

Term: July 1, 2013 - June 30, 2017

Contract Number: 15234

Full annual payment for subscription is due at commencement of services.

This agreement is contingent upon the approval and release of funds by the Schools and Libraries Division as well as approval by the school board. This contract allows for voluntary extensions upon district approval.

Brett E. Woudenberg 3/12/2013

Brett Woudenberg Date

Gaggle Chief Operations Officer

Authorized Representative for Date

ALHAMBRA ELEMENTARY SCHOOL DISTRICT 68

Attachment#6

Gaggle.Net, Inc.
P.O. Box 1352, Bloomington, IL 61702-1352
800-288-7750 Fax: 309-665-0171
SPIN:143024051 / FEIN:04-3602422

Gaggle.Net Contract

Prepared for

ALHAMBRA ELEMENTARY SCHOOL DISTRICT 68

Item 21 Attachment-2013

Applicant: ALHAMBRA ELEMENTARY SCHOOL DISTRICT 68 | Attachment:

BEN: 142906 | Application:

State: AZ

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3/12/2013

Brett Woudenberg Date

Gaggle Chief Operations Officer

3/12/13

Authorized Representative for Date

ALHAMBRA ELEMENTARY SCHOOL DISTRICT 68

Jeff Holder

From: Jeff Holder [jeffholder1@gmail.com]
Sent: Friday, February 22, 2013 3:31 PM
To: 'Craig Northrup'
Cc: 'Nan Williams'
Subject: FW: SharpSchool Email Proposal - Alhambra - Reply
Attachments: Alhambra-Elem-Sch-District-68_2013-02-22_09-32.pdf; Alhambra-Elem-Sch-District-68_2013-02-22_09-32_price-guide.pdf

Hi Craig,

Please review the below config from the 470. I need you to certify that your product will meet the stipulations state in the request and if there is a cost involved.

Multi-year contract for monitored and CIPA compliant email accounts for students- Must interface seamlessly with current web portal -School Fusion	10000 accounts

Thank you,

Jeff Holder
Alhambra ERATE
(602) 689-5979
(623) 465-2746 (fax)
mailto:jeffholder1@gmail.com

From: craig.northrup@sharpschool.com [mailto:craig.northrup@sharpschool.com]
Sent: Friday, February 22, 2013 7:34 AM
To: jeffholder1@gmail.com
Subject: Special Pricing Promotion - Special Pricing Promotion - Special Pricing Promotion - Special Pricing Promotion - Special Pricing Promotion - SharpSchool Email Proposal (e-Rate 470) - Alhambra Elem Sch District 68

Hello Jeff Holder,

I had sent a previous proposal but wanted to let you know about a special end of e-rate promotion you are eligible for. We are now providing even more competitive pricing than we had previously. See the attached proposal for more details.

You will find a service overview and pricing for 10000 Student Safe email accounts for Alhambra Elem Sch District 68. If you are looking for a different number of email accounts, please let me know and I will be happy to revise the quote.

Jeff Holder

From: Ryan Glassman [Ryan@gaggle.net]
Sent: Monday, February 11, 2013 10:48 AM
To: 'Jeff Holder'; nanwilliams@alhambraesd.org
Subject: RE: Gaggle Email Year 2013-2014 reply Jeff
Attachments: ALHAMBRA ELEMENTARY SCHOOL DISTRICT 68 - Item 21.pdf

Hi Jeff,

Attached is the multiyear contract including a four year option for Alhambra.

All the best,

Ryan

– –

Ryan Glassman
Regional Relationship Manager | gaggle
P.O. Box 1352 - Bloomington, IL 61702
Direct: 309-661-6815
Customer Service: 1-800-288-7750
ryan@gaggle.net

From: Jeff Holder [mailto:jeffholder1@gmail.com]
Sent: Monday, February 11, 2013 10:17 AM
To: 'Ryan Glassman'; nanwilliams@alhambraesd.org
Subject: RE: Gaggle Email Year 2013-2014 reply Jeff

Hi Ryan,

Please review the 470, and send in new proposal based on specific request in the 470.

Multi-year contract for monitored and CIPA compliant email accounts for students- Must interface seamlessly with current web portal -School Fusion

Jeff Holder

(602) 689-5979
(623) 465-2746 (Fax)
mailto:jeffholder1@gmail.com

From: Ryan Glassman [mailto:Ryan@gaggle.net]
Sent: Monday, February 11, 2013 8:51 AM
To: nanwilliams@alhambraesd.org; jeffholder1@gmail.com
Subject: Gaggle Email and Student Web Hosting Service Proposal eRate Funding Year 2013-2014

Section IV: Additional Gaggle 100% eRate Eligible Services

Active Account Provisioning (Set-up)

Gaggle's Active Account Provisioning automates the creation, deletion, and management of user accounts. This feature works with your Student Information System, Active Directory database, or LDAP and runs via customized scripts between the district and Gaggle. In addition, class groups can be automatically created and updated daily. Automating the creation of classes in Gaggle will greatly benefit teachers saving them time, allowing them to immediately start using the system to enhance student learning. Accounts can be created as a one-time import or set to automatically update on a schedule determined by the district. Active Account Provisioning **is eligible** for eRate discounts.

Portal Links – a single-sign-on solution from Gaggle to other web sites. Portal Links allow users to log directly into your other subscription web sites with a single click.

Gaggle Administration of Blocked Messages – Gaggle's Human Monitoring Service puts the monitoring of blocked messages in Gaggle's hands, eliminating the need for teachers to review questionable communications. It greatly improves the safety and security of students, both online and in the real world. Gaggle's HMS team has uncovered bullying, drug use, threats of school violence, teen depression, suicide intentions, and abusive domestic situations.

Anti-Pornography Scanner (APS) – Gaggle's proprietary APS is based upon a complex, intelligent logarithm that leverages 12 years of development to provide the highest level of CIPA compliance available. Gaggle's APS can tell the difference between pictures of students in bathing suits and pornographic images.

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Compliance with Privacy and Safety Laws

Gaggle considers student safety a top priority and complies with all US privacy and safety laws, particularly those involving students or children. These include: Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA), Children's Online Privacy Protection Act (COPPA), and Children's Internet Protection Act (CIPA). Gaggle also conducts thorough criminal background checks on our employees.

The Children's Internet Protection Act (CIPA)

CIPA was signed into law on December 21, 2000. Under CIPA, no school or library may receive discounts unless it certifies that it is enforcing a policy of Internet safety that includes the use of filtering or blocking technology. The school or library must also certify that it is enforcing the operation of such filtering or blocking technology during any use of such computers by minors. In addition, the Internet Safety Policy must **ensure the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications.**

Under CIPA, no school may receive discounts without protecting its students from inappropriate material. CIPA information on the SLD website: http://www.universalservice.org/sl/applicants/step10/cipa.aspx

One of the important provisions of the *Children's Internet Protection Act (CIPA)* states that **schools must have technology measures in place to protect against visual depictions that are obscene or pornographic.** Gaggle is the only email and web hosting provider capable of providing real time image analysis to detect and prevent pornographic images. As such, we believe that Gaggle provides the highest degree of CIPA compliancy of any email solution on the market. The best option that other providers can suggest is to block all attachments. However, this will not prevent pornographic pictures that are sent as embedded images, linked files, or the inclusion of URLs that point to pornographic web sites. Other filters may block some pornographic sites via a black list; however, there are many sites that will only be blocked via Gaggle's Anti-Pornography Scanner.

Pornography Protection at Home – At Gaggle, we strongly believe that pornography protection is vital for a district-provided tool that will also be used from home. No educator wants to get an angry phone call from a parent whose child accessed a pornographic picture or web site from a message that was received in a school provided account. Gaggle's ability to block pornographic attachments and messages with links to pornographic web sites can provide the peace of mind that administrators and parents need before allowing student email access and web based collaboration.

In support of our appeal;

Arizona State procurement -

15-213. Procurement practice B. After the bids submitted in response to an invitation for bids are opened and the award is made or after the proposals or qualifications are submitted in response to a request for proposals or a request for qualifications and the award is made, the governing board shall make available for public inspection all information, all bids, proposals and qualifications submitted and all findings and other information considered in determining whose bid conforms to the invitation for bids and will be the most advantageous with respect to price, conformity to the specifications and other factors or whose proposal or qualifications are to be selected for the award.

41-2533. Competitive sealed bidding G. The contract shall be awarded to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set forth in the invitation for bids

41-2534. Competitive sealed proposals F. As provided in the request for proposals, and under rules adopted by the director, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible to being selected for award for the purpose of clarification to assure full understanding of the solicitation requirements and to permit revision of offers. Offerors shall be accorded fair treatment with respect to any opportunity for discussion. Revisions may be permitted after submission and before award. If discussions are conducted, all offerors who have submitted proposals that are determined by the procurement officer to be in the competitive range shall be invited to submit a final proposal revision. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

All contract clauses shall be consistent with the provisions of ARS Title 41 - Chapter 23 ARIZONA PROCUREMENT CODE, and Article 9 - Legal and Contractual Remedies as if included herein and ARS code shall prevail.

§ 41-2614. Judicial review

Except as provided in section 41-1092.08, subsection H, any final decision of the director under this chapter is subject to judicial review pursuant to title 12, chapter 7, article 6 by any party to the proceeding before the director, and the complaint seeking review shall be filed with the superior court in Maricopa county and served on the director and the purchasing agency.

R2-7-C313. Clarification of Offers

A. The purpose for clarifications is to provide for a greater mutual understanding of the offer. Clarifications are not negotiations and material changes to the request for proposal or offer shall not be made by clarification.

B. The agency chief procurement officer may request clarifications from offerors at any time after receipt of offers. Clarifications may be requested orally or in writing. If clarifications are requested orally, the offeror shall confirm the request in writing. A request for clarifications shall not be considered a determination that the offeror is susceptible for award.

§ 54.511 Ordering Services.

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(a) Selecting a provider of eligible services. In selecting a provider of eligible services, schools, libraries, library consortia, and consortia including any of those entities shall carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers, but price should be the primary factor considered.

(b) Competitive Bid Requirements. Except as provided in § 54.511(c), an eligible school, library, or consortium that includes an eligible school or library shall seek competitive bids, pursuant to the requirements established in this subpart, for all services eligible for support under § 54.502. These competitive bid requirements apply in addition to state and local competitive bid requirements and are not

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26. *Fair and Open Competitive Bidding Rule*. The Commission previously has addressed specific situations in which the fairness of an applicant's competitive bidding process has been compromised because of improper conduct by the applicant, service provider, or both.[45] Although the Commission has held in numerous orders that the competitive bidding process must be fair and open, there is currently no codified Commission rule specifically requiring that the competitive bidding process be conducted by an E-rate applicant in a fair and open manner.[46]

27. We therefore propose to amend 54.510 of our rules to codify the requirement that an applicant must conduct a fair and open bidding process when seeking bids for services eligible for E-rate support.[47] This rule will apply to all applicants for both priority one and priority two services – including applicants not filing FCC Forms 470 – and will apply in addition to state and local procurement requirements.[48] In addition, all applicants for both priority one and priority two must still comply with the Commission's rule requiring the careful consideration of all bids submitted, the selection of the most cost-effective bid for services or equipment, with price as the primary factor considered, and the selection of the service that is the most cost-effective means of meeting educational needs and technology plan goals.[49] Because we are proposing merely to codify an existing requirement, this should not increase the

Lee, and Florence, the record shows that each petitioner considered multiple bids, but only one bid was responsive to the FCC Form 470 postings.[43] As a result, in each of these three instances, the responsive bid necessarily offered the lowest price.[44] Therefore, consistent with the policy goals underlying the Commission's competitive bidding rules, the least expensive responsive service offering was ultimately selected by 10 of the 11 petitioners that failed to assign the highest weight to the price category.

11. Point Pleasant was the other applicant that involved a failure to assign the highest weight to the price category for purposes of bid evaluations. The record shows that Point Pleasant had a choice of two vendors from a New Jersey state master contract, Arch Wireless and Mid-State Paging, Inc.[45] When evaluating each proposal, Point Pleasant assigned an 80 percent weight to performance and a 20 percent weight to price.[46] In its request for review, Point Pleasant explains that it gave performance a higher weighting because based on its past experience, it wanted to ensure that the school received a functional service.[47] Point Pleasant explains that, in the previous funding year, it selected Arch Wireless because its proposal offered the lowest price.[48] Its equipment, however, did not work in Point Pleasant's buildings.[49] We understand why, in these specific circumstances, Point Pleasant considered it important to protect itself from a recurrence of that situation. In that regard, we note that consistent with E-rate program rules, Point Pleasant could have set up the bidding process in a way that disqualified Arch Wireless before even

considering price as a factor.[50] We therefore grant its waiver request based on these unique circumstances. We recognize that if the petitioner had disqualified Arch Wireless from the bidding process based on past performance, then Mid-State Paging, Inc. would have been the lowest qualified bidder. Given these circumstances, we find that a waiver of our rules in Point Pleasant's case is appropriate and in the public interest.

12. In sum, based upon our review of the underlying record, we find that the 12 appeals by the petitioners listed in Appendix B conducted a competitive bidding process that resulted in the selection of the most cost-effective service offering.[51] Moreover, we find no evidence of any violation of state or local procurement laws. We thus believe that rejecting the petitioners' funding requests is not warranted in these circumstances. Rather, we find that a limited waiver of sections 54.503(c)(2)(vii) and 54.511(a) of the Commission's rules is in the public interest given the facts of each case and that this determination results in more effective implementation of Commission policy on competitive bidding.[52] In addition, in the record at this time, there is no evidence of waste, fraud or abuse, or misuse of funds. Accordingly, we waive sections 54.503(c)(2)(ii) and 54.511(a) of the Commission's rules for the petitioners listed in Appendix B and remand the underlying applications to USAC for further action consistent with this order.

13. *Consideration of All Bids Submitted*. USAC denied funding to two petitioners, the School District of the City of River Rouge (River Rouge) and Whittier City School District (Whittier), on the ground that they failed to consider all bids submitted in response to their FCC Form 470 postings.[53] Specifically, the record shows that River Rouge received two bids in response to its FCC Form 470 posting and request for quotes (RFQ), one from Advanced Networking Group (ANG) and the other from SER Communications.[54] River Rouge evaluated each bid, despite the fact that they were both filed after the submission deadline.[55] Based on state and local bidding requirements for establishing a qualified bid,

[50] Specifically, Point Pleasant could have used a multi-tiered bid evaluation process in which the first tier could have assessed whether a proposal satisfied minimum technical capabilities, such as the quality of service. Bids under this tier could have been evaluated on a pass-fail basis, which is currently allowed. All bids satisfying first tier requirements then could have moved to the next tier of the evaluation process where other criteria could have been assessed, including price. *See* USAC website, Schools and Libraries, Schools and Libraries Applicants, Service Providers, http://www.usac.org/sl/applicants/step04/construct-evaluation.aspx (last visited Apr. 5, 2011).

River Rouge subsequently rejected SER Communications' bid because it was incomplete and failed to respond to all of the items requested in the RFQ.[56] In its request for review, River Rouge argues that it used price as a primary consideration in selecting the ANG proposal and determined that ANG presented the most cost-effective service offering.[57] We find that nothing in the record indicates that River Rouge evaluated the responsive bidders in a manner inconsistent with E-rate program rules. The record shows that River Rouge considered each bid it received and rejected the SER Communication's bid only after determining that the bid was incomplete. Finally, nothing in the record demonstrates any evidence of waste, fraud or abuse, or misuse of funds.

14. The record shows that Whittier also considered all bids. Whittier received two bids in response to its FCC Form 470 posting seeking wireless Internet access on a district-wide basis.[58] One bid, submitted by its current Internet service provider, Trillion Partners, Inc., (Trillion), proposed to provide wide area network (WAN) services for wireless Internet access to all 14 district sites for a monthly charge of $17,571.[59] According to Whittier, the Trillion proposal was reflected in a detailed proposed service agreement.[60] The other bid, submitted by Advanced Scientific Applications, Inc., (ASA) proposed a monthly charge of $69,986 for dedicated wireless Internet access for digital signal level 3 (DS3) lines for each district site.[61] No other detail was provided in the ASA proposal.[62] Upon further inquiry into the specifics of ASA's proposal, Whittier learned that ASA could not provide wireless Internet access on a district-wide basis, which was precisely the service that Whittier was seeking.[63] Based on our review of the record, we find that Whittier also evaluated the responsive bidders consistent with E-rate program rules. The fact that Whittier initiated contact with ASA to discuss the proposal's terms and conditions, and only rejected the proposal after learning that ASA could not provide the requested services leads us to conclude that Whittier carefully considered ASA's submission. Moreover, there is no evidence of waste, fraud or abuse, or misuse of funds.

2003.[12] In March 2004, USAC approved Tulsa's FY 2003 FCC Form 471 application for telecommunications services and Internet access.[13] During post-funding review, however, USAC rescinded Tulsa's funding commitment for FRN 980351 from its FY 2003 FCC Form 471 application on the ground that Tulsa violated the Commission's competitive bidding requirements.[14] Specifically, USAC found that Tulsa included the price of ineligible items (i.e., "costs associated with changing phone numbers") in its evaluation of the most cost-effective proposal during the vendor selection process.[15] Tulsa then filed an appeal of USAC's notification of commitment adjustment letter with the Commission.[16]

5. In its appeal, Tulsa argues that it did not include ineligible products and services in its vendor selection process.[17] Tulsa maintains that during post-funding review, it informed USAC that it selected AT&T because it offered the lowest price and was the most cost-effective solution.[18] Tulsa also explains that AT&T was the existing provider and that the "[c]osts to change to another provider (change phone numbers and incur activation fees) [was] too high in comparison to any cost savings gained from switching providers."[19] Tulsa argues that USAC's decision to rescind funding was based on a misunderstanding of what Tulsa meant by this explanation.[20] Tulsa asserts that the cost to change providers was meant to denote activation fees and primary interexchange carrier change charges, both of which are eligible charges.[21] Thus, Tulsa maintains that its vendor selection process did not violate the Commission's competitive bidding requirements and that staying with AT&T was the most cost-effective solution.[22]

III. DISCUSSION

6. We grant Tulsa's appeal. After review of the record, we find that Tulsa complied with the Commission's competitive bidding requirements for FRN 980351.[23] Specifically, we conclude that USAC erred in rescinding Tulsa's funding commitment for FRN 980351 as part of its FY 2003 FCC Form 471 application on the ground that Tulsa included the prices of ineligible products and services in

the vendor selection process.[24] According to the eligible services list for FY 2003, presubscribed interexchange carrier (PIC) change charges and change fees were eligible for discounts.[25] We therefore find that Tulsa's consideration of the costs associated with changing providers – i.e., PIC change charges and activation fees – was consistent with the Commission's competitive bidding rules.

7. We thus conclude that rejecting Tulsa's funding request on the ground that Tulsa's vendor selection process violated the Commission's competitive biding rules is not warranted in this instance. In addition, we find no evidence in the record at this time of waste, fraud or abuse, or misuse of funds, or a failure to adhere to core program requirements with respect to this procurement. We therefore grant Tulsa's appeal and direct USAC to discontinue recovery actions against Tulsa and AT&T concerning FRN 980351 as part of Tulsa's FY 2003 FCC Form 471 application.[26] To the extent any funds have already been recovered from the parties under this underlying funding request, we direct USAC to refund the parties no later than 60 days from the release date of this order.

proposals, Baltimore assessed the vendor's business qualifications, the proposed solution's conformance to technical specifications, manageability features, and warranty provisions.[44] Bidders that had a score sufficient to satisfy the minimum technical requirements then moved to Phase II of the evaluation process where nine criteria were assessed, including price, which had the highest weight of 50 percent.[45] The other evaluation criteria were weighted at 6¼ percent each.[46] Two bidders responded to the RFP, but only one bidder, Verizon, met the minimum technical requirements.[47] Verizon also offered the lowest price.[48] Thus, Verizon ultimately was awarded the contract.[49]

Federal Communications Commission DA 11-1368

consistent with the Commission's competitive bidding rules, Cobb selected the vendor with the highest number of points in the price category for each procurement.[56]

11. Based on our review of the record, we find that Baltimore's and Cobb's multi-tiered competitive bidding processes did not violate E-rate program rules. Consistent with precedent, each petitioner submitted documentation to USAC detailing the competitive bidding process, including bid requests, bid proposals, and cost evaluation criteria.[57] Each petitioner also assigned the most weight to price when evaluating responsive bidders and selected the vendor that offered the most cost-effective offering.[58] In addition, in the record at this time, there is no evidence of waste, fraud or abuse, or misuse of funds. We therefore grant the petitioners' requests for review.

12. Furthermore, we direct USAC to apply this ruling to all of the pending appeals and applications concerning the underlying issue addressed herein. That is, applicants may use a multi-tiered vendor selection process when evaluating bids, but ultimately, price must be the primary factor in selecting a qualified vendor.[59] Specifically, applicants may use the first tier of a multi-tiered evaluation process to assess whether a proposal satisfies minimum technical capabilities, such as the scope of or quality of service, to ensure that the proposal is responsive to the RFP.[60] This tier may be evaluated on a pass-fail basis or it may be scored numerically, where a minimum score is required to advance to the next phase of the evaluation process. Applicants may use the second tier of the evaluation process to examine price and other criteria. Consistent with state and local procurement requirements, we expect that any applicant using a multi-tiered process would provide notice – in either its FCC Form 470 or its RFP - to all potential bidders as to the specific criteria to be evaluated in each tier, how those criteria will be scored, which criteria will be used as disqualification criteria, and the circumstances under which bidders will be disqualified from further consideration. We also remind applicants that price must be weighted the highest among each of the evaluation criteria in a multi-tiered vendor selection process, consistent

Universal Service Administrative Company (USAC) under the E-rate program (more formally known as the schools and libraries universal service support program).[4] In each decision, USAC found violations of the Commission's competitive bidding requirements.[5] Based on our review of the record, we find that Central Islip and Jennings have demonstrated good cause to waive sections 54.503 and 54.511 of the Commission's rules.[6] In particular, the record here persuades us that: (1) their competitive bidding processes were not compromised by their technical violation of the Commission's competitive bidding requirements; and (2) the outcomes of their vendor selection processes were otherwise consistent with the policy goals underlying the Commission's competitive bidding rules.[7] Additionally, at this time, there is no evidence of waste, fraud or abuse in the record. Given these circumstances, we remand the underlying applications to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application and issue an award or a denial based on a complete review and analysis no later than 60 calendar days from the release date of this Order. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the underlying applications.

[7] Among other things, we find that the outcomes of the competitive bidding processes here provided Central Islip and Jennings with the services that met their needs in a way that ultimately was likely to impose the least burden on the federal universal service fund, which is consistent with Commission objectives underlying the competitive bidding requirement. *See, e.g.*, *Universal Service First Report and Order*, 12 FCC Rcd at 9029, paras. 480-81 (concurring with the Joint Board that schools and libraries should have flexibility "to take service quality into account and to choose the offering or offerings that meets their needs 'most effectively and efficiently,'" while also recognizing that "[a]bsent competitive bidding, prices charged to schools and libraries may be needlessly high, with the result that fewer eligible schools and libraries would be able to participate in the program or the demand on universal service support mechanisms would be needlessly great"). *See also, e.g.*, *Allendale County Order*, 26 FCC Rcd at 6116-17, para. 11 (granting waiver of competitive bidding requirements under unique circumstances where, even though price was not the primary factor considered, the selected bidder had the lowest price for the services that actually met the school's needs).