

**Before the Federal Communications Commission
Washington, D.C. 20554**

October 14, 2015

In the Matter of

Schools and Libraries Universal Service
Support Mechanism

Request for Review of a Decision of the
Universal Service Administration by

Mater Academy Gardens Elementary School

CC Docket No. 02-6

Request for Review

Appellant Name: Mater Academy Gardens Elementary School

Billed Entity Number: 16045713

For 471: 849707

Funding Request Numbers: 2324150

Service Providers:

FPL FiberNet, LLC – SPIN 143033075

Submitted by:

Eileen Beyra

Academica

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Introduction:

This is an appeal of USAC's denial concerning application 849707. USAC denied the appeal because (1) "...the Contract Award Date of 03/19/2012 on supplied contract, which is after your FCC Form 471 was certified..." (2) "...at the time you submitted your FCC Form 471 application, you did not have a contract with your service provider..."

Argument:

1 – We contend this is an M&C error on the part of the signer.

2 – Mater Academy Gardens Elementary School's allowable contract date was on 2/1/12. After waiting the mandatory 28 days, the school weighed all bids against their vendor selection criteria and selected the most cost effective vendor. This Vendor was FPL FiberNet, LLC. There was no waste fraud or abuse.

3 – On 3/18/12 the school filed their 471 application. The school filed that application with a vendor signed contract as of 3/14/12 (because this should have been the date the contract was signed). This is the day that the school selected their provider and entered into a binding agreement. The date on the contract submitted to USAC was 3/19/12. This was a clerical error, one that a typist might make. The signed date should have been 3/14/12.

4 Mater Academy Gardens Elementary School selected the most cost effective vendor and should not be punished for a clerical error. There was no waste fraud or abuse, simply a typographical error.

5 - Pursuant to the Order FCC 11-60, released on April 14, 2011, and the Bishop Perry Order, the applicant should be awarded the opportunity to correct these clerical errors. We argue that we should be awarded the opportunity to correct this date.

6 – Mistakes happen and the FCC and USAC have established precedent to correct these mistakes.

7 – Finally, we would argue, even if the Commission doesn't view this as a clerical error, FPL FiberNet was the most cost effective vendors, pursuant to our vendor selection process and there was no waste fraud or abuse. To deny this funding would put undue strain on the school who otherwise followed all e-rate rules.

Summary

Mater Academy Gardens Elementary School made a clerical error when having their contract signed. They therefore filed with an incorrect date. However, they followed all e-rate rules leading up to this and did in fact select the most cost effective vendor.

There is no waste fraud or abuse, just a simple mistake which there is a clear remedy.

We respectfully request this application be approved and the school be allowed to recoup the funding to which they are entitled.

Thank you



Eileen Beyra



Administrator's Decision on Appeal – Funding Year 2012-2013

August 07, 2015

Eileen Beyra
Academica Corp.
6340 Sunset Drive
Miami, FL 33143

Re: Applicant Name: MATER ACADEMY GARDENS
ELEMENTARY SCHOOL
Billed Entity Number: 16045713
Form 471 Application Number: 849707
Funding Request Number(s): 2324150
Your Correspondence Dated: July 02, 2015

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2012 Notification of Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2324150
Decision on Appeal: **Denied**
Explanation:

- It has been determined that this funding commitment must be denied. The applicant did not have a contract in place at the time of submission of the FCC Form 471. This determination was based on the Contract Award Date of 03/19/2012 on the supplied contract, which is after your FCC Form 471 was certified on 03/18/2012. FCC rules require applicants to have a valid contract as defined by the applicants state procurement laws and regulations at the time they submit the FCC Form 471. You were unable to demonstrate that a contract in place at the time of submission of the FCC Form 471 that meets the state laws definition of a valid contract, therefore the Appeal has been denied.

- USAC has determined, that at the time you submitted your FCC Form 471 application, you did not have a contract with your service provider(s), which meets your state and local or the FCC's definition of a contract. Additionally, the services you requested are not non-contracted tariff or month-to-month services. Except for services to be delivered under non-contracted tariff or month-to-month arrangements, FCC rules require that applicants submit a completed FCC Form 471 "upon signing a contract for eligible services." *See* 47 C.F.R. sec. 54.504(a). In your appeal, you did not demonstrate that USAC's decision was incorrect. As USAC does not have authority to waive the FCC rules of the program, your appeal is denied.

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

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

Schools and Libraries Division
Universal Service Administrative Company