



INDEPENDENT COMPUTER MAINTENANCE LLC

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November 16, 2015

(By UPS delivery)

Letter of Appeal
Federal Communications Commission
Office of the Secretary
445-12th Street, SW
Washington, DC 20554

Received & Inspected

NOV 17 2015

FOC Mail Room

Request For Review

Re: APPEAL OF ADMINISTRATOR'S DECISION ON APPEAL BY THE SCHOOLS AND LIBRARIES DIVISION OF THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY
CC DOCKET NO.: 02-6
FUNDING YEAR: 2002
FORM 471 APPLICATION NUMBER: 307730
FUNDING REQUEST NUMBER(S): 799828, 799834
APPLICANT NAME: Kearny Christian Academy
APPLICANT CONTACT: David Manzo
BILLED ENTITY NAME: Kearny Christian Academy
BILLED ENTITY NUMBER: 227328
BILLED ENTITY AND APPLICANT CONTACT PHONE NO.: (201) 998-9460
SERVICE PROVIDER: Independent Computer Maintenance, LLC
SERVICE PROVIDER IDENTIFICATION NO.: 143026575
SERVICE PROVIDER CONTACT PERSON: Meir Weinraub
SERVICE PROVIDER CONTACT PHONE NO.: (973) 916-1800
SERVICE PROVIDER FAX NO.: (973) 916-1986
SERVICE PROVIDER E-MAIL: meirw@icmcorporation.com

Enclosure A: Copy of Administrator's Decision on Appeal – Funding Year 2002 for Kearny Christian Academy dated October 09, 2015

Enclosure B: Copy of Independent Computer Maintenance, LLC Appeal/Response to Final Demand Payment Letter dated August 10, 2015

Enclosure C: Copy of Final Demand Payment Letter dated July 24, 2015

Enclosure D: Copy of Independent Computer Maintenance, LLC Appeal of Commitment Adjustment Letter dated June 27, 2011

Enclosure E: Copy of Commitment Adjustment Letter dated May 04, 2011

No. of Copies rec'd 0
List ABCDE

Since 1985

Enclosure F: Copy of Order FCC 06-55 dated May 19, 2006

Enclosure G: *In re Federal-State Joint Board on Universal Service*, 19 FCC Rcd 15252 on July 23, 2004

Gentlemen:

Notice of Appeal

Please accept this letter and its enclosures as Independent Computer Maintenance, LLC's ("ICM") appeal of the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") Administrator's Decision on Appeal – Funding Year 2002, dated October 09, 2015. Said decision dismissed ICM's appeal dated August 10, 2015 and is annexed as Enclosure A. ICM's appeal is annexed as Enclosure B, which was in response to the Final Demand Payment Letter (DPL), annexed hereto as Enclosure C.

FACTS

On May 02, 2006, the FCC adopted in Proceeding Number FCC-06-55 (released May 19, 2006 and annexed as Enclosure F) an Order under CC Docket No. 02-6, granting the appeal of ICM with respect to a number of applications including Application 307730 relating to the above FRNs and 29 other entities. This Order found that the "USAC denied the requests for funding without sufficiently determining that the service providers improperly participated in the applicant's bidding process." It further ordered the USAC to "Complete its review of each remanded application (and issue an award or a denial based on a complete review and analysis) listed in the Appendix no later than 120 days from the release of this Order." The USAC has neither obtained an extension of the deadline in the Order nor has it issued an award or denial of Application 307730 or the FRNs issued pursuant thereto within the 120 day FCC mandated time frame.

On May 04, 2011, the USAC issued the Commitment Adjustment Letter (CAL), hereto annexed as Enclosure E which was subject to an appeal by ICM on June 27, 2011, Enclosure D. This is the last correspondence from USAC that ICM received before receiving the Final DPL dated July 24, 2015. There is a reference in the Funding Commitment Adjustment Report (FCAR) included in the CAL dated May 04, 2011 to a June 20, 2006 "request" by the "applicant(s)" concerning cancellation of the FRNs. ICM has no knowledge of any such request and has never received a copy of the same. Also in the FCAR Explanation, USAC reasons that "Since the FCC rules require that the USAC recover funds that were disbursed over the commitment, USAC will seek recovery of any disbursed funds from the service provider."

ARGUMENTS

1. ICM has responded to all correspondence received from USAC in a timely manner throughout the entire appeals process. ICM is still awaiting a response for its appeal filed June 27, 2011.

USAC asserts in the appeal dismissal that ICM did not appeal the May 04, 2011 CAL within the required 60 day time frame. This is incorrect; ICM filed an appeal with USAC June 27, 2011, for which ICM has not received a reply. After the CAL dated May 04, 2011, the next correspondence received by ICM was the Final DPL dated July 24, 2015. ICM responded to this DPL only because it did not receive a

reply to the prior appeal. Over the years the responses from USAC have been sporadic and rarely within the required time frame forcing ICM to remain in limbo about the status of an appeal.

2. The FCC granted ICM's appeal in 2006 with respect to Application 307730, among other applications, and instructed USAC to review the application and issue an award or denial. USAC has not done this. Instead, USAC has arbitrarily replaced the reason for denial from improper third-party participation in applicants' competitive bidding process with a request to cancel the application by the applicant made June 20, 2006 without notifying ICM of this new information until May 04, 2011.

The FCC sent ICM's appeal for this application back to the USAC for review in May 2006 because the FCC concluded "that USAC denied the requests for funding without sufficiently determining that the service providers improperly participated in the applicants' bidding process." USAC did not determine that ICM was improperly involved in any proceedings nor has USAC provided any information about a review of this application other than to purport that the applicant cancelled the application four years after receiving the services, without the knowledge of the service provider. This finding by the Administrator leaves ICM further harmed by continuing to demand payment for services properly rendered while still not actually finding fault with the service provider in any way.

3. ICM has been waiting for the USAC to complete its review of Application 307730 and issue an award or a denial based on a complete review and analysis no later than 120 days from the Order, dated May 19, 2006.

Over 9 years have passed since the FCC issued Order FCC 06-55 and ICM is still subject to arbitrary and inconsistent correspondence and decisions from USAC. USAC has changed the reason for the FCAR and has not offered any further evidence that ICM acted improperly. ICM provided the services requested and any attempts to recover the funds that ICM was fairly paid is harming only ICM who has not be found to have committed any wrong doing. Additionally, the FCC adopted *In re Federal-State Joint Board on Universal Service*, 19 FCC Rcd 15252 on July 23, 2004 (hereinafter *In re Federal-State*) which is annexed hereto as Enclosure G. This decision directed the USAC to re-direct its efforts to recover any funds that had been allegedly distributed unlawfully from the providers to the party or parties who have committed the statutory rule violation in question.

The FCC further stated with respect to the "party or parties who have committed the statutory or rule violation" that:

"We do so recognizing that in many instances, this will likely be the school or library, rather than the service provider." *In re Federal-State*, 19 FCC Rcd at par. 10.

Based upon this decision, the FCC has conclusively decided the issue presented in this appeal and has held that the USAC should proceed against the wrongdoing applicant to recover any questionable payments and not the innocent provider. If the applicant did in fact request to cancel the application without the service provider's knowledge and after the service provider has rendered all services, the applicant should be held responsible for this decision.

CONCLUSION

The Administrator's decision on October 09, 2015 is unfair to ICM and should be overturned. USAC never responded to ICM's appeal, which was filed on time, in 2011 and now in 2015 is demanding payment. To assert that ICM cannot respond to a DPL is ignoring the facts of this case, which are that

ICM did in fact appeal the CAL in the correct manner and it is USAC that did not review the case properly. ICM's right to an appeal based on the facts of this matter is being ignored. Further, USAC has not complied with the FCC finding in 2006 that a thorough review of the Application 307730 be made in an attempt to identify the party which committed a rule violation, if one did occur. USAC has not found ICM to have committed any rule violation. It remains inconceivable that USAC is continuing to pursue a repayment of funds from the service provider after not identifying ICM as a party that committed wrongdoing in this case, even after explicit instruction from the FCC.

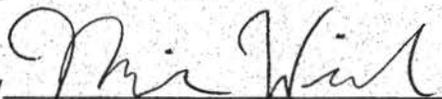
For the reasons set forth above, ICM hereby requests that the relief requested in this appeal be granted and the finding as contained in Universal Service Administrative Company's letter of October 09, 2015 and of May 04, 2011 be reversed and that all commitment amounts be reinstated in full.

As noted in ICM's earlier appeals, most of the efforts ICM has expended under the aforesaid FRNs were labor hours, internet and telephone charges, cabling and other non-recoverable items, therefore, the rescission of the FRNs would be a disastrous and an unusually severe hardship on this small business that would effectively terminate ICM's ability to continue as a viable entity. If these commitment adjustments are allowed to remain, not only would the management of ICM lose their investment, 15 employees would lose their jobs and a large number of local businesses that rely on ICM could also be adversely affected. This would occur all because of some seriously deficient findings of fact and unsubstantiated conclusions.

If you have further questions concerning this matter, please contact the undersigned at the address and telephone number indicated above or our Counsel, Gary Marcus of the law firm, Gary Marcus, Attorney at Law, P.C. 7657 Uliva Way, Sarasota, FL 34238. (516) 301-7776.

Very truly yours,

Independent Computer Maintenance, LLC

By 
Meir Weinraub, Vice President

Cc: David Manzo Kearny Christian Academy

Enclosure A

Administrator's Decision on Appeal - Funding Year 2002

October 09, 2015

Meir Weinraub
Independent Computer Maintenance, LLC
1037 Route 46, East C-102
Clifton, NJ 07013

Re: Applicant Name: Kearny Christian Academy
 Billed Entity Number: 227328
 Form 471 Application Number: 307730
 Form 486 Application Number:
 Funding Request Number(s): 799828, 799834
 Your Correspondence Dated: August 10, 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 2002 Demand Payment Later 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): 799828, 799834

Decision on Appeal: **Dismissed**

Explanation:

Your appeal is being made on a FCC Form 471 for which a Commitment Adjustment Decision Letter (CAL) was issued on May 4, 2011. Procedures for filing an appeal are explained in your CAL and can be found in Appeals posted in the Reference Area of the SLD) section of the USAC website. You had 60 days to appeal USAC's decision, which was identified in the CAL. After the 60 days, the 2nd Demand Payment Letter (DPL) was issued on October 24, 2011. Consequently another DPL was issued July 24, 2015. The Demand Payment Letter, which you are appealing, is a request for payment and is not the USAC decision on the Commitment. Consequently, your appeal is being dismissed.

Since your appeal has been denied in full, partially approved with funding denied, dismissed, or canceled, 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

CC: David Manzo
Kearny Christian Academy
172 Midland Avenue
Kearny, NJ 07032

Enclosure B



INDEPENDENT COMPUTER MAINTENANCE LLC

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August 10, 2015

Letter of Appeal
Schools and Libraries Division – Correspondence Unit
30 Lanidex Plaza West
P.O. Box 685
Parsippany, New Jersey 07054-0685

NOTICE OF APPEAL AND REQUEST FOR REVIEW

Re: RESPONSE TO FINAL DEMAND PAYMENT LETTER dated July 24, 2015
FUNDING YEAR: 2002 Through 2003
FORM 471 APPLICATION NUMBER: 307730
FUNDING REQUEST NUMBERS: 799828, 799843, 799843
APPLICANT NAME: Kearny Christian Academy
APPLICANT CONTACT: David Manzo
BILLED ENTITY NAME: Kearny Christian Academy
BILLED ENTITY NUMBER: 227328
BILLED ENTITY AND APPLICANT CONTACT PHONE NO. (201) 998-0788
SERVICE PROVIDER: Independent Computer Maintenance, LLC
SERVICE PROVIDER IDENTIFICATION NO.: 143026575
SERVICE PROVIDER CONTACT PERSON: Meir Weinraub
SERVICE PROVIDER CONTACT PHONE NO.: (973) 916-1800
SERVICE PROVIDER FAX NO.: (973) 916-1986
SERVICE PROVIDER E-MAIL: MeirW@icmcorporation.com

Enclosure A: Copy of Final Demand Payment Letter dated July 24, 2015

Enclosure B: Copies of SPIN Change Request of Kearny Christian Academy dated July 24, 2003 and September 26, 2003

Enclosure C: Copies of SLD Client Operations' e-mail dated August 12, 2003 and October 8, 2003 approving the SPIN change.

Enclosure D: Copy of ICM appeal (without attachments) dated May 12, 2004

Enclosure E: Copy of Commitment Adjustment Letter dated May 4, 2011

Enclosure F: Copy of ICM appeal (without attachments) dated June 27, 2011

Since 1985

Gentlemen:

NOTICE OF APPEAL

Please accept this letter and its enclosures as Independent Computer Maintenance, LLC's ("ICM") response to the Final Demand Payment letter dated July 24, 2015 notifying ICM that "You were previously sent a Demand Payment Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Funding Commitment Adjustment Report (Report) attached to this letter. You were also sent a Second Demand for Payment Letter on 10/24/2011. Our records indicate that you have not responded to either letter." Also USAC states "Pursuant to the applicant's request of June 20, 2006, the funding commitment for FRN 799828 (and 799843) was cancelled in its entirety. Since the FCC rules require that the USAC recover funds that were disbursed over the commitment, USAC will seek recovery of any disbursed funds from the service provider." USAC acknowledges the FCC Fourth Report and Order and that it is directed to "direct recovery to the party or parties that committed the rule or statutory violation in question."

FACTS

Upon information and belief, Kearny Christian Academy ("KCA") filed the Form 470 and related technology plan with respect to the above referenced Application Number on or about December 15, 2001 and subsequent thereto the FRNs were issued. ICM did not become involved with the FRNs until July 24, 2003 and September 26, 2003, when pursuant to SPIN change requests of the Applicant KCA, ICM was proposed as the new service provider replacing Diversified Computer Solutions, Inc. Copies of KCA's request for a SPIN change are annexed hereto as Enclosure B. Copies of an e-mails from the School and Library Division Client Operations to ICM dated August 12, 2003 and October 8, 2003 granting the aforesaid requested SPIN change are annexed hereto as Enclosure C.

Subsequent to the granting of the SPIN change by USAC, ICM rendered the equipment, services and other efforts needed to successfully fulfill all the requirements of the FRNs.

On March 16, 2004, the USAC issued a Commitment Adjustment Letter concerning the FRNs seeking to "rescind in full" the FRNs, since there was an indication that "the vendor (ICM) was improperly involved in the competitive bidding process".

On May 12, 2004, ICM filed an appeal to the SLD of the March 16, 2004 Commitment Adjustment Letter. That appeal was denied by the SLD on November 16, 2004 and on January 7, 2005 ICM filed an appeal to the FCC. A copy of the ICM appeal (without attachments) is annexed hereto as Enclosure D.

On May 2, 2006, the FCC adopted in Proceeding Number FCC-06-55, (released May 19, 2006) an Order under CC Docket No. 02-6, granting the appeal of ICM (with respect to a number of applications including Application 307730 relating to the above FRNs) and 29 other entities. This Order found that the "USAC denied the requests for funding without sufficiently determining that the service providers improperly participated in the applicant's bidding process." (Page 3 ¶6 of the Order). It further ordered the USAC to "Complete its review of each remanded application (and issue an award or a denial based on a complete review and analysis)

listed in the Appendix no later than 120 days from the release of this Order.” (Page 4 ¶7 of the Order). Application 307730 which contained the FRNs was listed in the Appendix. (See page 7). More than 120 days have expired since the FCC issued its Order. The USAC has neither obtained an extension of the deadline in the Order, nor has it issued an award or denial of Application 307730 or the FRNs issued pursuant thereto within the 120 day FCC mandated time frame.

There is a reference in the FCARs to a June 20, 2006 “request” by the “applicant(s)” concerning the cancellation of the FRNs. ICM has no knowledge of any such request and has never received a copy of same.

On May 4, 2011, the USAC issued the CAL, hereto annexed as Enclosure E which was subject to an appeal by ICM on June 27, 2011, Enclosure F. This is the last correspondence from USAC ICM received before receiving the Final Demand Payment Letter.

ARGUMENTS

1. ICM responded to the Demand Payment Letter, and has responded to all correspondence received from USAC in a timely manner throughout the entire process.

In the Final Demand Payment Letter dated July 23, 2015, USAC asserts the ICM has not responded to either of the two Demand Payment Letters the second dated 10/24/2011. ICM did not receive either of these letters. ICM sent an appeal to USAC on June 27, 2011 and have not received a response concerning this appeal. Over four years' time has passed since we responded to the CAL in question and the arguments of the appeal remain unaddressed.

2. The CAL and the attached FCAR reports should be withdrawn because on their face they offer an unclear, vague, ambiguous and incomplete basis for reducing the FRN commitments.

The basis for the USAC's determination to reduce the funding commitments to \$0 for the FRNs is unclear, vague, ambiguous and incomplete. In the CAL there are allegations of “program rule violations” yet in the FCARs the basis appears to be an “applicant(s) request of June 20, 2006”. It is impossible to fully respond to these allegations when they are contradictory on their face and possibly based in part on a correspondence or agreement which ICM was neither the recipient nor author of. Furthermore, an allegation of “program rule violations” without any specificity is vague and totally inadequate ground to base a decision upon. Notwithstanding the allegations are contradictory, neither of these allegations by the USAC have any merit as will be shown in the arguments below addressed to each of the allegations separately.

3. Assuming the allegations of “program rule violations” is a renewal of the allegations set forth in USAC's prior attempt to adjust the commitment levels as set forth in its March 16, 2004 CAL, if there was any wrong doing or impropriety in the competitive bidding process with respect to the FRNs and Application 307730, ICM had no involvement in that process or application and therefore pursuant to the decision of the FCC and the rule of law, any recover, if justified, must be the responsibility of the Applicant, KCA, and any other third persons involved in the Application or competitive

bid process, but clearly not the responsibility of ICM, who was just an innocent service provider.

As set forth in the facts above, ICM had no contact with the Applicant, KCA, at the time the Form 470 and technology plan were filed by KCA on or about December 15, 2001. ICM did not become involved with the FRNs until July 24, 2003 and September 26, 2003, when pursuant to a SPIN change request of the Applicant, KCA, ICM was proposed as the new service provider replacing Diversified Computer Solutions, Inc. It is irrefutable that since ICM had no association with the Applicant until after July and September, 2003, well after the Application was filed (December 15, 2001) and any questionable acts relating thereto, if any, were committed; it could not have been "improperly involved in the competitive bidding process". To insinuate or allege that ICM had any connection with any such misconduct is totally baseless. On these irrefutable facts alone no recovery should be directed toward ICM because it was and is an innocent party.

The FCC in *In re Federal-State Joint Board on Universal Service*, 19 FCC Rcd 15252 (adopted July 23, 2004) issued a ruling directly on point concerning which party the USAC was to seek recovery from. In this decision the FCC in response to petitions by various providers, directed the USAC to re-direct its efforts to recover any funds that had been allegedly distributed unlawfully from the providers to the party or parties who have committed the statutory or rule violation in question.

The FCC stated with respect to the "party or parties who have committed the statutory or rule violation" that: "We do so recognizing that in many instances, this will likely be the school or library, rather than the service provider." (Emphasis added). *In re Federal-State*, 19FCC Rcd at par. 10.

In reaching this conclusion, the FCC noted that: "The school or library is the entity that undertakes the various necessary steps in the application process, and receives the direct benefit of any services rendered. The school or library submits to USAC a completed FCC Form 470, setting forth its technological needs and the services for which it seeks discounts. The school or library is required to comply with the Commission's competitive bidding requirements as set forth in Sections 54.504 and 54.511(a) of our rules and related orders. The school or the library is the entity that submits FCC Form 471, notifying the Administrator of the services that have been ordered, the service providers with whom it has entered into agreements, and an estimate of the funds needed to cover the discounts to be provided on eligible services." *Id.* At par. 11.

The Commission in that Order also stated that although the service providers also have to follow the rules and regulations, those are with regard to "the supported service, and as such, must provide the services approved for funding within the relevant funding year. The service provider is required under our rules to provide beneficiaries a choice of payment method, and, when the beneficiary has made full payment for the services, to remit discount amounts to the beneficiary within twenty days of receipt of the reimbursement check. But in many situations, the service provider simply is not in a position to ensure that all applicable statutory and regulatory requirements have been met. Indeed, in many instances, a service provider may well be totally unaware of any violation. In such cases, we are convinced that it is both unrealistic and inequitable to seek recovery solely from the service provider." (Emphasis added). *Id.* at par. 11.

4. All Revised Funding Commitment Letters, Funding Commitment Adjustment Reports issued by USAC with respect to Form 471 Application Number 307730 and the FRNs subsequent to May 2, 2006 when the FCC in Proceeding FCC-06-05 adopted an Order under CC Docket No. 02-6 are invalid because the USAC failed to comply with the requirements of that Order.

As set forth in the Fact section above, the FCC on May 2, 2006 adopted in Proceeding FCC-06-05, (released May 19, 2006) an Order under CC Docket No. 02-6, finding that the "USAC denied the requests for funding without sufficiently determining that the service providers improperly participated in the applicant's bidding process." (Page 3 ¶6 of the Order). It further ordered the USAC to "Complete its review of each remanded application (and issue an award or a denial based on a complete review and analysis) listed in the Appendix no later than 120 days from the release of this Order." (Page 4 ¶7 of the Order). Application 307730, which relates to the FRNs, was listed in the Appendix. That being the case, the CAL and the FCARs are fatally flawed because more than 120 days have expired since the FCC issued its Order. The USAC has neither obtained an extension of the deadline in the Order, nor has it issued an award or denial of Application 307730 within the FCC ordered 120 day period. At this late date the USAC is barred by the terms of the FCC order and estoppel from raising any alleged "improper" procurement issues concerning Application 307730 or the related FRNs.

5. The CAL and the related FCARS are unenforceable and void as a matter of law since the USAC's procrastination and delays in prosecuting any alleged violations has taken it well past any applicable Statute of Limitations.

6. The USAC's attempt to base any FCAR on an alleged "applicant's request of June 20, 2006" whereby the FRNs were "cancelled in (their) entirety", of which ICM had no knowledge of or an opportunity to refute, is a violation of ICM's right of due process. To allow such a violation would enable the applicant to have received goods and services furnished by ICM in good faith and then by a unilateral agreement with the USAC effectively bar ICM for receiving payment for those goods and services.

CONCLUSIONS

For the reasons set forth above, the SLD should grant this appeal and make a determination that:

1. ICM has responded to all correspondence received from USAC. ICM is awaiting the outcome of the appeal filed June 27, 2011; and
2. The CAL and the attached FCAR reports should be withdrawn because on their face they offer an unclear, vague, ambiguous and incomplete basis for reducing the FRN commitments; and
3. In the event there was any improper actions with respect to Application 307730 and the associated FRNs, such actions were those of KCA and other third parties and it is those parties to which USAC should direct its recovery efforts and not against ICM which was and is an innocent service provider; and

4. All actions by the USAC to deny or reduce funding with respect to Application 307730 and the associated FRNs subsequent to May 2, 2006 when the FCC in Proceeding FCC-06-05 adopted an Order under CC Docket No. 02-6 are invalid because the USAC failed to comply with the requirements and provisions of that Order; and
5. The CAL is unenforceable as a matter of law since the USAC's procrastination and delays in prosecuting any alleged violations has taken it well past any applicable Statute of Limitations; and
6. The USAC's attempt to base any FCAR on an alleged "applicant's request of June 20, 2006" of which ICM had no knowledge of or an opportunity to refute, is a violation of ICM's right of due process.

If you have any further questions concerning this matter, please contact the undersigned or our Counsel, Gary Marcus of the law firm, Gary Marcus, Attorney at Law, P.C. 7657 Uliva Way, Sarasota, FL 34238. (516) 301-7776.

Very truly yours,

Independent Computer Maintenance, LLC

By 
Meir Weinraub, Vice President

Cc: David Manzo Kearny Christian Academy

Enclosure C



Demand Payment Letter

FINAL REQUEST

(Funding Year 2002: July 1, 2002 - June 30, 2003)

July 24, 2015

Anthony Natoli
Independent Computer Maintenance, LLC
1037 Route 46 East
Clifton, NJ 07013

- PAST DUE NOTICE -

**THIS NOTICE PROVIDES IMPORTANT INFORMATION ABOUT YOUR
ACCOUNT AND YOUR RIGHTS AND OBLIGATIONS UNDER LAW**

Re: SPIN: 143026575
Service Provider Name: Independent Computer Maintenance, LLC
Form 471 Application Number: 307730
Funding Year: 2002
Applicant Name: KEARNY CHRISTIAN ACADEMY
Billed Entity Number: 227328
Applicant Contact Person: DAVID MANZO
Payment Due By: 7/24/15

You were previously sent a Demand Payment Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Funding Commitment Adjustment Report (Report) attached to this letter. You were also sent a Second Demand for Payment Letter on 10/24/2011. Our records indicate that you have not responded to either letter. As of 10/24/2011, the debt is past due. Because you did not pay the full amount, it is past due (delinquent), and it is legally enforceable. The purpose of this letter is to give you a final opportunity to repay the debt and to inform you of the repercussions associated with not repaying the debt.

**THE FOLLOWING PROVISIONS CONTAIN IMPORTANT INFORMATION AND A DESCRIPTION OF LEGAL RIGHTS,
OBLIGATIONS, AND OPPORTUNITIES**

1. Pursuant to the provisions of the Debt Collection Act of 1982 (Public Law 97-365) and the Debt Collection Improvement Act of 1996 (Public Law 104-134), as amended (the DCIA), as set forth below, continued failure to make the demanded payment has resulted in the assessment of administrative charges, penalties, and interest, and it may result in sanctions, including, but not limited to, administrative proceedings or judicial action to recover the outstanding debt.
2. Unless we receive full payment, evidence that the debt is not owed, or a request for installment payment plan for repaying the outstanding debt within 30 days of the date of this Letter (Demand Date), pursuant to the DCIA, you may incur additional charges and costs, and the debt may be transferred to the Secretary of

Treasury (Treasury) for debt collection. The FCC has determined that the funds are owed to the United States pursuant to the provisions of 31 U.S.C. § 3701 and 47 U.S.C. § 254. Because the unpaid amount is a debt owed to the United States, we are required by the DCIA to impose interest and to inform you what may happen if you do not pay the full outstanding debt. Under the DCIA, the United States will charge interest from the date of this notice and you will be required to pay the administrative costs of processing and handling a delinquent debt as set by the Treasury. The Treasury will impose additional charges (currently 28% of the debt). Additional information regarding the DCIA is available at 31 U.S.C. §§ 3701, 3711, 3716, 3717 and 3720B, the Federal Claims Collection Standards (e.g. 31 C.F.R. § 900.1, et seq.) and 47 C.F.R. § 1.1901, et seq.

3. Please be advised that when the debt is transferred, you may be subject to an administrative proceeding if one has not already been initiated (see 47 C.F.R. § 1.1910). For example, information about your delinquent account has been or will be reported to credit bureaus (see 31 U.S.C. § 3711(e)) and administrative offset has been or may be applied (see 31 U.S.C. § 3716). Moreover, under 31 U.S.C. § 3720B, a person owing an outstanding non-tax debt that is in delinquent status shall not be eligible for Federal financial assistance. Furthermore, the Debt may be referred to the United States Department of Justice (DOJ) for enforced collection, which may result in additional administrative costs. Separately, we may also request action by the Commission's Enforcement Bureau.

4. Pursuant to the Commission's DCIA Order (FCC 04-72, released Apr. 13, 2004), the FCC will withhold action on any application or request for benefits made by an entity that is delinquent in its non-tax debts owed to the Commission and shall dismiss such applications or requests if the delinquent debt is not resolved. The Commission has generally referred to this as the "Red Light Rule". This rule applies to the Schools and Libraries Universal Service Support Mechanism. The Fifth Report and Order (FCC 04-190, released Aug. 13, 2004) directed USAC to dismiss any outstanding requests for funding commitments if an entity has not paid the outstanding debt, or made otherwise satisfactory arrangements within 30 days (See Fifth Report and Order at ¶ 42). Therefore, pursuant to the DCIA Order and the Fifth Report and Order, failure to make full payment or arrangements for payment within 30-days of the date of this letter may cause USAC to place you under the provisions of the Red Light Rule. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html. In determining whether an entity is delinquent for purposes of the Red Light Rule, the Commission matches the FCC Registration Number of the applying entity to its database of debts; the applicant's FCC Registration Number will be linked to all other FCC Registration Number's associated with the same Taxpayer Identification Number (TIN). To obtain an FRN, go to the registration site <https://svartifoss2.fcc.gov/cores/CoresHome.html>

Opportunity of Inspection and Review

5. You have an opportunity to inspect and copy the invoices and the records pertinent to the debt. The Notification of Commitment Adjustment Letter gave you the opportunity to appeal the validity of the debt. However, if you have evidence that all or part of the Debt has been paid and is no longer delinquent, you must present it to us within fifteen (15) days of the date of this Demand. If your debt is under appeal, either at USAC or the FCC, you will not be transferred under the DCIA to the Treasury for further collections activities.

Opportunity to Request Repayment Agreement

6. You have an opportunity to request a written repayment agreement (which includes a Promissory Note) to pay the full amount of the debt. If, due to financial hardship, you are unable to pay the full amount of the past due invoice in a lump sum, you may contact our Customer Service Office to request an installment payment

plan, which will require the payment of interest and execution of a promissory note. If you fail to pay the installment payment plan amount in full, plus accrued interest, penalties, and administrative charges, several administrative or judicial actions may result. First, your delinquent account information will be reported to credit bureaus, your account will be subject to administrative action by the FCC and the Treasury, including administrative offset, denial of certain federal benefits, withholding of action on any pending application (see 47 C.F.R. § 1.1910 (Red Light)), and referral to private collection attorneys. Next, we may refer the circumstances of your delinquency to the FCC's Enforcement Bureau for further action. Finally, your delinquent debt may be transferred to either the Treasury for further administrative collection or the DOJ for enforced collection.

To provide evidence that all or part of the Debt has been paid or request an installment payment plan, you may notify us in writing by mail or facsimile transmission at the following address and telephone number:

Schools and Libraries Division-
Correspondence Unit
30 Lanidex Plaza West, P.O. Box 685
Parsippany, NJ 07054-0685
Phone Number: 973-581-5395
Fax Number: 973-599-6582

Please remit payment for the full "Funds to be Recovered from Service Provider" amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. **Make your check payable to the Universal Service Administrative Company (USAC).**

If sending payment by U. S. Postal Service or major courier service (e.g. Airborne, FedEx, and UPS) please send check payments to:

Universal Service Administrative Company
Lock Box 105056
1075 Loop Road
Atlanta, GA 30337
Phone: 404-209-6377

Local messenger service should deliver to the Lockbox Receiving Window at the above address.

PAYMENT MUST BE RETURNED IMMEDIATELY.

Complete Program information is posted to the SLD section of the USAC web site at www.usac.org/sl/. You may also contact the SLD Technical Client Service Bureau by email using the "Submit a Question" link on the SLD website, by fax at 1-888-276-8736 or by phone at 1-888-203-8100. Contacting SLD for questions does not change the deadline for your response to this Letter.

Universal Service Administrative Company
Schools and Libraries Division

cc: DAVID MANZO
KEARNY CHRISTIAN ACADEMY

Funding Commitment Adjustment Report
for Form 471 Application Number: 307730

Funding Request Number: 799828
Services Ordered: INTERNET ACCESS
SPIN: 143026575
Service Provider Name: Independent Computer Maintenance, LLC
Contract Number: 10685
Billing Account Number:
Site Identifier: 227328
Original Funding Commitment: \$35,775.00
Commitment Adjustment Amount: \$35,775.00
Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date: \$35,775.00
Funds to be Recovered from Service Provider: ¹ \$35,775.00

Funding Commitment Adjustment Explanation:

On May 19, 2006, the FCC released order FCC 06-55 remanding this application back to USAC for further consideration. Pursuant to the applicants request of June 20, 2006, the funding commitment for FRN 799828 was cancelled in its entirety. Since the FCC rules require that the USAC recover funds that were disbursed over the commitment, USAC will seek recovery of any disbursed funds from the service provider.

PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING

¹ Please note that if the Funds to be Recovered from the Service Provider is less than what was reported on the Notification of Commitment Adjustment Letter or the 2nd Demand Payment Letter, it is because you have partially repaid the debt or because the applicant has partially repaid the debt.

Funding Request Number: 799843
Services Ordered: INTERNET ACCESS
SPIN: 143026575
Service Provider Name: Independent Computer Maintenance, LLC
Contract Number: 10686
Billing Account Number:
Site Identifier: 227328
Original Funding Commitment: \$11,448.00
Commitment Adjustment Amount: \$11,448.00
Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date: \$11,448.00
Funds to be Recovered from Service Provider: ¹ \$11,448.00
Funding Commitment Adjustment Explanation:

On May 19, 2006, the FCC released order FCC 06-55 remanding this application back to USAC for further consideration. Pursuant to the applicants request of June 20, 2006, the funding commitment for FRN 799843 was cancelled in its entirety. Since the FCC rules require that the USAC recover funds that were disbursed over the commitment, USAC will seek recovery of any disbursed funds from the service provider.

PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING

¹ Please note that if the Funds to be Recovered from the Service Provider is less than what was reported on the Notification of Commitment Adjustment Letter or the 2nd Demand Payment Letter, it is because you have partially repaid the debt or because the applicant has partially repaid the debt.

Enclosure D



INDEPENDENT COMPUTER MAINTENANCE LLC

SALES • COMMUNICATIONS • CONSULTING • VOICE & DATA SOLUTIONS

www.icmcorporation.com

By Facsimile (973) 599-6542 and First Class and Overnight Mail

June 27, 2011

Letter of Appeal
Schools and Libraries Division – Correspondence Unit
100 S. Jefferson Rd.
P.O. Box 902
Whippany, New Jersey 07981

NOTICE OF APPEAL AND REQUEST FOR REVIEW

Re: APPEAL OF NOTIFICATION OF COMMITMENT ADJUSTMENT LETTER
dated May 4, 2011
DOCKET NO. 02-6 AND CC DOCKET NO. 96-45
FUNDING YEAR: 2002: July 1, 2002 – June 30, 2003
SPIN: 143026575
FORM 471 APPLICATION NUMBER: 307730
FUNDING REQUEST NUMBERS: 799828 and 799843
APPLICANT NAME: Kearny Christian Academy
APPLICANT CONTACT: David Manzo
BILLED ENTITY NAME: Kearny Christian Academy
BILLED ENTITY NUMBER: 227328
BILLED ENTITY AND APPLICANT CONTACT PHONE NO. (201) 998-0788
SERVICE PROVIDER: Independent Computer Maintenance, LLC
SERVICE PROVIDER IDENTIFICATION NO.: 143026575
SERVICE PROVIDER CONTACT PERSON: Meir Weinraub
SERVICE PROVIDER CONTACT PHONE NO.: (973) 916-1800
SERVICE PROVIDER FAX NO.: (973) 916-1986
SERVICE PROVIDER E-MAIL: MeirW@icmcorporation.com
FCC REGISTRATION NUMBER: None appears in the space provided for on the
top of the Commitment Adjustment Letter.

Enclosure A: Copy of Notification of Commitment Adjustment Letter dated May 4, 2011.

Enclosure B: Copies of Kearny Christian Academy's requests for SPIN change dated July 24, 2003 and September 26, 2003.

Enclosure C: Copies of SDL Client Operations' e-mails dated August 12, 2003 and October 8, 2003 approving the SPIN Change.

Enclosure D: Copy of the ICM appeal (without attachments) dated January 7, 2005.

Letter of Appeal
Schools and Libraries Division
June 27, 2011
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Gentlemen:

NOTICE OF APPEAL

Please accept this letter and its enclosures as Independent Computer Maintenance, LLC's ("ICM") appeal of the Notification of Commitment Adjustment Letter ("CAL") dated May 4, 2011 notifying ICM that "Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of Program rules. In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now adjust the overall funding commitment" The CAL further states: "USAC has determined the service provider is responsible for all or some of the program rule violations. Therefore, the service provider is responsible for all or some of the program rule violations". A copy of that CAL is annexed hereto as Enclosure A.

Attached to the CAL were revised copies of revised Funding Commitment Adjustment Reports ("FCARs") detailing the Funding Request Numbers (FRN) for which the USAC is reducing the funding commitments. The FRNs in the FCARs were FRN 799828 and 799843. These FCARs reduce the Funding Commitments to \$0 for each FRN giving the Funding Commitment Adjustment Explanation for both FRNs that: "Pursuant to the applicants request of June 20, 2006, the funding commitment" for each FRN "was cancelled in its entirety. Since the FCC rules require that the USAC recover funds that were disbursed over the commitment, USAC will seek recovery of any disbursed funds from the service provider."

FACTS

Upon information and belief, Kearny Christian Academy ("KCA") filed the Form 470 and related technology plan with respect to the above referenced Application Number on or about December 15, 2001 and subsequent thereto the FRNs were issued. ICM did not become involved with the FRNs until July 24, 2003 and September 26, 2003, when pursuant to SPIN change requests of the Applicant, KCA, ICM was proposed as the new service provider replacing Diversified Computer Solutions, Inc. Copies of KCA's request for a SPIN change are annexed hereto as Enclosure B. Copies of an e-mails from the School and Library Division Client Operations to ICM dated August 12, 2003 and October 8, 2003 granting the aforesaid requested SPIN change are annexed hereto as Enclosure C.

Subsequent to the granting of the SPIN change by USAC, ICM rendered the equipment, services and other efforts needed to successfully fulfill all the requirements of the FRNs.

On March 16, 2004, the USAC issued a Commitment Adjustment Letter concerning the FRNs seeking to "rescind in full" the FRNs, since there was an indication that "the vendor (ICM) was improperly involved in the competitive bidding process".

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On May 12, 2004, ICM filed an appeal to the SDL of the March 16, 2004 Commitment Adjustment Letter. That appeal was denied by the SDL on November 16, 2004 and on January 7, 2005 ICM filed an appeal to the FCC. A copy of the ICM appeal (without attachments) is annexed hereto as Enclosure D.

On May 2, 2006, the FCC adopted in Proceeding Number FCC-06-55, (released May 19, 2006) an Order under CC Docket No. 02-6, granting the appeal of ICM (with respect to a number of applications including Application 307730 relating to the above FRNs) and 29 other entities. This Order found that the "USAC denied the requests for funding without sufficiently determining that the service providers improperly participated in the applicant's bidding process." (Page 3 ¶6 of the Order). It further ordered the USAC to "Complete its review of each remanded application (and issue an award or a denial based on a complete review and analysis) listed in the Appendix no later than 120 days from the release of this Order." (Page 4 ¶7 of the Order). Application 307730 which contained the FRNs was listed in the Appendix. (See page 7). More than 120 days have expired since the FCC issued its Order. The USAC has neither obtained an extension of the deadline in the Order, nor has it issued an award or denial of Application 307730 or the FRNs issued pursuant thereto within the 120 day FCC mandated time frame.

There is a reference in the FCARs to a June 20, 2006 "request" by the "applicant(s)" concerning the cancellation of the FRNs. ICM has no knowledge of any such request and has never received a copy of same.

On May 4, 2011, the USAC issued the CAL and the attachments thereto which are the subject matter of this appeal.

ARGUMENTS

1. The CAL and the attached FCAR reports should be withdrawn because on their face they offer an unclear, vague, ambiguous and incomplete basis for reducing the FRN commitments.

The basis for the USAC's determination to reduce the funding commitments to \$0 for the FRNs is unclear, vague, ambiguous and incomplete. In the CAL there are allegations of "program rule violations" yet in the FCARs the basis appears to be an "applicant(s) request of June 20, 2006". It is impossible to fully respond to these allegations when they are contradictory on their face and possibly based in part on a correspondence or agreement which ICM was neither the recipient nor author of. Furthermore, an allegation of "program rule violations" without any specificity is vague and totally inadequate ground to base a decision upon. Notwithstanding the allegation's are contradictory, neither of these allegations by the USAC have any merit as will be shown in the arguments below addressed to each of the allegations separately.

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2. Assuming the allegations of “program rule violations” is a renewal of the allegations set forth in USAC’s prior attempt to adjust the commitment levels as set forth in its March 16, 2004 CAL, if there was any wrong doing or impropriety in the competitive bidding process with respect to the FRNs and Application 307730, ICM had no involvement in that process or application and therefore pursuant to the decision of the FCC and the rule of law, any recover, if justified, must be the responsibility of the Applicant, KCA, and any other third persons involved in the Application or competitive bid process, but clearly not the responsibility of ICM, who was just an innocent service provider.

As set forth in the facts above, ICM had no contact with the Applicant, KCA, at the time the Form 470 and technology plan were filed by KCA on or about December 15, 2001. ICM did not become involved with the FRNs until July 24, 2003 and September 26, 2003, when pursuant to a SPIN change request of the Applicant, KCA, ICM was proposed as the new service provider replacing Diversified Computer Solutions, Inc. It is irrefutable that since ICM had no association with the Applicant until after July and September, 2003, well after the Application was filed (December 15, 2001) and any questionable acts relating thereto, if any, were committed; it could not have been “improperly involved in the competitive bidding process”. To insinuate or allege that ICM had any connection with any such misconduct is totally baseless. On these irrefutable facts alone no recovery should be directed toward ICM because it was and is an innocent party.

The FCC in *In re Federal-State Joint Board on Universal Service*, 19 FCC Rcd 15252 (adopted July 23, 2004) issued a ruling directly on point concerning which party the USAC was to seek recovery from. In this decision the FCC in response to petitions by various providers, directed the USAC to re-direct its efforts to recover any funds that had been allegedly distributed unlawfully from the providers to the party or parties who have committed the statutory or rule violation in question.

The FCC stated with respect to the “party or parties who have committed the statutory or rule violation” that: “We do so recognizing that in many instances, this will likely be the school or library, rather than the service provider.” (Emphasis added). *In re Federal-State*, 19FCC Rcd at par. 10.

In reaching this conclusion, the FCC noted that: “The school or library is the entity that undertakes the various necessary steps in the application process, and receives the direct benefit of any services rendered. The school or library submits to USAC a completed FCC Form 470, setting forth its technological needs and the services for which it seeks discounts. The school or library is required to comply with the Commission’s competitive bidding requirements as set forth in Sections 54.504 and 54.511(a) of our rules and related orders. The school or the library is the entity that submits FCC Form 471, notifying the Administrator of the services that have been ordered, the service providers with whom it has entered into agreements, and an estimate of the funds needed to cover the discounts to be provided on eligible services.” *Id.* At par. 11.