

DOCKET FILE COPY ORIGINAL

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John L. Hampton

October 5, 2000

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OCT 6 2000

FCC MAIL ROOM

Federal Communications Commission
Office of the Secretary
Room TW-A325
445 12th Street, SW
Washington, DC 20554

Re: Request for Review of the Decision
of the Universal Service Administrator
CC Docket Nos. 96-45 and 97-21

Ladies and Gentlemen:

We hereby request a review of the denial of the above referenced appeals by the Universal Service Administrator. Mr. Doug LaDuron is the designated contact person for the affected schools and seeks your review on the hope that you will authorize and approve the funding requested so that the schools he is attempting to assist can receive the benefits of this program.

We sought the direction of Mr. Scott Barash after the initial denial, and he suggested that because we had had problems with the originally designated service provider, that we simply request a change of service providers, since the original service provider's SPIN was canceled and they were therefore unable to perform. You will note from our Letter of Appeal of the Funding Commitment Report that we requested a change of service provider to the next bidder, and it is our understanding that, following the Copan decision, we should have been allowed a change of the service provider and our appeal should have been granted. (Copan Public Schools, Copan, Oklahoma Request for Review, Federal Communications Commission Order adapted March 14, 2000)

You will note that once it was determined that the original service provider would not be eligible to participate in the program, following the recommendation of Scott Barash, a request was made to change the service provider, and that became the basis for

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the original appeal. The Administrator did not address this issue, but instead dealt with only the issue that lead to the request for change of service providers.

The real question in these cases is whether, once it has been determined that the original service provider would not be eligible, should a request for change of service provider be allowed to another service provider who was involved in the fair bidding process, and the school is therefore not penalized by some failure on the part of an ineligible service provider.

We would ask that you reverse the decision of the Administrator, and allow for the change of the service provider and approve the funding request based on the substitute service provider.

We have attached for your review the original letters of appeal together with the Administrator's Decisions. Should you wish to review other material in our file, please do not hesitate to contact us accordingly, and we will cooperate fully in providing whatever you feel would be helpful to you in making your decision.

You will note it took over nine months for the Administrator to act on our appeal, and we would appreciate some estimate from your office on the time needed for you to complete your review and issue your order so that we can advise our clients accordingly.

Thank you for your cooperation and attention to this matter.

Very truly yours,



John L. Hampton

JLH/kg
Enclosures

Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Copan Public Schools)	File No. SLD-26231
Copan, Oklahoma)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: March 14, 2000

Released: March 16, 2000

By the Commission:

1. This Order grants the Letter of Appeal of Copan Public Schools, Copan, Oklahoma (Copan), that was received by the Commission on September 17, 1999.¹ Copan's Letter of Appeal seeks review of a decision of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator),² pursuant to which SLD denied Copan's request to change a service provider for the 1998 funding year. This process is referred to as a Service Provider Identification Number (SPIN) change request. For the reasons discussed below, we modify the current categories of permissible SPIN changes and permit a SPIN change whenever an applicant certifies that (1) the SPIN change is allowed under its state and local procurement rules and under the terms of the contract between the applicant and its original service provider, and (2) the applicant has notified its original service provider of its intent to change service providers.

¹ Letter from Delbert W. Moreland, Jr. Superintendent, Copan Public Schools, to Federal Communications Commission (filed Sept. 17, 1999) (Letter of Appeal).

² Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

I. BACKGROUND

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts on eligible telecommunications services, Internet access, and internal connections.³ In the *Universal Service Order*, the Commission determined that competitive bidding is the most efficient means for ensuring that eligible schools and libraries are informed of the choices available to them and receive the lowest prices.⁴ Thus, the Commission's rules require eligible schools and libraries to seek competitive bids for all services eligible for discounts.⁵ To comply with the competitive bidding requirement, the Commission's rules require that an applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth its technological needs and lists the services for which it seeks discounts.⁶ The Administrator must post the FCC Form 470 to its web site, where it can be considered by all potential service providers.⁷ The applicant then must wait 28 days and "carefully consider all bids submitted" before selecting a service provider, subject to any state or local procurement rules.⁸ Once the FCC Form 470 has been posted for 28 days and the applicant has signed a contract for eligible services with a service provider, the applicant must submit a completed FCC Form 471 application to notify the Administrator of the services that have been ordered, the service provider with which the applicant has signed a contract, and an estimate of the funds needed to cover the discounted portion of the price of the eligible services.⁹

3. In adopting rules governing the application and competitive bidding processes, the Commission did not address the situation in which a school or library would change service providers after the school or library has submitted an FCC Form 471 application designating a particular service provider. Indeed, section 54.504(c), which makes commitments of support contingent upon the applicant's filing of an FCC Form 471 identifying the service provider with which the applicant has signed a contract, makes no provision for a change of providers once a commitment of support has been made.¹⁰ To avoid penalizing an applicant that discovers only after filing its FCC Form 471 that its service provider is unwilling or unable to provide service to

³ 47 C.F.R. §§ 54.502, 54.503.

⁴ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9029, para. 480 (1997) (*Universal Service Order*), as corrected by *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata, FCC 97-157 (rel. June 4, 1997), *affirmed in part, reversed in part, and remanded in part*, *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) (*affirming Universal Service Order in part and reversing and remanding on unrelated grounds*), petitions for cert. pending.

⁵ 47 C.F.R. § 54.504.

⁶ 47 C.F.R. § 54.504(b)(1), (b)(3).

⁷ 47 C.F.R. § 54.504(b)(3).

⁸ 47 C.F.R. §§ 54.504(b)(3), (b)(4); 54.511(a).

⁹ 47 C.F.R. § 54.504(c).

¹⁰ 47 C.F.R. § 54.504(c).

the applicant. SLD announced, after consultation with Commission staff, that SPIN changes would be allowed when a service provider: (1) refuses to participate in the schools and libraries support mechanism; (2) has gone out of business; or (3) has breached its contract with the applicant.¹¹ The SLD guidelines require an applicant to submit specific documentation to establish the applicant's entitlement to each of these exceptions.¹² The guidelines also require that the substitute service provider selected have participated in the applicant's competitive bidding process.¹³

II. COPAN'S APPEAL

4. On April 5, 1999, Copan submitted a letter to SLD informing SLD of its intent to change service providers.¹⁴ Copan explained that the SPIN change was necessitated by the fact that United Systems, the service provider originally listed on its FCC Form 471 as its provider of internal connections, had relocated to another city and, therefore, was unable to provide Copan with "continuous service."¹⁵ On August 18, 1999, SLD denied the request.¹⁶ In its letter, SLD stated that it could grant SPIN change requests only if the applicant's service provider: (1) refuses to participate in the schools and libraries program; (2) has gone out of business; or (3) has breached its contract with the applicant. The Administrator determined that Copan's submission did not satisfy any of these criteria for granting a SPIN change and, therefore, denied Copan's request.¹⁷

5. In the Letter of Appeal that is before us, Copan asks us to reverse the determination of the Administrator and find that Copan did satisfy the appropriate criteria for granting a SPIN change.¹⁸ Copan states that, in connection with United Systems' decision to relocate to a larger market, United Systems had informed Copan that provision of service to Copan was not a priority and that it presently was not adequately staffed to fulfill its obligations

¹¹ Universal Service Administrative Company, Schools and Libraries Division, "SPIN Correction and Change Procedures," SLD web site, <http://www.sl.universalservice.org/Reference/spin.asp>.

¹² For example, an applicant alleging that its originally chosen service provider refuses to participate in the schools and libraries support mechanism must provide documentation of the provider's refusal to participate and the applicant's notification to the provider that the applicant is terminating the contract or relationship. Universal Service Administrative Company, Schools and Libraries Division, "SPIN Correction and Change Procedures," SLD web site, <http://www.sl.universalservice.org/Reference/spin.asp>.

¹³ Universal Service Administrative Company, Schools and Libraries Division, "SPIN Correction and Change Procedures," SLD web site, <http://www.sl.universalservice.org/Reference/spin.asp>.

¹⁴ Letter from Delbert Moreland, Superintendent, Copan Public Schools, to the Schools and Libraries Corporation, undated (filed April 5, 1999) (April 5, 1999 Letter).

¹⁵ April 5, 1999 Letter.

¹⁶ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Delbert Moreland, Copan Public Schools (dated Aug. 18, 1999) (August 18, 1999 Letter).

¹⁷ August 18, 1999 Letter.

¹⁸ Letter of Appeal at 1.

to the school.¹⁹ Copan understood that United Systems would not be able to provide service to Copan for a full year. Copan interpreted United Systems' pronouncements as indications of breach of contract by United Systems, evidenced by its failure to provide the service as originally agreed upon. Consequently, Copan contracted with a substitute provider that agreed to provide the service at a rate lower than that previously agreed to by United Systems.²⁰ Based on its view that United Systems breached its contract with Copan, Copan argues that its substitution of service providers does fall within one of the enumerated exceptions and, therefore, that SLD should have approved its request to substitute service providers. Finally, to the extent that it had no notice of any restrictions on its ability to substitute service providers during the time period in question, Copan contends that the imposition of such restrictions "after the fact" constitutes a violation of Copan's right to due process.²¹

III. DISCUSSION

A. Revised Policy on SPIN Changes

6. In this Order, we modify the current categories of permissible SPIN changes and permit a SPIN change whenever an applicant certifies that (1) the SPIN change is allowed under its state and local procurement rules and under the terms of the contract between the applicant and its original service provider, and (2) the applicant has notified its original service provider of its intent to change service providers. We will no longer restrict SPIN changes to those categories currently enumerated in the SLD guidelines (*i.e.*, service provider refuses to participate, has gone out of business, or has breached its contract), to avoid penalizing an applicant that either would be entitled to a SPIN change under the current guidelines but for a lack of particular documentation, or whose justification for a SPIN change, however reasonable, may not fit squarely within the existing three exceptions. We therefore need not address whether Copan's situation falls within one of the previously enumerated situations in which an applicant may substitute service providers.

7. We decline to maintain particular categories of permissible SPIN changes based on our belief that we cannot anticipate the variety of circumstances under which it may be reasonable for an applicant to substitute service providers. Although we do not wish to

¹⁹ Letter of Appeal at 1.

²⁰ In a telephone conversation with Commission staff, Copan indicated that the substitute provider, Banner Communications, did not participate in the competitive bidding process for service to Copan. As explained by a representative for Copan, United Systems, Copan's originally selected provider, was the lowest priced bidder among the three providers that participated in the competitive bidding. Copan states that the bids received by the two remaining providers were substantially higher and, had Copan been required to select one of these, Copan could not have afforded the nondiscounted portion of the bid price and would have had to forego receiving the service. Around the time that United Systems had announced its intention to relocate, Copan became aware of Banner Communications, a newly established service provider that offered the service at a lower price than the price at which United Systems had agreed to provide the service.

²¹ Letter of Appeal at 1.

encourage service provider substitutions,²² we recognize that circumstances for applicants and providers may change over the course of a relationship, as appears to have been the case in Copan. Accordingly, where an applicant determines that a SPIN change is allowed under its state and local procurement rules and under the contract between the applicant and its original provider, we will not limit the applicant's ability to substitute providers or otherwise deny the applicant the benefits of universal service support.²³ This policy is consistent with the Commission's express goal of affording schools and libraries maximum flexibility to choose the offering that meets their needs most effectively and efficiently.²⁴

B. Funding Level Not to Exceed Level Requested on FCC Form 471

8. In allowing service provider substitutions, we will not permit a substitute service provider to receive funding for a service in an amount exceeding the amount requested on the applicant's FCC Form 471 for that service. Rather, a funding request in such a situation may be funded only up to the amount originally requested by the applicant on its FCC Form 471. Adopting this limitation on the amount of funds requested is consistent with the position that has been taken in other schools and libraries appeals.²⁵ In addition, such a limitation is critical to enabling the Administrator to project the level of demand for the schools and libraries support mechanism and to implement the Commission's rules of priority, as necessary.²⁶

²² Such changes can be disruptive to the Administrator and the parties and the processing of such requests is likely to entail additional burdens on the Administrator.

²³ We do not anticipate that a school would terminate a contract with a service provider without legal justification, since to do so could place the school in jeopardy of suit in state court. If an applicant's original service provider disputes the applicant's legal justification for terminating a contract with that provider, we note that our determination to permit a SPIN change in that instance should not prejudice the parties' rights under that contract. Rather, in light of the Commission's longstanding policy of refusing to adjudicate private contract law questions for which a forum exists in the state courts, a state court and not the Commission is the appropriate forum for rendering such a determination. See *Listeners' Guild v. FCC*, 813 F.2d 465, 469 (D.C. Cir. 1987) (noting with approval Commission's "longstanding policy of refusing to adjudicate private contract law questions for which a forum exists in the state courts.").

²⁴ *Universal Service Order*, 12 FCC Rcd at 9029, para. 481. We note, however, that, although we are providing applicants greater latitude to substitute service providers, we continue to require applicants to report and seek approval for SPIN changes from the Administrator. Reporting such changes helps to ensure that applicants and the service providers with whom they contract are in compliance with the Commission's universal service program rules. It continues to be necessary for applicants to apprise the Administrator of SPIN changes in order to allow the Administrator to determine, for example, whether service providers are eligible to furnish the specified services. Moreover, the reporting of SPIN changes is necessary so that the Administrator can correctly process the payment of discounts to service providers.

²⁵ *Request for Review of the Scranton School District, Scranton, Pennsylvania*, CC Docket Nos. 96-45, 97-21, DA 00-20 (Com. Car. Bur. 2000) (notwithstanding applicant's error on its FCC Form 471, applicant was limited to amount of funding requested on the FCC Form 471).

²⁶ The rules of priority, established in the Commission's *Fifth Order on Reconsideration*, govern the manner in which discounts are allocated when available funding is less than total demand and a filing window is in effect. *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Fifth Order on Reconsideration*, 13 FCC Rcd 14915, 14934, para. 31 (1998).

C. Participation in Initial Bidding by Substitute Service Provider

9. In considering Copan's Letter of Appeal, we permit the service provider substitution that took place, notwithstanding the fact that the substitute service provider selected did not participate in the initial competitive bidding process for service to Copan. Given that Copan fully complied with the 28-day posting requirement, and all service providers had the opportunity to compete to provide the requested service,²⁷ we find that the substitution of a newly identified service provider subsequent to the filing of Copan's FCC Form 471 does not compromise the benefits derived from competition in Copan's initial competitive bidding process. Indeed, the fact that the substitute service provider agreed to provide the service at a lower price than the prices at which the other bidders, including Copan's originally selected service provider, had offered to provide the same service, suggests that the competitive process may be enhanced by permitting substitutions of providers whose bids are received outside the 28-day competitive bidding process.

10. To hold otherwise could place the Commission in a position of requiring a school to select a service provider solely because the provider submitted a bid in connection with the school's initial competitive bidding, despite the fact that the provider's price may be less competitive or the service is in some manner less suitable for the school than that of another provider that submitted a bid later in the process. Such a holding would be inconsistent with our goal of affording schools and libraries flexibility to determine the offering that meets their needs most effectively and efficiently.²⁸ Just as we cannot anticipate the variety of factual circumstances in which it may be reasonable to substitute service providers, we likewise cannot anticipate the circumstances in which it may be reasonable to select a substitute service provider that did not participate in the initial competitive bidding for that applicant. For example, if the original bidders are no longer willing to provide the requested service, or if the applicant discovers a provider offering more competitive prices, then we believe that the applicant should have the flexibility to select the provider whose service offering best meets the applicant's needs. Accordingly, where an applicant has complied with the Commission's competitive bidding requirement, has determined that a service provider substitution is permitted under the terms of the contract with its original service provider and relevant state or local laws, and has notified its original provider of its intent to change providers, we decline to confine an applicant's choice of a substitute service provider solely to those providers that participated in the applicant's initial competitive bidding process.

11. To effectuate the decision above, we will permit Copan to file with SLD documentation consistent with paragraph 6 above within 30 days of the release date of this

²⁷ The competitive bidding requirement is contained in section 54.504(a) of the Commission's rules. That section provides in relevant part that "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 and 54.503. These competitive bid[ding] requirements apply in addition to state and local competitive bid[ding] requirements and are not intended to preempt such state or local requirements." 47 C.F.R. § 54.504(a).

²⁸ *Universal Service Order*, 12 FCC Rcd at 9029, para. 481.

Order. We direct SLD to consider the submitted documentation and act in accordance with this Order.

IV. ORDERING CLAUSE

12. Accordingly, IT IS ORDERED, pursuant to sections 1-4, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 54.719 and 54.722 of the Commission's rules, 47 C.F.R. §§ 54.719 and 54.722, that the Letter of Appeal filed on September 17, 1999, by Copan Public Schools of Copan, Oklahoma IS GRANTED to the extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

Attached is an example of one of the decision letters from USAC.

As the all of the letters are a carbon copy of each other, the only difference being the schools pertinent information, I have attached only one letter and a list of the schools with their appropriate Billed entity number, application number and FRN associated with this decision.



UNIVERSAL SERVICE
ADMINISTRATIVE CO.

SCHOOLS AND LIBRARIES DIVISION

Box 125 – Correspondence Unit
100 South Jefferson Road
Whippany, New Jersey 07981

Administrator's Decision on Appeal-Funding Year 1999-2000

September 8, 2000

Doug LaDuron
College Prep School of America
3514 Clinton Parkway, Suite A342
Lawrence, KS 66047

Re: Billed Entity Number: 68892
Application Number: 127862
Funding Request Number(s): 189616, 189619
Your Correspondence Dated: 12/20/99

After thorough review and investigation of your appeal, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company has resolved your appeal seeking approval of additional discounts for the second program year. This letter addresses our decision concerning each Funding Request Number that was included in your letter of appeal for the Application Number cited above. If your letter of appeal addressed more than one Application Number, a separate letter will be issued to inform you of our decision on the appeal of each Application Number.

Funding Request Numbers: 189616, 189619
Decision on Appeal: Denied in full
Denial Reason(s):

- Funding requests associated with SPIN 143014849 or SPIN 143018982 would not have been eligible for this program either because the request sought ineligible services or because information submitted to SLD indicated that the service provider, National Technology Services, is not validly registered to participate in the program.

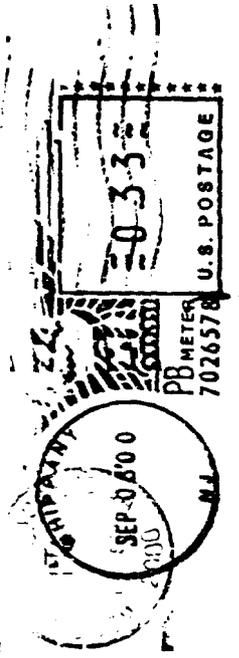
If you feel further examination of your application is in order, you may file an appeal with the Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Room TW-A325, Washington, DC 20554. Please reference CC Docket Nos. 96-45 and 97-21 on the first page of your appeal. Before preparing and submitting your appeal, please be sure to review the FCC rules concerning the filing of an appeal of an Administrator's Decision, which are posted to the SLD Web Site at <www.sl.universalservice.org>. You must file your appeal with the FCC no later than 30 days from the date of the issuance of this letter, in order for your appeal to be timely filed.

You should now move ahead, if you haven't already done so, with your Form 486 and related post-commitment arrangements for services for which funds have been committed and services have begun to flow. We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

SIC
SCHOOLS AND LIBRARIES
CORPORATION, INC.

100 South Jefferson Road
Whippany, NJ 07981-1009



66047+2143

SCHOOL	471 APP #	Billed entity #	FRN
College Prep School of America	127852	68892	0000189553, 0000189560, 0000189563, 0000189597
College Prep School of America	127866	68892	0000189647
Mohammed Schools	128406	197569	0000190896, 0000190904, 0000190910, 0000190913
Mohammed Schools	128426	197569	0000190954
Crescent School	127889	197570	0000189744, 0000189754, 0000189768, 0000189772
Crescent School	127908	197570	0000189808
Iman Academy	127915	195763	0000189839, 0000189852, 0000189856,
Iman Academy	127938	195763	0000189908
Islamic School of Alabama	128085	198701	0000190221, 0000190226, 0000190232, 0000190234
Islamic School of Alabama	128120	198701	0000190315
Islamic Academy Day School	127997	197571	0000190078, 0000190081, 0000190085, 0000190091
Islamic Academy Day School	128053	197571	0000190167
IQRA Open Academy	128623	194275	0000191393, 0000191399, 0000191407, 0000191410
IQRA Open Academy	128664	194275	0000191471
Islamic School of Greater Kansas City	128206	75315	0000190509, 0000190512, 0000190515, 0000190519
Islamic School of Greater Kansas City	128281	75315	0000190656
Islamic School of Lawrence	128163	195761	0000190378, 0000190389, 0000190395
Islamic School of Lawrence	128192	195761	0000190461
New Horizon School	128444	198698	0000191002, 0000191013, 0000191022, 0000191032
New Horizon School	128493	198698	0000191123
Peace Academy	128502	195036	0000191154, 0000191160, 0000191166, 0000191182
Peace Academy	128580	195036	0000191319
Panama City Advance School	128442	195762	0000190998, 0000191015, 0000191030, 0000191040
Panama City Advance School	128415	195762	0000190944
RAZI School	128587	14211	0000191340, 0000191345, 0000191362, 0000191366
Silicon Valley School	128674	198699	0000191514, 0000191519, 0000191527, 0000191534
Silicon Valley School	128712	198699	0000191594

Sister Clara Muhammad School	128618	33041	0000191375, 0000191383, 0000191394, 0000191406
Sister Clara Muhammad School	128673	33041	0000191504
Universal Academy of Florida	128703	37721	0000191564, 0000191571, 0000191580, 0000191587
Universal Academy of Florida	128736	37721	0000191665
Universal School	128729	197617	0000191649, 0000191652, 0000191659, 0000191663
Universal School	128803	197617	0000191762

Islamic Academy of Florida	128732	198960	0000191655, 0000191656, 0000191658, 0000191661
Islamic Academy of Florida	128808	198960	0000191756

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John L. Hampton

December 21, 1999

Letter of Appeal
Schools and Libraries Division
Box 125
Correspondence Unit
100 South Jefferson Road
Whippany, NJ. 07981

RECEIVED
OCT 6 2000
FCC MAIL ROOM

Re: Appeal of Funding Commitment Report
Islamic Academy of Florida
Funding Request Numbers 191756, 191655, 191656, 191658, and 191661

Ladies and Gentlemen:

You will note that the funding requested was denied in this case because "the service provider's SPIN has been canceled and the service provider is not validly registered to participate in this program."

Since the original service provider no longer has a valid SPIN and cannot therefore participate in this program, we are requesting the appeal be allowed to enable us to change service providers to one that is currently registered and eligible to participate in this program. It is our position that the actions of the original service provider that lead to the cancellation of its SPIN should not reflect on the school requesting the funding, and we should be allowed to change service providers to an authorized and registered service provider. In other words, we are asking the school not be punished for a failure on the part of the original service provider.

We have enclosed the commitment from the second bidder who remains willing to perform the services requested.

We are requesting the appeal be allowed and the schools be allowed to change service providers to the second bidder in the fair bidding process.

You may communicate with the undersigned or the authorized representative of the schools regarding this matter. Information on contacting the authorized representative of the schools appears at the top of his letter.

We appreciate your consideration of this appeal, and look forward to hearing from you once you have had the opportunity to consider the same.

Very truly yours,

John L. Hampton

JLH/kg
Enclosures

cc: D. Scott Barash

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December 21, 1999

Letter of Appeal
Schools and Libraries Division
Box 125
Correspondence Unit
100 South Jefferson Road
Whippany, NJ. 07981

RECEIVED
OCT 6 2000
FCC MAIL ROOM

Re: Appeal of Funding Commitment Report

Ladies and Gentlemen:

Please find enclosed our listing of those schools, by name, together with their FRN's, Billed Entity Numbers, and the 471 Application Numbers for each that are included within this appeal. Also, find enclosed commitment letter from the service provider that was the second bidder for the services together with letter from the authorized representative of the schools.

You will note that the funding requested was denied in each of these cases because "Actions associated with the filing of the Form 470 violated the intent of the bidding process." While we maintain that the fair bidding process was followed in each of these cases, we understand that the process, as followed, may have given the appearance of some impropriety and raised some concern for whether the fair bidding process had been undermined. It is now our understanding the SPIN for the original service provider has been canceled and that service provider could not, therefore, perform the services requested.

We have enclosed the commitment from the second bidder who remains willing to perform the services requested. This should eliminate any concern for whether the fair bidding process was, in fact, undermined and should now allow for a change of service provider to the next bidder.

We are requesting the appeal be allowed and the schools be allowed to change service providers to the second bidder in the fair bidding process.

You may communicate with the undersigned or the authorized representative of the schools regarding this matter. Information on contacting the authorized representative of the schools appears at the top of his letter.

We appreciate your consideration of this appeal, and look forward to hearing from you once you have had the opportunity to consider the same.

Very truly yours,

John L. Hampton

JLH/kg
Enclosures

cc: D. Scott Barash

Federal Communications Commission
 Office of the Secretary
 445 12th Street, S.W.
 Room TW-A325
 Washington, DC 20554

applicant name, the Form 471 application number and the Billed Entity Number from the top of your FCD Letter

“Actions associated with the filing of the Form 470 violated the intent of the bidding process.”

SCHOOL	471 APP #	Billed entity #	FRN
College Prep School of America	127852	68892	0000189553, 0000189560, 0000189563, 0000189597
College Prep School of America	127866	68892	0000189647
Mohammed Schools	128406	197569	0000190896, 0000190904, 0000190910, 0000190913
Mohammed Schools	128426	197569	0000190954
Crescent School	127889	197570	0000189744, 0000189754, 0000189768, 0000189772
Crescent School	127908	197570	0000189808
Iman Academy	127915	195763	0000189839, 0000189852, 0000189856
Iman Academy	127938	195763	0000189908
Islamic School of Alabama	128085	198701	0000190221, 0000190226, 0000190232, 0000190234
Islamic School of Alabama	128120	198701	0000190315
Islamic Academy Day School	127997	197571	0000190078, 0000190081, 0000190085, 0000190091
Islamic Academy Day School	128053	197571	0000190167
IQRA Open Academy	128623	194275	0000191393, 0000191399, 0000191407, 0000191410
IQRA Open Academy	128664	194275	0000191471
Islamic School of Greater Kansas City	128206	75315	0000190509, 0000190512, 0000190515, 0000190519
Islamic School of Greater Kansas City	128281	75315	0000190656
Islamic School of Lawrence	128163	195761	0000190378, 0000190389, 0000190395
Islamic School of Lawrence	128192	195761	0000190461
New Horizon School	128444	198698	0000191002, 0000191013, 0000191022, 0000191032
New Horizon School	128493	198698	0000191123
Peace Academy	128502	195036	0000191154, 0000191160, 0000191166, 0000191182
Peace Academy	128580	195036	0000191319
Panama City Advance School	128442	195762	0000190998, 0000191015, 0000191030, 0000191040
Panama City Advance School	128415	195762	0000190944
RAZI School	128587	14211	0000191340, 0000191345, 0000191362, 0000191366
Silicon Valley School	128674	198699	0000191514, 0000191519, 0000191527, 0000191534
Silicon Valley School	128712	198699	0000191594

Sister Clara Muhammad School	128618	33041	0000191375, 0000191383, 0000191394, 0000191406
Sister Clara Muhammad School	128673	33041	0000191504
Universal Academy of Florida	128703	37721	0000191564, 0000191571, 0000191580, 0000191587
Universal Academy of Florida	128736	37721	0000191665
Universal School	128729	197617	0000191649, 0000191652, 0000191659, 0000191663
Universal School	128803	197617	0000191762

Initially approved however later denied due to -

“...denied because this SPIN has been cancelled and the service provider is not validly registered to participate in the program”

Islamic Academy of Florida	128732	198960	0000191655, 0000191656, 0000191658, 0000191661
Islamic Academy of Florida	128808	198960	0000191756

HAMPTON LAW OFFICE

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Overland Park, KS 66210
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(913) 451-3361 FAX

John L. Hampton

December 21, 1999

Letter of Appeal
Schools and Libraries Division
Box 125
Correspondence Unit
100 South Jefferson Road
Whippany, NJ. 07981

RECEIVED

OCT 6 2000

FCC MAIL ROOM

Re: Appeal of Funding Commitment Report

Ladies and Gentlemen:

Please find enclosed our listing of those schools, by name, together with their FRN's, Billed Entity Numbers, and the 471 Application Numbers for each that are included within this appeal. Also, find enclosed commitment letter from the service provider that was the second bidder for the services together with letter from the authorized representative of the schools.

You will note that the funding requested was denied in each of these cases because "30% or more of this FRN includes a request for Video Equipment which is ineligible product(s) / service(s) based on the program rules."

Though it may appear this request included "Video Equipment," the request is actually for networking items. This network is designed to link and coordinate multiple media service ie: phone/internet/cable/satellite and other telecommunication services and other media formats.

We recognize some of the items may be looked upon as questionable, or at least in a gray area as far as eligibility, but all items are essential in developing a cohesive learning center. As most of the items are truly E-rate fundable (servers, satellite receivers, network installations, etc.) we are willing to accept the elimination of those items you deem do not qualify from the list provided, and are asking for acceptance through this appeal of those items you deem qualify and are eligible.

We also understand that some concern was expressed in this case regarding the fair bidding process, and whether that process might have been violated or undermined in some way, and therefore felt we should address this concern, as well.

While we maintain that the fair bidding process was followed in each of these cases, we understand that the process, as followed, may have given the appearance of some impropriety and raised some concern for whether the fair bidding process had been undermined. It is now our understanding the SPIN for the original service provider has been canceled and that service provider could not, therefore, perform the services requested.

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We appreciate your consideration of this appeal, and look forward to hearing from you once you have had the opportunity to consider the same.

Very truly yours,

John L. Hampton

JLH/kg
Enclosures

cc: D. Scott Barash

Letter of Appeal
 Schools and Libraries Corporation
 Bóx 125-Correspondence Unit
 80 South Jefferson Road
 Whippany, NJ 07981.

Or

Federal Communications Commission
 Office of the Secretary
 445 12th Street, S.W.
 Room TW-A325
 Washington, DC 20554

POC: John Hampton

Denied due to -

"30% or more of this FRN includes a request for Video Equipment which is ineligible product(s) / service(s) based on the program rules."

SCHOOL	471 APP #	Billed entity #	FRN	Letter Date
College Prep School of America	127862	68892	0000189616, 0000189619	November 23, 1999
Mohammed Schools	128417	197569	0000190926, 0000190936	November 23, 1999
Crescent School	127902	197570	0000189786, 0000189795	November 23, 1999
Islamic School of Greater Kansas City	128250	75315	0000190609, 0000190614	November 23, 1999
Peace Academy	128540	195036	0000191253, 0000191258	November 23, 1999
Panama City Advance School	128473	195762	0000191080, 0000191091	November 23, 1999
RAZI School	128642	14211	0000191423, 0000191431	November 23, 1999

Denied due to -

"30% or more of this FRN includes a request for Smart System VK which is ineligible product(s) / service(s) based on the program rules."

Iman Academy	127928	195763	0000189874, 0000189879	November 23, 1999
Islamic School of Alabama	128109	198701	0000190271, 0000190288	November 23, 1999
IQRA Open Academy	128649	194275	0000191442, 0000191446	November 23, 1999
Islamic School of Lawrence	128178	195761	0000190437, 0000190433	November 23, 1999
New Horizon School	128478	198698	0000191085, 0000191096	November 23, 1999
Silicon Valley School	128700	198699	0000191557, 0000191559	November 23, 1999
Sister Clara Muhammad School	128653	33041	0000128653, 0000191474	November 23, 1999
Universal School	128800	197617	0000191755, 0000191761	November 23, 1999

Denied due to -

"30% or more of this FRN includes a request for Media Control Equipment which is ineligible product based on the program rules."

Islamic Academy Day School	128026	197571	0000190108, 0000190117	November 23, 1999
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Denied due to -

"30% or more of this FRN includes a request for video Equipment which is ineligible product based on the program rules."

Panama City Advance School	128473	195762	0000191080, 0000191091	November 23, 1999
RAZI School	128642	14211	0000191423, 0000191431	November 23, 1999

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John L. Hampton

December 21, 1999

Letter of Appeal
Schools and Libraries Division
Box 125
Correspondence Unit
100 South Jefferson Road
Whippany, NJ. 07981

RECEIVED
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We recognize some of the items may be looked upon as questionable, or at least in a gray area as far as eligibility, but all items are essential in developing a cohesive learning center. As most of the items are truly E-rate fundable (servers, satellite receivers, network installations, etc.) we are willing to accept the elimination of those items you deem do not qualify from the list provided, and are asking for acceptance through this appeal of those items you deem qualify and are eligible.

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John L. Hampton

JLH/kg
Enclosures

cc: D. Scott Barash

Leonard D. LaDuron

3514 Clinton Parkway Suite A342
Lawrence, KS 66047

20 Dec. 1999

Letter of Appeal
Schools and Libraries Division
Universal Service Administrative Company
Box 125 - Correspondence Unit
100 South Jefferson Road
Whippany, NJ 07981

Ladies and Gentlemen:

This letter is a formal request for appeal on the below listed entities FRN's Denied due to -
"30% or more of this FRN includes a request for Media Control Equipment which is ineligible product based on the program rules." Please address your correspondence to the following.

POC: Doug LaDuron
3514 Clinton Parkway Suite A342
Lawrence, KS 66047
Tel: (785) 830-0500
FAX: (785) 83000505
E-mail: myco@sunflower.com

Islamic Academy Day School	128026	197571	0000190108, 0000190117	November 23, 1999
----------------------------	--------	--------	------------------------	-------------------

Our appeal is based on the fact that the request for services pertinent to these FRN's are for networking items. This network is designed to link and coordinate multiple media service phone / Internet / cable / satellite and other telecommunication services and other media formats.

Although we recognize some of the items may be looked upon as somewhat falling in a gray area and thus may be denied, all items are essential in the developing of a cohesive learning center. As most of the items are truly E-rate fundable (servers, Satellite receivers, network installation, etc) we are willing to help facilitate the acceptance of our FRN's by eliminating those items that may not qualify a list of which follows:

Media Control Center Equipment
Infrared – Source Control Module
Infrared Emitter

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John L. Hampton

December 21, 1999

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cc: D. Scott Barash

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20 Dec, 1999

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Universal Service Administrative Company
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Media Control Center Equipment

- Infrared – Source Control Module
- Infrared Emitter
- Level III Laser Disc Control Module
- Serial – Source control module
- Master clock Synchronization module
- Input/output – source control module

Head End Dist. Equipment

- Audio/video Modulator
- Broadband Dist. Amp
- Return Amp
- Return Amp Filter
- Passive 12 Port Combiner
- Two way Splitter

If this appeal is accepted please note that we are also asking that the service provider be changed as the original providers SPIN has been cancelled.

Thank you,

Leonard D. LaDuron