

State of Alaska
Department of Commerce and Economic Development
Division of Banking, Securities and Corporations

CERTIFICATE RECEIVED
OF FEB 26 2001
AMENDMENT FCC MAIL ROOM
Nonprofit Corporation

The undersigned, as Commissioner of Commerce and Economic Development of the State of Alaska, hereby certifies that Articles of Amendment to the Articles of Incorporation, duly signed and verified pursuant to the provisions of the Alaska Nonprofit Corporation Act, have been received in this office and have been found to conform to law.

ACCORDINGLY, the undersigned, as Commissioner of Commerce and Economic Development, and by virtue of the authority vested in him by law, hereby issues this Certificate of Amendment to the Articles of Incorporation of

KAWERAK, INC.

and attaches hereto the original copy of the Articles of Amendment.

IN TESTIMONY WHEREOF, I execute this certificate
and affix the Great Seal of the State of Alaska on
JUNE 12, 1998.



Willis F. Kirkpatrick
Designee for the Commissioner of Commerce
and Economic Development



Filed for Record
State of Alaska

JUN 12 1998

Dept. of Commerce &
Economic Development

ARTICLES OF AMENDMENT
TO
THE RESTATED ARTICLES OF INCORPORATION
OF
KAWERAK, INC.

Pursuant to AS 10.20.176 and AS 10.20.181, the Board of Directors of Kawerak, Inc. has adopted and hereby executes these Articles of Amendment:

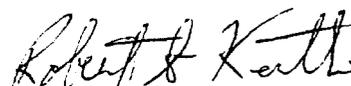
1. The name of the corporation is Kawerak, Inc.
2. The amendment adopted is as follows:

The Fourth Article, subparagraph (a) is amended to read:

(a) Membership. The members of the corporation shall consist of all Native villages which are federally recognized Indian tribes located within the Bering Straits region, being, in general, Little Diomed Island, St. Lawrence Island, King Island, and that part of the mainland of Alaska draining into Norton Sound and the Bering Straits between the area occupied by the people of Shishmaref and the area occupied by the people of Stebbins and St. Michael, inclusive, and the islands and waters included in an between said areas.

3. The corporation has no members entitled to vote .
4. The foregoing amendment was duly noticed and was adopted at a regular meeting of the Kawerak, Inc. Board of Directors on April 9, 1998, receiving the affirmative vote of a majority of the directors in office.

KAWERAK, INC.


Robert Keith, Chairman

Date: 4/16/98

Verification by Secretary

I, _____, say on oath or affirm that I am the Secretary of Kawerak Inc., that I have read the foregoing document and believe all statements made in the document are true.

Mary D. Charles
Mary D. Charles, Secretary

Date:

Subscribed and sworn to or affirmed before me at Nome, Alaska, on April 16 1998.

Carson A. Kulundson
Notary Public
My Commission expires: 5/23/2000

State of Alaska
Department of Commerce and Economic Development
Division of Banking, Securities and Corporations

**RESTATED CERTIFICATE
OF
INCORPORATION**

The undersigned, as Commissioner of Commerce and Economic Development of the State of Alaska, hereby certifies that duplicate originals of Restated Articles of Incorporation, duly signed and verified pursuant to the provisions of the Alaska Nonprofit Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY, the undersigned, as Commissioner of Commerce and Economic Development, and by virtue of the authority vested in him by law, hereby issues this Restated Certificate of Incorporation of

KAWERAK, INC.

and attaches hereto a duplicate original of the Restated Articles of Incorporation.



IN TESTIMONY WHEREOF, I execute this certificate and affix the Great Seal of the State of Alaska on December 7, 1992.

A handwritten signature in cursive script that reads "Paul Fuhs".

Paul Fuhs
COMMISSIONER OF COMMERCE
AND ECONOMIC DEVELOPMENT

08-132 (Rev. 10/88)
5844M

Issued By: Corporations Section, P.O. Box D, Juneau, Alaska 99811, Telephone (907) 465-2530

DEC 07 1992

Department of Commerce
& Economic Development

AMENDED & RESTATED ARTICLES OF INCORPORATION
OF
KAWERAK, INC.

Pursuant to the provisions of AS 10.20.196, the undersigned corporation adopted and hereby executes the following Restated Articles of Incorporation for such corporation:

FIRST: The name of the corporation is Kawerak, Inc.

SECOND: The period of its duration is perpetual.

THIRD: The purpose or purposes for which the corporation is organized are:

(a) To promote the social and economic welfare of the Kawerak, the Native people of the Bering Straits Region, and those Native people enrolled to Native Corporations under ANCSA (P.L. 92-203) and those villages within the Region;

(b) To cooperate with Bering Straits Native Corporation and the village business corporations established pursuant to ANCSA, and with other entities for the general benefit of the Native people of the Bering Straits Region;

(c) To provide services and delivery systems under contract with or grant from the United States, the State of Alaska, foundations and other entities, consistent with the other purposes of the corporation, including those benefiting persons other than Kawerak so long as Kawerak people also benefit fairly or equally under the program, contract or grant;

(d) To initiate, foster and operate any programs to alleviate and prevent alcoholism. The Corporation shall not engage in any activities designed to promote or to prevent or control the sale or consumption of alcoholic beverages;

(e) To promote, manage and handle or deal with educational programs of any type of whatsoever;

(f) To preserve the customs, folklore, art and cultural values of the Native people of the region;

(g) To promote the common welfare of the Natives of Alaska and their physical, economic and social well-being;

(h) To promote the health, well-being, physical welfare and social economic interestes of any and all persons within or without the State of Alaska, incidental to the other purposes of the Corporation;

(i) To be organized and operated exclusively for charitable and educational purposes, as such term is used in Section 501(c)(3) of the Internal Revenue Code, and no substantial part of the activities of Kawerak, Inc. may consist of carrying on propaganda or otherwise attempting to influence or intervene in any political campaign on behalf

of any candidate, as stated in said Section 501(c)(3), but Kawerak, Inc. may, provide such are an insubstantial part of its activities, carry out such activities in furtherance of the general charitable purposes of Kawerak. However, Kawerak, Inc. shall not endorse, or support or oppose candidates for elective public office or contribute funds to or in opposition to, or support or oppose any political party. This purpose clause shall be limitation on the foregoing purposes (a) through (h).

(amended) **FOURTH:** Provision for the regulation of the internal affairs of the corporation, including provisions for the distribution of assets on dissolution or final liquidation, are:

(a) Membership. The members of the corporation shall consist of all Native Villages (Traditional and Indian Reorganization Act governments) in the Bering Straits region, being, in general, Little Diomedede, St. Lawrence Island, King Island, and that part of the mainland of Alaska draining into Norton Sound and the Bering Straits between the area occupied by the people of Shishmaref and the area occupied by the people of Stebbins and St. Michael, inclusive, and the islands and waters included in and between said areas. Norton Sound Health Corporation and the Regional Elders Conference shall also be afforded membership.

(b) Voting. All voting rights shall be exercised by duly elected or appointed directors, who shall act on behalf

of their respective villages or organization;

(c) Directors. Each member village shall be entitled to one seat on the Board of Directors. In addition, there shall be one (1) director appointed by Norton Sound Health Corporation who shall be the North Sound Health Corporation board Chairperson or his or her designee and two (2) at-large directors, who shall be elders who are residents of a member village, and who are duly elected as directors at the Bering Straits Elders Conference;

(d) Bylaws. The Board of Directors shall adopt and may amend the bylaws for the corporation;

(e) Amendments. These Articles may be amended in the manner prescribed by laws. Written notice of a proposed amendment must be given to the members thirty (30) days prior to the membership meeting which acts upon the amendment;

(f) Tax Exemption. No part of the net earnings of Kawerak, Inc. may inure to the benefit of any private individual, as required for exemption under Section 501(c)(3) of the Internal Revenue Code;

(g) Dissolution. In the event of dissolution, subject to the provisions of (e) above, the net assets of the corporation may be distributed to a successor organization having substantially the same group of people, and shall only be distributed to an organization or organizations that are exempt under Section 501(c)(3) of the Internal Revenue Code.

FIFTH: Along with the designated amendment these Restated Articles
of Incorporation set out

the provisions of the Articles of Incorporation of
this corporation, they have been duly adopted as required by
law, and they supersede the original Articles of
Incorporation, previous Restated Articles of Incorporation
and all amendments thereto. These Restated Articles of
Incorporation were adopted at a meeting of the members held
on November 12 , 1992, at which a quorum was present, and
the Restated Articles were adopted by the affirmative vote
of a majority of the votes of members entitled to vote
thereon, present or represented at such meeting.

KAWERAK, INC.

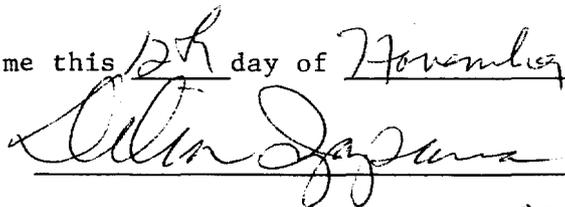

Chairman

Date: Nov 12, 1992


Secretary

Date: Nov 12, 1992

Subscribed and sworn to before me this 12th day of November, 1992.



My commission expires 12-12-93

Elim - Year >

RHCD



RURAL HEALTH CARE DIVISION

FUNDING YEAR 1999

FCC Form 465

Health Care Providers Universal Service Description of Services Requested and Certification Form

Please read instructions before completing.

Estimated Average Response Time: 20 minutes
(To be completed by Health Care Provider)

FCC Form 465: 6/24/99 8:44:05 PM (EST)

Block 1: Funding Year					
1. Funding Year	2. Did the health care provider (HCP) receive telecommunications services that were supported by universal service funding last year?				
1999	No				
Block 2: HCP Location Information					
3. HCP Number	10687				
4. HCP Name	Elim Office		5. HCP Federal EINE	92-0127109	
6. Contact Name (First, Middle Initial, Last)	Robert Keith		7. Contact Phone Number	907-890-3737	Bx1 N/A
8. Street Address Line 1	PO Box 39070				
9. Street Address Line 2	N/A				
10. City	Elim	11. State	AK	12. ZIP Code	99739
13. County	Nome	14. Goldsmith Modification Area (Assigned by RHCD)			N/A
15. Fax Number (optional)	N/A		16. E-mail address (optional)	N/A	
Closest Large City (RHCD)	N/A		MAD (RHCD)	N/A	
Block 3: HCP Mailing Information					



17. Is the HCP's mailing address (i.e., where correspondence should be sent) different from its location?					
Yes					
18. Send Correspondence to:		Kawerak Inc.			
19. Contact Name (First, Middle Initial, Last)	Thomas J Bunger	20. Contact Phone Number	907-443-5231	Ext.	N/A
21. Street Address Line 1		PO Box 948			
22. Street Address Line 2		N/A			
23. City	Nome	24. State	AK	25. ZIP Code	99762
26. Fax Number (optional)	907-443-3708	27. E-mail address (optional)	tbunger@kawerak.org		
Block 4: Consortium Information					
28. Does the HCP currently purchase telecommunications services with other entities as part of a consortium?					
Yes					
29. Does the consortium membership include any private sector entities?					
No					
30. Does the consortium pay rates for eligible telecommunications services (See Item 30) that are lower than tariffed rates?					
N/A					
Block 5: Eligibility					
31. Is the HCP a not-for-profit or public entity?					
Yes					
32. Only the following types of HCPs are eligible. Indicate which category describes the applicant (choose one).					
Community mental health center					
33. Is the HCP Applicant located in a rural area? Note that "rural area" means a non-metropolitan county as defined by the Office of Management and Budget's list of Metropolitan Statistical Areas or a non-urban area of those metropolitan counties identified in the Goldsmith Modification used by the Office of Rural Health Policy/Department of Health and Human Services. See instructions on how to determine whether the HCP is located in a rural area.					
Yes					
Block 6: Request for Support for Existing Contract					

34. Is the HCP Applicant requesting support for a telecommunications service it is currently receiving?

No

35. Is the applicant requesting support for a telecommunications service that it is receiving pursuant to a service contract or a tariff?

N/A

36. Was the contract signed on or before July 10, 1997?

N/A

*** Not requesting support for existing contract.***

Block 7: Request for Support for New or Tariffed Telecommunications Services

38. Indicate whether the HCP is requesting support for a new telecommunications service or a service currently received pursuant to a tariff. (Note: HCPs that currently receive telecommunications services under a service contract that was signed after July 10, 1997 should choose "New telecommunications service.")

New telecommunications service

39. Check all new service(s) or service(s) currently received pursuant to a tariff for which the HCP is requesting support. (Certain limitations may apply; see instructions)

- T1
- Fractional T1
- ISDN (BRI and PRI)
- Off-premise extension
- Centrex
- Frame relay
- ATM
- Satellite service
- Dedicated private line
- Other

HCPs that chose "Other," should list the additional telecommunications services they would like to purchase. HCPs may also provide a description of the application desired (e.g. the capability to transmit still and medical images such as x-rays; provider-to-provider consultation using electronic diagnosis; distance continuing medical education programs for rural HCPs)

cell relay over satellite backbone

Block 8: Internet Access Support

40. Does the HCP have to pay a toll or long distance charge to access to an Internet service provider? (Note that this does not include any monthly fees assessed for using the Internet (e.g. \$19.95 per month) or any charge assessed to access a toll-free number.)

YES

Block 9: Procurement Rules

41. Are there any state or local procurement rules the HCP is required to follow?			
No			
42. If "Yes" briefly describe those requirements:			
N/A			
Block 10: Certification			
43.	Yes	I certify that the services that the HCP purchases at rates comparable to urban rates under 47 U.S.C. Sec 254 will be used solely for purposes reasonably related to the provision of health care service or instruction that the HCP is legally authorized to provide under the law of the state in which the services are provided and will not be sold, resold, or transferred in consideration for money or any other thing of value.	
44.	Yes	Pursuant to 47 C.F.R. Secs. 54.601 and 54.603, I certify that the HCP or consortium that I am representing satisfies all of the requirements herein and will abide by all of the relevant requirements with respect to funding provided under 47 U.S.C. Sec. 254.	
45.	Yes	I certify that I am authorized to submit this request on behalf of the above-named entity or entities, that I have examined this request, and that to the best of my knowledge, information, and belief, all statements of fact contained herein are true.	
46. Signature		<i>L Bullard</i>	47. Date
			6/29/99
48. Printed Name of Authorized Person	Loretta Bullard	49. Title or position of authorized person	PRESIDENT

Persons willfully making false statements on this form can be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

NOTICE TO INDIVIDUALS: Section 54.615(c) of the Federal Communications Commission's rules requires all health care providers ordering services under this support mechanism to certify to their eligibility to receive telecommunication services supported by universal service mechanisms. 47 C.F.R. § 54.615(c). In addition, section 54.603 of the Federal Communications Commission's rules requires eligible health care providers to participate in a competitive bid process prior to receiving supported services. 47 C.F.R. § 54.603. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254. The data in the report will be used to certify applicants' eligibility to receive support pursuant to 47 C.F.R. § 54.615(c) and to ensure compliance with the competitive bidding requirements of 47 C.F.R. § 54.603. All health care providers requesting services eligible for universal service support must file this Description of Services Requested and Certification Form (FCC Form 465).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The foregoing Notice is required by the Privacy Act of 1974, Pub. L. No. 93-579, December 31, 1974, 5 U.S.C. § 552, and the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. §§ 3501, et seq.

Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management Branch, Washington, D.C. 20554.

This form should be submitted to:
Rural Health Care Division
7420 Fullerton Road
Suite 104
Springfield, VA. 22153-2836

Elim - Year 3

FCC Form
465

Health Care Providers Universal Service
Description of Services Requested & Certification Form

OMB Approval
3060-0804

To be completed by Health Care Provider

Estimated Average Burden Hours Per Response: 2.5 hours

Read all instructions thoroughly before completing form. Failure to comply may cause delayed or denied funding.

Block 1: Form Identification Information

2 Applicant Form Identifier (i.e. A, B, C etc..) Assigned by applicant filing multiple versions of Form 465.

Block 2: Funding Year Information

3 Funding Year (Check only one box) <input checked="" type="checkbox"/> Year 3 (7/1/2000-6/30/2001) <input type="checkbox"/> Year 4 (7/1/2001-6/30/2002)	4 Did the health care provider (HCP) apply for Universal Service funds for the RHC program in a previous funding year? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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Block 3: Eligibility

5 Is the HCP a not-for-profit or public entity?
 Yes, proceed to Item 6. **No**, STOP. Only public or not-for-profit HCPs are eligible to participate in this program.

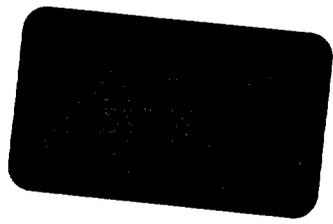
6 Only the following types of HCPs are eligible. Indicate which category describes the applicant (check only one).
 Post-secondary educational institution offering health care instruction, teaching hospital or medical school
 Community health center or health center providing health care to migrants
 Local health department or agency
 Community mental health center
 Not-for-profit hospital
 Rural health clinic

7 Is the HCP Applicant located in a **rural area**? Note that "rural area" means a non-metropolitan county as identified in the Office of Management and Budget's list of Metropolitan Statistical Areas or a non-urban area of those metropolitan counties identified in the Goldsmith Modification. Visit the RHCD web site (www.rhc.universalservice.org) or contact RHCD at 1-800-229-5476 for a listing of the rural areas.
 Yes **No**, only HCPs located in rural areas are eligible to receive telecommunications services at a reduced rate. However, HCPs located in **rural and urban** areas may qualify for Internet support according to the guidelines outlined in Block 4.

Block 4: Internet Access Support Eligibility

8 Is the HCP currently connected to the Internet?
 Yes **No**

9 Does the HCP have to pay a toll or long distance charge to access an Internet service provider? (Note that this does not include any monthly fees assessed for using the Internet (e.g., \$19.95 per month) .
 Yes **No**, the HCP is **not** eligible for Internet access support.



Block 5: HCP Location Information
 Information required in this block applies to the **physical location** of the HCP. Do not enter a "PO Box" or "Rural Route" address.

10 HCP Name <i>ELIM OFFICE</i>	11 HCP Federal EIN <i>92-0047009</i>
12 HCP Number <i>10087</i>	
13 Contact Name <i>Robert Keith</i>	14 Contact Phone Number <i>(907) 890-3737</i>
15 Address Line 1 <i>Box 39070</i>	
16 Address Line 2	
17 City <i>ELIM</i>	18 State <i>AK</i> 19 ZIP Code <i>99739</i>
20 E-mail Address	21 Fax Number
22 County	

Block 6: HCP Mailing Information

24 Is the HCP's mailing address (i.e., where correspondence should be sent) different from its physical location as described in Block 5?
 Yes
 No, go to Block 7.

25 Send correspondence to: *Kawerak, Inc.*

26 Contact Name <i>THOMAS J. BUNGER</i>	27 Contact Phone Number <i>907-443-4392</i>
28 Address Line 1 <i>Box 448</i>	
29 Address Line 2	
30 City <i>NOME</i>	31 State <i>AK</i> 32 ZIP Code <i>99762</i>
33 E-mail Address <i>tbunger@kawerak.org</i>	34 Fax Number <i>9074434452</i>

Block 7: Request for Reduced Rates for Service Based Upon Pre-Existing Contracts

35 Is the HCP requesting reduced rates for a telecommunications service it is currently receiving?
 Yes, go to Item 36.
 No, go to Block 8, Item 43.

36 Is the service purchased pursuant to a service contract that was signed on or before July 10, 1997 and does this document meet RHCD's contract definition (i.e., a **written** document setting forth the terms and conditions of the agreement signed by both parties)?
 Yes, complete Items 37 - 42.
 No, go to Block 8, Item 43. Both services based upon contracts signed after July 10, 1997 **and** all non-contract services must be posted by RHCD for 28 days before the HCP can receive the benefit of reduced rates for the services. See instructions.

37 Name of Service Provider	38 Contract Number	39 Date Contract Signed	40 Contract Expiration Date
a.			
b.			
c.			

41 Type of Telecommunications Service (Examples are listed in Block 8)	42 Rural Location Billing Account Number
a.	
b.	
c.	

Block 8: Request for Reduced Rates for "New" Telecommunications Services

43 Is the HCP requesting reduced rates for telecommunications service that could not be listed in Block 7? If you are requesting reduced rates for an **eligible** service that the HCP currently receives that is either: **(a)** provided pursuant to a contract signed after July 10, 1997; **or (b)** any other agreement that does **not** otherwise meet the the RHCD contract definition (i.e., a written document setting forth the terms and conditions of the agreement **signed** by both parties), you must check "Yes."

Yes, go to Item 44. **No**, go to Block 9, Item 45.

A sample of the eligible services is provided below:

- Dedicated (i.e., point to point) T1
- Dedicated Fractional T1 (e.g., 772 Kbps)
- ISDN (BRI and PRI)
- Frame Relay
- Foreign Exchange
- Off-premise extension
- Satellite/Microwave service
- Centrex
- Dedicated private line service

A request for service that is not based upon a contract signed before July 10, 1997 must be posted by RHCD on its website for 28 days before the HCP can receive the benefit of a discount for it.

44 HCPs must tell us how the health care provider is going to use the telecommunications service. Some examples are to transmit data and medical images such as X-rays; health care provider-to-provider consultation between professionals in a rural hospital and professionals in other locations; and provider-to-patient consultation, including examination and counseling. Please describe below.

connect remote sites to central site to share resources & data to better serve clients.

Block 9: Certification

45 I certify that I am authorized to submit this request on behalf of the above-named entity or entities, that I have examined this request, and that to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

46 I certify that the health care provider has followed any applicable State or local procurement rules.

47 I certify that the telecommunications services that the HCP receives at reduced rates as a result of the HCP's participation in this program, pursuant to 47 U.S.C. Sec. 254 as implemented by the Federal Communications Commission, will be used solely for purposes reasonably related to the provision of health care service or instruction that the HCP is legally authorized to provide under the law of the state in which the services are provided and will not be sold, resold, or transferred in consideration for money or any other thing of value.

48 Pursuant to 47 C.F.R. Secs. 54.601 and 54.603, I certify that the HCP or consortium that I am representing satisfies all of the requirements herein and will abide by all of the relevant requirements, including all applicable FCC rules, with respect to funding provided under 47 U.S.C. Sec. 254.

49 Signature *Eileen Turbut for*

50 Date *7/20/00*

51 Printed name of authorized person *Loretta Bullard*

52 Title or position of authorized person *President*

Please remember:

- Form 465 is the **first** step a health care provider must take in order to receive the benefit of reduced rates resulting from participation in this universal service support program.
- After the HCP submits a complete and accurate Form 465, the RHCD will post it on the RHCD web site for 28 days.
- HCPs may not enter into agreements to purchase eligible services from service providers before the **28 days expire**.
- After the HCP selects a carrier, the HCP must initiate the **next** step in the application process, the filing of Forms 466 & 468.

Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

NOTICE TO INDIVIDUALS: Section 54.615(c) of the Federal Communications Commission's rules requires all health care providers requesting direct benefits from this support mechanism to certify to their eligibility to receive them. 47 C.F.R. § 54.615(c). In addition, Section 54.603 of the Federal Communications Commission's rules requires eligible health care providers to participate in a competitive bidding process prior to receiving telecommunications services at reduced rates. 47 C.F.R. § 54.603. The collection of information stems from the Commission's authority under Section 254 of the Communication's Act of 1934, as amended, 47 U.S.C. § 254. The data in the report will be used to certify an applicant's eligibility to receive support pursuant to 47 C.F.R. § 54.615(c) and to ensure compliance with the competitive bidding requirements of 47 C.F.R. § 54.603. All health care providers requesting services eligible for universal service support must file this Description of Services Requested & Certification Form (FCC Form 465).

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This form should be submitted to:

Rural Health Care Division
P.O. Box 7016
Lawrence, Kansas 66044-7016

For shipping companies that require a street address, please submit the form to:

Rural Health Care Division
c/o Mrs. Smith
3833 Greenway Drive
Lawrence, Kansas 66044



Universal Service Administrative Company
Rural Health Care Division

P.O. Box 7016
Lawrence, KS 66044-7016
Phone: 1-800-229-5476

For overnight shipping only:
RHCD c/o Mrs. Smith
3833 Greenway Drive
Lawrence, KS 66044

December 5, 2000

Kawerak, Inc.
Attn: Thomas J. Bunger
PO Box 948
Nome, AK 99762

RE: Funding Year 2000 RHCD Application for Universal Support for Kawerak, Inc. from the following locations:

HCP#	Name	Address	City	State	Zip
10687	Elim Office	PO Box 39070	Elim	AK	99739
10690	Koyuk Office	PO Box 30	Koyuk	AK	99753
10692	St Michael Office	PO Box 59058	St Michael	AK	99659
10694	Shaktoolik Office	PO Box 100	Shaktoolik	AK	99771
10695	Shishmaref Office	PO Box 72110	Shishmaref	AK	99772
10697	Stebbins Office	PO Box 2	Stebbins	AK	99671
10698	Teller Office	PO Box 567	Teller	AK	99778
10699	Unalakleet Office	PO Box 270	Unalakleet	AK	99684
10701	Wales Office	PO Box 549	Wales	AK	99783
10702	Diomedes Office	PO Box 7079	Diomedes	AK	99762
10703	White Mountain Office	PO Box 84082	White Mountain	AK	99784
10745	Brevig Mission Office	PO Box 948	Nome	AK	99762

Dear Mr. Bunger:

Thank you for your interest in the Universal Service Administrative Company (USAC), Rural Health Care Division (RHCD) Program. In order to receive support under the Rural Health Care Program, a health care provider must meet two threshold criteria. First, a health care provider must be located in a rural area in order to be eligible for Rural Health Care Program Support. Second, only public or non-profit health care providers that fall within one of the following categories may benefit from universal service support:

- Post-secondary educational institutions offering health care instruction, including teaching hospitals or medical schools
- Community health centers or health centers providing health care to migrants
- Local health departments or agencies
- Community mental health centers
- Not-for-profit hospitals
- Rural health clinics



Health care providers that do not fall into one of these categories are not eligible to benefit from universal service support. After further review, the RHCD has determined that the applicants listed above do not qualify as one of these listed provider types. In particular, as a result of our conversations with you concerning the nature of the services which Kawerak Inc. delivers, and after reviewing Kawerak's website, we have concluded that the applicants listed above are not "community mental health centers", as represented on the Forms 465 submitted to the RHCD.

Because the Federal Communications Commission (FCC) regulations governing the Rural Health Care Program do not define the term "community mental health center," RHCD must look to other federal regulations in order to define the term. Under Department of Health and Human Services regulations implementing the Public Health Service Act, a "community mental health center" (CMHC) is defined as:

- "an entity that--(1) Provides outpatient services, including specialized outpatient services for children, the elderly, individuals who are chronically mentally ill, and residents of its mental health service area who have been discharged from inpatient treatment at a mental health facility; (2) Provides 24-hour-a-day emergency care services; (3) Provides day treatment or other partial hospitalization services, or psychosocial rehabilitation services; (4) Provides screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission; (5) Provides consultation and education services; and (6) Meets applicable licensing or certification requirements for CMHCs in the State in which it is located.

See 42 C.F.R. §410.2. Kawerak, Inc. does not meet these regulatory criteria, and therefore your request for support must be denied. In our review of your website, the only references we found to suggest that Kawerak was delivering mental health services were the provision under "Family Services" for "case management to abused and neglected children and their families ... family reunification, adoptions, and child placement", and Kawerak's Tribal Family Coordinators who "ensure the Indian Child Welfare Act (ICWA) is vigorously enforced." However, we did not find Kawerak, Inc. listed on the Alaska Mental Health Consumer Web (www.akmheweb.org), and further, even if Kawerak were found to be delivering some mental health services, the requirement is that they qualify as a community mental health center, not simply that their services include mental health. In our discussions, you indicated that Kawerak, Inc could not meet the above definition of a CMHC. In addition, Kawerak did not provide documentary evidence to support its claim that it is an eligible CMHC in response to RHCD inquiries. We must, therefore, rescind our earlier posting of these sites to the RHCD web site because Kawerak is not an entity that is eligible to receive support under the program.

The RHCD recognizes that you may disagree with our decision. **If you wish to file an appeal, your appeal must be received no later than 30 days after this letter was issued, starting with the date at the top of the letter.** There are two appeal options:

- A. Write a "Letter of Appeal to RHCD" explaining why you disagree with this decision and identify the outcome that you request, **OR**;

- B. Write an appeal directly to the Federal Communications Commission (FCC) –skipping Option A- explaining why you disagree with the RHCD decision. The FCC rules governing the appeals process (Part 54 of Title 47 of the Code of Federal Regulations 54.719 – 54.725) are available on the RHCD web site (www.rhc.universalservice.org). While you may write directly to the FCC without first presenting your appeal to the RHCD, you are encouraged to write first to the RHCD so that we have an opportunity to review your appeal and grant it, if appropriate.

Please follow these guidelines when submitting a “letter of appeal” to the RHCD:

1. Write and mail your letter to:

Letter of Appeal
Rural Health Care Division / USAC
2120 L. Street N.W., Suite 600
Washington, D.C. 20037
Phone: (800) 229-5476

Appeals submitted by fax, telephone call, and e-mail **will not** be processed.

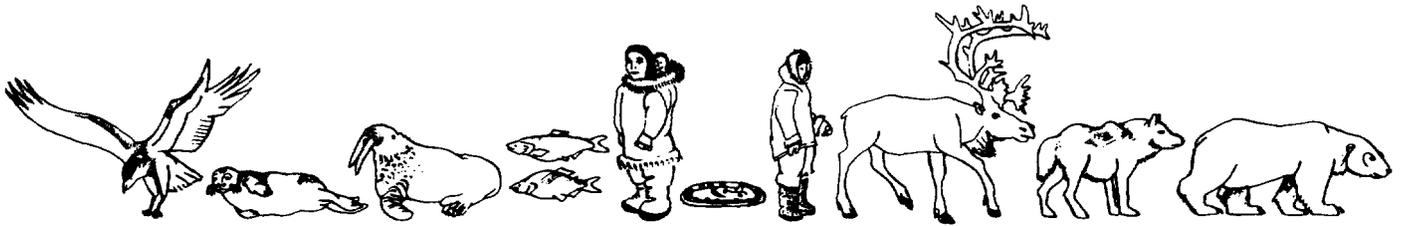
2. Provide necessary contact information. Please list the name, address, telephone number, fax number, and e-mail address (if available) of the person who can most readily discuss this appeal with the RHCD.
3. Identify the “HCP Name” and “HCP Number(s)” from this letter.
4. Explain the appeal to the RHCD. Please keep your letter brief and to the point, and provide documentation to support your appeal.
5. Attach a photocopy of this letter that you are appealing.
6. The RHCD will review all “letters of appeal” and respond in writing within 45 days of receipt of the appeal. The response will explain whether the RHCD:
 - Agrees with the rural HCP’s letter of appeal; and
 - May approve the rural HCP’s requested outcome.
7. If the rural HCP disagrees with the RHCD response, it may file an appeal with the FCC within 30 days of the date the RHCD issued its decision in response to the rural HCP’s “letter of appeal.” The FCC address where a rural HCP may direct its appeal is:

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

If you have questions or need help, please call the Customer Service Support Center at 1-800-229-5476 Monday through Friday, 8am to 8pm Eastern Time. Please have your HCP number available as a reference.

Sincerely,

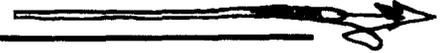
USAC, RHCD



KAWERAK, INC.



P.O. BOX 948 • NOME, ALASKA 99762



TELEPHONE: (907) 443-5231 • FAX: (907) 443-4652

SERVING THE
VILLAGES OF:

- BREVIQ MISSION
- COUNCIL
- DIOMEDE
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- GAMBELL
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- MARY'S IGLOO
- NOME
- SAVOONGA
- SHAKTOOLIK
- SHISHMAREF
- SOLOMON
- STEBBINS
- ST. MICHAEL
- TELLER
- UNALAKLEET
- WALES
- WHITE MOUNTAIN

VIA Express Mail

December 28, 2000

Letter of Appeal
Rural Health Care Division/USAC
2120 L. Street, N.W., Suite 600
Washington, D.C. 20037

**Appeal by Kawerak, Inc. of denial of FY 2000 RHCD Application
for Universal Support**

HCP #	Name	Address	City	ZIP
10687	Elim Office	PO Box 39070	Elim, AK	99739
10690	Koyuk Office	PO Box 30	Koyuk, AK	99753
10692	St. Michael Office	PO Box 59058	St. Michael, AK	99659
10694	Shaktoolik Office	PO Box 100	Shaktoolik, AK	99771
10695	Shishmaref Office	PO Box 72110	Shishmaref, AK	99772
10697	Stebbins Office	PO Box 2	Stebbins, AK	99671
10698	Teller Office	PO Box 567	Teller, AK	99778
10699	Unalakleet Office	PO Box 270	Unalakleet, AK	99684
10701	Wales Office	PO Box 549	Wales, AK	99783
10702	Diomedede Office	PO Box 7079	Diomedede, Ak	99762
10703	White Mountain Office	PO Box 84082	White Mountain, AK	99784
10745	Brevig Mission Office	PO Box 948	Brevig Mission, AK	99762

Points on Appeal

Kawerak Inc. disagrees with the unsigned decision dated December 5, 2000 by which the USAC Rural Health Care Division concluded that Kawerak, Inc. is not a "rural health care provider" eligible for universal services support.

The decision was based on incomplete information concerning Kawerak's services. Contrary to a statement in the decision, RHCD did not request supplementary documentation. It appears the decision was made primarily on the



basis of information obtained, or not obtained, by browsing the Web. The Kawerak web site alluded to in the decision is still under development and does not contain information about the tribal offices covered by these applications. Kawerak believes these applications qualify under the "local health department or agency" category of health care provider, as well as under the mental health center category and possibly as community health centers.

Background regarding Kawerak

Kawerak, Inc. is a consortium of Alaska Native tribal governments formed to provide a variety of social, health, and education services to the tribes and tribal members in the Bering Straits Region of Alaska. Kawerak is incorporated under state law for ease of transacting business, but structurally it is composed of its twenty member tribes. Each tribe has a seat on the Kawerak board of directors.

Kawerak is recognized as a tribal consortium for federal contracting purposes. Its largest source of funds is an annual self-governance funding agreement with the Bureau of Indian Affairs through which Kawerak administers virtually all the BIA-funded services to Alaska Natives in its region. These funds are available on a tribal share basis. Essentially, the tribes in Kawerak's region pool their resources, with services provided at both the regional (Kawerak central office) and local (tribal office) level.

Village Offices

The offices covered by these applications are the tribal equivalent of state Health and Human Services Departments. Each of the villages for which Kawerak submitted applications (Elim, Koyuk, St. Michael, etc.) is a federally recognized Native American tribe, with the full range of health and welfare functions as any other sovereign government. A variety of services, including health-related services, are provided from these offices, usually jointly by Kawerak and the individual tribe. Staff members in the tribal offices are under the day-to-day supervision of the local tribal councils, although some are on Kawerak's payroll.

When the tribes undertake health-related activities such as community surveys for environmental health (e.g., radon gas), educational public health services, disaster response, etc., they are conducted from these joint Kawerak/tribal offices.

Among the other health-related services or functions provided at these offices are screening and referrals to alcohol and mental health programs, counseling (primarily in the context of child welfare), and drug and alcohol screening. Clinical medical services are not provided in these offices, since direct medical services are provided by our sister Native consortium, the Norton Sound Health Corporation. All or most of the villages have a separate clinic facility staffed by health aides. However, the local tribal oversight functions for the clinics occur at the Kawerak/tribal offices covered by these applications.

Standard/Definitions

In evaluating applications, the RHCD has little to go on other than the statute itself. In its definition of "health care provider," 47 USC §254(h)(5)(B) lists the six categories noted on the first page of the December 5 RHCD decision, plus a "consortia" category of entities which otherwise meet the definition of health care providers. The regulations, 47 CFR §54.601, simply restate the statutory definitions. The FCC Universal Service Order, and subsequent decisions on reconsideration, declined to elaborate on the definitions, finding that Congress's intent was expressed clearly enough in the statute.

Kawerak believes that the locations served by its applications are "local health departments and agencies" because the functions normally associated with a state or county "health department" – other than the direct practice of medicine - are performed by the tribe (the local government) from these offices. These include administrative functions.

Further, the Kawerak/tribal offices meet the definition of community health center and community mental health center categories because the services provided include counseling, mental health referrals, and drug and alcohol testing.

Other services unrelated to health care are also provided, but nothing in the regulations or the statute provides that a service site has to be exclusively one thing. A tribal clinic with a full array of medical services would not cease to be a clinic because the tribe also operates a day care center at the facility. Those sorts of combined functions are common in small tribal communities with limited resources.

The December 5 decision turns solely on the definition of "community mental health center" RHCD borrowed from the Department of Health and Human Services regulations. Kawerak is not relying solely on the "community mental health center" category. In any event, the HSS regulations do not apply to these applications, and RHCD's use of the definition was inappropriate since the FCC itself intentionally declined to elaborate on the statutory definitions. The FCC could have used HHS definitions, or others, but chose not to. Kawerak agrees that neither Kawerak nor the particular offices covered by these applications would meet that definition, not least because of the state-law licensure /certification requirement. However, it is not controlling in this case.

Conclusion

The RHCD decision was made on inadequate information. Kawerak's original applications should probably have been under the "local health department or agency" category, which we now believe is closest to the actual situation. What is not made clear by the application forms, and is missed in the RHCD decision, is that Kawerak, as a tribal consortium, was submitting applications for individual tribal offices which are essentially joint offices of the tribe and Kawerak. Kawerak and the tribes jointly operate governmental health and social service functions from these offices.

Guidance on whether these offices should be covered by Universal Service can be found in an FCC decision defining public health services. "For purposes of Section 254, we define "public health services" to mean health-related services, including non-clinical, informational, and educational public health services, that local public health departments or agencies are charged with performing under federal and state laws." CC Docket 96-45, FCC 97-157, part XI.B. paragraph 10 (released May 8, 1997.)

In explaining the definition, the decision says: "We also agree with those commentators suggesting that telecommunication services used by public health agencies to provide health-related services – including the education of the public and health care community about matters of importance to public health, the collection and dissemination of public health data to appropriate government entities; the coordination of public response to disasters, and the prevention and control of diseases – should be eligible for universal service support." *Id.*

Most of the functions listed above are provided by Kawerak and tribal staff operating from the offices covered by these applications.

Kawerak will be submitting additional information after January 1, when key staff return from leave.

Contact Information

Bruce Baltar, Attorney
Kawerak, Inc.
P.O. Box 948
Nome, AK 9972
(907) 443-4340
bbaltar@kawerak.org

or

Tom Bunger, Information Systems Manager
Kawerak, Inc.
P.O. Box 948
Nome, AK 9972
(907) 443-5231
tbunger@kawerak.org

Respectfully submitted,
KAWERAK, INC.

— S —

Bruce Baltar, Attorney



Universal Service Administrative Company
Rural Health Care Division

P.O. Box 7016
Lawrence, KS 66044-7016
Phone: 1-800-229-5476

For overnight shipping only:
RHCD c/o Mrs. Smith
3833 Greenway Drive
Lawrence, KS 66044

January 24, 2001

Bruce Baltar
Kawerak, Inc.
P.O. Box 948
Nome, AK 99762

RE: Your correspondence of December 28, 2000 concerning HCPs 10687, 10690, 10692, 10694, 10695, 10697, 10698, 10699, 10701, 10702, 10703, and 10745

Dear Mr. Baltar:

After thorough review and investigation, the Rural Health Care Division (RHCD) of the Universal Service Administrative Company (USAC) has completed its evaluation of your letter of appeal concerning the Kawerak, Inc. sites' eligibility for universal service support of telecommunications services. This letter sets forth RHCD's decision concerning the above-referenced letter.

Decision on Appeal: Denied in Full

Explanation of Decision: As noted in RHCD's letter of December 5, 2000, the Kawerak sites were determined ineligible for support based on the fact that they do not meet the requirement of being an eligible rural health care provider, as required to receive support under the Rural Health Care universal service support mechanism. RHCD's initial decision was based on the Forms 465 on which Kawerak represented that it qualified as a "community mental health center" within the meaning of the Telecommunications Act of 1996 and the Federal Communications Commission (FCC) regulations implementing that Act. The issue of whether Kawerak was a community mental health center was discussed on a number of occasions in August-October, 2000 by Bill England of RHCD and Tom Bunger of Kawerak. Mr. Bunger was invited to submit additional material to help RHCD determine if Kawerak qualified as a community mental health center. On August 29, 2000, Dr. England e-mailed Mr. Bunger the FCC's *Universal Service Order* and pointed out the section cited in your appeal, in which the FCC declined to define the list provided by the Congress. Dr. England also suggested that Kawerak consult with mental health practitioners or others to make a case to RHCD that Kawerak in fact could qualify as a community mental health center and thus be eligible for support. A subsequent e-mail on September 13, 2000 shows that Mr. Bunger had not been able to provide additional information to RHCD that would support Kawerak's claim that it qualified as a community mental health center.

In your appeal, you question whether it is appropriate to apply the Public Health Service Act definition of "Community Mental Health Center" (CMHC) to Kawarek. See 42 C.F.R. §410.2. As we stated in our December 5, 2000 letter of denial, because the FCC regulations governing the Rural Health Care support mechanism do not define the term "community mental health center," RHCD was required to look to other federal regulations for a definition of the term. The only definition we found was in the Department of Health and Human Services' regulations implementing the Public Health Service Act, which define a "community mental health center" as:

an entity that--(1) Provides outpatient services, including specialized outpatient services for children, the elderly, individuals who are chronically mentally ill, and residents of its mental health service area who have been discharged from inpatient treatment at a mental health facility; (2) Provides 24-hour-a-day emergency care services; (3) Provides day treatment or other partial hospitalization services, or psychosocial rehabilitation services; (4) Provides screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission; (5) Provides consultation and education services; and (6) Meets applicable licensing or certification requirements for CMHCs in the State in which it is located.

After researching the use of the term "community mental health center" in the FCC's *Universal Service Order* and as used by other federal programs, we believe this is the definition intended by Congress and the Commission and that we do not have discretion to interpret that term in any other manner. See *In re Federal-State Joint Board on Universal Service, Report and Order*, CC Docket 96-45, FCC 97-157 (rel. May 8, 1997). The *Universal Service Order* suggests there are about 2,000 CMHCs eligible to participate in this program. See *Universal Service Order* §924. Although the person referenced for that estimate is no longer available, it is roughly consistent with a recent statement we found on the Health Care Financing Administration's website, which states that there are about 2,150 entities eligible to submit claims to Medicare as CMHCs. Further, except for purposes of this program, we did not find evidence that Kawerak has represented to the public that it is a CMHC.

In your appeal, you also raise the issue of whether Kawerak should have applied as "local health departments or agencies." Although Kawerak does appear to function as a social service agency and in that sense, does resemble a local government agency, it does not appear to qualify as a "local health department or agency" for purposes of the Rural Health Care Program. As a non-profit corporation, not a governmental entity, Kawerak, Inc. does not appear to represent itself to the public as a "local health department or agency" within the meaning of the regulations and FCC orders governing the Rural Health Care support mechanism. It is not sufficient to be performing some health care or mental health or public health services for an entity to qualify for this program. A site must be one of the entities listed in the Order. See *Universal Service Order* §653. If it is one of the entities, and it performs other non-qualifying services, it may designate what percent of the services qualify for support. Were RHCD to read the *Universal Service Order* as saying that an entity that simply performs eligible services may qualify for the program,

Bruce Baltar
Page 3 of 3
January 24, 2001

then many nursing homes, hospices, home health agencies, and other entities which are unquestionably engaged in health care service delivery, but are not on the list, may qualify for this program. Contrary to Kawerak's interpretation that the FCC's failure to define the list means that entities that perform functions similar to those on the list should qualify for the program, the FCC has given RHCD no latitude to define entities in the manner suggested by Kawerak. Because Kawerak acknowledges that it does not meet the only known regulatory definition of community mental health center, and that Kawerak only claims that it is a functional equivalent of a "local health department or agency," rather than actually being a "local health department or agency" as that term is understood by the FCC, then Kawerak does not qualify as an eligible entity for support.

Therefore, we have no choice but to regretfully deny Kawerak's appeal.

If you disagree with this decision, you may submit an appeal to the FCC within 30 days of the date of this letter.

The FCC address where you may direct your appeal is:

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

Please be sure to indicate the following information on all communications with the FCC:
"Docket Nos. 96-45 and 97-21."

Sincerely,

RHCD-USAC

Rural Health Care Division
Universal Service Administrative Company