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MAR 21 2003  
FCC - MAILROOM

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March 19, 2003

Ms. Magalie Roman Salas  
Secretary  
Office of the Secretary  
Federal Communications Commission  
445 – 12th Street, S.W., Rm TW-204B  
Washington, D.C. 20554

**Re: CC Docket Nos. 96 – 45, 97-21      Bootheel Appeal and Request for Expedited Relief on behalf of the Bootheel Consortium**

This is an Appeal from a decision of the Universal Service Administrator (SLD).

Enclosed is the original and four copies of the Appeal. An extra copy is also enclosed. Please time stamp the extra copy and return it to me in the enclosed self addressed-stamped envelope.

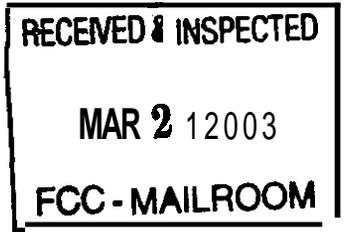
Sincerely,  
  
Nathaniel Hawthorne

Cc: Bootheel Consortium

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



In the Matter of the	)	File No. SLD -
	)	
Appeal of the Decision of the	)	
	)	
Universal Service Administrator by	)	
the	)	
	)	
Bootheel Consortium	)	
	)	
	)	
	)	CC Docket No. 96 - 45
Federal-State Joint Board on	)	
Universal Service	)	
Changes to the Board of Directors of	)	
The National Exchange Carrier	)	
Association, Inc.	)	CC Docket No. 97 - 21

Appeal  
and  
Request for Expedited Relief  
on behalf of the  
Bootheel Consortium

Introduction

This is an Appeal from an adverse decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company. The “Bootheal” (sic) Consortium (Bootheel) believes that the decision by the SLD is unreasonable and not supported by the evidence submitted to the SLD as a matter of law and must be reversed for the reasons set forth below.

(1) **Funding Commitment Decision Letter Appealed**

Form 471 Application Number: 309634  
Funding Year: Funding Year 2002:07/012002 –06/30/2003  
Billed Entity Number: 151418  
Date of Funding Denial Notice: March 3,2003  
  
Date of Appeal: March 24,2003

(2) **SLD Contact Information**

- (a) John Dunne  
1400 Mississippi St.  
Silver City, NM 88061  
Tel. (505) 956-2006  
Fax. (505) 956-2039
- (b) Nathaniel Hawthorne, Attorney (To discuss this Appeal)  
27600 Chagrin Blvd., Ste 260  
Cleveland, OH 44122  
Tel. (216) 514.4798

(3) **Funding Request Numbers Appealed**

FRNs –861034,861112,861164,861233,  
861286,861327,861362,862193

The SLD’s denial is the same for all FRNs.

(4) **SLD’s Reason for Funding Denial**

The SLD stated that funding is denied because:

“A substantial number of the Letters of Agency (or other documentation) provided by the consortium leader do not show your authority to purchase the services in this funding request on behalf of the entity (ies) listed in Block 4.”

**(5) Bases of Bootheel's Appeal**

(A) Background /SLD Regulations

(i) "Consortia-Lead Member Responsibilities": The SLD's web site sets forth instructions for Consortia. It's captioned "Consortia-Lead Member Responsibilities"

<http://www.sl.universalservice.org/reference/ConsortiaLead.asp>

(ii) The web site clearly sets forth the responsibilities that Bootheel had to follow

(iii) "Letters of Agency": The SLD's web site states that "for consortium applications, the consortium lead member must either collect Letters of Agency from each consortium member, or be able to provide some sort of proof that each consortium member knew it was represented on the [consortium] application." The Consortia leader must provide documentation that it represents the Consortia.

<http://www.sl.univcersalsewice.org/reference/letters.asp>

(B) Background /FCC Orders

(i) *Request for Review by Project Interconnect Brooklyn Park, Minnesota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No. SLD-146858, 146854, CC Dockets No. 96-45 and 97-21 (rel. July 11, 2001)*

(ii) Prior to the FCC's Order in *Request for Review by Project Interconnect Brooklyn Park, Minnesota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No. SLD-146858, 146854, CC Dockets No. 96-45 and 97-21 (rel. July 11, 2001)*, the SLD would deny funding for an entire application even if one requested LOA was not available.

See, [http://www.e-ratecentral.com/archieve/News2002/weekly\\_news\\_194.htm](http://www.e-ratecentral.com/archieve/News2002/weekly_news_194.htm)

The SLD's extreme and unreasonable position was reversed by the FCC *Request for Review by Project Interconnect Brooklyn Park, Minnesota, Federal-State Joint Board on Universal Service, supra*. There the FCC upheld the SLD's right to request LOAs, but refused to penalize the entire consortium based on the failure of a few members to execute LOAs.

(iii) *Request for Review by Central Minnesota Computing Center St. Cloud, Minnesota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No.SLD-143701, CC Dockets No. 96-45 and 97-21 (rel. March 29, 2001)*

(iv) The SLD relied upon *Request for Review by Central Minnesota Computing Center St. Cloud, Minnesota* in reaching its decision in Bootheel matter.

#### (6) Discussion

(i) There is no indication in the record that Bootheel did not follow the "instructions" on the SLD's web site. **Attachment A** (FCDL).

(ii) The FCC Form 471 (Consortia Application) sets forth the schools in the consortia. Every school listed in FCC Form 471. Block 4, belongs to one (1) of five (5) school districts. The five school districts are: Cobre, Deming, Lordsburg, Reserve, and Silver. **Attachment B** The Superintendent of these school districts executed an LOA so that each district, each school (each entity) in the district, would be represented. Thus, there are five (5) LOAs representing every entity in the consortium

(iii) Each consortium member executed a Letter of Agency in accordance with the SLD requirements. **See Attachment B.** So that there is no time wasted in the review process by the FCC, Bootheel has attached a copy of each LOA executed by members of the Consortium.

(iv) The SLD's reliance upon *Request for Review by Central Minnesota Computing Center St. Cloud, Minnesota* is misplaced. The FCC stated in that Order: "because CMCC has failed to demonstrate that its consortium members have the necessary resources to make effective use of the requested funding, we deny the request for Review and affirm the SLD's decision." [Emphasis Added] Thus, the St. Cloud Order is distinguishable from the Bootheel matter.

(v) All attached documentation was provided to the SLD.

(vi) During the Program Integrity Assurance (PIA) process an employee of the Deming School District was mis-quoted by an SLD employee as stating that Deming was not a member of the Bootheel Consortium. The Deming employee corrected the SLD's mis-statement stating that the "Deming Public School District has been and continues to be a member of the Bootheel consortium #309634." Moreover, this employee, since he was not the Superintendent of the Deming School District had absolutely no authority to make such a statement regarding consortium member to the SLD. Factually, and legally, the SLD had, at that time, an LOA executed by the Deming Superintendent.

(7) **Relief Reauested**

(a) Immediately Order funding for the services as requested in the Consortia's Application, specifically FRNs 861034,861112,861164, 861233,861286,861327,861362,862193.

(b) Since time is of the essence in this project and there is a strong probability that the Consortia will prevail, the Bootheel Consortia request expedited relief.

(c) Set funds aside to totally fund the Bootheel Consortia's request.

Respectfully submitted,



Nathaniel Hawthorne

DC Bar #: 237693

**27600** Chagrin Blvd., Ste. **260**

Cleveland, OH **44122**

tel.: **216/514/4798**

e-mail: [nhawthome@earthlink.net](mailto:nhawthome@earthlink.net)

Attorney for Bootheel Consortium

## **Attachment A**



**FUNDING COMMITMENT DECISION LETTER**

(Funding Year 2002: 07/01/2002 - 06/30/2003)

March 3, 2003

Bootheal Consortium  
John Dunne  
1400 Mississippi St.  
Silver City, NM 88061

Re: Form 471 application Number: 309634  
Funding Year 2002: 07/01/2002 - 06/30/2003  
Billed Entity Number: 151418  
applicant's Form Identifier: BootHeel Yr5

Thank you for your Funding Year 2002 E-rate application and for any assistance you provided throughout our review. We have completed review of your Form 471. This letter is to advise you of our decision(s).

**FUNDING COMMITMENT REPORT**

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. We have reviewed each Discount Funding Request on your Form 471 application and have assigned a Funding Request Number (FRN) to each Block 5. The enclosed report includes a list of the FRNs from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) upon the filing of your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

**NEXT STEPS**

**FILE FORM 486.** Once you have reviewed this letter and have determined that some or all of your requests have been funded, your next step to facilitate receipt of discounts as featured in this letter will be to file an FCC Form 486 with the SLD. The Form 486 notifies the SLD to begin payment to your service provider and provides certified indication that your technology plan(s) has been approved by an SLD certified Technology Plan Approver. The Form 486 and instructions and the list of SLD certified Technology Plan Approvers can be found on the SLD web site at <www.sl.universalservice.org> or you can call the SLD Client Service Bureau at 1-888-203-8100 and ask that the form be sent to you. The Form 486 dated July, 2001 in the Lower right corner MUST be used for Funding Year 2002 and for any previous funding years. Submissions of earlier versions of the Form 486 will be returned to you and will not be able to be processed. As you complete Form 486, you should also contact your service provider to verify they have received notice from the SLD of your funding commitments. After the SLD processes your Form 486, we can process invoices for services that have been provided to you.

**DEADLINE FOR FORM 486.** Form 486 must be postmarked within 120 days of the Service Start Date featured on the Form 486 or within 120 days of the date of the Funding Commitment Decision Letter, whichever is later. If the Form 486 is postmarked after the later of those two dates, the date 120 days before the Form 486 postmark date will become the start date for discounted services. If the service start date is moved, your funding commitment may be reduced. You are advised to keep proof of the date of mailing of your form(s).

**REVIEW CIPA REQUIREMENTS.** On December 21, 2000, the Children's Internet Protection Act (CIPA) was signed into law. That law requires schools and libraries that receive Universal Service discounts for certain services to adopt an Internet safety policy incorporating the use of filtering or blocking technology on computers with Internet access as a condition of receiving those discounts. Funding Year 2002 may be the Second Funding Year for purposes of CIPA for one or more schools and/or libraries represented on your Form 486. (Funding Year 2002 is the Second Funding Year for purposes of CIPA for a school or library if a Form 486 for Internet access or internal connections was successfully data entered for Funding Year 2001. See the section of the Form 486 Instructions entitled "Impact of CIPA Requirements on Form 486" for more information on First, Second and Third Funding Years.) If Funding Year 2002 is the Second Funding Year for purposes of CIPA for one or more schools and/or libraries represented on your Form 486, those school(s) and/or library(ies) must certify that they are in compliance with CIPA unless state or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required. A school or library so prevented may request a waiver for Funding Year 2002. Certification(s) for purposes of CIPA and CIPA waiver request(s) must be made on the Form 486 or the Form 479, whichever is appropriate. See the Form 486 Instructions and the Form 479 Instructions for more information. You may also refer to the SLD web site at <www.sl.universalservice.org> or call the Client Service Bureau at 1-888-203-8100 for more information about Form 486, Form 479, and the requirements of CIPA.

**FILE FORM 472 (APPLICANT) or FORM 474 (SERVICE PROVIDER).** After a Form 486 has been properly filed the SLD MUXT receive an invoice from either the applicant or the service provider in order to make payments for approved discounts on eligible services. Form 472, Billed Entity Applicant Reimbursement (BEAR) Form, is filed by the applicant; Form 474, Service Provider Invoice Form, is filed by the service provider.

**NEW DEADLINES FOR INVOICES:** Invoices must be postmarked within 90 days of the last date to receive service or within 90 days of the date of the Form 486 Notification Letter, whichever is later. If an invoice is postmarked after the later of those two dates, payment will be denied.

#### TO APPEAL THESE FUNDING COMMITMENT DECISIONS

If you wish to appeal the Funding Commitment Decision(s) (FCD) indicated in this letter, your appeal must be RECEIVED BY THE SCHOOLS AND LIBRARIES DIVISION (SLD) WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us
2. State outright that your letter is an appeal. Identify which FCD Letter you are appealing. Indicate the relevant funding year and the date of the Funding Commitment Decision Letter. Your letter of appeal must also include the applicant name, the Form 471 Application Number, and the Billed Entity Number from the top of your FCD Letter.
3. Identify the particular Funding Request Number (FRN) that is the subject of your appeal. When explaining your appeal, include the precise language or text from the Funding Commitment Decision Letter that is at the heart of your appeal. By pointing to the exact words that give rise to your appeal, the SLD will be able to more readily understand and respond appropriately to your appeal. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 123 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by calling the Client Service Bureau.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket Nos. 96-45 and 97-21 on the first page of your appeal to the FCC. Your appeal must be RECEIVED BY THE FCC WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by calling the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options because of continued substantial delays in mail delivery

to the FCC. If you are submitting your appeal via United States Postal Service, send to: PCC, Office of the secretary, 445 12th Street SW, Washington, DC 20554.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the universal service mechanisms for schools and libraries. FCC Form 471 Applicants who have received funding commitments continue to be subject to audits and other reviews that SLD or the Federal Communications Commission may undertake periodically to assure that funds have been committed and are being used in accordance with all such requirements. If the SLD subsequently determines that its commitment was erroneously issued due to action or inaction, including but not limited to that by SLD, the Applicant, or Service Provider, and that the action or inaction was not in accordance with such requirements, SLD may be required to cancel these funding commitments and seek repayment of any funds disbursed not in accordance with such requirements. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect erroneously disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

We look forward to continuing our work with you on connecting our schools and libraries through advanced telecommunications services.

Sincerely,

Schools and Libraries Division  
Universal Service Administrative Company

Enclosures

A GUIDE TO THE FUNDING COMMITMENT REPORT

Attached to this letter will be a report for each E-rate funding request from your application. We are providing the following definitions.

**FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to Applicants and Service Providers the status of individual discount funding requests submitted on a Form 471.

**FUNDING STATUS:** Each FRN will have one of three definitions: "Funded," "Not Funded," or "As Yet Unfunded."

1. An FRN that is "Funded" will be approved at the level that SLD determined is appropriate for that item. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds will be committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision," and amplification of that explanation may be offered in the section, "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this Funding Year was insufficient to fund all requests.
3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for internal connections at a particular discount level. For example, if your application included requests for discounts on both telecommunications services and internal connections, you might receive a letter with our funding commitment for your telecommunications funding requests and a message that your internal connections requests are "As Yet Unfunded." You would receive a subsequent letter(s) regarding the funding decision on your internal connections requests.

**SERVICES ORDERED:** The type of service ordered from the service provider, as shown on Form 471.

**SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

**SERVICE PROVIDER NAME:** The legal name of the service provider.

**CONTRACT NUMBER:** The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.

**BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on Form 471.

**EARLIEST POSSIBLE EFFECTIVE DATE OF DISCOUNT!** The first possible date of service for which the SLD will reimburse service providers for the discounts for the service.

**CONTRACT EXPIRATION DATE!** The date the contract expires. This will be present only if a contract expiration date was provided on Form 471.

**SITE IDENTIFIER:** The Entity Number listed in Form 471, Block 5, Item 22a will be listed. This will appear only for "site specific" FRNs.

**ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES:** Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service provided in the funding year.

**ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES:** Annual eligible non-recurring charges approved for the funding year.

**PRE-DISCOUNT AMOUNT:** Amount in Form 471, Block 5, Item 23, Column I, as determined through the application review process.

**DISCOUNT PERCENTAGE APPROVED BY THE SLD:** This is the discount rate that the SLD has approved for this service.

**FUNDING COMMITMENT DECISION:** This represents the total amount of funding that the SLD has reserved to reimburse service providers for the approved discounts for this service for this funding year. It is important that you and the service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

**FUNDING COMMITMENT DECISION EXPLANATION:** This entry may amplify the comments in the "Funding Commitment Decision" area.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 309634  
 Funding Request Number: 861034 Funding Status: Not Funded  
 Services Ordered; Internal Connections  
 SPIN: 143005607 Service Provider Name: IBM Corporation  
 Contract Number: N/A  
 Billing Account Number: N/A  
 Earliest Possible Effective Date of Discount: 07/01/2002  
 Contract Expiration Date: 06/30/2003  
 Annual Pre-discount Amount for Eligible Recurring Charges: \$0.00  
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$6,523,559.00  
 Pre-Discount Amount: \$6,523,559.00  
 Discount Percentage Approved by the SLD: N/A  
 Funding Commitment Decision: \$0.00 - Incl. svcs./ or product(s)  
 Funding Commitment Decision Explanation: A substantial number of the Letters of Agency (or other documentation) provided by the consortium leader do not show your authority to purchase the services in this funding request on behalf of the entity (ies) listed in block 4.

Funding Request Number: 861112 Funding Status: Not Funded  
 Services Ordered; Internal connections  
 SPIN: 143005607 Service Provider Name: BM Corporation  
 Contract Number: N/A  
 Billing Account Number: N/A  
 Earliest Possible Effective Date of Discount: 07/01/2002  
 Contract Expiration Date: 06/30/2003  
 Annual Pre-discount Amount for Eligible Recurring Charges: \$0.00  
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$3,338,781.00  
 Pre-Discount Amount: \$3,338,781.00  
 Discount Percentage Approved by the SLD: N/A  
 Funding Commitment Decision: \$0.00 - Incl. svcs./ or product(s)  
 Funding Commitment Decision Explanation: A substantial number of the Letters of Agency (or other documentation) provided by the consortium leader do not show your authority to purchase the services in this funding request on behalf of the entity (ies) listed in block 4.

Funding Request Number: 861164 Funding Status: Not Funded  
 Services Ordered: Internal Connections  
 SPIN: 143005607 Service Provider Name: IBM Corporation  
 Contract Number: N/A  
 Billing Account Number: N/A  
 Earliest Possible Effective Date of Discount: 07/01/2002  
 Contract Expiration Date: 06/30/2003  
 Annual Pre-discount Amount for Eligible Recurring Charges: \$0.00  
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$3,587,432.00  
 Pre-Discount Amount: \$3,587,432.00  
 Discount Percentage Approved by the SLD: N/A  
 Funding Commitment Decision: \$8.00 - Incl. svcs./ or product(s)  
 Funding Commitment Decision Explanation: A substantial number of the Letters of Agency (or other documentation) provided by the consortium leader do not show your authority to purchase the services in this funding request on behalf of the entity (ies) listed in block 4.

Funding Request Number: 861233 Funding Status: Not Funded  
 Services Ordered: Internal Connections  
 SPIN: 143005607 Service Provider Name: IBM Corporation  
 Contract Number: N/A  
 Billing Account Number: N/A  
 Earliest Possible Effective Date of Discount: 07/01/2002  
 Contract Expiration Date: 06/30/2003  
 Annual Pre-discount Amount for Eligible Recurring Charges: \$0.00  
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$1,128,144.00  
 Pre-Discount Amount: \$1,128,144.00  
 Discount Percentage Approved by the SLD: N/A  
 Funding Commitment Decision: \$0.00 - Incl. svcs./ or product(s)  
 Funding Commitment Decision Explanation: A substantial number of the Letters of Agency (or other documentation) provided by the consortium leader do not show your authority to purchase the services in this funding request on behalf of the entity (ies) listed in block 4.

FUNDING COMMITMENT REPORT

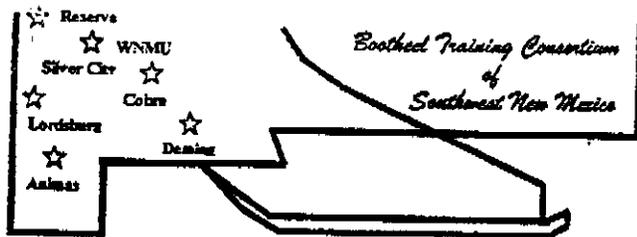
Form 471 Application Number: 309634  
 Funding Request Number: 861286 Funding Status: Not Funded  
 Services Ordered: Internal Connections  
 SPIN: 143005607 Service Provider Name: IBM Corporation  
 Contract Number: N/A  
 Billing Account Number: N/A  
 Earliest Possible Effective Date of Discount: 07/01/2002  
 Contract Expiration Date: 06/30/2003  
 Annual Pre-discount Amount for Eligible Recurring Charges: \$.00  
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$5,791,248.00  
 Pre-Discount Amount: 55,791,248.00  
 Discount Percentage Approved by the SLD: N/A  
 Funding Commitment Decision: \$0.00 - Incl. svcs./ or product(s)  
 Funding Commitment Decision Explanation: A substantial number of the Letters of Agency (or other documentation) provided by the consortium leader do not show your authority to purchase the services in this funding request on behalf of the entity (ies) listed in block 4.

Funding Request Number: 861327 Funding Status: Not Funded  
 Services Ordered: Internal Connections  
 SPIN: 143005607 Service Provider Name: IBM Corporation  
 Contract Number: N/A  
 Billing Account Number: N/A  
 Earliest Possible Effective Date of Discount: 07/01/2002  
 Contract Expiration Date: 06/30/2003  
 Annual Pre-discount Amount for Eligible Recurring Charges: \$.00  
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$3,404,426.00  
 Pre-Discount Amount: \$3,404,426.00  
 Discount Percentage Approved by the SLD: N/A  
 Funding Commitment Decision: \$0.00 - Incl. svcs./ or product(s)  
 Funding Commitment Decision Explanation: A substantial number of the Letters of Agency (or other documentation) provided by the consortium leader do not show your authority to purchase the services in this funding request on behalf of the entity (ies) listed in block 4.

Funding Request Number: 61362 Funding Status: Not Funded  
 Services Ordered: Internal Connections  
 SPIN: 143005607 Service Provider Name: IBM Corporation  
 Contract Number: N/A  
 Billing Account Number: N/A  
 Earliest Possible Effective Date of Discount: 07/01/2002  
 Contract Expiration Date: 06/30/2003  
 Annual Pre-discount Amount for Eligible Recurring Charges: \$.00  
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$2,931,308.00  
 Pre-Discount Amount: \$2,931,308.00  
 Discount Percentage Approved by the SLD: N/A  
 Funding Commitment Decision: \$0.00 - Incl. svcs./ or product(s)  
 Funding Commitment Decision Explanation: A substantial number of the Letters of Agency (or other documentation) provided by the consortium leader do not show your authority to purchase the services in this funding request on behalf of the entity (ies) listed in block 4.

Funding Request Number: 862193 Funding Status: Not Funded  
 Services Ordered: Internal Connections  
 SPIN: 143005607 Service Provider Name: IBM Corporation  
 Contract Number: N/A  
 Billing Account Number: N/A  
 Earliest Possible Effective Date of Discount: 07/01/2002  
 Contract Expiration Date: 06/30/2003  
 Annual Pre-discount Amount for Eligible Recurring Charges: \$.00  
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$1,842,892.00  
 Pre-Discount Amount: \$1,842,892.00  
 Discount Percentage Approved by the SLD: N/A  
 Funding Commitment Decision: \$0.00 - Incl. svcs./ or product(s)  
 Funding Commitment Decision Explanation: A substantial number of the Letters of Agency (or other documentation) provided by the consortium leader do not show your authority to purchase the services in this funding request on behalf of the entity (ies) listed in block 4.

**Attachment B**



# BOOTHEEL CONSORTIUM

Response 2a 2000-2001  
Final Submission to SCD

May 15, 2002

Thomas Celentano  
SLD Review

Fax: 973-694-8606

Dear Thomas,

The following is in response to your request of 5/8/02 regarding application **309634**.

## SLD REQUEST:

*This is to confirm our conversation and request for documentation for **Bootheel Consortium** on May 8, 2002. As discussed, please provide documentation for all entities listed in Block-4 on your 471 application: **309634**. This documentation should describe that the entity is 1) a member of the Consortium and 2) authorized participation in the filing of the 471 application(s). The document must contain the following information:*

- *Name of Consortium Leader*
- *Name of Consortium Member*
- *Signature of authorized person at member end*
- *Dates that indicate the agreement is/was/will be in effect either during the application process or the actual funding year.*

## Bootheel Response:

As you requested, we have attached all five Letters of Agency showing the name of the Consortium Leader, name of the Consortium Member, Signature of authorized person at member end, and the year that the agreement will be in effect. The attached 5 Letters of Agency are signed by each district's representative on behalf of all consortium members (20) from that district. The letters are summarized below.

Consortium Leader:		E-Rate Year 2002-2003	
Boot Heel Consortium		District	Authorizing Person at member end
Consortium Member Name			
Bayard Elementary School	Cobre		Dr. Candelario Jauregui
Central Elementary School	Cobre		Dr. Candelario Jauregui
Hurley Elementary School	Cobre		Dr. Candelario Jauregui
Snell Middle School	Cobre		Dr. Candelario Jauregui
Bell Elementary School	Deming		Hector Madrid
Chaparral Elementary School	Deming		Hector Madrid
Columbus Elementary School	Deming		Hector Madrid
Deming High School	Deming		Hector Madrid
Deming Junior High School	Deming		Hector Madrid
Hofacket Mid-High School	Deming		Hector Madrid
Martin Elementary School	Deming		Hector Madrid
Memorial Elementary School	Deming		Hector Madrid
Smith Elementary School	Deming		Hector Madrid
Sunshine Elementary School	Deming		Hector Madrid
Central Elementary School	Lordsburg		Charles Hayes
R V Traylor Elementary School	Lordsburg		Charles Hayes
Southside Elementary School	Lordsburg		Charles Hayes
Glenwood Elementary School	Reserve		Jeff Gorum
Silver High School	Silver		Richard Pool
Sixth Street Elementary School	Silver		Richard Pool

If you have any additional questions please call me.



John bunne

information Technology Director

Bootheel Consortium E-Rate Letter of Agency  
For the Year 2002 - 2003

This is to confirm our school *district's* participation in the Bootheel E-rate Consortium for the procurement of Tech Support, Web and File Server, Voice over IP, Video, Network Electronics, Cabling, Web Access, and e-Mail services. I hereby authorize Bootheel Consortium to submit FCC Form 470, FCC Form 471, and other E-rate forms to the Schools and Library Division on behalf of the undersigned school district.

I understand that in submitting these forms on our behalf, you are making certifications for our school district. By signing this letter of agency, I make the following certifications:

- (a) I certify that the schools in our district are all schools under the statutory definitions of elementary and secondary schools found in the Elementary and Secondary Education Act of 1956, do not operate as for-profit businesses, and do not have endowments exceeding \$50 million.
- (b) I certify that the schools in our district have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the services purchased as well as to pay the discounted charges for eligible services.
- (c) I certify that the schools in our district are all covered, or will be covered at the time funding is granted, by E-rate approved (i.e. State Department of Education approved) technology plans (unless discounts are only being requested for basic local and long distance telephone service).
- (d) I certify that the services that our school district purchases using E-rate discounts (as described in the law 47 U.S.C. Sm. 254) will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.
- (e) I certify that the entities eligible for support that I am representing have complied with all applicable state and local laws regarding procurement of services for which support is being sought.
- (f) I certify that our school district has complied with all E-rate program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments.
- (g) I understand that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of the benefits from those services.
- (h) I certify that I am authorized to sign this letter of agency for my District and, to the best of my knowledge, information, and belief, all information provided to Bootheel Consortium for E-rate submission is true.

I understand that persons willfully make false statements on E-rate forms or through this letter of agency 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.

District: Cabre Schools

Signature: Dr. Candelario Jáuregui

Name: Candelario Jáuregui

Title: Asst. Supt. Curriculum & Instruction

**Bootheel Consortium E-Rate Letter of Agency  
For the Year 2002 - 2003**

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- (b) I certify that the schools in our district have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the services purchased as well as to pay the discounted charges for eligible services.
- (c) I certify that the schools in our district are all covered, or will be covered at the time funding is granted, by E-rate approved (i.e. State Department of Education approved) technology plans (unless discounts are only being requested for basic local and long distance telephone service).
- (d) I certify that the services that our school district purchases using E-rate discounts (as described in the law 47 U.S.C. Sec. 254) will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.
- (e) I certify that the entities eligible for support that I am representing have complied with all applicable state and local laws regarding procurement of services for which support is being sought.
- (f) I certify that our school district has complied with all E-rate program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments.
- (g) I understand that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of the benefits from those services.
- (h) I certify that I am authorized to sign this letter of agency for my District and, to the best of my knowledge, information, and belief, all information provided to Bootheel Consortium for E-rate submission is true.

I understand that persons willfully make false statements on E-rate forms or through this letter of agency 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.

District: DemingSignature: Hector MadridName: Hector MadridTitle: Superintendent

**Boothel Consortium E-Rate Letter of Agency  
For the Year 2002 - 2003**

This is to confirm our school district's participation in the **Boothel E-rate Consortium** for the procurement of **Tech Support, Web and File Server, Voice over IP, Video, Network Electronics, Cabling, Web Access, and e-Mail services**. I hereby authorize Boothel Consortium to **submit FCC Form 470, FCC Form 471, and other E-rate forms** to the **Schools and Library Division** on behalf of ~~the~~ undersigned school district.

I understand that in submitting **these forms** on our behalf, you are making certifications for our school district. By signing this **letter of agency**, I make the following certifications:

- (a) I certify that the schools in our district are all **schools** under the statutory definitions of elementary and secondary schools found in the Elementary and Secondary Education Act of **1956**, do not operate as for-profit businesses, and do not have endowments exceeding **\$50 million**.
- (b) I certify that the schools in our district have secured **access to** all of the **resources**, including **computers, training, software, maintenance, and electrical connections necessary** to make effective use of the services purchased as well as to pay the discounted charges for eligible services.
- (c) I certify that the **schools** in our district are all covered, or will be covered at the time funding is granted, by E-rate approved (i.e. State Department of Education approved) technology plans (unless discounts are only being requested for basic local and long distance telephone service).
- (d) I certify that the services that our school district purchases using E-rate discounts (as described in **the law 47 U.S.C. Sec. 254**) will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.
- (e) I certify that the entities eligible for support that I am representing have complied with all applicable state and local laws regarding procurement of services for which support is being sought.
- (f) I certify that our school district has complied with all E-rate program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments.
- (g) I understand that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of the benefits from those services.
- (h) I certify that I am authorized to sign this letter of agency for my District and, to the best of my knowledge, information, and belief, all information provided to Boothel Consortium for E-rate submission is true.

I understand that persons willfully make false statement(s) on E-rate forms or through this letter of agency 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.

District: Lordsburg Municipal Schools

Signature: 

Name: Charles Hayes

Title: Superintendent

**Bootheel Consortium E-Rate Letter of Agency  
For the Year 2002 - 2003**

This is to **confirm** our school district's participation in the Bootheel E-rates Consortium for the procurement of Tech Support, Web and File Server, Voice over IP, Video, Network Electronics, Cabling, Web Access, and e-Mail services. I hereby authorize Bootheel Consortium to submit PCC Form 470, FCC Form 471, and other E-rate forms to the Schools and Library Division *on behalf of the undersigned school district.*

I understand that in submitting these forms on our behalf, you are making certifications for our school district. By signing this letter of agency, I make the following certifications:

- (a) I certify that the schools in our district are all schools under the statutory definitions of elementary and secondary schools found in the Elementary and Secondary Education Act of 1956, do not operate as for-profit businesses, and do not have endowments exceeding \$50 million.
- (b) I certify that the schools in our district have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the services purchased as well as to pay the discounted charges for eligible services.
- (c) I certify that the schools in our district are all covered, or will be covered at the time funding is granted, by E-rate approved (i.e. State Department of Education approved) technology plans (unless discounts are *only* being requested for basic local and long distance telephone service),
- (d) I certify that the services that our school district purchases using E-rate discounts (as described in the law 47 U.S.C. Sec. 254) will be used *solely* for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.
- (e) I certify that the entities eligible for support that I am representing have complied with all applicable state and local laws regarding procurement of services for which support is being sought.
- (f) I certify that our school district has complied with all E-rate program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments.
- (g) I understand that the discount level used for shared services is conditional, for future years — upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of the benefits from those services.
- (h) I certify that I am authorized to sign this letter of agency for my District and, to the best of my knowledge, information, and belief, all information provided to Bootheel Consortium for E-rate submission is true.

I understand that persons willfully **make** false statements on E-rate forms or through this letter of agency 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.

District: Reserve

Signature: *Jeff Corum*

Name: Jeff Corum

Title: Superintendent

**Bootheel Consortium E-Rate Letter of Agency  
For the Year 2002 - 2003**

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I understand that persons willfully make false statements on E-rate forms or through this letter of agency 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.

District: Silver Consolidated Schools Signature: [Handwritten Signature]  
Name: [Handwritten Name]  
Title: Superintendent