**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

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| In the Matter of | ) | CC Docket No. 02-6 |
| Consolidated Request for Review of Decisions of the Universal Service Administrator Regarding the Denials of | ) | |
| Bienville Parish School District's Funding Requests | ) | FRN Nos. 770120, 770156 |
| and | ) | |
| Madison Parish School District's Funding Requests | ) | FRN Nos. 777243, 777287 |

To: The Commission

## CONSOLIDATED REQUEST FOR REVIEW

Bienville Parish School District ("Bienville") and Madison Parish School District ("Madison") (collectively, the "Schools"), through counsel, and SEND Technologies, LLC ("SEND"), pursuant to Section 54.719(c) of the Commission's rules,[1] submit this Consolidated Request for Review ("Request for Review") seeking reversal of two decisions of the Administrator of the Universal Service Administrative Company ("USAC"), issued on June 18, 2004.[2] Specifically, USAC upheld two decisions of the Schools and Libraries Division ("SLD") that denied the funding requests of Bienville and Madison through the Schools and Libraries Universal

[1] 47 C.F.R. § 54.719(c).

[2] Letters from the Universal Service Administrative Company to Kenneth F. Sills, Counsel to the Schools (May 28, 2004) ("*Administrator's Decisions on Appeal*"), attached hereto as Exhibits A and B.

Service Program ("E-rate Program" or "Program") for Internet access service and internal connections. SEND is the service provider with whom the Schools contracted for Internet access service and internal connections.

Please note that this Request for Review is substantially identical to another request for review that was filed by counsel for DeSoto Parish School Board ("DeSoto") and Tensas Parish School Board ("Tensas") on July 27, 2004 ("DeSoto/ Tensas Request").[3] In that case, USAC and the SLD denied DeSoto's and Tensas' funding requests for the same reasons (described below) that USAC and the SLD denied the Schools' funding requests. Accordingly, the Schools and SEND request that the instant Request for Review be consolidated with the DeSoto/ Tensas Request given that combined consideration of these requests likely would be administratively less burdensome for the Commission.

The funding requests were denied by the SLD, and the denials were upheld by USAC, due to perceived violations of Title 38 of the Louisiana Revised Statutes (state procurement law), as interpreted by the SLD and USAC. Whether the Schools complied with Louisiana's procurement requirements is arguably a matter of state law, within the province of the Louisiana Attorney General ("Louisiana AG"), and not within the province of federal agencies or quasi-federal agencies. Both USAC and FCC staff have acknowledged in conversations with SEND's outside counsel in this matter that the Louisiana AG is the proper arbiter of whether the Schools complied with Louisiana procurement law with respect to their specific E-rate funding requests that are subject to this Request for Review.[4] USAC and FCC staff both agreed that the Schools should seek

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[3] *See* Consolidated Request for Review of Decisions of the Universal Service Administrator, DeSoto Parish School Board, Tensas Parish School Board, CC Docket No. 02-6 (filed Jul 27, 2004) ("DeSoto/ Tensas Request"). The undersigned counsel represents DeSoto, Tensas, Bienville and Madison.

[4] Jennifer Richter of Morrison & Foerster, LLP, counsel to SEND, has discussed the utility of seeking the Louisiana AG's advice, and holding the Schools' appeals in abeyance, with Cynthia

the advice of the Louisiana AG in this matter.[5] Accordingly, the Schools and SEND request that the FCC hold in abeyance its consideration of this Request for Review until the Louisiana AG renders an opinion.

The SLD initially denied the subject funding requests on January 22, 2004 by stating that, in the SLD's view, the Schools had not complied with Sections 2212 and 2212.1 of Title 38 of the Louisiana Revised Statutes when they sought bids for Internet access service and internal connections.[6] On March 22, 2004, the Schools appealed the SLD's denials to USAC through their counsel, who is also counsel to the Louisiana School Board Association and is familiar with Louisiana state procurement laws. The Schools explained in their appeals that Sections 2212 and 2212.1 did not apply to the Internet access service and internal connections that they sought through the E-rate Program. Nevertheless, USAC denied the Schools' appeals and upheld the funding denials, but in doing so raised new charges that were not alleged in the SLD's initial denial of the funding requests (*i.e.,* perceived violation of Sections 2212 or 2212.1). Rather, when USAC denied the Schools' appeals, it admitted that the SLD's interpretation of Sections 2212 and 2212.1 may have been wrong and that such statutes only "may" have required competitive bidding with respect to the Schools' funding requests. Instead, USAC claimed for the first time in the appeal denials that the Schools' E-rate funding requests should have been denied because the Schools may have violated Section 2237 of Title 38 of the Louisiana Revised Statutes.[7] According to the appeal denials, USAC interpreted Louisiana law to mean that any E-rate funding request that fails to meet

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Schultz, Director of Service Provider Support at USAC, and Narda Jones, Acting Division Chief of the Telecommunications Access Policy Division, Wireline Competition Bureau.

[5] *Id.*

[6] LA RS §§ 38:2212 and 38:2212.1.

[7] *Id.* § 38:2237.

the dollar thresholds established for Sections 2212 and 2212.1 is nevertheless "clearly" subject to the bidding requirements of Section 2237.[8] The Schools disagree with this interpretation, but never had an opportunity to respond to the allegation that they had violated Section 2237.

It is counsel's understanding, based upon Louisiana state law and interpretations thereof, that Sections 2212 (public works), 2212.1 (materials and supplies) and 2237 (telephone and data processing equipment) do not apply to the specific Internet access services and internal connections the Schools sought through the E-rate Program.[9] Specifically, Bienville sought funding for Internet access services (FRN 770120). Bienville also requested internal connections and minor product purchases (FRN 770156), which consisted of: (1) materials and labor to install Category 5 (CAT 5 Drop Installations) network wiring for 10 school sites in the parish, the cost of which was $15,000; (2) maintenance services for 2 network routers (Cisco 3640 and Cisco 1600), the cost of which was $950 and $2160, respectively; (3) an uninterruptible power supply (APC UPS 1400) as battery backup for the servers and routers, the cost of which was $6600; and (4) joint school level maintenance for Internet access services including on-site maintenance and technical support for 11 school sites, the cost of which was $64,400.

Neither Section 2212 nor Section 2212.1 applies to Internet access or maintenance services because these statutes apply to public works or the purchase of materials or supplies. Internet access and maintenance services are service contracts and do not fall under either category. The CAT 5 Drop Installations may be categorized as public works because they are improvements to a public building.[10] If this is the case, since the cost did not exceed $15,000, no competitive bidding

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[8] *See* Further Explanation of the Administrator's Decision on Appeal at pp.5-6, attached to *Administrator's Decisions on Appeal.*

[9] *See* DeSoto/Tensas Request at 4.

[10] LA RS §§ 38:2211(11).

was required under Section 2212, but the Schools are seeking the Louisiana AG's opinion on this matter. (The threshold that triggers some form of bidding under Section 2212 for public works is $100,000.) The power supply also was not required to be bid in accordance with Section 2212.1, because the cost of the internal connections did not exceed $6600. (The threshold that triggers some form of bidding under Section 2212.1 was $7,500 at the time the funding requests were filed.) Finally, the Internet access service and the internal connections are not subject to the requirements of Section 2237 of the Louisiana Revised Statutes which relates to "telecommunications" or "data processing" systems, equipment or services. Internet access service and internal connections to provide Internet access service are not "telecommunications" or "data processing" services.

Similarly, Madison sought funding for Internet access services (FRN 777243). Madison also sought funding for internal connections including maintenance services (FRN 777287). Specifically, Madison requested: (1) the purchase and installation of 5 port and 8 port generic mini hubs/switches, the cost of which was $2750 or $4250, respectively; and (2) maintenance services and technical support for Internet access, the cost of which was $62,500. Both the Internet access and maintenance services are service contracts and, as discussed above, there are no state requirements to bid for such contracts under the Louisiana laws cited by the SLD and USAC. Furthermore, given the value of the mini hubs/switches sought by Madison, the minimum statutory threshold requirements triggering some form of bidding did not apply.

Again, whether the Schools complied with Louisiana state procurement requirements with respect to their E-rate funding requests is a matter of state law to be decided by the Louisiana AG. The Schools and SEND therefore request that the FCC refrain from processing this Request for Review until it receives the Louisiana AG's decision in this matter.

Irrespective of the Louisiana AG's opinion, USAC's decisions also raise serious notice and due process concerns. First, as discussed above, the Schools' appeals were denied on a different

basis than the initial denial of their funding requests. Neither the Schools nor SEND had an opportunity to address the potential, alleged violation of Section 2237. Violation of this statute was raised for the first time in USAC's denials of the Schools' appeals, thus depriving the Schools and SEND of due process in this matter.

Similarly, the SLD's initial denials did not challenge the validity of the Schools' funding requests on the basis of failing to meet the Commission's competitive bidding requirements. Rather, the initial denials were based solely on perceived violations of Louisiana procurement law as discussed above. The Schools' appeals addressed the specific state laws the SLD alleged were violated. The Schools' appeals to USAC understandably did not address (nor were they required to do so under Program or Commission rules) whether they complied with the Commission's competitive bidding requirements because there was no known issue. Yet USAC, in denying the Schools' appeals, stated "[y]our appeal did not indicate that the FCC's competitive bidding requirements were met and is therefore denied."[11] Again, USAC raised new charges against the Schools without providing them with an opportunity to respond to USAC's allegations. Furthermore, USAC's denials are devoid of any explanation as to how the Schools might have violated the Commission's competitive bidding rules.

Contrary to USAC's claims, the Schools fully complied with Program and Commission competitive bidding requirements. Specifically, the Schools submitted Form 470 applications to the SLD and sought competitive bids for eligible products and services listed in the applications. The Form 470's were posted to the SLD's website for a minimum of 28 days for the purpose of seeking competitive bids. After the 28-day period, the Schools entered into contracts with eligible service providers who responded to the Form 470 applications with competitive bids.

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[11] See *Administrator's Decisions on Appeal* at p.2.

In view of the foregoing, the Schools and SEND request that the FCC hold in abeyance the processing of this Request for Review pending receipt of the Louisiana AG's decision. The record in this case will be supplemented regarding the Title 38 and due process issues noted above once the Louisiana AG has rendered an opinion in this case.

Respectfully submitted,

/s/ Mark Stevenson
SEND Technologies, LLC
2904 Evangeline Street
Monroe, LA 71201
(318) 651-8282

/s/ Kenneth F. Sills
Kenneth F. Sills
Hammonds & Sills
Quad One, Suite C
1111 South Foster Drive
Baton Rouge, LA 70806
(225) 923-3462

Counsel to the Bienville and Madison Parish School Districts

August 17, 2004

## CERTIFICATE OF SERVICE

I, Kenneth F. Sills, certify on this 17th day of August, 2004, a copy of the foregoing Request for Review has been served via electronic mail (*) or first class mail, postage pre-paid, to the following:

Narda Jones*
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554
Narda.Jones@fcc.gov

Universal Service Administrative Company
Letter of Appeal
Post Office Box 125 – Correspondence Unit
80 S. Jefferson Road
Whippany, NJ 07981

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Counsel to Send Technologies, LLC

/s/ Kenneth F. Sills

# Exhibit A

## Administrator's Decision on Appeal

## Bienville Parish School District

**Universal Service Administrative Company**
Schools & Libraries Division

**Administrator's Decision on Appeal - Funding Year 2002-2003**

June 18, 2004

Kenneth F. Sills
Hammonds and Sills
P.O. Box 65236
Baton Rouge, LA 70896

Re: Bienville Parish School District

| | | |
|---|---|---|
| Re: | Billed Entity Number: | 139293 |
| | 471 Application Number: | 288199 |
| | Funding Request Number(s): | 770120, 770156 |
| | Your Correspondence Dated: | March 22, 2004 |

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Funding Year 2002 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 770120, 770156
Decision on Appeal: **Denied in full**
Explanation:

- You have stated in your letter that this appeal will provide clarifying information that corrects an assumption the SLD made during the initial review process because there was insufficient documentation at that time. The exhibits that you profess to provide clarifying information are statements by the Attorney General for Louisiana that discuss various Louisiana Revised Statutes as they apply, or do not apply, to various entities other than Bienville Parish School Board (Bienville). Your opinion is that the statute does not apply in this case because the Bienville Parish School Board is a political subdivision of the State of Louisiana and the statute only applies to those professional services to be performed by an architect, engineer, or landscape architect. In sum, you declare that the Louisiana Procurement laws do not apply to Bienville regarding requirements to advertise for bids for Internet access and Internal Connections or to allow a political subdivision to purchase through a local vendor items at the state bid price. Specifically, you explain that the

school board as a political subdivision is not required by Louisiana State law to use the competitive bidding process for contracting with SEND Technologies, LLC. Essentially, you make the assertion that Bienville is exempt from state procurement law. You request that the SLD nullify the issued Funding Commitment Decision Letter of January 22, 2004.

- After a thorough review of the appeal, it was determined that during the course of an Item 25 review, and through your own admission, Bienville did not comply with the Louisiana Revised Statutes pertaining to public contracts, specifically for the procurement of Internet access and Internal Connections. The vendor, SEND Technologies, referred to its entire Internet access and Internal Connections contracts as professional service contracts. You note that Internet access and Internal Connections are not considered professional services under Louisiana law. Review of the applicable provisions of Louisiana law do not support your contention that Louisiana law does not require competitive bids for equipment, supplies, and services related to the provision of Internet access and Internal Connections. Consequently, the appeal is denied. For a discussion of the applicable provisions of Louisiana law upon which the decision is based, please see the attached document titled "Further Explanation of the Administrator's Decision on Appeal."

- The FCC's rules for the Schools and Libraries Universal Service Support Mechanism undisputedly require competitive bidding. The FCC's rules state, "[A] n eligible school, library, or consortium that includes an eligible school or library shall seek competitive bids, pursuant to the requirements established in this subpart, for all services eligible for support under Sec. 54.502 and 54.503. These competitive bid requirements apply **in addition to state and local competitive bid requirements and are not intended to preempt such state or local requirements"** (47 C.F.R § 54.504(a), emphasis added). Your appeal did not indicate that the FCC's competitive bidding requirements were met and is therefore denied.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options. We thank you for your continued support, patience, and cooperation during the appeal process.

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

Schools and Libraries Division
Universal Service Administrative Company

Cc: Mark Stevenson
SEND Technologies, LLC
2904 Evangeline Street
Monroe, LA 71201

Danny Gour
Bienville Parish School District
1956 First Street
Arcadia, LA 71001

**Further Explanation of the Administrator's Decision on Appeal**

May 10, 2004

Appeal Decision
Bienville Parish School District
Form 471 Application Number: 288199
Funding Year 2002

FRNs: 770120, 770156

## I. Background

SEND Technology, LLC (SEND) is the service provider for certain Funding Year 2002 funding requests for Internet access and Internal Connections for applicants located in Louisiana. All applicants associated with SEND in Funding Year 2002 underwent Item 25/competitive bidding reviews. In response to SLD's questions regarding the competitive bidding process, all but one applicant associated with SEND responded that Louisiana law does not require competitive bidding for the provided equipment and services.

## II. Summary of Decision on Appeal

Notwithstanding SLD program rules which undisputedly require competitive bidding, review of the applicable provisions of Louisiana law do not support the applicants' contentions that Louisiana law does not require competitive bids for equipment, supplies, and services related to the provision of Internet access and Internal Connections.

## III. Applicable Law

### A. Schools and Libraries Universal Service Support Mechanism Competitive Bidding Requirements

In preparing request(s) for funding, applicants seeking discounted services through the Schools and Libraries Universal Service Support Mechanism must follow certain competitive bidding requirements. *See* 47 C.F.R. § 54.504. Section 54.504(a) provides in relevant part (emphasis added):

> [A] n eligible school, library, or consortium that includes an eligible school or library shall seek competitive bids, pursuant to the requirements established in this subpart, for all services eligible for support under Sec. Sec. 54.502 and

54.503. These competitive bid requirements apply *in addition to state and local competitive bid requirements* and are not intended to preempt such state or local requirements.

An applicant initiates the competitive bidding process when an applicant submits an FCC Form 470 to USAC for posting on the SLD portion of the USAC website. *See* 47 C.F.R. § 54.504(b); *Schools and Libraries Universal Service, Description of Services Requested and Certification Form 470,* OMB 3060-0806 (April 2002) (FCC Form 470*)*. This posting enables prospective service providers to bid on the equipment and services for which the applicant will request universal service support. After the Form 470 has been posted, the applicant must wait at least 28 days before entering into agreements with service providers, must comply with all applicable state and local procurement laws, and must comply with the other competitive bidding requirements established by the Federal Communications Commission (FCC). *See* 47 C.F.R. §§ 54.504, 54.511; *In re Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, Report and Order, FCC 97-157, ¶ 575 (rel. May 8, 1997) (*Universal Service Order*).

FCC rules require applicants to "submit a complete description of the services they seek so that it may be posted for competing service providers to evaluate." *Universal Service Order,* ¶ 570. The FCC requires "the application to describe the services that the schools and libraries seek to purchase in sufficient detail to enable potential providers to formulate bids." *Id.* ¶ 575. A description of the Internet access and Internal Connections services being sought must be provided in Items 9 and 10 of the FCC Form 470. The instructions for FCC Form 470 state that these items "must be completed to provide potential bidders with particular information about the services you are seeking." *See FCC Form 470 Instructions,* April 2002 at 10.[1] The instructions for Item 9(b) state that this box should be checked if the applicant does not have an RFP, and that, if this box is checked, the applicant "must fill in details in the space provided about the specific Internet access services or functions and quantity and/or capacity of service" that is being sought. *Id.* at 12. The Form 470 instructions for Item 10(b) state that this box should be checked if the applicant does not have an RFP, and that, if this box is checked, the applicant "*must* fill in details in the space provided about the specific internal connections services or functions and quantity and/or capacity of service." *Id.* (emphasis added).

FCC regulations further require that the entity selecting a service provider "carefully consider all bids submitted and may consider relevant factors other than the pre-discount prices submitted by providers." 47 C.F.R. § 54.511(a). In regard to these competitive bidding requirements, the FCC nevertheless mandates that "price should be the primary factor in selecting a bid." *Universal Service Order,* ¶ 481. When permitted pursuant to state and local procurement rules, other relevant factors an applicant may consider include "prior experience, including past performance; personnel qualifications, including technical excellence; management capability, including schedule compliance; and environmental objectives." *Id.*

[1] The FCC Form 470 and Instructions were revised in April 2002. The language cited here was not changed when the instructions were revised.

### B. Louisiana State Law

Louisiana Revised Statutes (LARS) Title 38 – Public Contracts, Works and Improvements (2004) sets out, among other things, the competitive bidding requirements for public contracts awarded by public entities, and covers contracts for "materials and supplies," "public works," and "telecommunications equipment and services." Section 38:2211(11) defines "public entity" to include a public school board.

#### 1. Materials and Supplies

Section 38:2212.1 provides that all purchases of materials or supplies in excess of $20,000 must be advertised and awarded to the "lowest responsible bidder"; for purchases of between $10,000 and $19,999, the purchaser must obtain at least three telephone or facsimile quotations, must provide written confirmation of the accepted offer, and must record the reasons for rejecting any quotes lower than the accepted quote. *See id.* This provision has been interpreted as applying to, for example, the purchase of vending machines on parish property. *LA Attorney General Opinion* No. 00-322 (2000).[2] Although the Louisiana Supreme Court has held that a contract for telecommunications services was not for materials and thus not subject to the bidding requirements of Section 38:2212.1, the contract at issue involved leasing rather than purchasing telecommunications equipment from a regulated public utility. *See Stevens v. LaFourche Parish Hospital*, 323 So.2d 794, 796 (1975).

#### 2. Public Works

Section 2211(12) defines "public work" as "the erection, construction, alteration, improvement, or repair of any public facility or immovable property owned, used, or leased by a public entity." Public works contracts over $100,000 must be advertised and awarded in accordance with requirements set forth in Section 2212A.[3] The *Stevens* decision, however, raises some question whether a contract to provide telecommunications equipment and services would necessarily be considered a "public work." For example, the Louisiana Attorney General (AG) has opined, based upon the *Stevens* case, that "public work" "does not include telecommunications services that may be provided in a building or in connection with its use." *LA Attorney General Opinion No. 84-729* (1984) citing *Stevens*, 323 So.2d at 796 (1975). On the other hand, as noted, the holding in *Stevens* dates from a time when telecommunications equipment and services were almost exclusively provided by regulated public utilities and where the

[2]Although the Attorney General (AG) explained that there were no competitive bidding requirements for contracts below the lower statutory threshold (at that time $7500), the AG, in this opinion, nonetheless recommended obtaining at least three quotations.

[3] 2212A(1)(a) provides:

> All public work exceeding the contract limit as defined in this Section, including labor and materials, to be done by a public entity shall be advertised and let by contract to the lowest responsible bidder who had bid according to the contract, plans, and specifications as advertised, and no such public work shall be done except as provided in this Part.

Court in that case considered the contract at issue as being exclusively for services. *See Stevens,* 323 So.2d at 796-97. Thus, *Stevens* arguably would not apply today to large contracts that involve the purchase and installation of telecommunications equipment that also involve the ongoing provision of related services.

### 3. Services

Contracts for services, including "Professional Services," do not require the public bidding otherwise required by Section 2212. *See Browning-Ferris Inc. v. City of Monroe,* 465 So.2d 882, 884 (La.App. 2d Cir. 1985); *see also LA Attorney General Opinion No. 02-0418* (2002). Moreover, and as noted above, the Louisiana Supreme Court has expressly held that a contract for "telephone services" awarded to a public utility did not require competitive bidding. *See Stevens,* 323 So.2d at 796.

Nevertheless, where a public entity purchases equipment and subsequently contracts for services associated with the use of that equipment, the Louisiana AG has opined that the public bid requirement applies to the provision of the related services:

> [A] bid as to a maintenance contract (if one is reasonably foreseen as needed) should be sought at the same time [as the purchase of the equipment to be maintained]; otherwise the public policy behind the public bid could be intentionally or inadvertently flaunted by separately and non-competitively entering into a substantial second contract.

*See LA Attorney General Opinion No. 81-465* (1981).

### 4. Telecommunications Equipment and Related Services

Louisiana law explicitly addresses the advertisement and award of contracts for telecommunications and data processing equipment and related services. *See* LARS §§ 38:2236 (defining telecommunication equipment), 38:2237.[4] Section 38:2237 provides:

> A political subdivision may lease, rent, or purchase telecommunications or data processing systems, including equipment, and related services, through a request for proposals [(RFP)] which shall conform to following requirements . . .
> * * * *
> Political subdivisions may, at their option, procure telecommunications and data processing equipment, systems, or related services in accordance with the provisions of any other applicable law which governs such acquisitions or purchases by political subdivisions of the state, including but not limited to [LARS] 38:2211 et seq., with respect to awarding of public contracts. However, in the event an invitation for bids is used in lieu of a [RFP], written notice of that fact shall be given to all bidders and such notice shall also state that the [RFP] procedure will not be applicable.

[4] Added in 1988, this law further calls into question whether the holding in *Stevens* is good law.

Notably, although Section 38:2237 does not require public entities to procure telecommunications equipment and services pursuant to an RFP, they can do so only "in accordance with the provisions of any other applicable law which governs such acquisitions or purchases." Because it would be absurd to construe the phrase "other applicable law governing such acquisitions and purchases" as meaning no applicable law whatsoever, it is clear that Section 38:2237 contemplates either an RFP or a bid process.

### C. Local Law

Local law for each applicant was not reviewed as part of this analysis. There may be local requirements that apply in addition to the state requirements discussed here.

## IV. Discussion

Contracts for Internet access and/or Internal Connections may fall within the definition of "public work" to the extent that these contracts include "the erection, construction, alteration, improvement, or repair of any public facility or immovable property owned, used, or leased by a public entity." Nevertheless, such contracts clearly fall within the RFP requirements for the purchase of "telecommunications or data processing systems, including equipment, and related services" set forth in Section 38:2237. Insofar as such contracts are also contracts for "materials or supplies," Section 38:2237 alternatively provides for the application of the competitive bidding requirements set forth in Section 38:2212.1.

Section 38:2212.1 provides, among other things, that all purchases of materials or supplies in excess of $20,000 must be advertised and awarded to the "lowest responsible bidder" and that purchases of between $10,000 and $19,999 must be made by obtaining at least three telephone or facsimile quotations. Nevertheless, because Section 38:2237 contemplates that either RFP or competitive bidding shall apply, in the event a contract fails to meet the $10,000 threshold for materials and supplies set forth in Section 38:2212.1, the RFP requirement of Section 38:2237 applies.[5]

Finally, insofar as a contract for Internet access includes the provision of services associated with the purchase of related equipment, Louisiana law provides that such services be included or treated as part of the same contract. *See LA Attorney General Opinion No. 81-465* (1981). However, even where a contract is truly and solely for services without the provision of related equipment, because Section 38:2237 explicitly applies to the provision of "telecommunications . . . systems . . . and related services", the RFP requirement of Section 38:2237 applies.

[5] Where multiple contracts for one applicant each fall under a Section 38:2212.1 dollar threshold, but where the sum of the contracts exceeds the threshold, if necessary, SLD will make a determination regarding whether the contracts should be construed as a single contract.

## V. Conclusion

Louisiana state law requires either an RFP or other competitive bidding process in the procurement of telecommunications and data processing equipment, systems, or related services. Although other competitive bidding procedures may be used as an alternative to an RFP, the decision not to use an RFP process must be provided in writing to potential bidders. For contracts solely for services, but where those services are provided in connection with related non-leased equipment, an RFP or other competitive bidding procedure is clearly required for both the services and equipment together. For contracts solely for services, an RFP is required pursuant to Louisiana law expressly governing the purchase of telecommunications services.

Accordingly, statements by applicants associated with SEND that Louisiana law does not require competitive bidding for the contracts at issue is not supported by Louisiana law.

**Universal Service Administrative Company**
**Schools and Libraries Division**

# FUNDING COMMITMENT REPORT

Service Provider Name: Send Technologies, L.L.C.
Service Provider Identification Number: 143010002

Funding Request Number: 770120
Form 471 Application Number: 288199
Form 470 Application Number: 670250000368276
Name of 471 Applicant: BIENVILLE PARISH SCHOOL DIST
Applicant Street Address: 1956 First Street
Applicant City: ARCADIA
Applicant State: LA
Applicant Zip: 71001
Entity Number: 139293
Name of Contact Person: Danny Gour
Preferred Mode of Contact: FAX
Contact Information: (318) 263-3100
Funding Year: 2002 (07/01/2002 - 06/30/2003)
Funding Status: Not Funded
Contract Number: SEND2002-1
Services Ordered: Internet Access
Billing Account Number: (318)263-9416
Allowable Vendor Selection/Contract Date: 12/11/2001
Contract Award Date: 01/08/2002
Earliest Possible Effective Date of Discount: 07/01/2002
Contract Expiration Date: 06/30/2005
Monthly Recurring Charges: $7870.00
Portion of Monthly Recurring Charges that is Ineligible: $0.00
Eligible Monthly Pre-Discount Amount for Recurring Charges: $7870.00
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: $94440.00
Annual Non-Recurring Charges: $0.00
Portion of Annual Non-Recurring Charges that is Ineligible: $0.00
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: $0.00
Total Program Year Pre-Discount Amount: $94440.00
Applicant's Approved Discount Percentage: N/A
Funding Commitment Decision: $0.00 - Bidding Violation
Funding Commitment Decision Explanation: Applicant did not comply with state procurement law. Definition of professional services does not include IA or IC. LA RS 38:2310(7). Competitive bidding required for purchases over $7500, LA RS 38:2212.1, and for public works contracts over $100,000. LA RS 38:2212.
Technology Plan Approval Status: Approved
Wave Number: 30g
Applicant Letter Date: 01/22/2004

# FUNDING COMMITMENT REPORT

Service Provider Name: Send Technologies, L.L.C.
Service Provider Identification Number: 143010002

Funding Request Number: 770156
Form 471 Application Number: 288199
Form 470 Application Number: 670250000368276
Name of 471 Applicant: BIENVILLE PARISH SCHOOL DIST
Applicant Street Address: 1956 First Street
Applicant City: ARCADIA
Applicant State: LA
Applicant Zip: 71001
Entity Number: 139293
Name of Contact Person: Danny Gour
Preferred Mode of Contact: FAX
Contact Information: (318) 263-3100
Funding Year: 2002 (07/01/2002 - 06/30/2003)
Funding Status: Not Funded
Contract Number: SEND2002-2
Services Ordered: Internal Connections
Billing Account Number: (318)26309416
Allowable Vendor Selection/Contract Date: 12/11/2001
Contract Award Date: 01/08/2002
Earliest Possible Effective Date of Discount: 07/01/2002
Contract Expiration Date: 06/30/2003
Monthly Recurring Charges: $0.00
Portion of Monthly Recurring Charges that is Ineligible: $0.00
Eligible Monthly Pre-Discount Amount for Recurring Charges: $0.00
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: $0.00
Annual Non-Recurring Charges: $87110.00
Portion of Annual Non-Recurring Charges that is Ineligible: $0.00
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: $87110.00
Total Program Year Pre-Discount Amount: $87110.00
Applicant's Approved Discount Percentage: N/A
Funding Commitment Decision: $0.00 - Bidding Violation
Funding Commitment Decision Explanation: Applicant did not comply with state procurement law. Definition of professional services does not include IA or IC. LA RS 38:2310(7). Competitive bidding required for purchases over $7500, LA RS 38:2212.1, and for public works contracts over $100,000. LA RS 38:2212.
Technology Plan Approval Status: Approved
Wave Number: 30g
Applicant Letter Date: 01/22/2004

**Exhibit B**

**Administrator's Decision on Appeal**

**Madison Parish School District**

**Administrator's Decision on Appeal - Funding Year 2002-2003**

June 18, 2004

Kenneth F. Sills
Hammonds and Sills
P.O. Box 65236
Baton Rouge, LA 70896

Re: Madison Parish School District

| | | |
|---|---|---|
| Re: | Billed Entity Number: | 139326 |
| | 471 Application Number: | 287193 |
| | Funding Request Number(s): | 777243, 777287 |
| | Your Correspondence Dated: | March 22, 2004 |

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Funding Year 2002 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 777243, 777287
Decision on Appeal: **Denied in full**
Explanation:

- You have stated in your letter that this appeal will provide clarifying information that corrects an assumption the SLD made during the initial review process because there was insufficient documentation at that time. The exhibits that you profess to provide clarifying information are statements by the Attorney General for Louisiana that discuss various Louisiana Revised Statutes as they apply, or do not apply, to various entities other than Madison Parish School Board (Madison). Your opinion is that the statute does not apply in this case because the Madison Parish School Board is a political subdivision of the State of Louisiana and the statute only applies to those professional services to be performed by an architect, engineer, or landscape architect. In sum, you declare that the Louisiana Procurement laws do not apply to Madison regarding requirements to advertise for bids for Internet access and Internal Connections or to allow a political subdivision to purchase through a local vendor items at the state bid price. Specifically, you explain that the

school board as a political subdivision is not required by Louisiana State law to use the competitive bidding process for contracting with SEND Technologies, LLC. Essentially, you make the assertion that Madison is exempt from state procurement law. You request that the SLD nullify the issued Funding Commitment Decision Letter of January 22, 2004.

- After a thorough review of the appeal, it was determined that during the course of an Item 25 review, and through your own admission, Madison did not comply with the Louisiana Revised Statutes pertaining to public contracts, specifically for the procurement of Internet access and Internal Connections. The vendor, SEND Technologies, referred to its entire Internet access and Internal Connections contracts as professional service contracts. You note that Internet access and Internal Connections are not considered professional services under Louisiana law. Review of the applicable provisions of Louisiana law do not support your contention that Louisiana law does not require competitive bids for equipment, supplies, and services related to the provision of Internet access and Internal Connections. Consequently, the appeal is denied. For a discussion of the applicable provisions of Louisiana law upon which the decision is based, please see the attached document titled "Further Explanation of the Administrator's Decision on Appeal."

- The FCC's rules for the Schools and Libraries Universal Service Support Mechanism undisputedly require competitive bidding. The FCC's rules state, "[A] n eligible school, library, or consortium that includes an eligible school or library shall seek competitive bids, pursuant to the requirements established in this subpart, for all services eligible for support under Sec. 54.502 and 54.503. These competitive bid requirements apply **in addition to state and local competitive bid requirements and are not intended to preempt such state or local requirements"** (47 C.F.R § 54.504(a), emphasis added). Your appeal did not indicate that the FCC's competitive bidding requirements were met and is therefore denied.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options. We thank you for your continued support, patience, and cooperation during the appeal process.

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

Schools and Libraries Division
Universal Service Administrative Company

Cc: Mark Stevenson
SEND Technologies, LLC
2904 Evangeline Street
Monroe, LA 71201

Ann Semien
Madison Parish School District
301 South Chestnut Street
Tallulah, LA 71282

**Further Explanation of the Administrator's Decision on Appeal**

May 10, 2004

Appeal Decision
Madison Parish School District
Form 471 Application Number: 287193
Funding Year 2002

FRNs: 777243, 777287

## I. Background

SEND Technologies, LLC (SEND) is the service provider for certain Funding Year 2002 funding requests for Internet access and Internal Connections for applicants located in Louisiana. All applicants associated with SEND in Funding Year 2002 underwent Item 25/competitive bidding reviews. In response to SLD's questions regarding the competitive bidding process, all but one applicant associated with SEND responded that Louisiana law does not require competitive bidding for the provided equipment and services.

## II. Summary of Decision on Appeal

Notwithstanding SLD program rules which undisputedly require competitive bidding, review of the applicable provisions of Louisiana law do not support the applicants' contentions that Louisiana law does not require competitive bids for equipment, supplies, and services related to the provision of Internet access and Internal Connections.

## III. Applicable Law

### A. Schools and Libraries Universal Service Support Mechanism Competitive Bidding Requirements

In preparing request(s) for funding, applicants seeking discounted services through the Schools and Libraries Universal Service Support Mechanism must follow certain competitive bidding requirements. *See* 47 C.F.R. § 54.504. Section 54.504(a) provides in relevant part (emphasis added):

> [A] n eligible school, library, or consortium that includes an eligible school or library shall seek competitive bids, pursuant to the requirements established in this subpart, for all services eligible for support under Sec. Sec. 54.502 and

54.503. These competitive bid requirements apply *in addition to state and local competitive bid requirements* and are not intended to preempt such state or local requirements.

An applicant initiates the competitive bidding process when an applicant submits an FCC Form 470 to USAC for posting on the SLD portion of the USAC website. *See* 47 C.F.R. § 54.504(b); *Schools and Libraries Universal Service, Description of Services Requested and Certification Form 470*, OMB 3060-0806 (April 2002) (FCC Form 470). This posting enables prospective service providers to bid on the equipment and services for which the applicant will request universal service support. After the Form 470 has been posted, the applicant must wait at least 28 days before entering into agreements with service providers, must comply with all applicable state and local procurement laws, and must comply with the other competitive bidding requirements established by the Federal Communications Commission (FCC). *See* 47 C.F.R. §§ 54.504, 54.511; *In re Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 97-157, ¶ 575 (rel. May 8, 1997) (*Universal Service Order*).

FCC rules require applicants to "submit a complete description of the services they seek so that it may be posted for competing service providers to evaluate." *Universal Service Order*, ¶ 570. The FCC requires "the application to describe the services that the schools and libraries seek to purchase in sufficient detail to enable potential providers to formulate bids." *Id.* ¶ 575. A description of the Internet access and Internal Connections services being sought must be provided in Items 9 and 10 of the FCC Form 470. The instructions for FCC Form 470 state that these items "must be completed to provide potential bidders with particular information about the services you are seeking." *See FCC Form 470 Instructions*, April 2002 at 10.[1] The instructions for Item 9(b) state that this box should be checked if the applicant does not have an RFP, and that, if this box is checked, the applicant "must fill in details in the space provided about the specific Internet access services or functions and quantity and/or capacity of service" that is being sought. *Id.* at 12. The Form 470 instructions for Item 10(b) state that this box should be checked if the applicant does not have an RFP, and that, if this box is checked, the applicant "*must* fill in details in the space provided about the specific internal connections services or functions and quantity and/or capacity of service." *Id.* (emphasis added).

FCC regulations further require that the entity selecting a service provider "carefully consider all bids submitted and may consider relevant factors other than the pre-discount prices submitted by providers." 47 C.F.R. § 54.511(a). In regard to these competitive bidding requirements, the FCC nevertheless mandates that "price should be the primary factor in selecting a bid." *Universal Service Order*, ¶ 481. When permitted pursuant to state and local procurement rules, other relevant factors an applicant may consider include "prior experience, including past performance; personnel qualifications, including technical excellence; management capability, including schedule compliance; and environmental objectives." *Id.*

[1] The FCC Form 470 and Instructions were revised in April 2002. The language cited here was not changed when the instructions were revised.

### B. Louisiana State Law

Louisiana Revised Statutes (LARS) Title 38 – Public Contracts, Works and Improvements (2004) sets out, among other things, the competitive bidding requirements for public contracts awarded by public entities, and covers contracts for "materials and supplies," "public works," and "telecommunications equipment and services." Section 38:2211(11) defines "public entity" to include a public school board.

#### 1. Materials and Supplies

Section 38:2212.1 provides that all purchases of materials or supplies in excess of $20,000 must be advertised and awarded to the "lowest responsible bidder"; for purchases of between $10,000 and $19,999, the purchaser must obtain at least three telephone or facsimile quotations, must provide written confirmation of the accepted offer, and must record the reasons for rejecting any quotes lower than the accepted quote. *See id.* This provision has been interpreted as applying to, for example, the purchase of vending machines on parish property. *LA Attorney General Opinion* No. 00-322 (2000).[2] Although the Louisiana Supreme Court has held that a contract for telecommunications services was not for materials and thus not subject to the bidding requirements of Section 38:2212.1, the contract at issue involved leasing rather than purchasing telecommunications equipment from a regulated public utility. *See Stevens v. LaFourche Parish Hospital*, 323 So.2d 794, 796 (1975).

#### 2. Public Works

Section 2211(12) defines "public work" as "the erection, construction, alteration, improvement, or repair of any public facility or immovable property owned, used, or leased by a public entity." Public works contracts over $100,000 must be advertised and awarded in accordance with requirements set forth in Section 2212A.[3] The *Stevens* decision, however, raises some question whether a contract to provide telecommunications equipment and services would necessarily be considered a "public work." For example, the Louisiana Attorney General (AG) has opined, based upon the *Stevens* case, that "public work" "does not include telecommunications services that may be provided in a building or in connection with its use." *LA Attorney General Opinion No. 84-729* (1984) citing *Stevens*, 323 So.2d at 796 (1975). On the other hand, as noted, the holding in *Stevens* dates from a time when telecommunications equipment and services were almost exclusively provided by regulated public utilities and where the

[2]Although the Attorney General (AG) explained that there were no competitive bidding requirements for contracts below the lower statutory threshold (at that time $7500), the AG, in this opinion, nonetheless recommended obtaining at least three quotations.

[3] 2212A(1)(a) provides:

> All public work exceeding the contract limit as defined in this Section, including labor and materials, to be done by a public entity shall be advertised and let by contract to the lowest responsible bidder who had bid according to the contract, plans, and specifications as advertised, and no such public work shall be done except as provided in this Part.

Court in that case considered the contract at issue as being exclusively for services. *See Stevens*, 323 So.2d at 796-97. Thus, *Stevens* arguably would not apply today to large contracts that involve the purchase and installation of telecommunications equipment that also involve the ongoing provision of related services.

### 3. Services

Contracts for services, including "Professional Services," do not require the public bidding otherwise required by Section 2212. *See Browning-Ferris Inc. v. City of Monroe*, 465 So.2d 882, 884 (La.App. 2d Cir. 1985); *see also LA Attorney General Opinion No. 02-0418* (2002). Moreover, and as noted above, the Louisiana Supreme Court has expressly held that a contract for "telephone services" awarded to a public utility did not require competitive bidding. *See Stevens*, 323 So.2d at 796.

Nevertheless, where a public entity purchases equipment and subsequently contracts for services associated with the use of that equipment, the Louisiana AG has opined that the public bid requirement applies to the provision of the related services:

> [A] bid as to a maintenance contract (if one is reasonably foreseen as needed) should be sought at the same time [as the purchase of the equipment to be maintained]; otherwise the public policy behind the public bid could be intentionally or inadvertently flaunted by separately and non-competitively entering into a substantial second contract.

*See LA Attorney General Opinion No. 81-465* (1981).

### 4. Telecommunications Equipment and Related Services

Louisiana law explicitly addresses the advertisement and award of contracts for telecommunications and data processing equipment and related services. *See* LARS §§ 38:2236 (defining telecommunication equipment), 38:2237.[4] Section 38:2237 provides:

> A political subdivision may lease, rent, or purchase telecommunications or data processing systems, including equipment, and related services, through a request for proposals [(RFP)] which shall conform to following requirements . . .
> * * * *
> Political subdivisions may, at their option, procure telecommunications and data processing equipment, systems, or related services in accordance with the provisions of any other applicable law which governs such acquisitions or purchases by political subdivisions of the state, including but not limited to [LARS] 38:2211 et seq., with respect to awarding of public contracts. However, in the event an invitation for bids is used in lieu of a [RFP], written notice of that fact shall be given to all bidders and such notice shall also state that the [RFP] procedure will not be applicable.

[4] Added in 1988, this law further calls into question whether the holding in *Stevens* is good law.

Notably, although Section 38:2237 does not require public entities to procure telecommunications equipment and services pursuant to an RFP, they can do so only "in accordance with the provisions of any other applicable law which governs such acquisitions or purchases." Because it would be absurd to construe the phrase "other applicable law governing such acquisitions and purchases" as meaning no applicable law whatsoever, it is clear that Section 38:2237 contemplates either an RFP or a bid process.

### C. Local Law

Local law for each applicant was not reviewed as part of this analysis. There may be local requirements that apply in addition to the state requirements discussed here.

## IV. Discussion

Contracts for Internet access and/or Internal Connections may fall within the definition of "public work" to the extent that these contracts include "the erection, construction, alteration, improvement, or repair of any public facility or immovable property owned, used, or leased by a public entity." Nevertheless, such contracts clearly fall within the RFP requirements for the purchase of "telecommunications or data processing systems, including equipment, and related services" set forth in Section 38:2237. Insofar as such contracts are also contracts for "materials or supplies," Section 38:2237 alternatively provides for the application of the competitive bidding requirements set forth in Section 38:2212.1.

Section 38:2212.1 provides, among other things, that all purchases of materials or supplies in excess of $20,000 must be advertised and awarded to the "lowest responsible bidder" and that purchases of between $10,000 and $19,999 must be made by obtaining at least three telephone or facsimile quotations. Nevertheless, because Section 38:2237 contemplates that either RFP or competitive bidding shall apply, in the event a contract fails to meet the $10,000 threshold for materials and supplies set forth in Section 38:2212.1, the RFP requirement of Section 38:2237 applies.[5]

Finally, insofar as a contract for Internet access includes the provision of services associated with the purchase of related equipment, Louisiana law provides that such services be included or treated as part of the same contract. *See LA Attorney General Opinion No. 81-465* (1981). However, even where a contract is truly and solely for services without the provision of related equipment, because Section 38:2237 explicitly applies to the provision of "telecommunications . . . systems . . . and related services", the RFP requirement of Section 38:2237 applies.

[5] Where multiple contracts for one applicant each fall under a Section 38:2212.1 dollar threshold, but where the sum of the contracts exceeds the threshold, if necessary, SLD will make a determination regarding whether the contracts should be construed as a single contract.

## V. Conclusion

Louisiana state law requires either an RFP or other competitive bidding process in the procurement of telecommunications and data processing equipment, systems, or related services. Although other competitive bidding procedures may be used as an alternative to an RFP, the decision not to use an RFP process must be provided in writing to potential bidders. For contracts solely for services, but where those services are provided in connection with related non-leased equipment, an RFP or other competitive bidding procedure is clearly required for both the services and equipment together. For contracts solely for services, an RFP is required pursuant to Louisiana law expressly governing the purchase of telecommunications services.

Accordingly, statements by applicants associated with SEND that Louisiana law does not require competitive bidding for the contracts at issue is not supported by Louisiana law.

**Universal Service Administrative Company**
**Schools and Libraries Division**

# FUNDING COMMITMENT REPORT

Service Provider Name: Send Technologies, L.L.C.
Service Provider Identification Number: 143010002

Funding Request Number: 777243
Form 471 Application Number: 287193
Form 470 Application Number: 176430000366995
Name of 471 Applicant: MADISON PARISH SCHOOL BOARD
Applicant Street Address: 301 S CHESTNUT ST
Applicant City: TALLULAH
Applicant State: LA
Applicant Zip: 71282
Entity Number: 139326
Name of Contact Person: Ann Semien
Preferred Mode of Contact: FAX
Contact Information: (318) 574-3667
Funding Year: 2002 (07/01/2002 - 06/30/2003)
Funding Status: Not Funded
Contract Number: SEND2002-17
Services Ordered: Internet Access
Billing Account Number: 318-574-3616
Allowable Vendor Selection/Contract Date: 11/05/2001
Contract Award Date: 01/08/2002
Earliest Possible Effective Date of Discount: 07/01/2002
Contract Expiration Date: 06/30/2005
Monthly Recurring Charges: $6890.00
Portion of Monthly Recurring Charges that is Ineligible: $0.00
Eligible Monthly Pre-Discount Amount for Recurring Charges: $6890.00
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: $82680.00
Annual Non-Recurring Charges: $0.00
Portion of Annual Non-Recurring Charges that is Ineligible: $0.00
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: $0.00
Total Program Year Pre-Discount Amount: $82680.00
Applicant's Approved Discount Percentage: N/A
Funding Commitment Decision: $0.00 - Bidding Violation
Funding Commitment Decision Explanation: Applicant did not comply with state procurement law. Definition of professional services does not include IA or IC. LA RS 38:2310(7). Competitive bidding required for purchases over $7500, LA RS 38:2212.1, and for public works contracts over $100,000. LA RS 38:2212.
Technology Plan Approval Status: Approved
Wave Number: 30g
Applicant Letter Date: 01/22/2004

# FUNDING COMMITMENT REPORT

Service Provider Name: Send Technologies, L.L.C.
Service Provider Identification Number: 143010002

Funding Request Number: 777287
Form 471 Application Number: 287193
Form 470 Application Number: 176430000366995
Name of 471 Applicant: MADISON PARISH SCHOOL BOARD
Applicant Street Address: 301 S CHESTNUT ST
Applicant City: TALLULAH
Applicant State: LA
Applicant Zip: 71282
Entity Number: 139326
Name of Contact Person: Ann Semien
Preferred Mode of Contact: FAX
Contact Information: (318) 574-3667
Funding Year: 2002 (07/01/2002 - 06/30/2003)
Funding Status: Not Funded
Contract Number: SEND2002-18
Services Ordered: Internal Connections
Billing Account Number: 318-574-3616
Allowable Vendor Selection/Contract Date: 11/05/2001
Contract Award Date: 01/08/2002
Earliest Possible Effective Date of Discount: 07/01/2002
Contract Expiration Date: 06/30/2003
Monthly Recurring Charges: $0.00
Portion of Monthly Recurring Charges that is Ineligible: $0.00
Eligible Monthly Pre-Discount Amount for Recurring Charges: $0.00
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: $0.00
Annual Non-Recurring Charges: $69500.00
Portion of Annual Non-Recurring Charges that is Ineligible: $0.00
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: $69500.00
Total Program Year Pre-Discount Amount: $69500.00
Applicant's Approved Discount Percentage: N/A
Funding Commitment Decision: $0.00 - Bidding Violation
Funding Commitment Decision Explanation: Applicant did not comply with state procurement law. Definition of professional services does not include IA or IC. LA RS 38:2310(7). Competitive bidding required for purchases over $7500, LA RS 38:2212.1, and for public works contracts over $100,000. LA RS 38:2212.
Technology Plan Approval Status: Approved
Wave Number: 30g
Applicant Letter Date: 01/22/2004