

September 25, 2005

CC Docket No. 02-6
Request for Review

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

RE: Billed Entity Number: 128565
Leland School District
Johnnie L. Gibson, Technology Coordinator
408 4th Street
Leland, MS 38756-2729
662-334-4630 (Home)
662-334-4630 (Home Fax)
662-686-5034 (Office)
662-686-5759 (Fax)
662-822-2578 (Mobile)
jgibson@mde.k12.ms.us

This letter is an appeal requesting review of a decision on an appeal made by the SLD as referenced in the attached Administrator's Decision on Appeal letter dated July 29, 2005:

Funding Year: 2003
Form 471 Application Number: 367641
Funding Request Number: 1001845

SLD's review of Form 471 Application Number 367641, Funding Request Number 1001845 was submitted a "Not Funded" commitment stating "No contract or legally binding agreement was in place when the Form 471 was filed" in our Funding Commitment Decision Letter dated February 23, 2005. The SLD's review of our appeal dated March 9, 2005 states that we did not have a signed contract with our service provider at the time the Form 471 was filed; therefore SLD denied our appeal as stated in their letter dated July 29, 2005.

This request for review is based on one of the four circumstances of when appeals can be granted identified under the appeals guidelines:

2. When the appeal makes clear that the applicant made a mistake in information provided in or with the application leading to funding denial and that the SLD could have identified the mistake from information provided with the application. If the applicant made a mistake in completing the Form 471 (for example, put in the wrong contract award date in Block 5) and had provided information to the SLD either with the application or during PIA review (for example, provided a copy of the contract to PIA during review with the award date indicated) and when the appeal points out the mistake (the wrong contract award date) and how the SLD could have seen the mistake (from the contract provided during review), the SLD will grant the appeal.

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

During the PIA Review, on December 1, 2004, we were asked to provide evidence of a signed contract or legal binding agreement with our service provider at the time of the 471 submission. We submitted a copy of the contract for the reviewer and a statement was made “the start date of July 1, 2003 entered on Form 471 represented the date when our agreement with the service provider would become legally binding, pending E-rate funding”. Obviously there was some confusion on our part as to what information was being requested. The statement made “becomes legally binding, pending E-rate funding” was based on providing the reviewer of service dates and contractual commitment dependent upon whether it was funded by E-rate. The contract was legally binding at the time it was approved by the board members on January 9, 2003, but the contingency clause in the contract provides our district with the option of enforcing the contract if it is not funded through E-rate. Sections 7.1 and 13.9 of the contract better explains the content of this statement:

7.1 Term. This Agreement, being entered into as of the aforementioned date, shall have service start date of July 1, 2003 and shall remain in term until June 30, 2004, at which time it may be renewed by mutual consent of the contracting parties.

13.9 Funding Contingency. If this Agreement is to be funded using E-rate discounts, the entire Agreement is contingent upon the Client receiving the requested E-rate funding provided by the Universal Service Fund, of which the fund administrator is the Schools and Libraries Division of the Universal Service Administrative Company. Both contractual parties will honor the decision of the Schools and Libraries Division and the appropriate action will be taken at the time of funding approval or denial.

During the PIA review, if the reviewer had seen the mistake that the contract they received did not include signatures, it could have been brought to our attention at that time that we had made a mistake in the information we provided and been given the opportunity to provide you with the correct information. Therefore, we do not feel that we are providing new information with this appeal, we are providing the correct information that we were not given the opportunity to do during the PIA review based on “**the applicant made a mistake in information provided**” and that “**the SLD could have identified the mistake from information provided with the application**” as referenced above as one of the four circumstances when appeals can be granted.

Leland School District received a bid proposal for funding request number 1001845 on January 8, 2003 from the service provider with an enclosed legal binding contract signed by the service provider. Copies of the contract were made for board members to review and approve during the January 9, 2003 board meeting. Dr. Ilean Richards, Superintendent of Leland School District signed the original contract dated January 8, 2003 and it was approved by the board on January 9, 2003 (copy of board minutes are attached). All enclosed documents show that a legal binding contract was signed and approved at the time of the 471 application submission which is dated February 4, 2003. The mistake made was not that we did not have a signed legal binding contract at the time of the 471 submission, but that during the PIA review, we sent the wrong copy to the reviewer that only had one signature and not the correct copy that included both signatures. We have not provided new information in this appeal, only correct information that could have been provided during the PIA review had the mistake been identified from the reviewer during that time.

Leland School District has demonstrated that “the applicant made a mistake in information provided” and that “the SLD could have identified the mistake from information provided with the application”. Based on the information provided in this letter and all attached documents, the Leland School District requests that an appeal be granted to correct a mistake not identified from information provided with the application. The Leland School District requests that the Funding Status of “Not Funded” because of “No contract or legally binding agreement was in place when the Form 471 was filed” be changed to “Funded” for Funding Request Number 1001845 listed on 471 Application Number 367641 due to the fact that a legal binding contract was in place when the Form 471 was filed.

Thank you for your review of our request. Please contact me with any questions or additional information that you may require during your review. Any consideration of this request will be most greatly appreciated.

Sincerely

Johnnie L. Gibson
Technology Coordinator
Leland School District

Enclosures:

- Original Appeal Letter Dated March 9, 2005
- Original Contract Missing Signature
- Correct Contract that includes both Signatures
- Board Meeting Minutes Dated January 9, 2003
- Form 471 Application 367641 Dated February 4, 2003