

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

CC Docket No. 02-6

This is a Request for Review appealing a decision on appeal to deny funding by USAC dated November 17, 2005.

Contact Information:

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Applicant Name: South Boardman Elementary School  
Billed Entity Number: 58208  
Form 471 Application Number: 469237  
Funding Request Number(s): 1292005  
Service Provider: Ace Telephone Company of Michigan, Inc.  
SPIN: 143001709

The Decision on Appeal by USAC listed the following explanations for the denial of appeal:

In your letter of appeal, you quote the funding denial reason as it appears in your Funding Commitment Decision Letter. You continue by stating that you had sent the previous year's technology plan in error. You have included a copy of the FCDL, the current tech plan, and a notice of compliance from your state.

The current technology plan you provided upon appeal will not be considered by SLD, as program rules do not permit the SLD to consider new information on appeal, except where an applicant was not given the opportunity to provide information during the initial review, or an error was made by the SLD. It is the applicant's responsibility to ensure the accuracy and correctness of the information provided during the review.

On your Form 471, you certified that the recipients of products were covered by an individual and/or higher-level technology plan and that the technology plan had been approved or was in the process of being approved. During the review of your application, SLD requested that you provide a copy of your technology plan. Since you failed to provide a copy of your technology plan for the current funding year, SLD denies your appeal.

Your Form 471 requested funding for services other than basic local and long distance telephone service. FCC rules require applicants to certify that the entities receiving products and/or services other than basic telephone service are covered by an individual and/or higher-level technology plan that has been, or is in the process of being approved. 47 C.F.R. § 54.504(B)(2)(VII); *See* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 Block 6, item 26, 27 (*FCC Form 471*).

## Request for Review:

The appeal to the SLD did not state that we had “sent the previous year’s technology plan in error”, but, that “we inadvertently submitted a previous year technology plan”. The services requested in Funding Request Number 1292005 have been requested (and approved) every year beginning with Funding Year 1. In 2004, (last years request), we provided USAC with a copy of our current technology plan, which was approved by the State of Michigan on June 26, 2003, and is valid (as approved by the State of Michigan) until June 30, 2006 – a time period which covers both Year 7 and Year 8 funding years. This technology plan was faxed to USAC on March 23, 2004 at the request of Bob Leipow in the Schools and Libraries Division Program Integrity Assurance group, in request for documentation involving Application No. 4011798.

### I.

Our past experience with the Review Process by USAC has been that when incorrect information was submitted during the review process, that we were almost immediately contacted and told of the error and asked to correct it. We contend that although we submitted the information in error, that during the review process, USAC should have identified the information as being in error and requested a correction. USAC provides this information for an appeal:

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.

Our application certified that we had a current technology plan. (And in fact, this technology plan had previously been provided to USAC at their request, and presumably a copy was kept on file). USAC recognized in the denial of the appeal that they knew that the technology plan was not current. Because of our previous experience working with PIA, we were under the assumption that USAC had received the necessary, and accurate information to process the request.

### II.

Additionally, we also contend that the decision to deny funding was based on an incorrect assumption on the part of USAC. From the USAC provided information:

When the appeal provides documentation to correct an incorrect SLD assumption made because there was insufficient information in the application file about an issue. In general, PIA will contact the applicant and ask for all information necessary to make decisions about an application. If that contact does not occur, however, and funding is denied based on an incorrect assumption, the SLD will grant an appeal when the appellant points out the incorrect assumption and provides documentation about the issue that is consistent with information originally provided but also successfully resolves the ambiguity in the original file.

The funding request was denied because USAC assumed that the Billed Entity was not covered by an approved technology plan. PIA requested this information from us, but did not follow up to let us know that the information they had received was inadequate to resolve the issue. In providing our appeal, we point out that the assumption made by USAC was incorrect, and that the billed entity was covered by a current and approved Technology Plan.

III.

Finally, we also suggest that although the current technology plan was not provided to USAC during the review process, the same current technology plan submitted with the appeal and covering this billed entity had previously been submitted to USAC and should therefore not be considered “new information”.

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