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TO: Office of the Secretary	FROM: Garnet Person
COMPANY: Federal Communications Commission	DATE: March 13, 2006
FAX NUMBER: (202) 418-0187	TOTAL NO. OF PAGES INCLUDING COVER: 9
PHONE NUMBER:	

RE:  
District of Columbia Public Schools – Funding  
Year 2005 – Request for Review

- URGENT   
 FOR REVIEW   
 PLEASE COMMENT   
 PLEASE REPLY   
 PLEASE RECYCLE

NOTES/COMMENTS:

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**E-Rate Elite Services, Inc.**

*Funding Technology Made Easier*

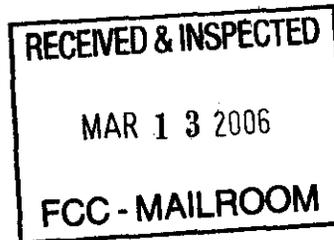
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Chief Executive Officer

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March 13, 2006

Ms. Marlene H. Dortch  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554



Re: Request for Review – District of Columbia Public Schools  
FCC Form 471 Application No(s). 460078, 460034, 478847, 478870,  
479007 (Funding Year 2005)  
Billed Entity No. 126340  
Funding Request No(s): All contained within the aforementioned FCC  
Form 471s.  
CC Docket No. 02-6

Federal Communications Commission Officer:

This Request for Review addresses the Schools and Libraries Division's (SLD) Administrative Decision on Appeal for the above-referenced Funding Request Numbers (FRN) on the aforementioned FCC Form 471s (Application No(s). 460078, 460034, 478847, 478870, 479007) submitted by E-Rate Elite Services, Inc. (E-Rate Elite) on behalf of the District of Columbia Public Schools (DCPS). SLD issued Funding Commitment Decision Letters (FCDL) that denied all the aforementioned FRNs and provided the following explanation: "Applicant failed to certify who prepared responses to the Selective Review; therefore, we cannot verify that the applicant takes responsibility for the responses."<sup>1</sup>

E-Rate Elite appealed this decision on October 25, 2005, to the SLD and asserted that the certification associated with the Selective Review Information Request (SRIR) was redundant, as DCPS had made said certifications under signature prior to issuance of the SRIR in previously submitted E-rate documents. E-Rate Elite addressed SLD's claim, "we cannot verify that the applicant takes responsibility for the responses," on the basis that Garnet Person (CEO, E-Rate Elite) was listed as the contact person on all Form 471s and the SLD had previously sought confirmation from the DCPS Superintendent as to his authorization of those Form 471s for Funding Year 2005. DCPS' position is the Superintendent's certification letter confirmed the Form 471s in their current state, which listed E-Rate Elite as the authorized point of contact and SLD had forwarded all

<sup>1</sup> Funding Commitment Decision Letter from Schools and Libraries Division, Universal Service Administrative Company, to DCPS, c/o Garnet Person (dated September 1, 2005).

correspondences to our attention. Responses provided by the contact person on the Form 471(s) have historically been considered acceptable. Moreover, SLD has expressed that party to be the only acceptable respondent. Thereby, the position taken by SLD in this matter is inconsistent.

1. E-Rate Elite Filed an Appeal with SLD; SLD's Administrator's Decision did not directly Address the Appeal and Provides a Different Denial Position.

E-Rate Elite directly appealed the denial explanation as provided on the FCDLs. On January 12, 2005, SLD issued an Administrator's Decision on Appeal that reviews several communications between E-Rate Elite and SLD regarding the SRIR.<sup>2</sup> SLD continues by outlining some of the documentation that was provided in association with the SRIR. However, SLD does not directly address nor dispute E-Rate Elite's premise for appeal that the SRIR certification, the basis of the denial explanation, was redundant and unnecessary.

The Administrator's Decision also fails to address E-Rate Elite's position that SLD's guidelines specifically identified the party listed as the contact person on the Form 471 as an authorized representative of the applicant for the purposes of obtaining information associated with that application. Moreover, Program Integrity Assurance (PIA) was in possession of a Superintendent's certification of all Form 471s and had been accepting responses from E-Rate Elite months prior to the issuance of the SRIR.

The Administrator's Decision recaps several documents that were provided in association with the SRIR. Throughout the Decision, SLD insists this documentation was insufficient and incomplete. However, SLD did not nor do they infer any attempt was made to notify DCPS or E-Rate Elite as to their determination that they believed the documentation that was being provided was insufficient.

2. SLD Contends that No Written Extension was Requested.

SLD mentions on several occasions in their Administrator's Decision, "no written request was received from DCPS for an additional extension." E-Rate Elite believes the Administrator's position in regards to a written extension request is misleading and not is not adequate justification of their decision. E-Rate Elite was in constant phone contact with Mr. Earl Baderschneider, Selective Reviewer-SLD.

E-Rate Elite contends that SLD's contact mannerisms were inconsistent and thereby did not provide a clear delineation for acceptable means by which to communicate. SLD contends that on July 12, 2005, summer availability was confirmed via phone with Garnet Person directly. However, the confirmation for summer availability was for E-Rate Elite personnel only. It would have been unreasonable to expect E-Rate Elite to be capable of confirming summer availability of DCPS personnel that would be required to

<sup>2</sup> Administrator's Decision on Appeal -- Funding Year 2005-2006, Universal Service Administrative Company, to E-Rate Elite Services, Inc., c/o Garnet Person (dated January 12, 2006).

*assist in responding to the SRIR prior to receiving the document from SLD.* SLD continues in the next sentence to indicate that verbal confirmation was received on July 13, 2005, for the facsimile transmission of the SRIR. However, SLD does not indicate that confirmation was made with the designated contact person (Garnet Person). It is stated that on July 28, 2005, a second request was sent and confirmation was obtained in this case with the designated contact person.

Clearly, SLD is familiar with E-Rate Elite and understands them to be a nationwide consulting firm that represents applicants in the E-Rate process. The information that was requested within the SRIR would clearly require applicant involvement and availability for completion. On July 27, 2005, E-Rate Elite informed Mr. Baderschneider that an additional extension was necessary. The basis for this extension request was some of the personnel necessary for completing the SRIR were on leave during this summer period. This was compounded by a USAC Site Visit that was scheduled to occur on August 15, 2005. Neither E-Rate Elite nor DCPS had previously experienced an on-site visit, which resulted in two (2) Bearing Point personnel and three (3) senior-level USAC personnel. The visit resulted in subsequent information requested to be provided during that same time-period as the extension deadline for the SRIR.

E-Rate Elite attempted to contact Mr. Baderschneider via phone and e-mail. He failed to respond to all messages. Mr. Baderschneider did not return any of our phone messages, which notified him of our need for additional time. The verbiage supporting SLD's actions in their Administrator's Decision carefully proclaims the lack of a written request for an extension but appears to be evasive in regards to whether any communication was received as it relates to a request for extension.

E-Rate Elite informed the SLD on August 19, 2005, in writing, of the need for an extension and that Garnet Person would be contacting Mr. Baderschneider on Monday, August 22, 2005. The August 22, 2005 interaction was a verbal communication. SLD did not inform E-Rate Elite that this communication needed to be in writing nor at any other time subsequent to the August 19, 2005 did SLD make such notification.

SLD confirms receipt of e-mail correspondences on August 23<sup>rd</sup> and 26<sup>th</sup>. E-Rate Elite attempted to maintain communication with Mr. Baderschneider via phone and e-mail when the aforementioned two correspondences were provided. SLD did not acknowledge receipt of the documentation or notify E-Rate Elite at that time that they had a concern about the timeliness of these responses. On the contrary, the Administrator's Decision clearly SLD finds these responses deficient, meaning they were accepted and given consideration after August 19, 2005. Based on the consideration SLD gave this documentation after August 19, 2005, E-Rate Elite contends that SLD did not establish a firm deadline of August 19, 2005. SLD failed to provide the applicant with any new definitive deadline, as information had been provided as recent as three (3) business days prior to the issuance of the FCDL(s).

SLD acknowledges that E-Rate Elite's August 26, 2005 response did convey our intentions to provide additional information. However, in their Administrator's Decision SLD contends that no other information was provided on that day. SLD's position appears to change from, "no written request for extension was received" to "nor had any

written requests for a specific extension of time.” We believe these inconsistencies, coupled with SLD’s lack of response and communication with DCPS resulted in their adverse decision. In addition, the timing of these events could potentially lead one to question whether the documentation that was provided on August 26, 2005, could have been reasonably considered and properly processed via program guidelines given the decision rendered four (4) business days later.

3. SLD Contends the Documentation Provided was Insufficient.

SLD states in their Administrator’s Decision that the August 23, 2005 response was incomplete. E-Rate Elite does not assert in this response that it was to be considered comprehensive. SLD contends the budget information that was referenced “does not satisfy the Item 25.” E-Rate Elite disagrees with this assessment as the Capital Improvement Program Budget clearly outlines within and on the title page that it was inclusive of 2004-2009. All of the Funding Year 2004 budgets that were provided in Funding Year 2003 and referenced in the August 23, 2005 response included funds that would be available and associated with the period or portion thereof in Funding Year 2005, as the DCPS fiscal year ends in September 31, 200x.<sup>3</sup> At no time did SLD contact E-Rate Elite or DCPS to inform the parties that the information being provided was deficient or failed to satisfy the SRIR.

4. E-Rate Elite and DCPS Exerted their Best Efforts to Comply with the Provision of Documentation in Conjunction with the SRIR.

The Federal Communications Commission (Commission) has held, “In general, the Commission’s rules may be waived for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. Accordingly, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.”<sup>4</sup>

E-Rate Elite contends that DCPS exerted their best efforts to provide the documentation that was requested in the SRIR. However, during this same period E-Rate Elite and DCPS was attempting to address Program Integrity Assurance (PIA) requests, the SRIR, and documents requested during the USAC Outreach Visit; concurrently. E-Rate Elite believes that it properly conveyed the challenges and was expediting the information as quickly as possible based on the aforementioned circumstances. We believe that the unusual number of extensive requests made by SLD or representatives thereof constitutes special circumstances. The Outreach Visits were first time occurrences coupled with the

<sup>3</sup> See Exhibit A, Cover Pages for FY2004 Budgets provided in association with the FY2003 Selective Review.

<sup>4</sup> See Request for Waiver by Greenfield Public School District, Federal-Stat Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No. SLD-431911 and 431129, CC Docket No. 02-6, Order DA03-3054.

*SRIR, PIA requests, complexities in available DCPS personnel due to vacations, the resignation of the primary person responsible for E-Rate at DCPS and PIA requests made meeting all of the concurrent deadlines unreasonable. SLD failure to communicate with the applicant significantly complicated matters.*

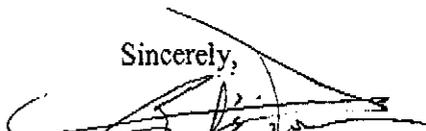
DCPS and E-Rate Elite submits the Commission reflect on said efforts to comply with all requests by the Administrator and consider the burden established by this decision on approximately 60,000 students. DCPS has received funding in all Years of the program. It has diligently and successfully responded to two prior consecutive Funding Years of SRIRs. We believe that the Administrator's Decision was inappropriate and inconsistent with the intent of the program and the public's interest.

### 5. Conclusion

E-Rate Elite believes we have demonstrated that the original denial was appropriately addressed in the October 25, 2005 appeal to the SLD. The Administrator's Decision does not clearly address the appeal position present in the October 25, 2005 appeal. Instead offers several new issues with regards to the denial. E-Rate Elite addressed those new matters presented in the Administrator's Decision in the aforementioned Request for Review.

Based on the foregoing, we respectfully request the Commission remand all DCPS FCC Form 471s to SLD for continued processing in accordance with review procedures and guidelines for Funding Year 2005.

Sincerely,



Garnet E. Person  
CEO, E-Rate Elite Services, Inc.

Enclosures: Exhibit A

No. 6016 P. 7  
Exhibit A



District of Columbia

BOARD OF EDUCATION  
PROPOSED FY 2004-2009  
CAPITAL  
IMPROVEMENT  
PROGRAM

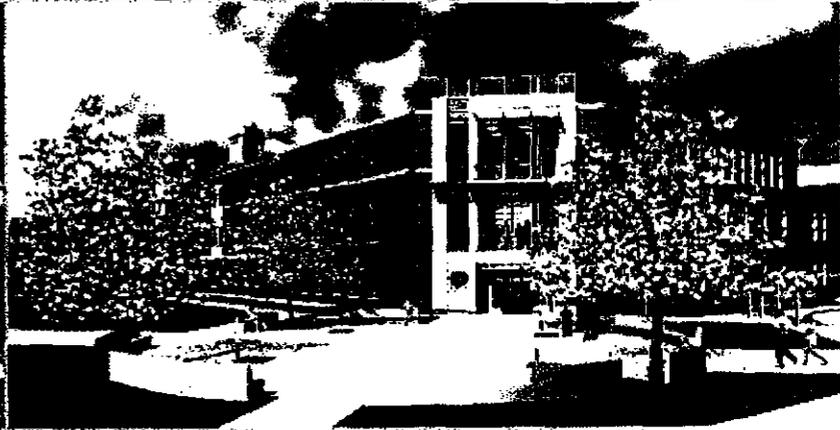
*"Building a New Generation of Schools"*

Submitted By The District of Columbia Board of Education • December 23, 2002

Peggy Cooper Cafritz, President  
DC Board of Education

Paul L. Vance, Superintendent  
DC Public Schools

children first  
Their Future is NOW!



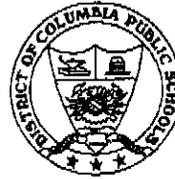
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District of Columbia

# The Citizen's Budget FY 2004

*"Reaching for Academic Excellence"*

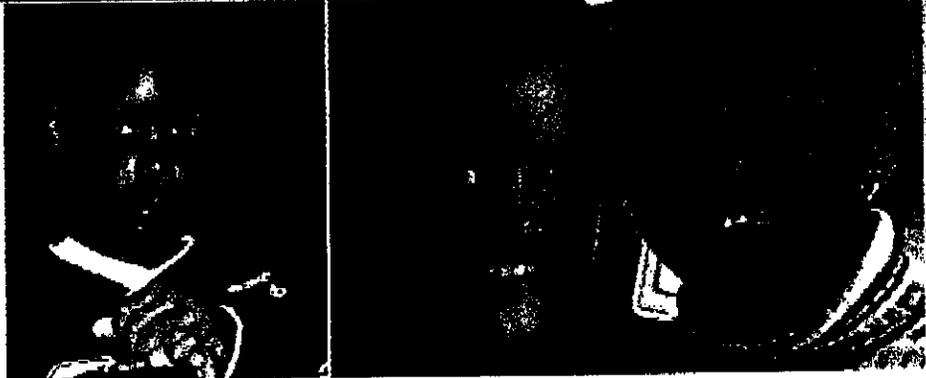


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District of Columbia

BOARD OF EDUCATION

PROPOSED FY 2004

O p e r a t i n g  
B u d g e t

*"Reaching for Academic Excellence"*



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