

System: 165.135.210.45 sec fax,sec, 4181087 --- Time Printed: 04-06-2006 09:31:30

From: 3345676599
Media: Fax 11 pages
Subject:
Status:
Received: 05:33 PM 04/05/06

DOCKET FILE COPY ORIGINAL

RECEIVED & INSPECTED
APR 5 2006
FCC - MAILROOM

Number of Copies rec'd 0
ABCDEFGHI

: Information Transport Solutions, Inc.
 : 335 Jeanette Barrett Industrial Blvd.
 : Wetumpka, AL 36092
 : Phone: (334) 567-1993
 : Fax: (334) 567-6599
 : Web Site: www.its-networks.com

facsimile transmittal

RECEIVED & INSPECTED
APR 5 2006
FCC - MAILROOM

To: FCC/CC Docket No. 02-6	Fax: 202-418-0187
From: Tomi J. Selby	Date: 04/05/2006
Re: Appeal 471 App #470756	Pages: Cover Page + 10

CC Docket No. 02-6

Federal Communications Commission, Office of Secretary

445 12th St, SW, Room TW-A325

Washington, DC 20554

RE: 470 Application #816170000477697 / 471 #470756 / FRN #1296888

"Request for Review" Letter with 3 attachments and a copy of the USAC Letter being appealed, dated 2/08/2006 for Bullock County Schools BEN 128082.

Point of Contact for Information Transport Solutions, Inc. (SPIN 143008119)

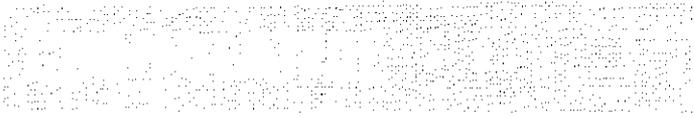
Tomi J. Selby

335 Jeanette Barrett Industrial Blvd

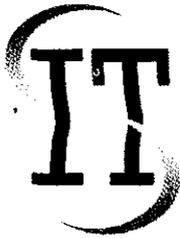
Wetumpka, AL 36092

Phone (334) 567-1993 or Fax (334) 567-6599

Email: tomi.selby@its-networks.com



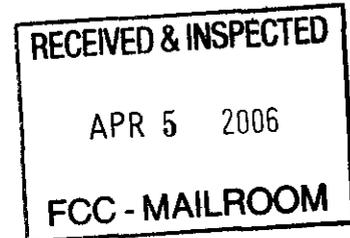
.....


INFORMATION Transport
 SOLUTIONS, Inc.

335 Jeanette Barrett Industrial Blvd. Wetumpka, Alabama 36092

 April 5th, 2006

CC Docket No. 02-6
 Federal Communications Commission
 Office of Secretary
 445 12th Street, SW
 Room TW-A325
 Washington, DC 20554



Re: "Request for Review", Bullock County School Districts Appeal of USAC Denial of 2005-2006 E-rate Funding

To Whom it May Concern:

We are appealing the decision on the February 8th, 2006 USAC Administrator's Decision on Appeal – Funding Year 2005-2006 for the following Form 471 application: 470756 (470 Form # 816170000477697) (Reference: CC Docket No. 02-6 and 96-45)

Applicant Name: Bullock County School District (BEN 128082)
 471: 470756
 FRN: 1296888
 Applicant's Form Identifier: FIRE-1
 Service Provider: Information Transport Solutions, Inc.
 SPIN: 143008119

The Administrator's Decision On Appeal read as follows: " Upon through review of the appeal letter and relevant documents, the SLD has determined that, at the time you submitted your Form 471 application, you did not have a signed contract in place with the service provider. During the application review, the authorized contact was asked to provide copies of signed and dated contracts. In the response provided to the SLD on April 19th, 2005, the contract signed by both parties and dated February 2, 2004 only says the bid is being awarded for Year 7 E-rate. The authorized contact was re-asked for copies of signed and dated copies. In the response provided to the SLD on Spetember 27, 2005, the contract provided clearly states that the request is for 1 July 2004 through June 2007, but has a signature date of September 27, 2005. FCC Rules state that a contract must be signed and dated on or after the Allowable Contract Date as calculated by the Form 470 posting date, but prior to the submission of the Form 471. In this case, you have not demonstrated that you have complied with FCC Rules. Therefore, the appeal is denied.

SLD has determined that, at the time you submitted your Form 471 application, you did not have a signed contract for services in place with your service provider(s) for service other than tariffed or month-to-month services. FCC rules require that applicants submit a completed FCC Form 471 "upon signing a contract for eligible services." 47 C.F.R. & 54.504©. The FCC has consistently upheld SLD's denial of Funding Request Number(s) when there is no contract in place for the

funding requested. The FCC Form 471 instructions under Block 5 clearly state you MUST sign a contract for all services that you order on your Form 471 except tariffed services and month-to-month services. You did not provide evidence with your appeal that, at the time you signed your Form 471, you had a signed contract for eligible services. Consequently, SLD denies your appeal.”

Information Transport Solutions, Inc. would like to appeal the decision based on the fact that a contract was signed before Bullock County Schools filed the 471. Bullock County Schools signed the original contract with Information Transport Solutions on February 2nd, 2004. The allowable contract date was January 2nd, 2004. Bullock County Schools filed the Year 8 Erate Form 471 on February 18th, 2005 and the Form 471 for the Year 7 E-rate, first year of the contract, was filed on February 4th, 2004.

Year 7 Erate Information:

471 Application # 412084

FRN# 1130483

Certified Postmark Date: 02/04/2004

Allowable Contract Date: 01/02/2004

Contract Award Date: 02/02/2004

Service Start Date: 07/01/2004

Contract Expiration Date: 06/30/2009

Year 8 Erate Information:

471 Application # 470756

FRN# 1296888

Allowable Contract Date: 01/02/2004

Contract Award Date: 02/02/2004

Service Start Date: 07/01/2005

Contract Expiration Date: 06/30/2007

Reasoning for appeal: When PIA was reviewing the Year 8 funding request one of the questions they asked was why the contract term for Year 8 E-rate was different from the original Year 7 E-rate funding request.

Explanation of appeal: Bullock County Schools advised SLD that the contract term was changed from 3 year contract with 2 option years (total 5 years) to 3 years based on training received from the Alabama State E-rate Coordinator, Jerome Browning. During the summer of 2005, Mr. Browning provided several E-rate training sessions. One of the sessions covered Code of Alabama contract terms. Section 41-16-57 of the Code of Alabama states: Contracts for the purchase of personal property or contractual services shall be let for periods not greater than three years.

Based on this information, Bullock County Schools generated a corrected contract dated September 27, 2005. The corrected contract clearly stated it was a corrected contract and the only language added to the original agreement was : “ The contract, contingent on yearly E-rate funding, is for 36 months beginning July 1, 2004 and ending June 2007. Should the Bullock County Schools fail to receive E-rate funding for this service in any year, this contract shall be immediately cancelled.

Attachment #1: Original contract – signed 2/2/2004

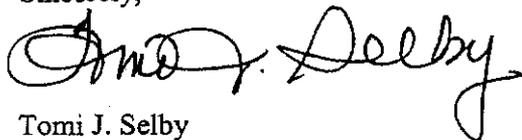
Attachment #2: Corrected contract – signed 9/27/2005

Attachment #3: Information Transport Solutions, Inc. Proposal Submitted in Response to Bullock County Schools Technology Bid No. 1-2004

The contract term offered in our proposal was 36 months with two one year options to extend, making the total contract period 5 years. USAC clearly allows multi year contracts and recommends when contracts include voluntary extensions the applicant state the contract expiration to include contract extensions. Therefore, when the applicant filed for Year 7 E-rate funding they stated a contract expiration of 6/30/2009, 5 years. After attending the State E-rate sponsored training session that explained contract terms can not exceed three years Bullock County Schools amended the original contract to clearly state the contract term.

This application was funded during year 7 E-rate; Application #412084, FRN# 1130483, 470# 816170000477697, after two PLA reviews. It appears the primary reason the Year 8 E-rate funding request was denied is because the applicant, in good faith changed the contract expiration date. Information Transport Solutions, Inc. believes the funding request is eligible for the reasons stated above.

Sincerely,



Tomi J. Selby
President

Point of Contact:

Tomi J. Selby
Information Transport Solutions, Inc.
335 Jeanette Barrett Industrial Blvd
Wetumpka, Alabama 36092
Voice: (334) 567-1993
Fax: (334) 567-6599
Email: Tomi.Selby@its-networks.com

* ATTACHMENT 1 *

BULLOCK COUNTY BOARD OF EDUCATION
Keith A. Stewart, Superintendent

Board of Education

Mattie Coston, President
James H. Cooks, Vice President
Martis Penn
John L. Rumph
David F. Lowe, Jr.

Administration Building

108 West Hardaway Street
Post Office Box 231
Union Springs, AL 36089-0231
Phone: (334) 738-2860
Fax: (334) 738-2802

February 2, 2004

Ms. Tomi J. Selby
Information Transport Solutions, Inc.
10518 US Highway 231
Wetumpka, Al 36092

Ms. Selby,

This letter is to inform you that at the Bullock County Schools awarded you the Internal Connections Firewall Service bid for Year 7 E-rate.

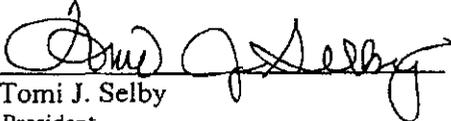
After notification of award, you will receive a purchase order for the products and services for which Information Transport Solutions, Inc. will be responsible as a result of the bid process. This purchase order will show the amount that is the responsibility of the local school system. **In the contents of the purchase order will be a Contingency Clause paragraph which states that the purchase order that is being issued is contingent on the FCC Fund Administrator approving the Contract for Universal Services Funding.** The purchase order shall also include the amount of funds that the FCC Fund Administrator will be required to pay based on the schools e-rate percentage. This letter will constitute a contingent contract between the Bullock County Schools and Information Transport Solutions, Inc.. After notification by the Schools and Libraries Division (FCC Fund Administrator) of the acceptance of the Universal Services Contract, the contingency will be removed and the purchase order will become a legal and binding contract between Bullock County Schools and Information Transport Solutions, Inc. The purchase order will be the document used to determine the status of the contract and will determine the amount of payment by the school system and the FCC Fund Administrator.

Congratulations on receiving this bid. Please contact my office if you have any questions concerning the E-rate contingency clause in the contract. We look forward to working with you. Please sign a copy of this letter and mail back to us immediately.

Representative Signatures:
Bullock County Schools


Keith A. Stewart
Superintendent

Information Transport Solutions, Inc.


Tomi J. Selby
President

* ATTACHMENT 2 *

BULLOCK COUNTY BOARD OF EDUCATION
Keith A. Stewart, Superintendent

Board of Education

Mattie Coston, President
James H. Cooks, Vice President
Martis Penn
John L. Rumph
David F. Lowe, Jr.

Administration Building

108 West Hardaway Street
Post Office Box 231
Union Springs, AL 36089-0231
Phone: (334) 738-2860
Fax: (334) 738-2802

February 2, 2004
(Corrected September 27, 2005)

Ms. Tomi J. Selby
Information Transport Solutions, Inc.
10518 US Highway 231
Wetumpka, Al 36092

Ms. Selby,

This letter is to inform you that the Bullock County Schools awarded you the Internal Connections Firewall Service bid for Year 7 E-rate.

After notification of award, you will receive a purchase order for the products and services for which Information Transport Solutions, Inc. will be responsible as a result of the bid process. This purchase order will show the amount that is the responsibility of the local school system. **In the contents of the purchase order will be a Contingency Clause paragraph which states that the purchase order that is being issued is contingent on the FCC Fund Administrator approving the Contract for Universal Services Funding.** The purchase order shall also include the amount of funds that the FCC Fund Administrator will be required to pay based on the schools E-rate percentage. This letter will constitute a contingent contract between the Bullock County Schools and Information Transport Solutions, Inc. After notification by the Schools and Libraries Division (FCC Fund Administrator) of the acceptance of the Universal Services Contract, the contingency will be removed and the purchase order will become a legal and binding contract between Bullock County Schools and Information Transport Solutions, Inc. The purchase order will be the document used to determine the status of the contract and will determine the amount of payment by the school system and the FCC Fund Administrator. The contract, contingent on yearly E-rate funding, is for 36 months beginning July 1, 2004 and ending June 2007. Should the Bullock County Schools fail to receive E-rate funding for this service in any year, this contract shall be immediately cancelled.

Congratulations on receiving this bid. Please contact my office if you have any questions concerning the E-rate contingency clause in the contract. We look forward to working with you. Please sign a copy of this letter and mail back to us immediately.

Representative Signatures:
Bullock County Schools

Information Transport Solutions, Inc.

Keith A. Stewart
Keith A. Stewart
Superintendent

Tomi J. Selby
Tomi J. Selby
President

9/27/05
Date

9/27/05
Date



* ATTACHMENT 3 *

INFORMATION *Transport*
SOLUTIONS, Inc.

10518 US Highway 231, Wetumpka, Alabama 36092

January 9, 2004

Bullock County Schools
108 West Hardway Street
Union Springs, Alabama 36089

Dear Col. Flowers:

Information Transport Solutions, Inc., L.L.C. is pleased to respond to the Bullock County Schools Year 7 RFP for Firewall service. We have developed a flexible, cost effective option that will provide you with all the services you have requested.

Our product prevents infections from getting INTO the network, thus reducing the load on all devices INSIDE the network – which is what your firewall should do! Our *Border Armor Managed Secure Firewall Service* provides the extra edge you need. It is inexpensive to deploy, and includes all equipment, installation, monthly maintenance, automatic updates to all the attack signatures, and support calls.

Our service provides a hardware and software combination that sits at the boundary between Bullock County Schools' WAN network and the Internet, and protects the network against unauthorized access or intrusions. The service will ensure the operation of the network.

Service: **Firewall Service**

Term: **36 Months with two one year options to extend**

Total Installation Fee

\$0

Total Monthly Service Fee

\$900

Bullock County Schools is contracting with Information Transport Solutions, Inc. to provide a Firewall service. Included in that service is the lease of the hardware and software required to provide the service.

Vendor Name Information Transport Solutions, Inc., L.L.C.
SPIN Number 143008119

Sincerely,

Tomi J. Selby
President



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2005-2006

February 08, 2006

Gerry Moses
Bullock County School District
108 West Hardaway Avenue
Union Springs, AL 36089

Re: Applicant Name: BULLOCK COUNTY SCHOOL DISTRICT
Billed Entity Number: 128082
Form 471 Application Number: 470756
Funding Request Number(s): 1296888
Your Correspondence Dated: November 14, 2005

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 2005 Funding Commitment Decision 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 you will receive a separate letter for each application.

Funding Request Number(s): 1296888
Decision on Appeal: **Denied**
Explanation:

- On appeal, you seek reversal of the SLD's decision to deny this request because no contract or legally binding agreement was in place. In support of your request, you state the original contract for FRN number 1296888 was signed on February 2, 2004 which is prior to filing of form 471. You further state that the original five year term was changed to a term of three years in order to ensure compliance with bidding laws. Since the actual term of service was not clearly stated on the original contract, you state that the original contract was amended.
- Upon thorough review of the appeal letter and relevant documents, the SLD has determined that, at the time you submitted your Form 471 application, you did not have a signed contract in place with the service provider. During the application review, the authorized contact was asked to provide copies of signed and dated

contracts. In the response provided to the SLD on April 19, 2005, the contract signed by both parties and dated February 2, 2004 only says the bid is being awarded for Year 7 E-Rate. The authorized contact was re-asked for copies of signed and dated copies. In the response provided to the SLD on September 27, 2005, the contract provided clearly states that the request is for July 1, 2004 through June 2007, but has a signature date of September 27, 2005. FCC Rules state that a contract must be signed and dated on or after the Allowable Contract Date as calculated by the Form 470 posting date, but prior to the submission of the Form 471. In this case, you have not demonstrated that you have complied with FCC Rules. Therefore, the appeal is denied.

- SLD has determined that, at the time you submitted your Form 471 application, you did not have a signed contract for services in place with your service provider(s) for services other than tariffed or month-to-month services. FCC rules require that applicants submit a completed FCC Form 471 "upon signing a contract for eligible services." 47 C.F.R. § 54.504(c). The FCC has consistently upheld SLD's denial of Funding Request Number(s) when there is no contract in place for the funding requested.¹ The FCC Form 471 instructions under Block 5 clearly state that you MUST sign a contract for all services that you order on your Form 471 except tariffed services and month-to-month services.² You did not provide evidence with your appeal that, at the time you signed your Form 471, you had signed a contract for eligible services. Consequently, SLD denies your appeal.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the 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 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.

Schools and Libraries Division
Universal Service Administrative Company

¹ Request for Review by Waldwick School District, Schools and Libraries Universal Service Support Mechanism, File No. SLD-256981, CC Docket Nos. 02-6, Order, 18 FCC Rcd. 22,994, DA 03-3526 (2003).

² See Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2004) at page 20.

Gerry Moses
Bullock County School District
108 West Hardaway Avenue
Union Springs, AL 36089

Billed Entity Number: 128082
Form 471 Application Number: 470756
Form 486 Application Number: