

RECEIVED & INSPECTED
FEB 21 2007
FCC - MAILROOM

Nathaniel Hawthorne
Attorney/Consultant, Ltd
Admitted: Ohio, Illinois, District of Columbia
nhawthorne @ earthlink.net
www.telecomlawyer.com

27600 Chagrin Blvd., Ste. 265
Cleveland OH 44122
tel: 216.514.4798; 216.514.4795
fax: 216.514.4865
efax: 216.472.8184

Express Mail EB 117588265 US

SOCKET FILE COPY ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of the)	File No. SLD -
)	
Appeal, and Request for Waiver)	
of the Decision of the)	
)	
Universal Service Administrator by)	
)	
Heart of Georgia RESA)	
)	
Gemini Consultancy Group, Inc)	
)	
)	
)	CC Docket No. 96 - 45
Federal-State Joint Board on)	
Universal Service)	
Changes to the Board of Directors of)	
The National Exchange Carrier)	
Association, Inc.)	CC Docket No. 97 - 21

Appeal,
Request for Waiver and Request for Relief Within Sixty (60) Days

No. of Copies rec'd 044
List ABCDE

February 21, 2007

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W. Suite TW-A325
Washington, D.C. 20554

This is an appeal from a decision by the Schools and Libraries Division of the USAC.

Enclosed are the original and four copies of the Appeal. An extra copy is also enclosed.

Please time stamp the extra copy and return it to me in the enclosed self addressed-stamped envelope.

(1) **Administrator's Decision on Appeal-Funding Year 2006-2007**

Form 471 Application Number:	536185
Funding Year :	07/01/2006-06/30/2007
Billed Entity Number for district:	127426
Administrator's Denial of Appeal:	February 2, 2007
Date of Appeal:	February 21, 2007

(2) **Contact Information**

Kyle B. Tekell
Gemini Consultancy Group, Inc
3776 Vineville Ave., Ste 4
Macon GA 31204
Tel. (478) 972.3629
Fax. (478)405.0140
For Consortium

(3) **Funding Request Numbers Appealed**

FRNs:11487373, 1487670,1487883,1488059,1488124,1488493

(4) **SLD's Reason for Funding Denial**

The SLD stated that funding is denied because:

- a) "None of the LOAs include the specific timeframe that is covered."
- b) "USAC denied [the] application because [the consultant] failed to provide [its] authorization to represent all entities for which services were sought and/or proof of their membership in the consortium."
- c) "[the consultant] failed to provide evidence of [its authority to file FCC Forms 471] on behalf of, or evidence of, the membership of all the members included in [the] consortium."

(5) **Administrator's Decision is unreasonable because:**

a) The Funding Year is 2006-2007. The LOAs were signed on January 12, 2006 for Funding Year 2006-2007. **Exhibit A** Based on the documentation before the Administrator, this is the ONLY Funding Year to which the consortium LOAs could possibly cover. The consultant provided the consortium members with other specific documentation that stated "January 19, 2006 at 11:59pm is the last day to file form 470. February 16, 2006 at 11:59 pm is the last day to file form 471. In order to be eligible to file form 471, form 470 must be filed by January 19, 2006 at 11:59 pm." **Exhibit B** This data is consistent with the USAC's website posting for Funding Year 07/01/2006-06/30/2007 **Exhibit C**

The LOAs were signed on January 12, 2006; the FCC Form 471 was filed on February 16, 2006 for Funding Year 2006-2007. **Exhibit D** The consulting agreement was signed on January 6, 2006. The time frame specifically stated in the consulting agreement is from January 6, 2006 through the application process

[“Upon date of execution of agreement to end of the application process.”].

Exhibit E

THEREFORE, the specific timeframe for the LOAs is from January 6, 2006 through June 30, 2007, or the end of the 07/01/2006-06/30/2007 application process.

b) The authorization to represent all consortium members was provided to the SLD. **Exhibit D** There are two (2) consortium members that contracted with the consultant. Each LOA was executed by the Superintendent of both consortium members. The FCC Forms 471 list the Heart of Georgia RESA as the consortium. **Exhibit D** To subscribe to the Administrator's decision one would have to believe that the well educated “superintendents” had no idea what they signed. This is unreasonable.

c) The consultant provided its consulting agreement with the Consortium to the Administrator (SLD). **Exhibit D** The consultant provided the Administrator the LOAs that it had with each consortium member “on behalf of, or evidence of, the membership of all the members included in [the] consortium.”

Exhibit A

(6) The Administrator's decision denying funding for the Consortium is inconsistent with DA-011620. There the Commission stated that denials “may make applicants reluctant to risk applying with a consortium, in contravention of the Commission's stated desire to ‘encourage schools ...to aggregate their demand with others to create a consortium ... negotiate lower rates.’” Moreover, there is

no evidence of waste, fraud, and abuse. A decision reversing the Administrator's denial of funding would ensure funding for these needy consortium members.

FCC 06-170, SLD-449052 (Kan-ed).

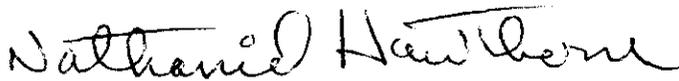
Conclusion:

Appellants are Requesting the Following Action by the FCC:

(a) Waive any error that was committed, and /or within 60 days or less Order funding for the services requested in the 471 Application, specifically FRNs:1487373, 1487670,1487883,1488059,1488124,1488493

(b) Set aside funds to totally fund the request.

Respectfully submitted,



Nathaniel Hawthorne

District of Columbia Bar No. : 237693
27600 Chagrin Blvd., Ste. 265
Cleveland, OH 44122
tel.: 216/514.4798
e-mail: nhawthorne@earthlink.net

Attorney for

Cc: Gemini Consultancy Group, Inc

Exhibit A

Services Agreement

Dodge Co. Board of Ed. enters into an agreement with *Gemini Consultancy Group, Inc* to provide consultancy services. These services will be designated by Aubrey Corbitt. Primary administration official for designating services will be the *Technology Coordinator or Technology Specialist*.

Description of Services

Gemini Consultancy Group, Inc will provide the following services in regard to *E-Rate* and *E-Rate* filing.

- 1) Assist in determining eligibility.
- 2) File *Description of Services Requested and Certification Form* (Form 470).
- 3) Assist during the competitive bidding process.
- 4) Contract guidance.
- 5) Determine the correct discount level.
- 6) Determine eligible services.
- 7) File *Services Ordered and Certification Form* (Form 471).
- 8) Facilitate application reviews.
- 9) File *Receipt of Service Confirmation Form* (Form 486).
- 10) Assist in invoice and service delivery deadlines.

by the other. Each party shall use all reasonable effort to

confine knowledge and use of confidential information received by the other to those of its employee and consultants who require such knowledge and use of the information in the ordinary course and scope of their employment pursuant to this agreement. This provision shall not apply where the parties are required to disclose because of legal requirements.

(Entity Name)
Inc

Gemini Consultancy Group,

By: 
(Authorize Agent)

By: 
(Authorized Agent)

Aubrey Corbitt
(Print Name)

Kyle B. Felce
(Print Name)

Superintendent
(Title)

Sales Manager
(Title)

January 9, 2006
(Date)

1/9/06
(Date)

Services Agreement

Worcester County enters into an agreement with *Gemini Consultancy Group, Inc* to provide consultancy services. These services will be designated by Charles Phoenix. Primary administration official for designating services will be the *Technology Coordinator or Technology Specialist*.

Description of Services

Gemini Consultancy Group, Inc will provide the following services in regard to *E-Rate* and *E-Rate* filing.

- 1) Assist in determining eligibility.
- 2) File *Description of Services Requested and Certification Form* (Form 470).
- 3) Assist during the competitive bidding process.
- 4) Contract guidance.
- 5) Determine the correct discount level.
- 6) Determine eligible services.
- 7) File *Services Ordered and Certification Form* (Form 471).
- 8) Facilitate application reviews.
- 9) File *Receipt of Service Confirmation Form* (Form 486).
- 10) Assist in invoice and service delivery deadlines.

confine knowledge and use of confidential information received by the other to those of its employee and consultants who require such knowledge and use of the information in the ordinary course and scope of their employment pursuant to this agreement. This provision shall not apply where the parties are required to disclose because of legal requirements.

(Entity Name)

Gemini Consultancy Group,

Inc

By: Charles Bloodworth

(Authorize Agent)

By: [Signature]

(Authorized Agent)

Charles Bloodworth

(Print Name)

Kyle B. Tekel

(Print Name)

Superintendent

(Title)

Sales Manager

(Title)

11/2/06

(Date)

11/2/06

(Date)

Exhibit B



Gemini Consultancy Group, Inc.

248 Tom Hill Sr. Blvd., PMB 433, Macon, Ga 31210-1815

Tel: (478) 972-3629 Fax: (478) 406-0140

Email: kyle@geminiconsultancygroup.com

January 6, 2006

E-Rate filing news

Time is running out on funding for the upcoming year and several things must be accomplished in a precise manner. The next few issues will provide information on how Gemini Consultancy Group, Inc. can help your school system properly file and receive the appropriate funds for telecommunication services, Internet access, internal connections, and basic maintenance at discounted rates for FY 2006(July 1, 2006; June 30, 2007).

E-Rate filing process

2.2 billion dollars are distributed to schools and libraries every year through the E-Rate process. Every school or library that wants to participate must go through the correct filing process.

- Eligible schools, libraries, and consortia file form 470 electronically or on paper.
- Once posted, the competitive bidding process begins.
- After 28 days, the most cost effective service provider must be selected.
- File form 471.

Important dates

- **January 19, 2006 at 11:59 pm** is the last day to file form 470.
- **February 16, 2006 at 11:59 pm** is the last day to file form 471.
- ***In order to be eligible to file form 471, form 470 must be filed by January 19, 2006 at 11:59 pm.***

Exhibit C

Schools and Libraries Breaking News November 23 , 2005

FY 2006 Window Opens December 6

The Form 471 application filing window for **Funding Year 2006** will open at noon EST on Tuesday, **December 6, 2005** and will close at 11:59 pm EST on Thursday, **February 16, 2006**. The filing window will be open for 73 days.

On November 22, 2005, the FCC issued [Public Notice FCC 05-197](#) which released the [FY2006 Eligible Services List](#). This notice waived the requirement that the [Eligible Services List](#) be published at least 60 days before the commencement of the filing window, which allows USAC to open the window on December 6, 2005.

For more information on filing Form 470 and the competitive bidding process, please refer to the [Form 470 Reminders](#) on USAC's website.

Schools and Libraries News Brief

Due to the Thanksgiving holiday USAC will not issue a Schools and Libraries News Brief on November 24, 2005.

How to Contact USAC

For program information, please visit the [Schools and Libraries area](#) on USAC's website, [submit a question](#), or call us toll-free at 1-888-203-8100.

Please do not reply to this email directly, as it was sent from an unattended mailbox.

Universal Service Administrative Company
2000 L Street, NW, Suite 200
Washington, DC 20036
www.universalservice.org

You may [subscribe](#) to or [unsubscribe](#) from this news brief.

Exhibit D

**Schools and Libraries Universal Service Program
Services Ordered and Certification Form 471
Application Display**

Block 2 & 3**Block 4****Block 5****Block 6****Misc**

471 Application No: 536185
Form Status: CERTIFIED - In Window
Out of Window Letter Date: Not applicable

Funding Year: 07/01/2006 - 06/30/2007 Cert. Postmark Date: 02/16/2006
RAL Date: 03/08/2006

Applicant's Form Identifier: 1a

Block 1: Billed Entity Information

Billed Entity Number: 127426

Applicant Name: HEART OF GEORGIA R E S A

Address: 2600 COCHRAN HIGHWAY

City: EASTMAN State: GA Zip: 31023

Contact Name: Kyle Tekell

Address:

City: State: Zip:

Type of Application: CONSORTIUM

Ineligible Orgs: N

[Previous](#)[Display Entire Application](#)

1997 - 2007 © , Universal Service Administrative Company, All Rights Reserved

Cost of Services

<u>Service</u>	<u>Cost</u>
<i>Monthly membership</i>	\$100 per month per entity
<i>Plus</i>	\$1 per \$1000 of gross application amount
<i>Commission</i>	8% of pre-discount funding commitment decision. Irrespective of actual % usage.

Length of Contract

Upon date of agreement to end of application process.

Payment Schedule

Gemini Consultancy Group, Inc will submit monthly invoices starting as agreed, but no later than the first of the month following agreement signing, with payment received within 30 business days of invoice submission.

Non-Disclosure Statement

During the course of the service agreement, each party will learn or receive information about the other, which must be treated as confidential. Each party agrees that confidential information received or learned from the other shall be treated as confidential and protected. Each party agrees not to transfer, distribute or disclose any confidential information of the other except as authorized by the other. Each party shall use all reasonable effort to

confine knowledge and use of confidential information received by the other to those of its employee and consultants who require such knowledge and use of the information in the ordinary course and scope of their employment pursuant to this agreement. This provision shall not apply where the parties are required to disclose because of legal requirements.

(Entity Name)
Inc

Gemini Consultancy Group,

By: June D. Bradfield
(Authorize Agent)

By: Kyle B. Tekell
(Authorized Agent)

JUNE D. BRADFIELD
(Print Name)

Kyle B. Tekell
(Print Name)

Executive Director
(Title)

Sales Manager
(Title)

1-06-05
(Date)

1-06-05
(Date)