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Before the
Federal Communications Commission
Washington, DC **20554**

In the Matter of	)	
	)	
A Request for Review of a Decision of the Universal Service Administrator by		
Asbury Park Free Public Library	)	CC Docket No. 02-6
Asbury Park, New Jersey	)	
	)	
Schools and Libraries Universal Service	)	
Support Mechanism	)	

APPELLANT IDENTIFICATION AND CONTACT INFORMATION

This request for review is being filed by:

Asbury Park Public Library
500 First Avenue
Asbury Park, NJ 07712-6193
Contact Person: Robert W. Stewart
Phone: 732-774-4221
Fax: 732-988-6101
E-Mail: rstewart@asburyparklibrary.org
Billed Entity Number : 122972
Billed Entity FCC RN: 001181125

NATUREOFAPPELLANT'SREQUEST

Appellant library seeks FCC review of the denial of an appeal of a "Notification of Commitment Adjustment Letter" by the Administrator of the Universal Service Administrative Company, Schools and Libraries Division.

SUBJECT APPLICATION IDENTIFICATION

The application that is the subject of this request for FCC review and of our preceding appeal to USAC is described as follows:

Form 471 Application 229937
Funding Request Number: 534428
Category of Service: internal Connections
Form 470 Application Number: 474750000309146
Applicant's Form Identifier: 301
SPIN: 143004355
Service Provider Name: Networks & More, Inc.
Contract Number: C
Billing Account Number: N/A
Site identifier: 122972
Original Funding Commitment: $22,880.04
Funds Disbursed to Date: $21,296.00
Funding Year 07/01/2001 – 06/30/2002
ERATE Year 4

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DOCUMENTATION AND BACKGROUND

The library received a Notification of Commitment Adjustment Letter dated November 2, 2006 a copy of which is appended as Appendix pages A-I to A-4 and is printed on pink colored paper. A Demand for Pavment Letter dated January 4,2007 followed a copy of which is appended as Appendix pages B-1 to B-3 and is printed on green colored paper. On December 21, 2006 the library filed an *Appeal* of the COMAD letter with USAC Schools & Libraries Division, a copy of which is appended as Appendix pages C-1 to C-4 and is printed on yellow colored paper. The library received a Denial of Appeal dated March 2, 2007 from the Administrator of USAC ***8*** Schools & Libraries Division a copy of which is appended as Appendix pages D-1 and D-2 and is printed on blue colored paper. Finally the Form 470 which is at the heart of this matter is also included herein as Appendix pages E-I to E-6 and is printed on lilac colored paper.

NOTIFICATION OF COMMITMENT ADJUSTMENT LETTER

In the COMAD letter dated November 2,2006 sent to the library and vendor, Networks & More, Inc., USAC stated that funding for the FRN was rescinded because "service provider contact information appeared on the cited Form 470." In our appeal of the COMAD letter to USAC and in the vendor's appeal, dated January 2, 2007, to the FCC, we both stated that the Form 470 itself was prima ***facie*** evidence that USAC's claim was erroneous and untrue because the library director is listed as the contact person and the contact information provided is the library's contact information.

USAC ADMINISTRATORS DECISION ON APPEAL

Our appeal to USAC was denied in a letter from the Administrator dated March 2, 2007. In the letter USAC made no further reference to its erroneous claim that vendor contact information appeared on the Form 470. On page 2 of the letter the last sentence states, "You have failed to provide evidence on appeal that USAC erred in **its** original decision." USAC's original decision was based on its claim that vendor contact information appeared on the Form 470. In our appeal we did provide evidence of error which USAC ignored.

The denial letter however cited other new reasons for determining, "that the vendor was improperly involved in the competitive bidding process." The additional reasons were presumably known to USAC when the COMAD letter was sent. It would have saved time for USAC and e-rate clients and have been more client-friendly if all the reasons for denial were stated up-front instead of in stages in what appears to be an ambush of appellants who did not submit or accede to USAC's demands in the original COMAD letters.

The new and additional points or charges made in the denial letter are:

1. the Form 470 was filed online from the service provider's IP address

2. language in Item 12 and 13 descriptions on the Form 470 "display striking similarities" to many other Form 470's of clients of the same service provider

3. "...applicants may not delegate the competitive evaluation role to anyone associated with a service provider."

4. "...applicants can not abdicate control over the application process to a service provider that is associated with the Form 471 for that applicant."

5. USAC claims that the service provider admitted to performing electronic data entry work on Form 470s for clients and submitted same from their office.

6. Applicant and service provider had a relationship prior to competitive bidding that unfairly influenced the outcome of competition and furnished "inside" information.

7. A service provider who participates in the competitive bidding process is not allowed to complete the Form 470 for that service.

Based on the findings above USAC determined, "that the vendor was improperly involved in the competitive bidding process, which is a violation of the rules of this Support Mechanism." Following that determination our appeal was denied.

RELATIONSHIP WITH VENDOR

The Asbury Park Public Library and Networks & More Inc. had a client-vendor relationship from 1998-2001. In the first three years Networks served as a consultant on e-rate matters and was compensated for those services by a corporate donor to the library. In that capacity NBM assisted with filing forms and handling paperwork. This library has participated in the e-rate program from the start; we are now handling forms for Year 10. It is difficult now to impart the feelings of frustration and confusion of many applicants in the early years of this program. As a library in the 90% category we are by definition among the neediest applicants and are in fact still one of the poorest urban areas in New Jersey. We benefit greatly from the program and have from the start; and the funding we receive is absolutely essential to our being able to maintain and offer modern technology to our customers. Even though we were very motivated and committed to participate in the program we could never have negotiated the paperwork and bureaucracy without the consultant's expert help. We saw many colleagues working on their own fail to get funding for very trivial errors and problems in the application process

Realizing the importance of the program we set out from the start to become proficient and self-sufficient with regard to filing applications and managing all aspects of the e-rate program We reached the point of being able to do everything on our own in Year 5, funding year 2002. We erroneously stated in our appeal of the COMAD letter that there was no service provider involvement in our Form 470 filing because we believed from our notes that funding Year 2001 was the year we became fully independent of any outside assistance.

During the four years that Networks performed data entry work on Form 470s for **us** their participation was clerical or ministerial in nature. Library staff provided input, directed the process, and made all substantive decisions as to what information to provide.

Also during the entire relationship the library, as well as the vendor, was cognizant of the need to follow all New Jersey public bidding statutes and regulations and of the absolute necessity of complying with FCC regulations concerning the requirements for conducting a fair, open, and competitive bidding process; and at no time did either party do otherwise or give the appearance of doing otherwise.

FORM **470** AND SERVICE PROVIDER INVOLVEMENT

In our comments above about the Administrator's denial letter enumerated items 1, 5, and 7 refer to the fact that the service provider assisted with the online filing of Form 470. However the competitive bidding requirements of the FCC at 47 C.F.R. Sect. 54.504 and Sect. 54.511 (a) do not prohibit this activity and several FCC Orders have allowed this practice under certain conditions. As early as 2000 the Commission in the *MasterMind* Order (1) at paragraph 14 determined that although a vendor had assisted with the filing of the Form 470 there was no violation of the competitive bidding process because neither the vendor nor any of its employees signed the forms nor were they listed as contact persons. The Commission affirmed this holding in the Approach Learning and Assessment Center Order adopted and released on March 23, 2007 (2) and at paragraph 15 notes that, "the Commission has determined that a competitive bidding violation occurs when a service provider that is listed on the Form also participates….as a bidder." This situation did not obtain in our case.

COMPETITIVE BIDDING PROCESS

With regard to the Form 470 in question the library states:

(1) Library complied with all FCC competitive bidding rules and requirements

(2) Form 470 was timely filed and remain posted a minimum of 28 days

(3) All inquiries from potential bidders were received by the director, as contact person, at the library address

(4) The evaluation of bids and awarding of contracts was solely in the control of and in the hands of the library who solely made these decisions

(5) The library did not delegate **its** competitive evaluation role to any other person or agency

(6) The library did not abdicate control over any aspect of the application process to any other person or agency

(7) The relationship that existed between the vendor and applicant did not unfairly influence the outcome of the competitive bidding process

(8) Cognizant of the existing involvement with a vendor the library made a special effort to establish and maintain an arms-length relationship with said vendor to insure a fair. open, and competitive bidding process

In its letter of denial of our appeal USAC concludes that the competitive bidding process was violated and tainted and bases its judgment solely on the fact that a service provider assisted in the filing on the Form 470. Their conclusion **is** based on assumptions and inferences not supported by facts. USAC offered no evidence to indicate that any of our statements above regarding the bidding process are not accurate and truthful.

Further USAC's mention in our denial letter that, "The Form 470 exhibits a pattern service, Item 12 and Item 13 description, which implies service provider involvement in the bidding process," is another example of an unsubstantiated charge that bidding rules were violated. The Commission in the Academy *of* Careers and Technologies Order adopted and released May 19, 2006 (3) at paragraph 3 comments on, "This procedure, described by USAC as

"pattern analysis," contemplates the possibility that a group of applicants, all with the same service provider, violated the competitive bidding rules." We believe that our library together with a number of other clients of Networks were pulled in by USACs "pattern analysis" dragnet and summarily accused of competitive bidding violations because USAC did not follow the directive at paragraph 7 of the Academyof Careers and Technologies *Order* (3) which states "...we find that when a service provider has improperly participated in an applicants bidding process due to the results of its "pattern analysis" procedure, it is incumbent on USAC to conduct further investigation and analysis prior to denying funding." In our case USAC did not do further investigation or analysis.

APPELLANT'S REQUEST FOR RELIEF

The Asbury Park Public Library respectfully requests that the Commission review the USAC Administrator's Decision on Appeal dated March 2, 2007, denying our appeal of USAC's COMAD Letter of November 2, 2006; that the Commission consider appellant's factual statements and descriptions of actions taken and procedures followed; and that the Commission reverse the action of USAC Schools & Libraries Division in this matter and restore funding to Funding Request Number 534428. Thank you for your help with this matter.

CASE NOTES

(1) Request for Review by *MasterMind* Internet Services, *Inc.*, CC Docket No. 96 – 45, SPIN – 143006149. (2000)

(2) Request for Review by Approach Learning and Assessment Center, File Nos SLD-I40957 et al, CC Docket 02 – 6. (2007)

(3) Request for Review by Academy *of* Career and Technologies, CC Docket No. 02 -6, File Nos. SLD – 418938 et ai. (2006)

CERTIFICATION AND SIGNATURE

I certify that I am authorized to submit this appeal on behalf of the Board of Trustees of the Asbury Park Free Public Library of the City of Asbury Park, New Jersey:

x Robert W. Stewart

Robert W. Stewart
Library Director

APPENDICES

A-1

USAC
Universal Service Administrative Company

Schools & Libraries Division

Notification of Commitment Adjustment Letter
Funding Year 2001: 7/01/2001 - 6/30/2002

November 2, 2006

Robert Stewart
ASBURY PARK FREE PUB LIBRARY
500 1ST AVE
ASBURY PARK, NJ 07712 6117

Re: Form 471 Application Number:	**229937**
Funding Year:	**2001**
Applicant's Form Identifier:	**301**
Billed Entity Number:	**122972**
FCC Registration Number:	**0011811254**
SPIN Name:	**Networks & More, Inc.**
Service Provider Contact Person:	**James Punderson IV**

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the adjustments to your funding commitment required by program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of the Demand Payment Letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104 for more information regarding the consequences of not paying the debt in a timely manner.

A-2

TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.

2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Numbers you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, Billed Entity Number, and FCC Registration Number (FCC RN) from the top of your letter.

3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter specific and brief, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.

4. Provide an authorized signature on your letter of appeal.
If you are submitting your appeal electronically, please send your appeal to appeals@sl.universalservice.org using your organization's e-mail. If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Dept. 125 - Correspondence Unit, 100 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Appeals Area of the SLD section of the USAC web site or by contacting the Client Service Bureau at 1-888-203-8100. We strongly recommend that you use the electronic appeals options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (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 of 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 section of the USAC web site, or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The SLD is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on these Funding Request Numbers, a separate letter will be sent to the service provider detailing the necessary service provider action.

Please note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Please note the Funding Commitment Adjustment Explanation in the attached Report. It explains why the funding commitment is being reduced. Please ensure that any invoices that you or your service provider submit to USAC are consistent with program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: James Punderson IV
Networks & More, Inc.

A-4

Funding Commitment Adjustment Report for
Form 471 Application Number: 229937

Funding Request Number:	534428
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143004355
Service Provider Name:	Networks & More, Inc.
Contract Number:	C
Billing Account Number:	
Site Identifier:	122972
Original Funding Commitment:	$22,880.04
Commitment Adjustment Amount:	$22,880.04
Adjusted Funding Commitment:	$0.00
Funds Disbursed to Date:	$21,296.00
Funds to be Recovered from Applicant:	$21,296.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470. When the Service Provider, Networks & More, Inc., participated in the preparation of the cited Form 470 (Application Number: 474750000309146), the Form 470 becomes tainted. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

PLEASE SEND A COPY OF THIS PAGE WITH YOUR CHECK TO ENSURE TIMELY PROCESSING

B-1

USAC
Universal Service Administrative Company

Schools & Libraries Division

Demand Payment Letter
Funding Year **2001: 7/01/2001 - 6/30/2002**

January 4,2007

Robert Stewart
ASBURY PARK FREE PUB LIBRARY
500 1ST AVE
ASBURY PARK, NJ **07712 6117**

Re:

Form **471** Application Number:	**229937**
Funding Year:	**2001**
Applicant's Form Identifier:	**301**
Billed Entity Number:	**122972**
FCC Registration Number:	**0011811254**
SPIN Name:	Networks & More, Inc.
Service Provider Contact Person:	**James Punderson** IV

You were previously sent a Notification of Commitment Adjustment Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Funding Commitment Adjustment Report (Report) attached to the Notification of Commitment Adjustment Letter. A copy of that Report is attached to this letter. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The balance of this debt is due within **30** days from the date of this letter. Failure to pay the debt within 30 days from the date of this letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please **see** the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at http://www.universalservice.org/fund-administration/tools/latest-**news.aspx#083** 104 for more information regarding the consequences of not paying the debt in a timely manner.

If the Schools and Libraries Division (SLD) has determined that both the applicant and the service provider are responsible for a program rule violation, then, pursuant to the Order on Reconsideration and Fourth Report and Order (FCC 04-181), the SLD will seek recovery of the improperly disbursed amount from **BOTH** parties and will continue to seek recovery until either or both parties have fully paid the debt. If the SLD has determined that both the applicant and the service provider are responsible for a program rule violation, this was indicated in the Funding Commitment Adjustment Explanation on the Funding Commitment Adjustment Report.

If the SLD is attempting to collect all or part of the debt from both the applicant and the service provider, then you should work with **your** service provider to determine who will be repaying the

debt to avoid duplicate payment. Please note, however, that the debt is the responsibility of both the applicant and service provider. Therefore, you are responsible for ensuring that the debt is paid in a timely manner.

Please remit payment for the full "Funds to be Recovered from Applicant" amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

If sending payment by U. S. Postal Service or major courier service (e.g. Airborne, Federal Express, and UPS) please send check payments to:

Universal Service Administrative Company
1259 Paysphere Circle
Chicago, IL 60674

If you are located in the Chicago area and use a local messenger rather than a major courier service, please address and deliver the package to:

Universal Service Administrative Company
Lockbox 1259
540 West Madison 4th Floor
Chicago, Il 60661

Local messenger service should deliver to the Lockbox Receiving Window at the above address.

Payment is due within 30 days from the date of this letter.

Complete program information is posted to the SLD section of the USAC web site at www.universalservice.org/sl/. You may also contact the SLD Technical Client Service Bureau by e-mail using the "Submit a Question" link on the SLD web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Universal Service Administrative Company
Schools and Libraries Division

cc: James Punderson IV
Networks & More, Inc.

B-3

Funding Commitment Adjustment Report
Form 471 Application Number: 229937

Funding Request Number:	534428
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143004355
Service Provider Name:	Networks & More, Inc.
Contract Number:	C
Billing Account Number:	
Site Identifier:	122972
Original Funding Commitment:	$22,880.04
Commitment Adjustment Amount:	$22,880.04
Adjusted Funding Commitment:	$0.00
Funds Disbursed to Date:	$21,296.00
Funds to be Recovered from Applicant:	$21,296.00

Funding Commitment Adjustment Explanation:

After **a** thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470. When the Service Provider, Networks & More, Inc., participated in the preparation of the cited Form 470 (Application Number: 474750000309146), the Form 470 becomes tainted. FCC rules require applicants to submit **a** Form 470 to initiate the competitive bidding process, and to conduct **a** fair and open process. **If** the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC **has** determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

PLEASE SEND A COPY OF THIS PAGE WITH YOUR CHECK TO ENSURE **TIMELY PROCESSING**

C-1

AN APPEAL OF A NOTIFICATION OF COMMITMENT ADJUSTMENT LETTER DATED NOVEMBER 2,2006 FUNDING YEAR 2001: 7/01/2001 – 6/30/2002

APPELLANT:

Asbury Park Public Library
500 First Avenue
Asbury Park, NJ 07712-6193
Contact Person: Robert W. Stewart
Phone: 732-774-4221
Fax: 732-988-6101
E-Mail: rstewart@asburyparklibrary.org

Billed Entity Number: 122972
Billed Entity FCC RN: 001181125

RESPONDENT:

Universal Service Administrative Company
Schools & Libraries Division
Box 125 – Correspondence Unit
100 South Jefferson Road
Whippany, NJ 07981

SUBJECT OF APPEAL:

Form 471 Application 229937
As Described Here:

Funding Request Number: 534428
Category of Service: Internal Connections
Form 470 Application Number: 474750000309146
Applicant's Form Identifier: 301
SPIN: 143004355
Service Provider Name: Networks & More, Inc.
Contract Number: C
Billing Account Number: N/A
Site Identifier: 122972
Original Funding Commitment: $22,880.04
Funds Disbursed to Date: $21,296.00
Funding Commitment Adjustment Explanation: Tainted Form 470.

COPY:

A copy of the "Funding Commitment Adjustment Report" for the Form 471 at issue is attached and marked Appendix-A

Asbury Park Public Library
December 21,2006

Appellant's Response to USAC's Findings and Determination as Stated in Funding Commitment Adiustment Explanation

1. Appellant states that applicant library's contact information including address, telephone number, fax number, and library director's name appears on the Form 470.

2. Appellant denies that any service provider contact information appears on the Form 470.

3. Appellant denies that there was any service provider involvement or participation in the preparation of the Form 470.

4. Appellant states that the applicant contact person received and responded to any and all inquiries by potential vendors and other interested parties concerning the Form 470.

5. Appellant states that, with respect to the Form 470, it initiated and conducted a fair, thorough, and open, competitive bidding process.

6. Appellant denies violating any FCC rules relating to the handling and processing of the Form 470.

7. Appellant denies that funds related to the Form 470 were improperly disbursed by **USAC** to applicant library.

8. Appellant states that USAC has erroneously, wrongfully, and prejudicially, rescinded the disbursement offunds, related to this Form 470, to applicant library.

Asbury Park Public Library
December 21,2006

Action Reauested

On behalf of the applicant, the Asbury Park Public Library, I respectfully request that the Schools & Libraries Division of USAC review, reconsider, and then reverse, its erroneous, wrongful, and prejudicial decision in this matter; rescind its demand that certain funds previously disbursed to and properly expended by applicant library be repaid; and cease and desist from seeking recovery of said funds.

Authorized Signature

Robert W. Stewart
Library Director
December 21,2006

APPENDIX-A

Funding Commitment Adjustment Report for
Form 471 Application Number: 229937

Funding Request Number:	534428
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143004355
Service Provider Name:	Networks & More, Inc.
Contract Number:	C
Billing Account Number:	
Site Identifier:	122972
Original Funding Commitment:	$22,880.04
Commitment Adjustment Amount:	$22,880.04
Adjusted Funding Commitment:	$0.00
Funds Disbursed to Date:	$21,296.00
Funds to be Recovered from Applicant:	$21,296.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470. When the Service Provider, Networks & More, Inc., participated in the preparation of the cited Form 470 (Application Number: 474750000309146). the Form 470 becomes tainted. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

D-1

Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2001-2002

March 2, 2007

Robert W. Stewart
Asbury Park Public Library
500 First Avenue
Asbury Park, NJ 07712-6193

Re:	Applicant Name:	Asbury Park Free Pub. Library
	Billed Entity Number:	122972
	Form 471 Application Number:	229937
	Funding Request Number(s):	534428
	Your Correspondence Received:	December 26, 2006

After thorough review and investigation of all relevant facts, the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2001 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC'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: 534428
Decision on Appeal: **Denied**
Explanation:

- Upon review of the appeal letter, the relevant facts and documentation, it was determined that the establishing Form 470 Number 474750000309146 for this request was submitted from an IP Address that Networks and More, Inc. used to submit a service provider invoice to USAC. Networks and More, Inc. was selected as a vendor for this FRN. Additionally, it was determined that the cited establishing Form 470 displays striking similarities with the Form 470 service, Item 12 and Item 13 descriptions of other applicants who selected Networks and More, Inc. as their service provider. The Form 470 exhibits a pattern service, Item 12 and Item 13 description, which implies service provider involvement in the bidding process. During the review, the service provider, Networks and More, Inc., stated that they did perform electronic data entry work on the Form 470s and that they submitted the Form 470s from their office. In accordance with the rules of the Support Mechanism, this is considered to be a conflict of interest and is in violation of the competitive bidding guidelines.

- As is noted on the USAC website, applicants may not delegate the competitive evaluation role to anyone associated with a service provider. A "Fai (sp i i 1 = u ha "all bidders are treated the same and that no bidder has advance knowledge of the project information.' Applicants and services providers should not have a relationship prior to competitive bidding "that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way." A service provider, who will participate in the competitive process as a bidder, cannot complete the Form 470. The Form 470 warns applicants that "service provider involvement with preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests." Applicants cannot abdicate control over the application process to a service provider that is associated with the FCC Form 471 for that applicant. The above findings indicate that the vendor was improperly involved in the competitive bidding process, which is a violation of the rules of this Support Mechanism. You have failed to provide evidence on appeal that USAC erred in its original decision. Consequently, your appeal is denied

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC 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" p ted in the Ri nc Area of the SLD section of the USAC website or by contacting the Client Service 1 We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Universal Service Administrative Company

FCC Form

Approval by OMB
3060-0806

470

Schools and Libraries Universal Service Description of Services Requested and Certification Form

Estimated Average Burden Hours Per Response. 4.0 hours

This form is designed to help you describe the eligible telecommunications-related services you seek so that this data can be posted on the Fund Administrator website and interested service providers can identify you as a potential customer and compete to serve you.

Please read instructions before beginning this application. (To be completed by entity that will negotiate with providers)

Block 1: Applicant Address and Identifications

Form 470 Application Number:	474750000309146
Applicant's Form Identifier:	301
Application status:	CERTIFIED
Posting Date:	12/07/2000
Allowable Contract Date:	01/04/2001
Certification Received Date:	12/11/2000

1. Name of Applicant:
ASBURY PARK FREE PUB LIBRARY

2. Funding Year:	3. Your Entity Number
07/01/2001 - 06/30/2002	122972

4a. Applicant's Street Address, P.O.Box, or Route Number
500 1ST AVE

City	State	Zip Code
ASBURY PARK	NJ	07712-6117

b. Telephone number	c. Fax number
(732) 774- 4221	() -

d. E-mail Address

5. Type Of Applicant

- ○ Individual School (individual public or non-public school)
- ○ School District (LEA;public or non-public[e.g., diocesan] local district representing multiple schools)
- ○ Library (including library system, library branch, or library consortium applying as a library)
- ○ Consortium (intermediate service agencies, states, state networks, special consortia)

6a. Contact Person's Name: Robert Stewart

*First, fill in **every** item of the Contact Person's information below **that is different from Item 4, above**. **Then** check the box next to the preferred mode of contact. (At least one box **MUST** be checked.)*

6b. Street Address, P.O.Box, or Route Number
500 1ST AVE

City	State	Zip Code
ASBURY PARK	NJ	07712-6117

○ **6c. Telephone Number** (732) 774- 4221

○ **6d. Fax Number** (732) 988- 6101

6e. E-mail Address

Block 2 Summary Description of Needs or Services Requested

7 This Form 470 describes (check all that apply):

a. ☑ Tariffed services - telecommunications services, purchased at regulated prices, for which the applicant has no signed, written contract. A new Form 470 must be filed for tariffed services for each funding year.

b. ☑ Month-to-month services for which the applicant has no signed, written contract. A new Form 470 must be filed for these services for each funding year.

c. ☑ Services for which a new written contract is sought for the funding year in Item 2.

d. ☐ A multi-year contract signed on or before 7/10/97 but for which no Form 470 has been filed in a previous program year.

NOTE: Services that are covered by a signed, written contract executed pursuant to posting of a Form 470 in a previous program year OR a contract signed on/before 7/10/97 and reported on a Form 470 in a previous year as an existing contract do NOT require filing of a Form 470.

What kinds of service are you seeking: Telecommunications Services, Internet Access, or Internal Connections? Refer to the Eligible Services List at www.sl.universalservice.org for examples. Check the relevant category or categories (8, 9, and/or 10 below), and answer the questions in each category you select.

8 Telecommunications Services

Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?

a ☐ **YES**, I have an RFP. It is available on the Web at or via (check one):
☐ the Contact Person in Item 6 or ☐ the contact listed in Item 11.

b ☐ **NO** , I do not have an RFP for these services.

If you answered NO, you must list below the Telecommunications Services you seek. Specify each **service or function** (e.g., local voice service) and quantity and/or capacity (e.g., 20 existing lines plus 10 new ones) *See* the Eligible Services List at www.sl.universalservice.org for examples of eligible Telecommunications Services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Add additional lines if needed.

Service or Function:	Quantity and/or Capacity:
Local Telphone service, POTS	Existing: 8
Inter and intra LATA long distance service	Existing: 8
Full and/or fractional T-1 using SMDS, frame relay and/or PTP and/or ADSL, ISDN BRI custoflex.	Existing: 1

9 ☑ Internet Access

Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?

a ☐ **YES,** I have an RFP. It is available on the Web at or via (check one):
☐ the Contact Person in Item 6 or ☐ the contact listed in Item 11.

b ☐ NO , I do not have an RFP for these services.

If you answered NO, **you** must list below the Internet Access Services you seek. Specify each **service or function** (e.g., monthly Internet service) and quantity and/or capacity (e.g., for 500 users). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Internet Access services. Add additional lines if needed.

Service or Function:	Quantity and/or Capacity:

Monthly Internet Service	Existing: 1

10 Internal Connections
Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?

a ☐ **YES**, I have an RFP. It is available on the Web at or via (check one):
☐ the Contact Person in Item 6 or ☐ the contact listed in Item 11.

b ☐ **NO** , I do not have an RFP for these services.

If you answered NO, you must list below the Internal Connections Services you seek. Specify each **service or function** (e.g., local area network) and quantity and/or capacity(e.g., connecting 10 rooms and 300 computers at 56kbps or better). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Internal Connections services. Add additional lines if needed.

Service or Function:	Quantity and/or Capacity:
Additional CAT5/6 and/or fiber optic cabling desired along with network infrastructure **electronics.**	**1 Building**
Network infrastructure improvements including hubs, switches, routers, servers, network software,network instalation and maintenance **services .**	**1 Building**
Improvements to phone system, phone cabling and phone installation and maintenance services.	**1 Building**

11 (Optional) Please name the person on your staff or project who can provide additional technical details or answer specific questions from service providers about the services you are seeking. This need not be the contact person listed in Item 6 nor the signer of this form.

Name:	Title:

Telephone number
() -

Fax number
() -

E-mail Address

12. ☐ Check here if there are any restrictions imposed by state or local laws or regulations on how or when providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures, and/or provide Web address where they are posted and a contact name and telephone number for service providers without Internet access.

We are subject to NJ State purchasing laws N.J.S.A. 18A:18A-3 etc.We will/can only purchase **goods and services through open public bids, from vendors having** approved, existing NJ state **contracts or via purchases that qualify.**

13. If you intend to enter into a multi-year contract based on this posting or a contract featuring an option for voluntary extensions you may provide that information below. If you have plans to purchase additional services in future years, or expect to seek new contracts for existing services, summarize below (including the likely timeframes).

We plan to purchase more of our current as well as additional types of telecom services, Increased **amounts of internet** access as well as continue to make necessary upgrades to our voice and data **network infrastructure together with purchasing the necessary installation and maintenance services required for the operation of the networks.**

Block 3: Technology Assessment

E-4

14. ☐ Basic telephone service only: If your application is for basic local and long distance telephone service (wireline or wireless) only, check this box and skip to Item **16.**

15. Although the following services and facilities are ineligible for support, they are usually necessary to make effective use of the eligible services requested in this application. Unless you indicated in Item 14 that your application is ONLY for basic telephone service, you must check at least one box in (a) through (e). You may provide details for purchases being sought.

a. Desktop software: Software required ☑ has been purchased; and/or ☐ is being sought.

b. Electrical systems: ☑ adequate electrical capacity is in place or has already been arranged; and/or ☐ upgrading for additional electrical capacity is being sought.

c. Computers: a sufficient quantity of computers ☑ has been purchased; and/or ☐ is being sought.

d. Computer hardware maintenance: adequate arrangements ☑ have been made; and/or ☐ are being sought.

e. Staff development: ☑ all staff have had an appropriate level of training /additional training has already been scheduled and/or ☐ training is being sought.

f. Additional details: Use this space to provide additional details to help providers to identify the services you desire.

Block 4 Recipients of Service

16. Eligible Entities That Will Reeeive Services:

Check the ONE choice (a,b or c) that best describes this application and the eligible entities that will receive the services described in this application. You will then list in Item **17** the entity/entities that will pay the bills for these services.

a. ☐ **Individual** school or single-site library.

b. ☐ **Statewide** application for (enter 2-letter state code) representing (check all that apply):
- ☐ All public schools/districts in the state:
- ☐ All non-public schools in the state:
- ☐ All libraries in the state:

If your statewide application includes INELIGIBLE entities, check here. ☐ **If checked, complete Item 18.**

c. ☐ **School** district, library system, or consortium application to serve multiple eligible entities:

Number of eligible sites	
For these eligible sites, please provide the following	
Area Codes (list each unique area code)	Prefixes associated with each area code (first 3 digits of phone number) separate with commas, leave no spaces
If your application includes INELIGIBLE entities, check here. ☐ If **checked, complete Item 18.**	

17. Billed Entities

List the entity/entities that will be paying the bills directly to the provider for the services requested in this application. These are known as Billed Entities. At least one line of this item must be completed. Attach additional sheets if necessary.

Entity	Entity Number
ASBURY PARK FREE PUB LIBRARY	122972

18. Ineligible Participating Entities
Does your application also seek bids on services to entities that are not eligible for the Universal Service Program? If so, list those entities here (attach pages if needed):

Ineligible Participating Entity	Area Code	Prefix

Block 5: Certification and Signature

19. The applicant includes:(Check one or both)

a. ☐ schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. Secs. 7801(18) and (38), that do not operate as for-profit businesses, and do not have endowments exceeding $50 million; and/or

b. ☑ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to elementary and secondary schools, colleges and universities).

20. All of the individual schools, libraries, and library consortia **receiving services under this application are covered by:**

a. ☑ individual technology plans for using the services requested in the application, and/or

b. ☐ higher-level technology plans for using the services requested in the application, or

c. ☐ no technology plan needed, application requests basic local and/or long distance telephone service only.

21. Status of technology plans (if representing multiple entities with mixed technology plan status, check both a and b)

a. ☑ technology plan(s) has/have been approved by a state or other authorized body.

b. ☐ technology plan(s) will be approved by a state or other authorized body.

c. ☐ no technology plan needed; application requests basic local and long distance telephone service only. .

22. ☑ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.

23. ☑ I recognize that support under this support mechanism is conditional upon the school(s) or library(ies) I represent securing access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to use the services purchased effectively.

24. ☑ I certify that I am authorized to submit this request on behalf of the above-named entities, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

25. Signature of authorized person: ☑

26. Date (mm/dd/yyyy): 12/07/2000

27. Printed name of authorized person: Robert W. Stewart

28. Title or position of authorized person: Library Director

E-6

29a. Address of authorized person:
City: State: Zip:

29b. Telephone number of authorized person: (732) 774 - 4221

29c. Fax number of authorized person: ()

29d. E-mail address number of authorized person:

Persons willfully making false statements on this form can be punished by fine or forfeiture, u the Communications Act, 47 U.S.C. Sees. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

Service provider involvement with preparation or certification of a Form 470 can **taint the competitive bidding** process and result in the denial of funding requests. For more information, refer to the "Service Provider Role in Assisting Customers" at www.sl.universalservice.org/vendor/manual/chapter5.doc or call the Client Service Bureau at 1-888-203-8100.

NOTICE: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F R. § 54.504. The collection of information stems from the Commission's authority under Section 2S4 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requiremer contained in 41 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must tile this form themselves, as pan of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended. to collect the information we request in this form. We will use the informatior you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of a FC statute, regulation, rule or order, your application may be referred to the Federal, state. or local agency responsible for investigating prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your application may he disclosed to the Department of Justice or court or adjudicative body when (a) the FCC: or (b) any employee of the FCC: or (c) the United States Government is a party or a proceeding before the body or has an interest in the proceeding. In addition, informstion provided in or submitted with this form or in response to subsequent inquiries may also I subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552. or other applicable law.

If you owe a past due debt to the federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service. other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that deb. The FCC mi also provide the information to these agencies through the matching of computer records whm authorized.

If y· u do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice io required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13.44 U.S.C § 3501, et seq

Public reponing burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management. Washington, DC 20554.

Please submit this form to:

SLD-Form 470
P.O. Box 7026
Lawrence, Kansas 66044-7026
1-888-203-8100

For express delivery services or U S. Postal Service, Return Receipt Requested, mail this form to:
SLD-Form 470
c/o Ms. Smith
3833 Greenway Drive
Lawrence, Kansas 66046
1-888-203-8100

Route
Tina
Delivery Point
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1 From

Date

Sender's Name

Phone

Company

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Dept./Floor/Suite/Room

City

State

ZIP

2 Your Internal Billing Reference

3 To

Recipient's Name

Phone

Company

Recipient's Address

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4a Express Package Service

Packages up to 150 lbs.
* To most locations

- FedEx Priority Overnight — Next business morning*
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- FedEx First Overnight — Earliest next business morning delivery to select locations*
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4b Express Freight Service

- FedEx 1Day Freight* — Next business day**

* Call for Confirmation:

5 Packaging

- FedEx Envelope*
- FedEx Pak* — Includes FedEx Sm FedEx Large Pak, a

6 Special Handling

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One box must be checked.

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- Yes — Shipp not re

Dangerous goods (including Dry ice) cannot be shipped in FedEx packaging.

Cargo Aircraft Only

7 Payment Bill to:

Enter FedEx Acct. No. or Credit Card No. below.

- Sender — Acct. No. in Section 1 will be billed.
- Recipient
- Third Party
- Credit Card
- Obtain Recip. Acct. No.
- Cash/Check

Total Packages	Total Weight	Total Declared Value†	Total Charges
		$ .00	

†Our liability is limited to $100 unless you declare a higher value. See back for details.

Credit Card Auth

8 Sign to Authorize Delivery Without a Signature

By signing you authorize us to deliver this shipment without obtaining a signature and agree to indemnify and hold us harmless from any resulting claims.

Questions? Visit our Web site at fedex.com
or call 1.800.GoFedEx 1.800.463.3339

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