



**INDEPENDENT COMPUTER MAINTENANCE LLC**

SALES • COMMUNICATIONS • CONSULTING • VOICE & DATA SOLUTIONS

www.icmcorporation.com

By Facsimile (202) 418-0187 and UPS Delivery

RECEIVED & INSPECTED  
AUG 10 2007  
FCC - MAILROOM

August 9, 2007

Letter of Appeal  
Federal Communications Commission  
Office of the Secretary  
445 – 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

**REQUEST FOR REVIEW**

Re: APPEAL OF (1) REVISED COMMITMENT ADJUSTMENT LETTER AND (2) SUBSEQUENT DENIAL OF THE APPEAL OF THAT REVISED COMMITMENT ADJUSTMENT LETTER BY THE ADMINISTRATOR OF THE SCHOOLS AND LIBRARIES DIVISION  
CC DOCKET NO. 02-6  
FUNDING YEAR: 2002-/2003  
SPIN: 143026575  
FORM 471 APPLICATION NUMBER: 309196  
FUNDING REQUEST Numbers: 803634, 803671, 803707, 803755, 803806  
APPLICANT NAME: New Horizons Academy  
APPLICANT CONTACT: Aminah Latimore-Muhammad  
BILLED ENTITY NAME: New Horizons Academy  
BILLED ENTITY NUMBER: 223454  
BILLED ENTITY AND APPLICANT CONTACT PHONE NO.: (973) 785-2300  
SERVICE PROVIDER: Independent Computer Maintenance, LLC  
SERVICE PROVIDER IDENTIFICATION NO.: 143026575  
SERVICE PROVIDER CONTACT PERSON: Anthony Natoli  
SERVICE PROVIDER CONTACT PHONE NO.: (973) 916-1800  
SERVICE PROVIDER FAX NO.: (973) 916-1986  
SERVICE PROVIDER E-MAIL: TONYN@ICM CORPORATION.COM

**Enclosure A:** Copy of Administrator's Decision on Appeal – Funding Year 2002-2003 for the New Horizons Academy FRNs 803634, 803671, 803707, 803755, and 803806 dated June 28, 2007.

**Enclosure B:** Copy of Revised Funding Commitment Decision Letter from Universal Service Administration Company dated February 21, 2007.

**Enclosure C:** Copy of ICM's Letter of Appeal to the USAC dated on April 9, 2007 (without Enclosures).

**Enclosure D:** Copy of ICM's Letter of Appeal to the FCC dated December 8, 2004 (without enclosures).

**Enclosure E:** Copy of FCC Proceeding Number FCC06-55, May 19, 2006 and Order under CC Docket No. 02-6 adopted May 2, 2006 and released May 19, 2006.

No. of Copies rec'd \_\_\_\_\_  
List ABCDE \_\_\_\_\_

Since 1985

Letter of Appeal  
Federal Communications Commission  
Office of the Secretary  
August 9, 2007  
Page 2 of 5

Gentlemen:

### **NOTICE OF APPEAL**

Please accept this letter and its enclosures as Independent Computer Maintenance, LLC's ("ICM") appeal of the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") Administrator's Decision on Appeal – Funding Year 2002-2003, dated June 28, 2007. Said decision denied in full ICM's appeal dated April 9, 2007 of USAC's Revised Commitment Adjustment Letter, which Revised Commitment Adjustment Letter rescinded in full, among others, Funding Request Numbers ("FRN") 803634, 803671, 803707, 803755, and 803806 for the New Visions Academy. A copy of USAC's Administrator's Decision on Appeal – Funding Year 2002-2003, dated June 28, 2007, is annexed hereto as Enclosure A. A copy of the Revised Funding Commitment Decision Letter from USAC dated February 21, 2007 is annexed hereto as Enclosure B. A copy of ICM's Appeal to the USAC dated April 9, 2007, without enclosures, is annexed hereto as Enclosure C.

### **FACTS**

By Commitment Adjustment Letter dated March 16, 2004, the USAC "rescinded in full" FRNs 803634, 803671, 803707, 803755, and 803806 because there was an indication that "the vendor was improperly involved in the competitive bidding process". ICM appealed that decision to the USAC Administrator, who denied ICM's appeal and on December 8, 2004, ICM appealed that denial to the Federal Communications Commission ("FCC"). A copy of ICM's appeal (without Enclosures) is annexed hereto as Exhibit D.

On May 2, 2006 the FCC adopted in Proceeding Number FCC-06-55, which it released on May 19, 2006, an Order under CC Docket No. 02-6, granting the appeal of ICM (with respect to a number of ICM Applications including Application 309196 relating to FRNs 803634, 803671, 803707, 803755, and 803806 ) and 29 other entities. This Order found that the "USAC denied the requests for funding without sufficiently determining that the service providers improperly participated in the applicant's bidding process." (Page 3 ¶6 of the Order). It further ordered the USAC to "Complete its review of each remanded application (and issue an award or a denial based on a complete review and analysis) listed in the Appendix no later than 120 days from the release of this Order." (Page 4 ¶7 of the Order). Application 309196 with contained FRN 803634, 803671, 803707, 803755, and 803806 was listed in the Appendix. (See page 7). A copy of the FCC's Order is annexed hereto as Enclosure E. The USAC, in violation of the FCC Order, failed to "issue an award or a denial based on a complete review and analysis" with respect to Application 309196, within 120 days from the issuance of the FCC Order.

By Revised Funding Commitment Decision Letter dated February 21, 2007 referencing the above referenced Form 471 Application Number and SPIN, the USAC advised ICM of its

Letter of Appeal  
Federal Communications Commission  
Office of the Secretary  
August 9, 2007  
Page 3 of 5

decision to reduce the Funding Commitments to \$0 for a number of Funding Request Numbers (“FRNs”) including FRNs 803634, 803671, 803707, 803755, and 803806 for the New Visions Academy. The Revised Funding Commitment Decision Explanation given for the denial with respect to FRNs 803634, 803671, 803707, 803755, and 803806 for the New Visions Academy was “Documents among applicants using this service provider indicates inappropriate service provider involvement in the competitive bidding process.”

By Letter dated April 9, 2007, ICM appealed that Revised Funding Commitment Decision to the SLD and by letter dated June 28, 2007 USAC issued its Administrator’s Decision of Appeal – Funding Year 2002-2003.

The Administrator’s Decision of Appeal – Funding Year 2002-2003 dated July 5, 2007 cites the following reasons for its rejection of ICM’s appeal:

“Upon through review of the appeal letter and the relevant documentation, USAC has determined that New Visions Academy failed to respond to the Program Integrity Assurance (PIA) inquiries in a timely manner. PIA made initial contact with Kathy Green, the applicant’s authorized contact on June 9, 2006 and on several occasions throughout the month of June via phone and fax and asked for information regarding the vendor. The applicant was instructed that the request was time sensitive and that a response was expected within seven calendar days. USAC’s records show several attempts to contact over the summer with no response. No information was given to USAC from the school regarding a change in contact. USAC contacted again on September 15, 2006, requesting the same information. As this information was not forthcoming, USAC was unable to determine if your funding request was in compliance with Program Rules. Therefore, the funding request was denied. On appeal, you have failed to provide any evidence that USAC erred in its initial determination or that the New Visions Academy responded to USAC’s requests for additional documentation in a timely manner. Consequently, your appeal is denied.”

“SLD reviews Form 471 applications and makes funding commitment decisions in compliance with FCC rules. See 47 C.F.R. § 54.500 et seq. To conduct these reviews, SLD has put in place administrative measures to ensure the prompt resolution of applications. See *Request for Review by Marshall County School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd. 4520, DA 03-764, ¶ 6 (rel. Mar. 13, 2003). (*Marshall County*) One such measure is that applicants are required to respond to SLD’s requests for the **additional information necessary to complete their application** within 7 days of being contacted. *Id.*; SLD section of the USAC web site, Reference Area, “Deadline for Information Requests,” [www.sl.universalservice.org/reference/deadline.asp](http://www.sl.universalservice.org/reference/deadline.asp) This procedure is necessary to prevent undue delays during the application review process. See *Marshall County* ¶6. If applicants do not respond within this time period, SLD reviews the application based on the information before it. (Emphasis added).

Letter of Appeal  
Federal Communications Commission  
Office of the Secretary  
August 9, 2007  
Page 4 of 5

“During the review for your Form 471, SLD sought additional information from you and notified you that this information needed to be provided within 7 days. You did not provide this information within 7 days or within any extended timeframe we agreed upon, or the information that you provided was insufficient to complete your Form 471 application. Consequently, SLD denies your appeal.”

### ARGUMENT

The Administrators Decision on Appeal is defective on its face and evidences the total lack of good faith and fair dealing the USAC has shown in dealing with ICM.

In trying to establish the criteria for an applicant to respond to SLD requests for further information, SLD relies on the procedures it utilizes to complete incomplete applications. It expressly states in the second paragraph of its findings that the response criteria is needed “**to ensure the prompt resolution of applications**” to obtain the “**additional information necessary to complete their application**”. At the time of application the only party that a failure to respond would effect is the applicant, however at this point in time when the SLD is attempting to issue a Revised Commitment Adjustment, utilizing such a procedure is not only inapplicable but also totally ignores the innocent service provider which is now the party most at risk. To apply such criteria is a clear error of law and the Administrators Decision based upon same should be reversed.

Additionally although the third paragraph of the Administrator’s Decision alleges that ICM was contacted in the Form 471 reviews, I categorically deny that anyone from the USAC ever contacted me for any information or documents concerning FRNs 803634, 803671, 803707, 803755, and 803806, any time subsequent to the time ICM provided the goods and services for the New Visions Academy in 2003. At all times, I have been the president of ICM and the designated contact point for USAC. I have also made a good faith inquiry of my fellow employees and no one has been able to recall any such contact. ICM is prepared to provide affidavits to that effect.

Furthermore, as set forth in the Fact section above, the FCC on May 2, 2006 adopted in Proceeding FCC-06-05, which it released on May 19, 2006, an Order under CC Docket No. 02-6, granting the appeal of ICM (with respect to a number of ICM Applications including Application 309196 relating to FRNs 803634, 803671, 803707, 803755, and 803806); finding that the “USAC denied the requests for funding without sufficiently determining that the service providers improperly participated in the applicant’s bidding process.” (Page 3 ¶6 of the Order). It further ordered the USAC to “Complete its review of each remanded application (and issue an award or a denial based on a complete review and analysis) listed in the Appendix no later than 120 days from the release of this Order.” (Page 4 ¶7 of the Order). Application 309196 with contained FRNs 803634, 803671, 803707, 803755, and 803806 was listed in the Appendix. (See page 7).

Letter of Appeal  
Federal Communications Commission  
Office of the Secretary  
August 9, 2007  
Page 5 of 5

The USAC, in violation of the FCC Order, has failed to "issue an award or a denial based on a complete review and analysis" with respect to Application 309196, within 120 days from the issuance of the FCC Order. At this late date, the USAC is barred by the terms of the FCC Order and estoppel from raising this alleged "improper" procurement issue concerning the FRNs 803634, 803671, 803707, 803755, and 803806.

### CONCLUSION

For the reasons set forth above, ICM hereby requests that the decision to reduce the Funding Commitments to \$0 for FRNs 803634, 803671, 803707, 803755, and 803806 be reversed and a new Revised Funding Commitment Decision Letter be issued reinstating the full funding commitments.

Additionally, since the USAC has failed to comply with the FCC Order under FCC Docket No. 02-6 within the time frame provided therein for all the other FRNs under which ICM provided services, ICM hereby requests that the FCC issue an order directing the USAC to reinstate the full funding commitments for all of those FRNs.

ICM is a small business and the non payment by the USAC of ICM's bone fide invoices for goods and services rendered more than three years ago is creating a great hardship for both the company and its employees. ICM would like to resolve these matters as soon as possible and toward that end hereby requests as an alternative solution that the FCC intercede in these matters and appoint a mediator or other party to help in the resolution of these matters. This series of questionable, unsupported and unjustified determinations by the USAC, in violation of the FCC Order, and subsequent appeals by ICM is not making any headway in resolving these matters. Any assistance by your office would be greatly appreciated.

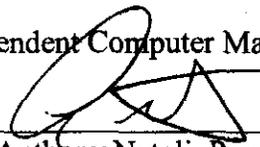
If you have any further questions concerning this matter, please contact the undersigned or our Counsel, Gary Marcus of the law firm, Gary Marcus, Attorney at Law, P.C. 600 Old Country Road, Garden City, NY 11530. (516) 301-7776.

Thank you for giving this your immediate attention.

Very truly yours,

Independent Computer Maintenance, LLC

By

  
\_\_\_\_\_  
Anthony Natoli, President

cc: New Visions Academy

**Enclosure**

**A**



Enate  
SLD - Schools & Libraries

**Universal Service Administrative Company**  
Schools & Libraries Division

**Administrator's Decision on Appeal**  
**Funding Year 2002-2003**

June 28, 2007

Anthony Natoli  
Independent Computer Maintenance, LLC  
1037 Route 46 East, Suite C-102  
Clifton, NJ 07013

Re:      Applicant Name:                      New Visions Academy  
         Billed Entity Number:                223454  
         Form 471 Application Number:        309196  
         Funding Request Number(s):        803634,803671,803707,803755,803806  
         Your Correspondence Dated:         April 9, 2007

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 2002-2003 Revised 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:            803634,803671,803707,803755,803806  
Decision on Appeal:                    **Denied in full**  
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that New Visions Academy failed to respond to the Program Integrity Assurance (PIA) inquiries in a timely manner. PIA made initial contact with Kathy Green, the applicant's authorized contact on June 9, 2006 and on several occasions throughout the month of June via phone and fax and asked for information regarding the vendor. The applicant was instructed that the request was time sensitive and that a response was expected within seven calendar days. USAC's records show several attempts to contact over the summer with no response. No information was given to USAC from the school regarding a change in contact. USAC contacted again on September 15, 2006, requesting the same information. As this information was not forthcoming, USAC was unable to determine if your funding request was in compliance with Program Rules. Therefore, the funding request was denied. On appeal, you have failed to provide any evidence that USAC erred in its initial determination or that the

New Visions Academy responded to USAC's requests for additional documentation in a timely manner. Consequently, your appeal is denied.

- SLD reviews Form 471 applications and makes funding commitment decisions in compliance with FCC rules. *See* 47 C.F.R. § 54.500 *et. seq.* To conduct these reviews, SLD has put in place administrative measures to ensure the prompt resolution of applications. *See Request for Review by Marshall County School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd. 4520, DA 03-764, ¶ 6 (rel. Mar. 13, 2003). (*Marshall County*) One such measure is that applicants are required to respond to SLD's requests for the additional information necessary to complete their application within 7 days of being contacted. *Id.*; SLD section of the USAC web site, Reference Area, "Deadline for Information Requests," [www.sl.universalservice.org/reference/deadline.asp](http://www.sl.universalservice.org/reference/deadline.asp) This procedure is necessary to prevent undue delays during the application review process. *See Marshall County* ¶ 6. If applicants do not respond within this time period, SLD reviews the application based on the information before it.
- During the review of your Form 471, SLD sought additional information from you and notified you that this information needed to be provided within 7 days. You did not provide this information within 7 days or within any extended timeframe we agreed upon, or the information that you provided was insufficient to complete your Form 471 application. 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 Federal Communications Commission (FCC). For appeals that have been denied in full, partially approved, dismissed, or cancelled, 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

cc: Kathy Green  
New Visions Academy  
739 South 20<sup>th</sup> Street  
Newark, NJ 07103

# **Enclosure**

## **B**



Universal Service Administrative Company  
Schools & Libraries Division

REVISED FUNDING COMMITMENT DECISION LETTER  
(Funding Year 2002: 07/01/2002 - 06/30/2003)

February 21, 2007

Anthony Natoli  
Independent Computer Maintenance, LLC  
1037 Route 46 East  
Clifton, NJ 07013

SPIN: 143026575

This letter is your notification that your appeal has been resolved and your official decision(s) regarding the appealed funding request decision(s) that featured your company's Service Provider Identification Number (SPIN).

The Funding Commitment Report (report) that follows this Revised FCDL contains a list of items that were included in your original FCDL. An explanation of the items in the attached report is included in the sample applicant FCDL posted to the SLD section of the USAC web site, and was included in your original FCDL. The report attached to this letter may have been updated. Use this updated information when completing FCC Form 474 or certifying FCC Forms 472. Your customer(s) should use this information when completing and certifying FCC Forms 486 and 472.

This same information is being sent to your customer(s). We urge you to contact your customer(s) to make any necessary arrangements regarding delivery of service and provision of discounts.

IMPLEMENTATION TIMEFRAME:

On June 29, 2001, the Federal Communications Commission (FCC) released an Order extending the implementation period for non-recurring services. Any non-recurring service for which funds are committed in this letter may be delivered and installed up to September 30, 2007, not including extensions. Support for recurring services, however, is available only for services provided during the period of July 01, 2002 through June 30, 2003.

If Forms 486 have not already been submitted for these services provided by this service provider as identified by the SPIN in the attached Funding Report, Forms 486, must be received or postmarked no later than 120 days after the Service Start Date or 120 days after the date of an FCDL that approves funding, whichever is later to receive discounts retroactively to the Service Start Date. If any funding was approved in the original FCDL and any services were provided by the service provider whose SPIN was referenced in the original Funding Report, the deadlines described above are calculated based on the original FCDL. If these services are approved as a result of a SPIN Correction, a new Form 486 will be required to allow invoicing for such services. Invoices for these services must be received or postmarked within 120 days of the date of the Form 486 Notification Letter or within 120 days of the last date to receive service, whichever is later. Work closely with your customers to ensure that Forms 486 and invoice forms are completed in a timely manner.

NEXT STEPS

File your FCC Form 473, Service Provider Annual Certification Form, for this funding year, if you have not already done so, to complete the procedure for submitting invoice forms. Form 473 must be completed each funding year by each service provider, for each separate SPIN, to confirm that the invoice forms submitted by each service provider are in compliance with the FCC's rules governing

the Schools and Libraries Universal Service Support Mechanism.

USAC needs to have current, complete and accurate contact and address information in order to properly make payments to service providers. The FCC Form 498, Service Provider Information Form, is the official form to use to submit or update this information. Please ensure that the information on our web site is accurate, and file the Form 498 if an update is needed.

**NON-RECURRING SERVICES:** Contract Expiration Date(s) featured on the FCC Form 471 may have passed. The attached report includes the Contract Expiration Dates from the Form 471, if provided, for each ERN. FCC rules grant a limited extension for contracts for non-recurring services. "[C]ontracts for nonrecurring services may be voluntarily extended to coincide with the appropriate deadline for the implementation [of delivery and installation for nonrecurring services]. Parties may not, however, extend other contractual provisions beyond the dates established by the Commission's rules without complying with the competitive bidding process. [FCC 01-195, released June 29, 2001]. In other words, if an applicant is granted an extension of time for delivery and installation of non-recurring services, the applicant may extend the relevant contract without rebidding. If this is true for your customer, you should first negotiate a contract extension. Your customer must then file an FCC Form 500, Adjustment to Funding Commitment and Modification to Receipt of Service Confirmation Form to notify the SLD of the new Contract Expiration Date. After Form 500 has been submitted by your customer and successfully data entered, they can file the Form 486 with the SLD and you can begin invoicing the SLD for approved services.

#### TO APPEAL THIS DECISION:

If you wish to appeal a decision in this letter, your appeal must be received by the SLD 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 (if available) e-mail address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the decision letter and the decision you are appealing:
  - appellant name,
  - applicant or service provider name, if different than appellant,
  - applicant BEN and service provider SPIN,
  - application number as assigned by USAC,
  - name of the letter and funding year - both are located at the top of the letter, AND
  - the exact text or the decision that you are appealing.
3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by the SLD's decision. If you are a service provider, please provide a copy of your appeal to the applicant affected by the SLD's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to the SLD by e-mail, use the "Submit a Question" feature on the web site at [www.sl.universalservice.org](http://www.sl.universalservice.org). Click "Continue," choose "Appeals" from the Topics Inquiry on the lower portion of your screen, and click "Go" to begin your appeal submission. The system will prompt you through the process. The SLD will automatically reply to incoming e-mails to confirm receipt.

To submit your appeal to the SLD by fax, fax your appeal to (973) 599-6542.

To submit your appeal to the SLD on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division  
Box 125 - Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

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 by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our web site. 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.

#### NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Universal Service Support Mechanism. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. The SLD may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by the SLD, the applicant, or the service provider. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division  
Universal Service Administrative Company

FUNDING COMMITMENT REPORT  
Service Provider Name: Independent Computer Maintenance, LLC  
SPIN: 143026575

Name of Billed Entity: NEW VISIONS ACADEMY  
Billed Entity Address: 739 SOUTH 20TH STREET  
Billed Entity City: NEWARK  
Billed Entity State: NJ  
Billed Entity Zip: 07103  
Billed Entity Number: 223454  
Name of Contact Person: KATHY GREEN  
Preferred Mode of Contact: PHONE  
Contact Information: (973) 399-7829  
Form 471 Application Number: 309196  
Funding Request Number: 4806884  
Funding Status: Not Funded  
Category Of Service: INTERNET ACCESS  
Form 470 Application Number: 842960000400898  
Contract Number: 10702  
Billing Account Number: N/A  
Service Start Date: 07/01/2002  
Contract Expiration Date: 06/30/2003  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-Discount Amount for Eligible Recurring Charges: \$9.00  
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$19,875.00  
Pre-Discount Amount: \$19,875.00  
Applicant's Discount Percentage Approved by SLD: N/A  
Funding Commitment Decision: \$0.00 - [REDACTED]  
Funding Commitment Decision Explanation: [REDACTED]

Applicant Revised FCDL Letter Date: 02/21/2007  
Appeal Wave Number: A33

Name of Billed Entity: NEW VISIONS ACADEMY  
Billed Entity Address: 739 SOUTH 20TH STREET  
Billed Entity City: NEWARK  
Billed Entity State: NJ  
Billed Entity Zip: 07103  
Billed Entity Number: 223454  
Name of Contact Person: KATHY GREEN  
Preferred Mode of Contact: PHONE  
Contact Information: (973) 399-7829  
Form 471 Application Number: 309196  
Funding Request Number: 4806871  
Funding Status: Not Funded  
Category Of Service: INTERNET ACCESS  
Form 470 Application Number: 842960000400898  
Contract Number: 10703  
Billing Account Number: N/A  
Service Start Date: 07/01/2002  
Contract Expiration Date: 06/30/2003  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-Discount Amount for Eligible Recurring Charges: \$0.00  
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$6,360.00  
Pre-Discount Amount: \$6,360.00  
Applicant's Discount Percentage Approved by SLD: N/A  
Funding Commitment Decision: \$0.00 - [REDACTED]  
Funding Commitment Decision Explanation: [REDACTED]

Applicant Revised FCDL Letter Date: 02/21/2007  
Appeal Wave Number: A33

FUNDING COMMITMENT REPORT  
Service Provider Name: Independent Computer Maintenance, LLC  
SPIN: 143026575

Name of Billed Entity: NEW VISIONS ACADEMY  
Billed Entity Address: 739 SOUTH 20TH STREET  
Billed Entity City: NEWARK  
Billed Entity State: NJ  
Billed Entity Zip: 07103  
Billed Entity Number: 223454  
Name of Contact Person: KATHY GREEN  
Preferred Mode of Contact: PHONE  
Contact Information: (973) 399-7829  
Form 471 Application Number: 309196  
Funding Request Number: 803377  
Funding Status: Not Funded  
Category Of Service: INTERNAL CONNECTIONS  
Form 470 Application Number: 842960000400898  
Contract Number: 10704  
Billing Account Number: N/A  
Service Start Date: 07/01/2002  
Contract Expiration Date: 06/30/2003  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-Discount Amount for Eligible Recurring Charges: \$ .00  
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$38,160.00  
Pre-Discount Amount: \$38,160.00  
Applicant's Discount Percentage Approved by SLD: N/A  
Funding Commitment Decision: \$ .00 - [REDACTED]  
Funding Commitment Decision Explanation: [REDACTED]  
Documentation: [REDACTED]

Applicant Revised FCDL Letter Date: 02/21/2007  
Appeal Wave Number: A33

Name of Billed Entity: NEW VISIONS ACADEMY  
Billed Entity Address: 739 SOUTH 20TH STREET  
Billed Entity City: NEWARK  
Billed Entity State: NJ  
Billed Entity Zip: 07103  
Billed Entity Number: 223454  
Name of Contact Person: KATHY GREEN  
Preferred Mode of Contact: PHONE  
Contact Information: (973) 399-7829  
Form 471 Application Number: 309196  
Funding Request Number: 803755  
Funding Status: Not Funded  
Category Of Service: INTERNAL CONNECTIONS  
Form 470 Application Number: 842960000400898  
Contract Number: 10705  
Billing Account Number: N/A  
Service Start Date: 04/01/2003  
Contract Expiration Date: 06/30/2003  
Number of Months Recurring Service Provided in Funding Year: 3  
Annual Pre-Discount Amount for Eligible Recurring Charges: \$ .00  
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$51,940.00  
Pre-Discount Amount: \$51,940.00  
Applicant's Discount Percentage Approved by SLD: N/A  
Funding Commitment Decision: \$ .00 - [REDACTED]  
Funding Commitment Decision Explanation: [REDACTED]  
Documentation: [REDACTED]

Applicant Revised FCDL Letter Date: 02/21/2007  
Appeal Wave Number: A33

FUNDING COMMITMENT REPORT

Service Provider Name: Independent Computer Maintenance, LLC  
SPIN: 143026575

Name of Billed Entity: NEW VISIONS ACADEMY  
Billed Entity Address: 739 SOUTH 20TH STREET  
Billed Entity City: NEWARK  
Billed Entity State: NJ  
Billed Entity Zip: 07103  
Billed Entity Number: 223454  
Name of Contact Person: KATHY GREEN  
Preferred Mode of Contact: PHONE  
Contact Information: (973) 399-7829  
Form 471 Application Number: 309196  
Funding Request Number: 803806  
Funding Status: Not Funded  
Category Of Service: INTERNAL CONNECTIONS  
Form 470 Application Number: 842960000400898  
Contract Number: 10706  
Billing Account Number: N/A  
Service Start Date: 04/01/2003  
Contract Expiration Date: 06/30/2003  
Number of Months Recurring Service Provided in Funding Year: 3  
Annual Pre-Discount Amount for Eligible Recurring Charges: \$ .00  
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$83,888.40  
Pre-Discount Amount: \$83,888.40  
Applicant's Discount Percentage Approved by SLD: N/A %  
Funding Commitment Decision: \$ .00 - [REDACTED]  
Funding Commitment Decision Explanation: [REDACTED]  
documentation to determine [REDACTED]

Applicant Revised FCDL Letter Date: 02/21/2007  
Appeal Wave Number: A33

Name of Billed Entity: AL-GHAZALY ELEMENTARY SCHOOL  
Billed Entity Address: 17 PARK STREET  
Billed Entity City: JERSEY CITY  
Billed Entity State: NJ  
Billed Entity Zip: 07304  
Billed Entity Number: 208838  
Name of Contact Person: ASHRAF EISA  
Preferred Mode of Contact: PHONE  
Contact Information: (973) 785-2300  
Form 471 Application Number: 310917  
Funding Request Number: 803222  
Funding Status: Not Funded  
Category Of Service: INTERNAL CONNECTIONS  
Form 470 Application Number: 146220000396679  
Contract Number: 10746  
Billing Account Number: N/A  
Service Start Date: 05/07/2003  
Contract Expiration Date: 09/30/2003  
Number of Months Recurring Service Provided in Funding Year: 2  
Annual Pre-Discount Amount for Eligible Recurring Charges: \$ .00  
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$79,500.00  
Pre-Discount Amount: \$79,500.00  
Applicant's Discount Percentage Approved by SLD: N/A %  
Funding Commitment Decision: [REDACTED]  
Funding Commitment Decision Explanation: Documentation among applicants using this  
service provider indicates inappropriate service provider involvement in the  
competitive bidding process.

Applicant Revised FCDL Letter Date: 02/21/2007  
Appeal Wave Number: A33

# Enclosure C



**INDEPENDENT COMPUTER MAINTENANCE LLC**

SALES • COMMUNICATIONS • CONSULTING • VOICE & DATA SOLUTIONS

www.icmcorporation.com

By Facsimile (973) 599-6542 and UPS

April 9, 2007

Letter of Appeal  
The Universal Service Administrative Company  
Schools and Libraries Division  
P.O. Box 125 – Correspondence Unit  
80 South Jefferson Road  
Whippany, New Jersey 07981

Re: APPEAL OF REVISED FUNDING COMMITMENT DECISION LETTER  
FUNDING YEAR: 2002: 07/01/2002 – 06/30/2003  
SPIN: 143026575  
FORM 471 APPLICATION NUMBERS: 309196 AND 310917  
APPLICANT NAMES: New Visions Academy and Al-Ghazaly Elementary School  
APPLICANT CONTACT FOR NEW VISIONS ACADEMY: Kathy Green  
APPLICANT CONTACT FOR AL-GHAZALY ELEMENTARY SCHOOL:  
Ashraf Eisa  
BILLED ENTITY NAMES: New Visions Academy and Al-Ghazaly Elementary School  
BILLED ENTITY NUMBER NEW VISIONS ACADEMY: 223454  
BILLED ENTITY NUMBER AL-GHAZALY ELEMENTARY SCHOOL:  
208838  
BILLED ENTITY AND APPLICANT CONTACT PHONE NO. NEW VISIONS ACADEMY: (973) 399-7829  
BILLED ENTITY AND APPLICANT CONTACT PHONE NO. AL-GHAZALY ELEMENTARY SCHOOL: (973) 785-2300  
SERVICE PROVIDER: Independent Computer Maintenance, LLC  
SERVICE PROVIDER IDENTIFICATION NO.: 143026575  
SERVICE PROVIDER CONTACT PERSON: Anthony Natoli  
SERVICE PROVIDER CONTACT PHONE NO.: (973) 916-1800  
SERVICE PROVIDER FAX NO.: (973) 916-1986  
SERVICE PROVIDER E-MAIL: [TONYN@ICM CORPORATION.COM](mailto:TONYN@ICM CORPORATION.COM)

**Enclosure A:** Copy of Revised Funding Commitment Decision Letter from Universal Service Administration Company dated February 21, 2007.

**Enclosure B:** Copy of ICM's Letter of Appeal to the FCC dated on December 8, 2004 (without Enclosures).

**Enclosure C:** Copy of ICM's Letter of Appeal to the FCC dated April 25, 2005 (without enclosures).

**Enclosure D:** Copy of FCC Proceeding Number FCC06-55, May 19, 2006 and Order under CC Docket No. 02-6 adopted May 2, 2006 and released May 19, 2006.

Since 1985

Letter of Appeal  
The Universal Service Administrative Company  
Schools and Libraries Division  
April 9, 2007  
Page 2 of 4

Gentlemen:

**NOTICE OF APPEAL**

Please accept this letter and its enclosures as Independent Computer Maintenance, LLC's ("ICM") appeal of your Revised Funding Commitment Decision Letter dated February 21, 2007 reducing to \$0 the Funding Commitment Decision for the Funding Request Numbers ("FRNs") set forth below. A copy of that Funding Commitment Decision Letter and the attached Funding Commitment Reports are annexed hereto as Enclosure A.

**FACTS**

The Revised Funding Commitment Decision Letter dated February 21, 2007 concerning the above referenced Form 471 Application Numbers and SPIN advised ICM of Universal Service Administrative Company's ("USAC") decision to reduce the Funding Commitments to \$0 for the following Funding Request Numbers:

<u>Funding Request Number</u>	<u>Applicant</u>
803634	New Visions Academy
803671	New Visions Academy
803707	New Visions Academy
803755	New Visions Academy
803806	New Visions Academy
809405	Al-Ghazaly Elementary School

The Funding Commitment Decision Explanation given for the five New Visions Academy FRNs (hereinafter "NVA FRNs") was "Applicant has not provided sufficient documentation to determine eligibility of this item". The Funding Commitment Decision Explanation given for the one Al-Ghazaly Elementary School FRN (hereinafter "AES FRN") was "Documents among applicants using this service provider indicates inappropriate service provider involvement in the competitive bidding process."

Previously, by Commitment Adjustment Letter dated March 16, 2004, the USAC "rescinded in full" the NVA FRNs because there was an indication that "the vendor was improperly involved in the competitive bidding process". ICM appealed that decision to the USAC Administrator, who denied ICM's appeal and on December 8, 2004, ICM appealed that denial to the Federal Communications Commission ("FCC"). A copy of ICM's appeal (without Enclosures) is annexed hereto as Exhibit B.

Similarly, by Commitment Adjustment Letter dated July 29, 2004, the USAC "rescinded in full" the AES FRN because there was an indication that "the vendor was improperly involved in the competitive bidding process". ICM appealed that decision to the USAC Administrator, who denied ICM's appeal and on April 25, 2005, ICM appealed that denial to the Federal

Letter of Appeal

The Universal Service Administrative Company  
Schools and Libraries Division

April 9, 2007

Page 3 of 4

Communications Commission ("FCC"). A copy of ICM's appeal (without Enclosures) is annexed hereto as Exhibit C.

On May 2, 2006 the FCC adopted in Proceeding Number FCC-06-55, May 19, 2006 an Order under CC Docket No. 02-6, granting the appeal of ICM (with respect to a number of ICM Applications including Application 309196 relating to the NVA FRNs and Application 310917 relating to the AES FRN set forth above) and 29 other entities. This Order found that the "USAC denied the requests for funding without sufficiently determining that the service providers improperly participated in the applicant's bidding process." (Page 3 ¶6 of the Order). It further ordered the USAC to "Complete its review of each remanded application (and issue an award or a denial based on a complete review and analysis) listed in the Appendix no later than 120 days from the release of this Order." (Page 4 ¶7 of the Order). Applications 309196 and 310917 with contained NVA FRNs and the AES FRN were listed in the Appendix. (See pages 6 and 7). A copy of the FCC's Order is annexed hereto as Enclosure D. More that 120 days have expired since the FCC issued its Order. The USAC has neither obtained an extension of the deadline in the Order, nor has it issued an award or denial of ICM's application.

ARGUMENT

With respect to the NVA FRNs, upon receipt of the Revised Funding Commitment Letter, ICM contacted the New Visions Academy and learned that Kathy Green was no longer employed by that Applicant. Furthermore, it appeared that no other person there had any knowledge of what documentation Applicant failed "to provide" so that the USAC could "determine the eligibility of this item." ICM has no knowledge of any such document deficiency and the first time ICM heard of any such problem was when it received the Revised Funding Commitment Letter in late February of 2007. The USAC never asked ICM for any further documents in the more than three years since ICM rendered the goods and services to New Visions Academy. Given the fact that ICM was not a party to any USAC document request and had furnished all of the documentation required of it more than three years ago, it is unreasonable to have ICM bear the burden of any alleged failure of New Visions Academy to respond to any such request and to defend this matter at such a late date. Furthermore, given the fact that these actions come on the heels of an unsuccessful action by the USAC to invalid these same FRNs utilizing different grounds found to be insufficient by the FCC, these actions by the USAC are highly suspect. To deny ICM payment at this late date based upon apparently recently fabricated reasons is unconscionable. Notwithstanding the foregoing, if there are any documents that ICM has in its possession that it can provide to resolve this matter, it would be glad to do so.

With respect to the AES FRN, as set forth in the Fact section above, the FCC on May 2, 2006 adopted in Proceeding FCC-06-05, May 19, 2006 an Order under CC Docket No. 02-6, granting the appeal of ICM (with respect to a number of ICM Applications including Application 310917 relating to the AES FRN set forth above); finding that the "USAC denied the requests for funding without sufficiently determining that the service providers improperly participated in the applicant's bidding process." (Page 3 ¶6 of the Order). It further ordered the USAC to "Complete its review of each remanded application (and issue an award or a denial based on a complete

Letter of Appeal  
The Universal Service Administrative Company  
Schools and Libraries Division  
April 9, 2007  
Page 4 of 4

review and analysis) listed in the Appendix no later than 120 days from the release of this Order.” (Page 4 ¶7 of the Order). Application 310917 with contained the AES FRN were listed in the Appendix. (See page 6). More that 120 days have expired since the FCC issued its Order. The USAC has neither obtained an extension of the deadline in the Order, nor has it issued an award or denial of ICM’s application. At this late date the USAC is barred by the terms of the FCC order and estopple from raising this alleged “improper” procurement issue concerning the AES FRN.

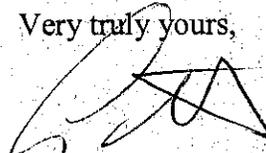
### CONCLUSION

For the reasons set forth above, ICM hereby requests that the decision to reduce the Funding Commitments to \$0 for the NVA FRNs and the AES FRN be reversed and a new Revised Funding Commitment Decision Letter be issued reinstating the full funding commitments.

If you have any further questions concerning this matter, please contact the undersigned or our Counsel, Gary Marcus of the law firm, Gary Marcus, Attorney at Law, P.C. 600 Old Country Road, Garden City, NY 11530. (516) 301-7776.

Thank you for giving this your immediate attention.

Very truly yours,



Anthony Natoli  
President  
Independent Computer Maintenance, LLC

cc: New Visions Academy  
Al-Ghazaly Elementary School

# **Enclosure**

# **D**



**INDEPENDENT COMPUTER MAINTENANCE LLC**

SALES • COMMUNICATIONS • CONSULTING • VOICE & DATA SOLUTIONS

[www.icmcorporation.com](http://www.icmcorporation.com)

**INDEPENDENT COMPUTER MAINTENANCE, LLC**

1037 Route 46 East, Suite C102

Clifton, NJ 07013

December 8, 2004

By Fax: 202-418-0187  
and UPS

Letter of Appeal  
Federal Communications Commission  
Office of the Secretary  
445 - 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**REQUEST FOR REVIEW**

Re: **APPEAL OF (1) COMMITMENT ADJUSTMENT LETTER  
AND (2) SUBSEQUENT DENIAL OF SAID APPEAL BY  
THE SCHOOLS AND LIBRARIES DIVISION OF THE  
UNIVERSAL SERVICE ADMINISTRATIVE COMPANY  
CC DOCKET NO.: 02-6  
FUNDING YEAR: 2002 Through 2003  
FORM 471 APPLICATION NUMBER: 309196  
APPLICANT NAME: New Visions Academy  
APPLICANT CONTACT: Kathy Green  
BILLED ENTITY NAME: New Visions Academy  
BILLED ENTITY NUMBER: 223454  
BILLED ENTITY AND APPLICANT  
CONTACT PHONE NO. (973) 399-2829  
SERVICE PROVIDER: Independent Computer Maintenance, LLC  
SERVICE PROVIDER IDENTIFICATION NO.: 143026575  
SERVICE PROVIDER CONTACT PERSON: Anthony Natoli  
SERVICE PROVIDER CONTACT PHONE NO.: 973-916-1800  
SERVICE PROVIDER FAX NO.: 973-916-1986  
SERVICE PROVIDER E-MAIL:  
TONYN@ICMCORPORATION.COM**

**Enclosure 1: Copy of Administrator's Decision on Appeal -  
Funding Year 2002-2003 for New Visions Academy  
dated October 12, 2004.**

**Enclosure 2: Copy of Independent Computer Maintenance, LLC  
Appeal of Commitment Adjustment -  
Funding Year 2002-2003 for New Visions Academy  
dated May 12, 2004.**

*Since 1985*

Letter of Appeal  
Federal Communications Commission  
Office of the Secretary  
December 8, 2004  
Page 2

**Enclosure 3: Copy of FCC Decision entitled "In Re  
Federal-State Joint Board of Universal Service,  
et al;" adopted on July 23, 2004.**

Gentlemen:

**NOTICE OF APPEAL**

Please accept this letter and its enclosures as Independent Computer Maintenance, LLC's ("ICM") appeal of the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") Administrator's Decision on Appeal - Funding Year 2002-2003, dated October 12, 2004. Said decision denied in full ICM's appeal of USAC's Commitment Adjustment Letter dated March 16, 2004, which letter rescinded in full the Funding Request Numbers ("FRNs") set forth below. A copy of USAC's Administrator's Decision on Appeal - Funding Year 2002-2003 dated October 12, 2004, is annexed hereto as Enclosure 1. A copy of ICM's Appeal to the USAC, and its enclosures, is annexed hereto as Enclosure 2.

**FACTS**

By a Commitment Adjustment Letter dated March 16, 2004, USAC advised ICM that, under the above-referenced Form Application Number, the commitment amount for the following FRN's are "rescinded in full" and requested the recovery of the funds to the extent indicated below:

<u>Funding Request Number ("FRN")</u>	<u>Requested Recovery</u>
803634	\$ 17,887.00
803671	\$ 5,724.00
803707	\$ 34,344.00
803806	\$ - 0 -
803755	\$ - 0 -

The USAC's March 16, 2004 Commitment Adjustment decision was justified by USAC because:

Letter of Appeal  
Federal Communications Commission  
Office of the Secretary  
December 8, 2004  
Page 3

“SLD found similarities in Forms 470 and Technology Plans among the applicants associated with this vendor. This indicates that the vendor was improperly involved in the competitive bidding process. As a result, the commitment amount is rescinded in full.” (Emphasis added) (A copy of the March 16, 2004 Commitment Adjustment Letter is annexed as Enclosure A of Enclosure 2.)

On May 12, 2004, ICM submitted its Letter of Appeal with respect to the aforesaid Commitment Adjustment Letter citing a number of reasons why the proposed Commitment Adjustment was improper and wrong, including the fact that ICM had no contact with the applicant, New Visions Academy, during the period the Form 470 and Technology Plan in question was prepared or filed. By letter dated October 12, 2004, the USAC issued an Administrator’s Decision of Appeal - Funding Year 2002-2003, denying in full ICM’s appeal.

The Administrator’s Decision of Appeal - Funding Year 2002-2003 cites the following reasons for its rejection of ICM’s appeal:

“It has been determined that the applicant documentation that was submitted to SLD during the course of the Item 25 Selective Review process indicates that similarities in the Form 470 (Application No. 842960000400898) and technology plan exist. During the course of the appeal review, it was determined that the applicants’ form identifier is the Form 470 number, standard services are sought for each service category, service or function and quantity and/or capacity is written in all capital letters. Upon review of the Item 25 documentation that was submitted by the applicant, it was determined that identical language exists for all six competitive questions, template fax back has identical wording in what appears to be the same handwriting, and the template technology plan has identical wording and format. Based upon this documentation, it was determined that similarities exist within the Form 470 and the technology plan which indicate that the original vendor, Diversified Computer Solutions, Inc., of the reference service requests was improperly involved in the competitive bidding process. Consequently, the appeal is denied.” (Emphasis added)

While ICM was apparently successful in dispelling the reason USAC originally rescinded in full the FRNs, to wit, that ICM “was improperly involved in the competition bidding process,” the Administrator only modified the original finding to find that there was an indication that the

Letter of Appeal  
Federal Communications Commission  
Office of the Secretary  
December 8, 2004  
Page 4

prior vendor, not ICM, was "improperly involved in the competitive bidding process" and rejected ICM's appeal on that basis.

Notwithstanding the fact that ICM was apparently successful in convincing the Administrator that the critical fact USAC based its prior decision on was wrong and ICM was not improperly involved in the competitive bidding process, the damage to ICM of rescinding in full the FRNs remained intact. This determination by the Administrator must be reversed because 1) it was clearly arbitrary and capricious 2) it fails any test of adequate due process, 3) it was decided based upon assumption, consequential evidence and conjecture, and 4) it is not supported by any factual determinations as well as the fact that it violates the holding and directive of the FCC contained in *In Re Federal-State Joint Board on Universal Service*, 19 FCC Rcd 15252, adopted by the FCC on July 23, 2004.

### ARGUMENTS

I. These determinations by the Universal Services Administrative Company ("USAC") were founded upon assumptions which had no basis in fact and were made in the absence of sufficient information. Since the bases of USAC's were founded on mere assumption, consequential evidence, and conjecture, the Administrator's Decision was arbitrary and capricious. In particular these determinations were wrong for the following reasons:

A. As stated in ICM's appeal of the Commitment Adjustment Letter dated May 12, 2004, ICM had obtained from the USAC website a copy of the Form 470 or had requested and received from New Visions Academy, a copy of the Form 470 and technology plan that are at issue in this appeal. In addition, ICM had requested and received other Forms 470 and technical plans associated with other Form 471 Application Numbers being questioned by other Commitment Adjustment Letters. ICM compared the Form 470 and technology plan at issue in this appeal with other Form 470 and technology plans which are the subject matter of other Commitment Adjustment Letters received by ICM. A review of these Forms 470 indicated that the Form 470 is a standard form with a few spaces to be completed by the applicant. The form itself is obviously identical to all other Forms 470 and a detailed analysis of the applicant completed sections of the Form 470 at issue in this appeal verses the Forms 470 at issue in the other Commitment Adjustment Letters indicates that the Forms, while being similar, are certainly not identical in all respects. Furthermore, in all likelihood comparing these Forms 470 to any other Forms 470 would yield similar results.

With respect to the technology plans, ICM compared the technology plan at issue in this appeal with the other technology plans being questioned by other Commitment Adjustment Letters received by ICM. Again, while the plans are similar, they all appear to be based upon information and sample technology plans ("Sample Technology Plans") that were available on the E-Rate Central website ([www.e-ratecentral.com](http://www.e-ratecentral.com)). Attached to ICM's May 12,

Letter of Appeal  
Federal Communications Commission  
Office of the Secretary  
December 8, 2004  
Page 5

2004 Appeal, as Enclosure D, was a copy of a technology plan that is the subject matter of this appeal and as Enclosure E a copy of Sample Technology Plans that was printed from the E-Rate Central website. While there are some differences in the technology plans, they are all substantially similar to each other and the Sample Technology Plans. While ICM has no knowledge concerning the preparation of the technology plan at issue in this appeal, it is clear that New Visions Academy very likely accessed the E-Rate Central website and utilized the website as a basis for the preparation of its technology plan, as apparently did other applicants thereby yielding technology plans that are similar. To draw a conclusion that ICM, Diversified Computer Solutions, Inc., or any other party "was improperly involved in the competitive bidding process" from such circumstantial and unconvincing evidence is a harsh leap of faith that cannot be justified in this forfeiture case where the continued existence of ICM is at stake.

B. Although ICM was successful in convincing the Administrator that not only was it not "improperly involved with the competitive bidding process", and that alone should have been ample basis for rescinding the Commitment Adjustment Letter, the Administrator seems to ignore the reversal of this vital factual issue, and then denies the appeal based on evidence that was never considered in the prior appeal.

For the first time, in the Administrator's decision, it is indicated that the Administrator has reviewed "applicant documentation that was submitted to SLD during the course of the Item 25 Selective Review process". Not only did the original Commitment Adjustment Letter fail to mention this evidence, but again this was a process of which ICM had no connection with whatsoever, and had no knowledge concerning the documents that may have been filed or considered in connection with that review. Curiously, when ICM asked New Visions Academy about the Item 25 Selective Review Process, ICM was advised by New Visions that there was no such review process for the 2002-2003 Funding Year.

The fact that the Administrator considered this review and related documents without giving ICM notice of this new or additional evidence and a right to review it and comment or refute it, is an unconscionable violation of Due Process. "The Due Process Clause provides that certain substantive risks - - life, liberty and property - - cannot be deprived except pursuant to constitutionally adequate procedures." *Cleveland Board of Education v. Loudermill, et al.* 470 U.S. 532, 541 (1985). These procedures would include notice of the evidence and a right to be heard concerning that evidence. In this matter, the Administrator considered new or different evidence than was considered as the basis for issuing the Commitment Adjustment Letter, without notice to ICM or a right for ICM to contest that new evidence. This was a fundamental violation of ICM's right of Due Process. This Commission has held that "submission of new evidence following a funding commitment decision letter is permitted only under limited circumstances". *In re Atlantic City Public School District*, 17 FCC Rcd 25186, 25189 on December 16, 2002.

Letter of Appeal  
Federal Communications Commission  
Office of the Secretary  
December 8, 2004  
Page 6

To make matters worse, this proceeding, in its essence, is an attempt to recover funds from ICM and, therefore, is an attempt to enforce a forfeiture of ICM's property. If any civil proceeding deserves the procedural safeguards of Due Process, it is a forfeiture proceeding. This Commission cannot expect a small business like ICM, which is being faced with financial ruin if it cannot reverse these commitment adjustments, to adequately defend its position when the USAC, on deciding its appeal, considers new evidence that ICM had no notice of or for that matter had any knowledge of whatsoever. Based upon this total lack of both substantive and procedural due process, this Commission must grant this Appeal, rescind the Commitment Adjustment Letter, and reinstate all commitment amounts in full.

C. The proposed commitment adjustments should be reversed on equitable grounds. ICM, which by the USAC's own admission, had nothing to do with any alleged improprieties in the competitive bidding process is being asked to bear the brunt of some other entity's alleged improper acts. If these proposed commitment adjustments remain as proposed, ICM will have rendered non-recoverable goods and services and have effectively received no compensation for its efforts which it rendered in accordance with its contractual commitments. On the other hand, an applicant who may have been a party to an improper competitive bidding procedure will have received goods and services and have incurred no costs for their acquisition. This would be a gross injustice where an innocent party is punished and a culpable party receives an undeserved benefit. This Commission has, in the past, reviewed the equities of various matters and when, as in this case, these equities weighed heavily in favor of an aggrieved party, this Commission waived the technical requirements of regulations to achieve a just outcome. *In re Shawnee Library System*, 17 FCC Rcd 11824, 11829 on January 25, 2002; *In re Folsom Cordova United School District*, 16 FCC Rcd 20215, 20220 on November 13, 2001. In order to avoid an unwarranted hardship to ICM and to achieve a just result, the Commission should issue a waiver with respect to the FRNs in issue and the competitive bid rules. On the equity considerations alone, the commitment adjustment results should be cancelled and all FRNs reinstated in full.

2. Subsequent to the filing of ICM's Appeal on May 12, 2004, but prior to the Administrator's Decision on Appeal issued on October 12, 2004, the Federal Communication Commission ("FCC") adopted *In re Federal-State Joint Board on Universal Service*, 19 FCC Rcd 15252 on July 23, 2004 [hereinafter *In re Federal-State*]. A copy of that decision is annexed hereto as Enclosure 3.

This decision, issued by the FCC in response to petitions by various providers, directed the USAC to re-direct its efforts to recover any funds that had been allegedly distributed unlawfully from the providers to the party or parties who have committed the statutory or rule violation in question.

The FCC further stated with respect to the "party or parties who have committed the statutory or rule violation" that:

“ We do so recognizing that in many instances, this will likely be the school or library, rather than the service provider.” *In re Federal-State*, 19 FCC Rcd at par. 10.

In reaching this conclusion, the FCC noted that:

The school or library is the entity that undertakes the various necessary steps in the application process, and receives the direct benefit of any services rendered. The school or library submits to USAC a completed FCC Form 470, setting forth its technological needs and the services for which it seeks discounts. The school or library is required to comply with the Commission’s competitive bidding requirements as set forth in Sections 54.504 and 54.511(a) of our rules and related orders. The school or the library is the entity that submits FCC Form 471, notifying the Administrator of the services that have been ordered, the service providers with whom it has entered into agreements, and an estimate of the funds needed to cover the discounts to be provided on eligible services.

*Id.* at par. 11.

It further went on to discuss that the service providers also have to follow the rules and regulations, but those are with regard to

the supported service, and as such, must provide the services approved for funding within the relevant funding year. The service provider is required under our rules to provide beneficiaries a choice of payment method, and, when the beneficiary has made full payment for the services, to remit discount amounts to the beneficiary within twenty days of receipt of the reimbursement check. But in many situations, the service provider simply is not in a position to ensure that all applicable statutory and regulatory requirements have been met. Indeed, in many instances, a service provider may well be totally unaware of any violation. In such cases, we are convinced that it is both unrealistic and inequitable to seek recovery solely from the service provider. (Emphasis added)

*Id.* at par. 11.

Finally, with respect to the applicability of the decision to other cases, the FCC stated that:

Letter of Appeal  
Federal Communications Commission  
Office of the Secretary  
December 8, 2004  
Page 8

“[t]his revised recovery approach shall apply on a going forward basis to all matters for which the USAC has not yet issued a demand letter as of the effective date of this order, and to all recovery actions currently under appeal to either USAC or this agency.” *Id.* at par. 10.

Applying this language and this directive of the FCC to the case at hand and the Commitment Adjustment Letter, and the Administrator’s Decision on Appeal dated October 12, 2004, it is clear that ICM had absolutely nothing to do with the original application process and, as such, it is merely a provider that needs to uphold the provider’s obligations as delineated above by the FCC. It is the New Visions Academy who was the applicant and who obtained these grants and, therefore, was the entity that needed to comply with all the rules and regulations concerning the application process and, as such, it is that School to whom the Schools and Library Division must look to first to recover any funding that may have been granted in violation of any statute, regulation or rule. Based upon this decision, the FCC has conclusively decided the issue presented in this appeal and has held that the USAC should proceed against the wrongdoing applicant to recover any questionable payments and not the innocent provider.

### CONCLUSION

For the reasons set forth above, ICM hereby requests that the relief requested in this appeal be granted and the finding as contained in Universal Service Administrative Company’s letter of March 16, 2004 be reversed and that all commitment amounts be reinstated in full.

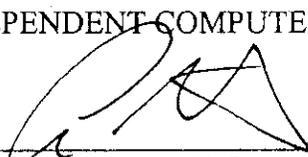
As noted in ICM’s earlier appeal, most of the efforts ICM has expended under the aforesaid FRNs were labor hours, internet and telephone charges, cabling and other non-recoverable items, therefore, the rescission of the FRNs would be a disastrous and an unusually severe hardship on this small business that would effectively terminate ICM’s ability to continue as a viable entity. If these commitment adjustments are allowed to remain, not only would the management of ICM lose their investment, 15 employees would lose their jobs and a large number of local businesses that rely on ICM could also be adversely affected. This would occur all because of some very serious deficient findings of fact, unsubstantiated conclusions, and disregard of the applicable law. Both the law and the equity of this situation require this Commission to uphold this appeal and reinstate all the commitments at issue in full.

If you have any further questions concerning this matter, please contact the undersigned at the address and telephone number indicated above, or our attorney, Gary Marcus, of the law firm of Goldberg & Connolly, 66 North Village Avenue, Rockville Centre, NY 11570, telephone No. 516-764-2800, fax No. 516-764-2827, e-mail [gmarcus@goldbergconnolly.com](mailto:gmarcus@goldbergconnolly.com).

Letter of Appeal  
Federal Communications Commission  
Office of the Secretary  
December 8, 2004  
Page 9

Very truly yours,

INDEPENDENT COMPUTER MAINTENANCE, LLC

By: 

\_\_\_\_\_  
Anthony Natoli, President

**Enclosure**

**E**

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

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Academy of Careers and Technologies	)	File Nos. SLD-418938, <i>et al.</i>
San Antonio, TX, <i>et al.</i>	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

**ORDER**

**Adopted: May 2, 2006**

**Released: May 19, 2006**

By the Commission:

**I. INTRODUCTION**

1. In this Order, we grant 30 appeals of decisions by the Universal Service Administrative Company (“Administrator” or “USAC”) denying 134 requests for funding from 96 participants in the schools and libraries universal service support mechanism on the grounds that they violated the Commission’s competitive bidding rules.<sup>1</sup> As explained below, we find that USAC improperly denied the requests for funding without sufficiently examining whether the Commission’s rules were violated due to improper third-party participation in the applicants’ competitive bidding processes, and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order. In addition, we direct the Administrator to conduct further investigation and analysis prior to denying funding for suspected competitive bidding violations of the type addressed herein, and to provide applicants with an opportunity to demonstrate that they did not violate the Commission’s competitive bidding rules. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application (and issue an award or a denial based on a complete review and analysis) listed in the Appendix no later than 120 days from release of this Order.

**II. BACKGROUND**

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>2</sup> The applicant, after developing a technology plan, files the FCC Form 470 (“Form 470”) with the Administrator to request discounted

<sup>1</sup> The list of appeals is attached in the Appendix. These Requests for Review were filed pursuant to sections 54.719-54.721 of the Commission’s rules. 47 C.F.R. §§ 54.719-54.721.

<sup>2</sup> 47 C.F.R. § 54.505.

services.<sup>3</sup> The Form 470 is posted on USAC's website for at least 28 days, during which time interested service providers may submit bids to provide the requested services.<sup>4</sup> The applicant must consider all submitted bids prior to entering into a contract; price must be the primary factor in selecting a bid.<sup>5</sup> Under the Commission's competitive bidding rules, the service provider may not participate in the bidding process.<sup>6</sup> After entering into a contract for eligible services, the applicant files the FCC Form 471 ("Form 471").<sup>7</sup> USAC assigns a funding request number ("FRN") to each request for discounted services, and issues funding commitment decision letters ("FCDLs") approving or denying the requests for discounted services.

3. Among other things, USAC is responsible for administering the application process for the schools and libraries universal service support mechanism.<sup>8</sup> Pursuant to this authority, USAC developed a procedure to detect applications that may be in violation of the Commission's competitive bidding rules by searching for similar language used in Form 470s filed by other schools, libraries, and consortia that selected the same service provider through their competitive bidding processes.<sup>9</sup> 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.

4. The Commission has under consideration 30 appeals filed by parties that have requested funding for discounted services under the schools and libraries universal service support mechanism.<sup>10</sup> Petitioners appeal decisions denying requests for funding from the schools and libraries universal service support mechanism due to a failure to comply with the Commission's competitive bidding rules, as identified by USAC's "pattern analysis" procedure. These 30 applicants had in total selected eight service providers.<sup>11</sup> Many of these applicants are among the neediest schools and libraries in the country; we estimate that more than 75% of these applicants were eligible for a 90 percent discount on eligible services. We further estimate that these 30 appeals involve approximately \$38 million in funding for 99 applicants for funding during Funding Years 2002-2004, and note that these funds have already been

---

<sup>3</sup> If the technology plan has not been approved when the applicant files the Form 470, the applicant must certify that it understands that the technology plan must be approved prior to commencement of service. 47 C.F.R. § 54.504(b)(2)(vii).

<sup>4</sup> 47 C.F.R. § 54.504(b)(4).

<sup>5</sup> 47 C.F.R. § 54.511(a).

<sup>6</sup> See *Request for Review of Decisions of the Universal Service Administrator by MasterMind Internet Services, Inc., Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 16 FCC Rcd 4028, 4032-33, para. 10 (2000).

<sup>7</sup> This form is to request discounts on those services and it contains the discount calculation worksheet and the discount funding request. The Form 471 generally must be filed each time a school or library orders telecommunications services, Internet access, or internal connections. See 47 C.F.R. §§ 54.504, 54.511(c).

<sup>8</sup> *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Third Report and Order in CC Docket No. 97-21, Fourth Order on Reconsideration in CC Docket No. 97-21, and Eighth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058, 25064-65, para. 12 (1998).

<sup>9</sup> See email from Catriona Ayer, USAC, to Vickie Robinson, Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, FCC (May 2, 2005).

<sup>10</sup> See Appendix.

<sup>11</sup> The selected service providers were: Spectrum Communications, Diversified Computer Solutions, SEND Technologies, Communications Data and Security, VIP Technologies, Ed Tec Solutions, American Internet Group, and RGC and Associates.

collected and held in reserve. Therefore, our actions taken in this Order should have minimal impact on the Universal Service Fund (“USF”).<sup>12</sup>

5. After identifying applications that incorporate similar language through its “pattern analysis” procedure, USAC typically informs applicants that “similarities in Forms 470 among applicants associated with this vendor indicate that the vendor was improperly involved in the competitive bidding and vendor selection process,” and rejects the applicants’ FRNs.<sup>13</sup> Although the precise language may vary slightly, the record before us indicates that no other detail concerning a violation of Commission rules is provided to applicants.<sup>14</sup> That is, USAC denied the applicants’ requests for funding solely based on this pattern analysis procedure; the record does not indicate that USAC made any formal findings or gathered additional facts prior to denying the requests for funding, or that USAC identified any school-specific violations of our competitive bidding rules.

### III. DISCUSSION

6. After reviewing the record, we grant the instant Requests for Review and remand them to USAC for further consideration. We conclude that USAC denied the requests for funding without sufficiently determining that the service providers improperly participated in the applicants’ bidding processes. In short, USAC presumed that these schools violated the competitive bidding rules based on a review of another applicant’s information, and without performing any applicant-specific evaluations. The “pattern analysis” procedure may be helpful to identify applications for further review to determine if the applicant violated our competitive bidding rules; however, the mere presence of similar language in Form 470s by different program participants ultimately selecting the same service provider is not sufficient evidence of a rule violation. Indeed, there are many legitimate reasons why applicants could have used similar language in their applications; for example, they may have used the same consultant, attended the same seminar or training program, or modeled their responses from the same website.<sup>15</sup> None of these legitimate reasons would support a finding that the school or library violated the competitive bidding rules. It appears from the record, however, that USAC never attempted to ascertain the reason for similar applications prior to denying funding based on its “pattern analysis” procedure or obtain additional information to determine whether the applicant violated the competitive bidding rules. In one group of denied Funding Year 2004 applications, for example, one of the “similarities” was the school identifier assigned by the state.<sup>16</sup> According to this petitioner, SEND Technologies, “USAC remained unaware that the similarities were easily explained and were not indicative of rule violations or

---

<sup>12</sup> See, e.g., *Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Fourth Quarter 2005*, dated August 2, 2005. With further investigation, as discussed in this Order, USAC can determine which of these applications should be granted and which involve violations of our competitive bidding rules. In addition, USAC will ascertain whether the relief sought by the applicant was in fact granted in a subsequent year, but the applicant neglected to withdraw the appeal.

<sup>13</sup> This explanation is in the FCDLs for each of the applicants listed in the Appendix. In some of the files, the language varies, e.g., “similarities in Forms 470 and selective review responses among applicants associated with this vendor indicate that the vendor was improperly involved in the competitive bidding process.”

<sup>14</sup> See, e.g., *Consolidated Request for Review of the Decisions of the Universal Service Administrator, Morehouse Parish School District and Jackson Parish School District*, at 4-5 (filed Jan. 10, 2005) (“Morehouse and Jackson Appeal”).

<sup>15</sup> See, e.g., *Rosemead Elementary Unified School District Request for Review* at 2-4 (filed Nov. 21, 2004).

<sup>16</sup> See Letter from Jennifer L. Richter, Patton Boggs LLP, Counsel to Nexus Systems, Inc. and Send Technologies, LLC to Marlene H. Dortch, Secretary, FCC, filed in CC Docket No. 02-6 (July 8, 2005) at 2 (“July 8, 2005 Letter”).

impermissible service provider involvement.”<sup>17</sup> In addition, the record reflects that USAC failed to identify the specific language in the Form 470s that it deemed “similar.”<sup>18</sup> We agree with the Petitioners that without specific information to determine the basis for the denial, applicants cannot provide comprehensive responses to USAC’s arguments.

7. For these reasons, we find that when USAC suspects that a service provider has improperly participated in an applicant’s 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.<sup>19</sup> Specifically, USAC should review these applications fully, and should not issue summary denials of requests for funding solely because applications contain similar language. If an entity is able to demonstrate that it fully complied with all program rules and did not, for example, violate the Commission’s competitive bidding rules, then USAC should not deny funding on the basis of the “pattern analysis” procedure. We therefore grant the Requests for Review listed in the Appendix attached to this Order and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order.<sup>20</sup> To ensure these issues are resolved expeditiously, we direct USAC to complete its review of the applications (and issue an award or a denial based on a complete review and analysis) listed in the Appendix no later than 120 days from release of this Order.

8. We recognize that some beneficiaries may have violated the competitive bidding rules and that shared facts may help uncover violations of our rules or waste, fraud, and abuse committed by other beneficiaries. Indeed, we recognize the utility of USAC’s pattern analysis of helping to identify malfeasance. A pattern analysis alone, however, does not determine that an applicant has violated program rules or engaged in waste, fraud, or abuse. Based on the existing program rules, USAC should not stop its review of an application and conclude that the applicant violated program rules (and then deny the funding request) solely because the application shares some language with that of another applicant who selected the same service provider. Instead, USAC should continue its evaluation to determine whether funding is warranted and whether the applicants violated program rules, including those concerns initially identified through the “pattern analysis” process. As part of its review, USAC may request that applicants submit documentation establishing the source of the language that is similar to that found in other applications. Upon completing its review, if USAC finds that the application complies with all

---

<sup>17</sup> July 8, 2005 Letter at 2.

<sup>18</sup> See, e.g., July 8, 2005 Letter at 2; Morehouse and Jackson Appeal at 4-5; Letter from Lila Wills Bronson, Ed.D, Director of Technology, Rosemead Elementary School District to Marlene H. Dortch, Secretary, FCC (June 20, 2003) at 4-5.

<sup>19</sup> During the application review process, USAC may request additional information from applicants. See *Request for Review of the Decision of the Universal Service Administrator by Nefesh Academy, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-27881, CC Dockets No. 95-45 and 97-21, Order, DA 99-2284, para. 3 (Com. Car. Bur., rel. Oct. 22, 1999) (“*Nefesh Academy Order*”). To ensure that the application review process for the schools and libraries program is not unduly delayed, USAC requires applicants to supply information within a reasonable time period or risk denial of the funding request. *Nefesh Academy Order* at para. 3.

<sup>20</sup> We note, however, that many of the pending appeals addressed in this Order date from Funding Year 2002, and that, due to the passage of time, such evidence may no longer be available. For example, the employees who prepared the Form 470 may have left the school system since the application was filed. USAC should look at the totality of the circumstances, including an explanation as to why evidence may no longer be available. On a going-forward basis, we expect that applicants will have better documentation to support their applications. See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Rcd 15808, 15823-24, para. 47 (requiring applicants and service providers to retain all records related to the application for, receipt and delivery of discounted services for a period of five years after the last day of service delivered for a particular funding year).

applicable program rules and that USF funding is warranted, it should authorize funding. We recognize that, after USAC completes its application review procedures for the appeals identified in this Order, it may conclude that funding is not warranted and deny the request.



#### IV. ORDERING CLAUSES

9. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), this Order IS ADOPTED.

10. IT IS FURTHER ORDERED that any and all pending appeals before this Commission identified in the Appendix of this Order ARE REMANDED to the Administrator for further consideration in accordance with the terms of this Order.

11. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, USAC SHALL COMPLETE its review of each remanded application (and issue an award or a denial based on a complete review and analysis) listed in the Appendix no later than 120 days from release of this Order.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

## APPENDIX

## A. Requests for Review Filed By Applicants for E-Rate Funding

Applicant	Service Provider	Application Number	Funding Year
Academy of Careers and Technologies San Antonio, TX	RGC and Associates, Inc.	418938	2004
El Paso School of Excellence El Paso, Texas	RGC and Associates, Inc.	408268	2004
Lake Grove at Maple Valley, Inc., Lake Grove Schools Wendall, MA	Ed Tec Solutions, LLC	380920	2003
Lake Grove Durham School, Lake Grove Schools Durham, CT	Ed Tec Solutions, LLC	380528	2003
Lake Grove Schools Lake Grove, NY	Ed Tec Solutions, LLC	381301	2003
Mountain Lake Children's Residence, Inc., Lake Grove Schools Lake Placid, NY	Ed Tec Solutions, LLC	380723	2003
Positive Solutions Consortium San Antonio, TX	RGC and Associates, Inc.	409745	2004
Rosemead Elementary School District Rosemead, CA	Spectrum Communications Cabling Services, Inc.	303357	2002
Webster Parish School District	SEND Technologies, LLC	363968	2003
Yeshiva Masoras Avos Lakewood, NJ	Communications Data and Security, Inc.	294999	2002
Yeshiva Masoras Avos Lakewood, NJ	Communications Data and Security, Inc.	347572	2003
Yeshivath Viznitz D'Khal Torath Chaim Monsey, NY	Communications Data and Security, Inc.	287318	2002

## B. Requests for Review Filed by Service Providers on Behalf of Individual Applicants

Service Provider	Applicant	Application Number	Funding Year
American Internet Group, LLC	Plymouth Educational Center Charter Schools Detroit, MI	428762	2004
Independent Computer Maintenance, LLC	Al-Ghazaly Elementary School Jersey City, NJ	310917	2002
Independent Computer Maintenance, LLC	Dar Al-Hikmah Elementary School	310459	2002

	Prospect park, NJ		
Independent Computer Maintenance, LLC	Horizon School Livingston, NJ	316671	2002
Independent Computer Maintenance, LLC <sup>21</sup>	Kearny Christian Academy Kearny, NJ	307730	2002
Independent Computer Maintenance, LLC	New Visions Academy Newark, NJ (Diversified Computer Solutions was former service provider)	309196	2002
Spectrum Communications Cabling Services, Inc.	Corona-Norco Unified School District Norco, CA	362456	2003
Spectrum Communications Cabling Services, Inc.	Rosemead Elementary Unified School District Rosemead, CA	366569	2003

**C. Consolidated Requests for Review Filed by Service Providers on Behalf of Individual Applicants**

1. Applications Consolidated in a Request for Review filed by Communications Data and Security, Inc., filed June 14, 2004:

Applicant	Application Number	Funding Year
Bais Chinuch Hayoshen Monsey, NY	294981	2002
Bais Tova	287825	2002
Bais Yaakov High School of Lakewood, Inc.	287451	2002
Beth Rivka School Brooklyn, NY	287822	2002
Bnos Chayil	288799	2002
Congregation Bnai Yoel Monroe, NY	300877, 293323, 322057	2002
Congregation Machzikei Hadas of Belz	293889	2002
Congregation Noam E. Lizensk	287796	2002
Congregation Noiam Mgodim	296699, 322734	2002
Generation Christian Academy	297919	2002
Kavanas Halev	294702, 287455	2002
Lakewood Cheder School	287220	2002
Machne Karlin Stolin	313957	2002
Midrach L'Man Achai	324976, 300353, 294833	2002

<sup>21</sup> Kearny Christian Academy also filed its own Request for Review for the same FCC Form 471 application number on August 30, 2004.

Shaar Ephraim	287472	2002
Talmud Torah Bais Yechiel	287833	2002
Talmud Torah of Lakewood	287134, 287198	2002
Talmud Torah Tzoin Yosef Pupa, Inc.	287216	2002
Tiferes Academy	304794	2002
Toras Imecha	292962	2002
United Talmudical Academy Monroe, NY	295523, 295698, 295714, 307138, 293464, 291564	2002
Viznitzer Chaidier Tiferes Yisroel	293267, 293268, 294911	2002
Westchester Special Education School	298475	2002
Yeshiva Avir Yakov	294954, 295067, 305386	2002
Yeshiva Beth David School	300860, 300896	2002
Yeshiva Bnos Ahavas Israel	287293, 287295, 321381	2002
Yeshiva Imrei Chaim Viznitz of Borobark	293311	2002
Yeshiva Imrei Yosef School	301267, 293315	2002
Yeshiva Jesode Hatorah	293419, 295822	2002
Yeshiva Kehilath Yakov School	316264	2002
Yeshiva Masoras Avos	294999	2002
Yeshiva Sharei Hayosher School Brooklyn, NY	307166, 307180	2002
Yeshiva Toras Chaim	317828	2002
Yeshiva Tzemach Tzadik Viznitz	295300	2002
Yeshiva Zichron Mayir	287235, 287238	2002
Yeshivath Viznitz D'Khal Torath Chaim	307499, 287319	2002

2. Applications Consolidated in a Request for Review filed by Ed Tec Solutions, LLC, filed May 19, 2005:

Applicant	Application Number	Funding Year
California Academy for Liberal Studies Los Angeles, CA	345392	2003
Crystal Springs School A Program of IDDI Assonet, MA	345507	2003
Green Chimneys School Brewster, NY	378380	2003
Leary School – Prince Georges County Oxon Hill, VA	345527	2003

Leary School of Virginia Alexandria, VA	345533	2003
--	--------	------

3. Applications Consolidated in a Request for Review filed by Ed Tec Solutions, LLC, filed May 18, 2005:

Applicant	Application Number	Funding Year
Family Charter School Philadelphia, PA	345475	2003
Green Chimneys School Brewster, NY	345498	2003
Westchester Special Ed School Yonkers, NY	345491	2003

4. Applications Consolidated in a Request for Review filed by Ed Tec Solutions, LLC, filed May 19, 2005:

Applicant	Application Number	Funding Year
Audrey Lorde School New York, NY	345394	2003
Graydon Manor School Leesburg, VA	345402	2003

5. Applications Consolidated in a Request for Review filed by SEND Technologies, LLC, filed August 23, 2004:

Applicant	Application Number	Funding Year
Richland Parish School District Rayville, LA	291953	2002
Morehouse Parish School District Bastrop, LA	301743	2002

6. Applications Consolidated in a Request for Review filed by SEND Technologies, LLC, filed January 10, 2005 :

Applicant	Application Number	Funding Year
Jackson Parish School District Jonesboro, LA	376220	2003
Morehouse Parish School District Bastrop, LA	360815	2003

7. Applications Consolidated in a Request for Review filed by SEND Technologies, LLC, filed January 18, 2006 :

<b>Applicant</b>	<b>Application Number</b>	<b>Funding Year</b>
Jackson Parish School District Jonesboro, LA	423981	2004
Morehouse Parish School District Bastrop, LA	409404	2004
Franklin Academy Winnsboro, LA	412894	2004

8. Applications Consolidated in Request for Review filed by Spectrum Communications Cabling Services, Inc., filed June 19, 2003:

<b>Applicant</b>	<b>Application Number</b>	<b>Funding Year</b>
El Monte Unified School District El Monte, CA	311437	2002
Hemet Unified School District Hemet, CA	295589	2002
Inglewood Unified School District Inglewood, CA	313520	2002
Lucerne Valley Unified School District Lucerne Valley, CA	314228	2002
Romoland Elementary School District Homeland, CA	305956	2002
Rosemead Elementary Unified School District Rosemead, CA	303357	2002

9. Applications Consolidated in Request for Review filed by VIP Technologies, LLC., filed March 8, 2005:

<b>Applicant</b>	<b>Application Number</b>	<b>Funding Year</b>
Alachua Learning Center Alachua, FL	418579	2004
Audrey Lorde School New York, NY	418559	2004
Bethesda Childrens' Home Meadville, PA	411830	2004
Chimes School Baltimore, MD	421161	2004
Crystal Springs School, a program of IDDI Assonet, MA	411722	2004

Everglades Preparatory Academy Pahokee, FL	418626	2004
Family Charter School Philadelphia, PA	411674	2004
Gateway-Lynde School Buffalo, NY	418701	2004
Glades Academy of Agricultural and Ecological Studies Pahokee, FL	418682	2004
Green Chimneys School Brewster, NY	411712	2004
Highville Mustard Seed Charter School Hamden, CT	420329	2004
James M. Singleton Charter Middle School New Orleans, LA	412567	2004
Lakeview Charter Academy San Fernando, CA	429410	2004
Lift for Life Academy St. Louis, MO	418553	2004
Macsa Academic Calmecac San Jose, CA	427482	2004
North County Charter School Opalocka, FL	431395	2004
School of Excellence in Education Charter School San Antonio, TX	418635	2004
Survivors Charter School West Palm Beach, FL	418464	2004
The Chiles Academy Port Orange, FL	412585	2004
Torah High School of Long Beach Long Beach, NY	425176	2004
Woods School Langhorne, PA	412885	2004
Yeshiva Tiferes Torah School Lakewood, NJ	430667	2004
Youth Opportunities Upheld, Inc. Worcester, MA	418598	2004

10. Applications Consolidated in a Request for Review filed by VIP Technologies, LLC., filed February 15, 2005:

<b>Applicant</b>	<b>Application Number</b>	<b>Funding Year</b>
Florida International Academy Miami, FL	411456	2004
Golden Rule Charter School Dallas, TX	412493	2004
Redemptive Life Academy West Palm Beach, FL	415411	2004
New Frontier Charter School San Antonio, TX	418517	2004
Tri-L Christian Academy Orlando, FL	424917	2004
Parkway Academy Miramar, FL	431407	2004
Northeast Academy 1 Opalocka, FL	431840	2004
Downtown Miami Charter School Miami, FL	432551	2004

CK-UPS® (1-800-742-5877) or visit UPS.com®.

Air services, there is no weight limit

UPS Worldwide Express  
UPS 2nd Day Air

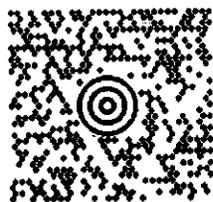
Route  
**Tina**  
Delivery Point  
**TW-B204**

OMD  
PO#  
Sdr INDEPENDENT COM

1Z078815025263610  
  
W1020059ZG

LTR 1 OF 1

**FROM:**  
KRISTIN SVENNINGSEN  
(973) 916-1800  
INDEPENDENT COMPUTER MAINTENANCE  
1037 ROUTE 46 EAST  
CLIFTON NJ 07013



**MD 20**  

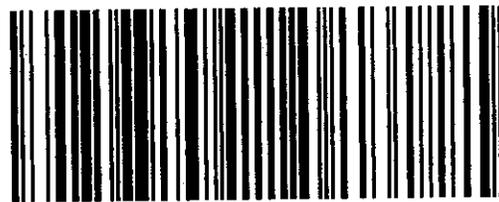

**SHIP TO:**

LETTER OF APPEAL  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY  
445 12TH STREET, S.W.  
**WASHINGTON DC 20554**

**UPS 2ND DAY AIR**

TRACKING #: 1Z 078 815 02 5263 6108

**2**



RECEIVED & INSPECTED  
AUG 10 2007  
MAILROOM

BILLING: DIS

1Z0788150252636108  
326-2936  
S: ORANGE I: 3  
WASHINGTON DC 20024-2101  
445 12TH ST SW

3 6108  
30:57 2007

Carriage hereunder may be subject to the rules relating to liability and other terms and/or conditions established by the Convention for the Unification of Certain Rules Relating to International Carriage by Air (the "Warsaw Convention") and/or International Carriage of Goods by Road (the "CMR Convention"). These commodities, technology or software were exported from the U.S. in accordance with the Export Administration Regulations. Diversion contrary to U.S. law prohibited.

010195101 05/05 PAC United Parcel Serv