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April 16, 2008

Marlene H. Dortch, Secretary
Federal Communications Commission
445 -12th Street, S.W.
Washington, D.C. 20554

CC: 02-6

Received & Inspected

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FCC Mail Room

RE: Request for Review and Waiver by
Lisbon Exempted Village School District, Billed Entity No. 129602

To Whom It May Concern:

Enclosed please find an original and five copies of Request For Review and Waiver from a decision by the Schools and Libraries Division of USAC relative to the Lisbon Village Exempted School District.

Please file the original and four of the copies and return one time-stamped copy to me in the enclosed self addressed-stamped envelope.

Please direct all communication regarding this appeal to my attention at the address noted above. Thank you for your assistance in this matter.

Yours truly,

Linda Schreckinger Sadler

Encl. 5

No. of Copies rec'd 041
List ABCDE

Before the
Communications Commission
Washington, D.C. 20554

In the Matter of:)
) CC Docket No. 02-6
Request for Review and Waiver from)
Decision of the Universal Service)
Administrator by)
)
Lisbon Exempted Village School District) REQUEST REVIEW AND WAIVER
Lisbon, OH)
)

TO: Marlene H. Dortch, Secretary
Federal Communications Commission
445 - 12th Street, SW
Washington, DC 20554

This Request for Waiver is made to the Federal Communications Commission ("FCC") pursuant to 47 C.F.R. §§ 54.719(c) and 54.721 on behalf of Lisbon Exempted Village School District ("Lisbon") pursuant to the Commission's authority as stated in 47 C.F.R. §1.3. Lisbon seeks relief from a decision by the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") denying two (2) FCC Form 472 Billed Entity Applicant Reimbursements ("BEAR") for Funding Year 2005. Lisbon seeks waivers relative to:

(1) Funding Year: 07/01/2005-06/30/2006
Billed Entity Number: 129602
Form 471 Application Number: 485557
FRN: 1346497
Reimbursement Form No: LISBONYR8SANTON
USAC Invoice No.: 858548
Date of Form 472 Notification Letter February 22, 2008

(2) Funding Year: 07/01/2005-06/30/2006
Billed Entity Number: 129602
Form 471 Application Number: 485337
FRN: 1345746
Reimbursement Form No: LISBONYR8SINSIGHT
USAC Invoice No.: 858529
Date of Form 472 Notification Letter February 29, 2008

Contact Information

- (1) To discuss this appeal: Linda Schreckinger Sadler Esq.
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lschrecks@yahoo.com
- (2) For all other SLD/FCC purposes: Jill Pray
Lisbon Exempted Village School District
25801 Richmond Road
Cleveland, OH 44146
Tel. 216.831-2626
Fax: 216.831.2822

SLD's Reason for Billed Entity Applicant Reimbursement Denial

The BEAR Notification Letter ("BNL") issued by the SLD on February 22, 2008 for 471 Application number 1346497, FRN 1346497 denied reimbursements in the amount of \$55,315.87 for services and/or products provided by Santon Electric, Inc. (SPIN 143029549) for Invoice Number 858548 stating: "Service Delivered Outside of Funding Year." The BNL issued by the SLD on February 29, 2008 for 471 application number 485337, FRN 1345746 denied reimbursements in the amount of \$122,978.48 for services and/or products provided by Insight Public Sector (SPIN 143005890) for Invoice Number 858337 stating no reason for the denial.

Supporting Statement

The BEAR reimbursements sought by Lisbon Exempted Village School District pertain to reimbursements for funds expended in construction renovations made to its two school buildings: David Anderson Junior-Senior High School (BEN 48615) and McKinley Elementary School (BEN 48616). The renovation projects were undertaken as a joint endeavor by the Ohio School Facilities Commission ("OSFC") and the School District. OSFC is an agency of the State of Ohio which is "charged with providing funding, management, oversight, and technical assistance to local school districts for construction and renovation of school facilities for students in kindergarten through 12th grade."¹ Districts partner with OSFC to assess their buildings and renovate or build new facilities. OSFC serves as a funding partner for the school districts to help them finance their school construction projects and selects funding recipients beginning with the poorest districts in the state. The program is designed to provide different levels of state funding assistance to districts depending on their wealth². Each year the OSFC publishes a ranking of all Ohio schools and, on a year-to-year rolling basis, selects schools that qualify for OSFC assistance based upon the age of the facilities (at least 40 years old) and economic indigence of the district. Since the age of the buildings and the wealth/poverty of the school district are governing factors in obtaining OSFC assistance, and only a limited number of projects are undertaken each year, a district may have to wait many years for an OSFC opportunity to come its way. For more affluent Ohio school districts that opportunity never comes.

¹ See <http://www.osfc.state.oh.us/>

² See <http://www.osfc.state.oh.us/whatwedo/FinancialPartnership.html>

Prior to undertaking a project with OSFC assistance, a district must enter into detailed contracts with OSFC and agree to comply with all OSFC requirements, including applicable procurement policies. Similar to the E-rate program, OSFC provides a school district a certain amount of financial assistance for a project with the district having the responsibility of paying a percentage of the total project costs. Also similarly to E-rate, the OSFC program is designed to provide different levels of state funding assistance to districts depending on their wealth; the poorest districts in the state receiving the greatest amount of aid.³ Like E-rate, OSFC has specific timetables and deadlines that apply to each project and a school district must agree to allow OSFC complete control over the management and staging of a project and follow its directives.

In 2005, in accordance with OSFC policies, purchased cabling from Santon Electric Company (SPIN 143029549) and servers and other hardware from Insight Public Sector (SPIN 143005890). The OSFC Project Team had decided that it was in Lisbon's best interest to purchase the internal connections equipment necessary for this portion of the project off the State of Ohio term [master] contract because purchasing off the state term contract in March - May 2005 allowed Lisbon to obtain optimal pricing on the equipment. There was a narrow window of time for Lisbon to obtain this pricing for the specific brand(s) of equipment bid for the project. Seeking to minimize out-of-pocket, OSFC and E-rate project costs for this equipment, Lisbon followed OSFC mandates and purchased the equipment in March-May 2005. Although the equipment was purchased prior to the July 1, 2005 start-date of the funding year, the equipment remained untouched in storage until the funding year commenced. See Letter from Lisbon Superintendent, Donald M. Thompson,

³ Id at 2.

attached hereto as Exhibit "A". (Note that ineligible items had already been removed from the Funding Commitment.)

At all times relevant, Lisbon strove to comply with the rules and regulations of the E-rate program and those of the Ohio School Facilities Commission. The OSFC offered Lisbon an exceptional opportunity to improve its aged buildings with state subsidized support. Lisbon is a small school district and the renovations made would not have been possible without this assistance. To offset some of its still considerable out-of-pocket expense, Lisbon sought E-rate funding subsidies.

Lisbon properly posted six (6) Form 470 applications for internal connections, each referencing the posting of a Request for Proposal ("RFP"). (There were six RFPs; one associated with each 470 application). Lisbon waited 28 days after the 470 postings, assessed the bids received in response to the RFPs, selected its vendors and signed contracts. Lisbon then proceeded to file its Form 471 applications in a timely manner. Unbeknownst to Lisbon until *after* the 471s were filed and a project management meeting took place, it had a limited-time opportunity to allow its E-rate selected vendors to purchase some of the needed internal connections products and services off the state contract at optimal pricing. Such being the case, it was the decision of the OSFC Project Management Team that Lisbon acquire the equipment while the limited-time opportunity presented itself. Lisbon's early procurement of the cabling and hardware was done not to defy E-rate rules and regulations, but to comply with its obligations to OSFC.

To the best of its ability Lisbon balanced the requirements of the OSFC with those of the E-rate program. OSFC directives required that the equipment be purchased prior to the commencement of the E-rate funding year, but so doing served to attain the most cost

effective pricing for the E-rate eligible equipment that had been applied for. Strict compliance with E-rate rules turned out to be impossible given the procurement requirements of the OSFC state agency. Failure to comply with OSFC procurement requirements would have violated Lisbon's contractual obligations and jeopardized the funding for the entire project.

Lisbon never had intent to abuse or defraud the E-rate program or waste E-rate funds; it was caught between the conflicting mandates of the OSFC and the E-rate program. Purchasing the equipment was the only aspect of its 2005 funding requests that fell outside the scope of program regulations. Since forfeiting these funds would result in financial hardship to the Lisbon Exempted Village Schools, Lisbon hereby requests that the FCC grant it a one-time waiver and order reimbursements for the FRNs set forth herein.

Respectfully submitted,



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Exhibit A

Lisbon Exempted Village School District
Office of the Superintendent
317 North Market Street
Lisbon, Ohio 44432

Donald M. Thompson
Superintendent

Phone: 330-424-7714
Fax: 330-424-0135

To whom it may concern,

The Lisbon Exempted Village School District and the Ohio Schools Facilities Project entered into a construction project in 2004 to improve District facilities. As part of this project we were able to upgrade our technology systems throughout the District because of the additional funding provided by the joint project. In order to take full advantage of the state term pricing available to us, we were required to purchase the equipment in March and May of 2005. Recognizing the terms of the E-rate timelines, we stored the equipment until after July 1st of the funding year before we began installation of the equipment.

I offer this information for your consideration. As a small school district with a tremendous opportunity to upgrade our technology, we were caught in an extremely tight time frame in order to purchase the equipment and be able to have it installed all the while meeting both Ohio Schools Facilities and E-rate requirements.

If you have any questions in regard to this correspondence, I would be glad to speak with you.

Sincerely,

Donald M. Thompson

Donald M. Thompson