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June 17, 2009

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VIA ELECTRONIC FILING

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Appeal Of USAC Decision On Appeal Of Notification Of Commitment Adjustment CC Docket No. 02-6

Applicant Name:	Our Lady of Grace School
Billed Entity Number:	10671
Funding Year	2004
Form 471 App. Number:	391525
Funding Request Number:	1072548

Dear Ms. Dortch:

Our Lady of Grace School ("Grace"), acting through counsel and pursuant to Sections 54.719-54.721 of the Commission's rules[1], hereby timely files this Request for Review ("Appeal"). The Appeal requests Commission review of the adverse decision of the Administrator of the Universal Service Administrative Company ("USAC") denying the funding requests enumerated above for Funding Year 2004 and seeking recovery of previously disbursed E-rate support funds. *See* Exhibit 1 attached hereto.

More specifically, on April 21, 2009, USAC's Schools and Libraries Division ("SLD") issued a decision denying an appeal filed by Grace with USAC. In its decision USAC held that Grace was responsible for an E-rate program rule violation relating to the Commission's competitive bidding rules. The USAC appeal denial reiterated a previous USAC decision requiring the applicant to return

[1] 47 C.F.R. §§ 54.719-54.721.

previously disbursed funds made available pursuant to the referenced Funding Request Number ("FRN").

Grace is aggrieved by USAC's April 21, 2009, decision and submits that (a) USAC failed to provide any specific documents or other evidence to support its conclusion, (b) the vendor neutral terms used by Grace did not reflect any surrender of control over the competitive bidding process and (c) neither Grace nor the relevant service provider acted inconsistent with applicable FCC precedent. For these various reasons outlined in Grace's appeal to USAC, and others that it will submit to the Commission, the latest USAC decision is unwarranted and unjustified under the rules, policies and requirements governing the E-rate Program applicable to the referenced Application and FRN.

Grace will supplement this Appeal with a full discussion of the facts, Grace's position and supporting arguments.

Sincerely,

Paul C. Besozzi
Counsel to Archdiocese of New York and Our Lady of Grace School

cc: James P. McCabe, Esq.
USAC

EXHIBIT 1

Administrator's Decision on Appeal – Funding Year 2004-2005

April 21, 2009

Cynthia B. Schultz
Patton Boggs LLP
2550 M Street, N.W.
Suite 550
Washington, DC 20037

Re:	Applicant Name:	OUR LADY OF GRACE SCHOOL
	Billed Entity Number:	10671
	Form 471 Application Number:	391525
	Funding Request Number(s):	1072548
	Your Correspondence Dated:	November 29, 2008

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 USAC's Funding Year 2004 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1072548
Decision on Appeal: **Denied**
Explanation:

- Program rules prohibit service providers from participating in developing, filling out, completing and posting the Form 470. Even if the FCC Forms 470 in question provided vendor-neutral information, USAC disagrees that a fair and open bidding process was conducted by Our Lady of Grace School. Further, USAC disagrees with the appellant's assertion that Our Lady of Grace School did not surrender control of the competitive bidding process to a service provider.

  In filling out the FCC Forms 470, Computer Technical Services (CTS) helped the entities to determine what types of services to seek. In so doing, the entities necessarily revealed information to CTS that it did not reveal to any other prospective bidder.

According to the documentation provided to USAC, a representative of CTS filled out and submitted the FCC Form 470, which constitutes a violation of the prohibition against service providers filling out forms that require an applicant's certification, as well as a violation of the requirement that the FCC Form 470 be completed by the entity that will negotiate with prospective bidders. CTS assisted in completing the FCC Form 470 even though Our Lady of Grace School was the entity that would negotiate with prospective bidders.

Additionally, CTS performed many of the competitive bidding tasks that would ordinarily have been performed by Our Lady of Grace School. For example Our Lady of Grace School did not have to prepare a list of services to bid out, fill out the FCC Form 470, or submit the FCC Form 470 to USAC. Therefore, the assistance that CTS provided to Our Lady of Grace School may have caused the entity to look more favorably on a CTS bid as opposed to bids from companies who did not provide such assistance.

Your Letter of Appeal seems to indicate that because Our Lady of Grace School certified the FCC Form 470 and chose the service provider, the entity maintained control of the competitive bid process. However, for the reasons noted above, USAC determined that a competitive bid violation did occur. Consequently, the appeal is denied.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website 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: Daphne Lewis

Cynthia B. Schultz
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Billed Entity Number: 10671
Form 471 Application Number: 391525
Form 486 Application Number: