Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	**CC Docket No. 02-6**
Request for Review of Decision of the Universal Service Administrator	)	
	)	
Our Lady of Grace School	)	**File No. SLD340619 (FY2003)**

To: Chief, Wireline Competition Bureau

SUPPLEMENT TO REQUEST FOR REVIEW

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Dated: September 8, 2009

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SUMMARY

Our Lady of Grace School ("School") supplements its timely-filed request for review of a decision by the Schools and Libraries Division of the Universal Service Administrative Company (collectively, "USAC") seeking recovery of Schools and Libraries Support Mechanism ("E-Rate Program" or "Program") funds awarded to the School for Funding Year ("FY") 2003. USAC's recovery is grounded in the assertion that the School abrogated control over the competitive biding process to a service provider, Computer Technical Services, Inc. ("CTS").

USAC has provided no documentation or evidence to substantiate the asserted basis for its action. As such, USAC has denied the School the right to file a comprehensive response to USAC's claims. The Commission has expressly stated that applicants must be afforded the opportunity to demonstrate that they did not violate the Commission's competitive bidding rules. USAC has meaningfully denied the School that opportunity.

Nevertheless, the School maintains that it made the decisions, without influence or participation by CTS, about the services to be acquired. The vendor-neutral descriptions contained on the relevant FCC Form 470 for FY 2003 did not provide any competitive advantage to CTS or for that matter any other bidder in the process. Therefore, there was no violation of the competitive bidding rules and the basis for the request for return of funds now, going on 7 years after the Form 470 was posted, is incorrect.

Moreover, the School acted in good faith and there is no assertion that there has been any fraud or misuse of program funds. To require the return of funds now, so many years later, by a small private Catholic school would work an undue, unfair and unsustainable hardship.

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To: Chief, Wireline Competition Bureau

SUPPLEMENT TO REQUEST FOR REVIEW

Our Lady of Grace School (the "School" or "Our Lady of Grace"), acting through counsel and pursuant to and in accordance with Sections 54.719-54.721 of the Federal Communication Commission's ("Commission") rules, hereby supplements its previously-filed Request For Review ("Request").[1] Therein, the School sought review of USAC's ruling on appeal to affirm its previous decision to recover certain Schools and Libraries Support Mechanism ("E-Rate Program" or "Program") funding provided to the School for FY2003.

USAC claims the recovery is justified because the School did not conduct a fair and open competitive bidding process and improperly surrendered control of that process to the ultimately successful service provider, Computer Technical Services, Inc. ("CTS").[2] The School

[1] On June 17, 2009, the School filed a Request for Review with the Federal Communications Commission ("FCC" or "Commission") seeking review of the April 21, 2009 denial by Schools and Libraries Division of the Universal Service Administrative Company's (collectively, "USAC") of an appeal the School filed with USAC for Funding Year ("FY") 2003. FCC Administrative Record ("FCCAR") at 01-06. The School respectfully requests that the Commission associate this Supplement To Request For Review (hereinafter "Supplement") with that filing.

[2] FCCAR07-09. (USAC Letter dated April 21, 2009, denying the School's FY2003 funding requests for Funding Request Numbers ("FRNs") 941058, 941060 (the "Denial Letter")).

respectfully submits that USAC's conclusion is factually in error and not legally supportable. Therefore, the School's Request must be granted and USAC's efforts to recover the FY2003 Program funds terminated.

I. STATEMENT OF THE SCHOOL'S INTEREST IN THE REQUEST

The School has standing to file its appeal because Section 54.719(c) of the Commission's rules provides that "[a]ny person aggrieved by an action taken by a division of the Administrator ... may seek review from the Federal Communications Commission."[3] In this case, the School is directly aggrieved by USAC's Denial Letter and its continued effort to recover previously-approved Program funds expended in accordance with that approval.

II. KEY BACKGROUND FACTS

A. The School

Our Lady of Grace is a private, coed, Catholic elementary school located the Bronx, New York, one of a number of such schools in the Archdiocese of New York that participate in the E-Rate Program. The School serves over 400 students in grades PK-8.

B. FCC Form 470

On November 2, 2002, USAC posted the School's FCC Form 470, Application No. 612520000424588, indicating the School's intent to seek telecommunications, Internet access, and internal connections services.[4] The School did not post a separate RFP for any of the services.

Specifically, on its FCC Form 470, the School sought the following services:

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[3] 47 C.F.R. § 54.719(c).

[4] FCCAR10-16 (FCC Form 470 Application Number 612520000424588, Nov. 2, 2002).

Telecommunications	
Local Voice Service	4 lines
Long Distance Service	4 lines
Cellular Telephone Service	2 lines
Internet Access	
Dedicated Internet Service	60 computers
Internal Connections	
Network Maintenance	60 Connections
Technical Support	60 Connections
Telephone System Maintenance	30 Connections
Internal Wiring	30 Connections

The School conducted a competitive bidding process pursuant to the Commission's rules and waited 28 days after posting the FCC Form 470 before choosing Verizon-New York, Inc., Nextel of New York, Inc. and CTS for the services requested.

C. FCC Form 471

On Jan. 29, 2003, the School filed its certified FCC Form 471, Application No. 340619, with USAC certifying its selection of Verizon-New York Inc. and Nextel of New York, Inc. as its telecommunications providers and CTS as its Internet access and internal connection service provider.[5] Specifically, the FCC Form 471 included the following funding requests: FRN 941060 for Internet access and FRN 941058 for internal connections. USAC subsequently approved the FY 2003 funding request and to date has disbursed $12,960.00 for FRN 941060 and $56,925.90 for FRN 941058.

[5] FCCAR17-20 (FCC Form 471 Application No. 340619).

D. USAC's Commitment Adjustment Letter

Almost six years after the posting of the original FCC Form 470, on October 6, 2008, USAC sent the School a Notification of Commitment Adjustment Letter ("COMAD") for the FRNs listed above, adjusting USAC's funding commitment to $0.00. Therein USAC provided the following Funding Commitment Adjustment Explanation:

> After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of a review it was determined that the service provider Computer Technical Services participated in the preparation of the Form 470 which established the competitive bidding process for FRN[s] 941058 [and 941060] by drafting the content of the Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. Accordingly, the applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. By having the service provider engaged in the preparation and submission of its Form 470, the applicant surrendered control of the competitive bidding process to the service provider who participated in the competitive bidding process as a bidder. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any funds disbursed in violation of the program's competitive bidding rules. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.[6]

E. The School's Appeal And The USAC Denial Letter

The School timely appealed the COMAD to USAC on November 29, 2008, but on April 21, 2009 USAC issued its Denial Letter.[7] USAC's explanation on appeal ("Denial Explanation") was as follows:

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[6] FCCAR21-25 (Notification of Commitment Adjustment Letter for Form 471 Application Number 340619, Oct. 6, 2008).

[7] FCCAR04-06.

Program rules prohibit service providers from participating in developing, filling out, completing or posting the FCC 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 filing out the FCC Forms 470, Computer Technical Services (CTS) helped the entities to determine what types of services to seek. In doing so, 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.

As noted in its timely filed Request, the School respectfully disagrees with USAC's analysis and conclusions. This Supplement outlines in greater detail the grounds for that disagreement.

III. STANDARD OF REVIEW

USAC's authority to administer the E-Rate Program is limited to implementing and applying the Commission's rules and the Commission's interpretations of those rules as found in Commission decisions and orders.[8] USAC is not empowered to make policy, interpret any unclear provisions of the governing statute or the rules promulgated by the Commission,[9] or create the equivalent of new guidelines.[10] USAC is responsible for "administering the universal support mechanisms in an efficient, effective, and competitively neutral manner."[11] The Commission's review of the Denial Letter is *de novo,* without being bound by any findings or conclusions of USAC.[12]

First, the School fully complied with the Commission's rules on seeking competitive bids by signing and certifying the FCC Form 470,[13] carefully considering all bids submitted,[14] and waiting the required four weeks before making commitments with the selected providers of services.[15]

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[8] 47 C.F.R. § 54.702(c).

[9] *Id.*

[10] *Changes to the Board of Directors of the Nat'l Exchange Carrier Ass'n, Inc., Third Report and Order*, 13 FCC Rcd 25058, 25066-67 (1998).

[11] 47 C.F.R. § 54.701(a).

[12] 47 C.F.R. § 54.723.

[13] 47 C.F.R. § 54.504(b)(2).

[14] 47 C.F.R. § 54.504(b)(2)(vii).

[15] 47 C.F.R. § 54.504(b)(4).

Second, CTS did not violate any of Commission's rules described above: CTS neither signed nor certified the FCC Form 470. In addition, contrary to USAC's assertion in the COMAD, CTS did not prepare or select services the School sought in the FCC Form 470. Because USAC's conclusion is inaccurate and without foundation in Commission rules or precedent, the COMAD must be rescinded.

IV. ARGUMENT

A. USAC Failed To Provide Any Documentation Or Evidence To Substantiate Its Commitment Adjustment

The SLD failed to provide any specific language, documents or other evidence to support the conclusions in its Denial Explanation that CTS impermissibly participated in the School's competitive bidding process for FY2003. That explanation refers to "documentation provided to USAC", but does not identify what that "documentation" is, what is the context of the allegations or what in the "documentation" supported USAC's conclusions.

USAC's failure to substantiate its finding denies the School its due process rights to file a meaningful and substantive appeal to the FCC.[16] The Commission has clearly concluded that without specific information to determine the basis for a denial, applicants cannot provide comprehensive responses to USAC's arguments.[17] Yet the Commission has expressly instructed USAC that applicants must be afforded the "opportunity to demonstrate that they did not violate

[16] Moreover, the Commission has also noted that with the passage of time the ability of applicants to effectively respond to allegations of rule violations years before can be substantially affected. *Request for Review of the Decision of the Universal Service Administrator by Academy of Careers and Technology,* Order, 21 FCC Rcd 5348, 5351, ¶8 n.20 (2006) ("*Academy of Careers Order*"). Again, the USAC COMAD came some six years after the original Form 470 was filed.

[17] *Academy of Careers Order*, 23 FCC Rcd at 5350, ¶6.

the Commission's competitive bidding rules."[18] Similarly, the School cannot file an informed appeal without specific information from USAC on which it is basing its decision.[19]

B. The School's FCC Form 470 Provided Vendor-Neutral Information And The School Conducted A Fair And Open Bidding Process

The Commission's competitive bid requirements for the E-Rate Program require applicants to seek competitive bids for eligible services through completing, certifying and submitting FCC Form 470 to USAC. Among the competitive bid requirements, an applicant must name a contact person and wait 28 days[20] before selecting "the most cost-effective service or equipment offering, with price being the primary factor."[21]

The School complied with all aspects of the Commission's competitive bidding process. On November 1, 2002, USAC posted the School's FCC Form 470 for FY2003. Among the services it requested, the School sought Internet access described as "dedicated internet service" for "60 computers." It also sought internal connections, described as "network maintenance" for "60 connections;" "telephone system maintenance" for "30 connections;" "technical support" for "60 connections; and "internal wiring" for "30 connections." This request was posted for a period of at least 28 days in accordance with Commission rules. After waiting nearly 3 months, the School considered all bids received and selected CTS as the low-cost provider for Internet access and internal connections. The School filed its FCC Form 471 on January 29, 2003.

A simple, cursory review of the FCC Form 470 demonstrates that the services requested are vendor neutral and cannot benefit any one specific provider over another. The School sought

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[18] *Academy of Careers Order*, 23 FCC Rcd at 5348, ¶1.

[19] The School filed a FOIA Request with the FCC on November 26, 2008 in an attempt to obtain the information, but has been unsuccessful in its efforts to obtain any information relied upon by USAC.

[20] 47 C.F.R. § 54.504(b)(4).

[21] 47 C.F.R. § 54.504(b)(2)(vii).

basic Internet access and internal connections services in FY2003. The type of generic Internet access the School sought is offered by most vendors. For example, in seeking Internet access, the School's FCC Form 470 states that it is seeking "dedicated Internet service." Similarly, when describing internal connections, the School listed "network maintenance" and "technical support." These are vendor-neutral, ubiquitous terms describing service that any service provider in the market of providing such services could bid upon. Clearly, CTS could not have an unfair advantage or inside information regarding the provision of services described in such a generic manner.

Although effectively conceding that vendor-neutral language was employed, USAC simply disagrees that the presence of such generic terms had any effect on the fairness and openness of the competitive bidding process. It offers no FCC rule or precedent that supports simply ignoring the significance of the concededly-generic terms.

If in fact a service provider gave an applicant highly restrictive specifications for its FCC Form 470 that only one service provider could fulfill, one could legitimately question whether a bona fide fair and open competitive bidding process took place. This was not the case here. The School's FCC Form 470 specifications were extremely general and provided great flexibility. A variety of competing vendors could meet these specifications. Due to the specifications' generality, the School could not have staged an unfair and effectively closed bidding process. All bidders were on a "level playing field" and therefore there could have been no actual harm to the competitive bidding process.[22] There is no evidence that other any other bidders were not

[22] *See Request for Review of Decisions of the Universal Service Administrator by Approach Learning and Assessment Centers, et al.*, Order, 23 FCC Rcd 15510, 15513-14, ¶8 (Telecom Access Pol. Div. 2008) ("*Approach Order*")

considered.[23] Absent any demonstration of any such competitive advantage, the competitive bidding process should not be deemed to have been tainted.[24]

In sum, the School complied with all aspects of the FCC's competitive bidding process by signing and certifying its FCC Form 470 and waiting at least the mandatory 28 days to consider bids and carefully considered any and all bids before choosing CTS as its service provider. USAC has presented no genuine evidence that the competitive bidding process failed to be fair and open in compliance with the Commission's rules.

C. The School Did Not Surrender Control Of The Competitive Bidding Process To Any Service Provider, Including Computer Technical Services, In Connection With The FY2003 Application

The School did not abrogate its competitive bid responsibility. Contrary to USAC's assertion that CTS helped the School determine what types of services to seek, the School's principal has declared:

> Our Lady of Grace and only Our Lady of Grace personnel, including myself, decided what E-Rate eligible services the School required and for which the School would seek E-Rate Program support in each of the Funding Years. No service provider, consultant or other third party, including Computer Technical Services ("CTS"), dictated, controlled, influenced or otherwise had a role in the substantive decisions about or selection of the services sought on the relevant FCC Form 470 applications for the Funding Years. The contents of those applications were determined solely by Our Lady of Grace and the School's personnel. Our Lady of Grace personnel certified the FCC Form 470s. The descriptions of the services sought chosen by the School did not provide a preference to any bidder. The service providers selected and reflected on the relevant FCC Form 471s, including CTS, were chosen solely by Our Lady of Grace and School personnel,

[23] *See Request for Review of a Decision of the Universal Service Administrator by Aberdeen School District*, Order, 22 FCC Rcd 8757, 8763, ¶9 (2007) ("*Aberdeen Order*").

[24] *Id.*, ¶8; *see Requests for Review of Decisions of the Universal Service Administrator by Delano Joint High School District et al.*, Order, 23 FCC Rcd 15399,15403-04, ¶8 (Telecom. Access Pol. Div. 2008); *Request for Review of a Decision of the Universal Service Administrator by Hillsboro Independent School District*, Order, 23 FCC Rcd 15424, 15429, ¶10 (Telecom. Access Pol. Div. 2008).

> including myself, through a competitive bidding process conducted and controlled by the School and its personnel and no other party.[25]

Again, USAC has offered no evidence that the School failed to remain in charge of determining the services to be acquired and what would be the contents of its FCC Form 470. CTS also has declared that it did not influence or participate in the School's competitive bid process.[26]

There has been no abrogation by the School of its responsibilities under the rules. Rather, the School expressly complied with the Commission's competitive bidding rules by signing and certifying its FCC Form 470, reviewing bids received, and selecting its service providers, including CTS, after the time allotted under Commission rules had elapsed.

In *MasterMind,* the Commission expressly recognized that a service provider may be involved in providing technical and vendor-neutral assistance during the competitive bidding process.[27] Specifically, in *MasterMind,* where the applicant did not name a MasterMind

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[25] FCCAR26-27 (Declaration of Daphne Lewis).

[26] FCCAR28-40 (Declaration of John Rodriguez).

[27] *Request for Review of Decisions of the Universal Service Administrator by Mastermind Internet Services*, 16 FCC Rcd 4028 (2000) ("*MasterMind Order*"); *see also Requests for Review of the Decisions of the Universal Service Administrator by Approach Learning and Assessment Center et al.*, Order, 22 FCC Rcd 5296 (2007); Universal Service Administrative Company, http://www.usac.org (USAC describes on its Web site what role a service provider may take without violating the competitive bidding rules.); SLD Training Presentations for applicants and service providers on Enforcement and Program Compliance for the FY 2002-2004, http://www.usac.org/sl/about/training-presentations/ (This presentation is now listed on the Training Presentations archive page of USAC's Web site. It provides guidance for service providers at the time the FCC Form 470 was filed). Service providers can communicate with an applicant so long as such communication is neutral and does not taint the competitive bidding process. A service provider can provide basic information regarding the E-rate Program to an applicant and can assist with an applicant's RFP so long as the assistance is neutral. Clerical and ministerial assistance does not automatically create a competitive bidding violation. *See also Requests for Review of the Decisions of the Universal Service Administrator by Caldwell Parish School et al*, Order, 23 FCC Rcd 2784, 2788-89, ¶12 (2008) ("*Caldwell Order*") (service provider provision of Fed Ex service for FCC Form 470 was not assistance which interfered with competitive bidding process).

employee as the contact person and a MasterMind employee did not sign the FCC Form 470,[28] the Commission held that no competitive bidding violation occurred – despite service provider involvement. Only where an applicant named a MasterMind employee as the contact person on their Forms 470 and permitted the service provider to prepare and distribute RFPs to potential bidders did the Commission determine that the applicant had surrendered control of the bidding process to an employee of MasterMind.

The facts in this case are inapposite to the facts in *MasterMind*. In the instant case, CTS neither signed nor served as the contact person on the School's FCC Form 470. Daphne Lewis, the School's principal, served as the contact person and certified the School's FCC Form 470. The School -- not CTS -- selected the vendor-neutral services it sought without involvement from CTS. The School chose vendor-neutral services without involvement or input from CTS and that did not favor CTS' selection. As a result, no Commission competitive bid violation occurred.[29]

USAC asserts that the School "may have" looked more favorably on the CTS bid, but offers no demonstration that the School actually did so. The School respectfully submits that Commission should not, years after the grant of the support, uphold a COMAD based on USAC's speculation that something "may have" occurred.

In its COMAD, USAC asserts that "[d]uring the course of review, it was determined that the service provider Computer Technical Services participated in the preparation of the Form

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[28] *MasterMind Order*, 16 FCC Rcd at 4034-35, ¶14.

[29] Again, USAC has cited no FCC precedent permitting USAC to conclude that mere administrative assistance, such as perfunctory data entry tasks, constitutes the surrender by a school of its entire competitive bidding process. *See Caldwell Order*, *supra* n.27.

470 ..." However, although USAC refers to "documentation" that it received, USAC fails to produce any evidence supporting this claim. Daphne Lewis, the School's principal unequivocally states that the School controlled the competitive bidding process through the FCC Form 470.[30] John Rodriguez, CTS' former president, has stated that neither he nor his staff ever participated in the preparation of the School's Form 470.[31] Thus, the School respectfully submits that USAC has failed to make its case.

Furthermore, there is absolutely no evidence here of any activity by the School intended to defraud or abuse the E-Rate Program.[32] Nor is there any evidence of any waste, fraud or abuse or misuse of funds.[33] Moreover, the imposition of a requirement to reimburse the requested funds under these circumstances so many years after they were originally approved and expended would impose an undue hardship on the School.[34] The School acted in good faith.[35] Doing so would not further the purpose of preserving and advancing access to universal service support for

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[30] Daphne Lewis Declaration, at ¶3.

[31] Rodriguez Declaration, at ¶6.

[32] *See Request for Review of the Decision of the Universal Service Administrator by New Haven Free Public Library*, Order, 23 FCC Rcd 15446, 15449, ¶7 (Telecom. Access Pol. Div. 2008); *Request for Review of the Decision of the Universal Service Administrator by the District of Columbia Public Schools*, Order, 23 FCC Rcd 15585, 15588, ¶5 (Telecom. Access Pol. Div. 2008); *Request for Review of the Decision of the Universal Service Administrator by Tekoa Academy of Accelerated Studies*, Order, 23 FCC Rcd 15456,15458-59, ¶6 (Telecom Access Pol. Div. 2008).

[33] *See Requests for Review of Decisions of the Universal Service Administrator by Broaddus Independent School District et al.*, Order, 23 FCC Rcd 15547, 15551-52, ¶12 (Telecom. Access Pol. Div. 2008).

[34] *See Request for Review of a Decision by the Universal Service Administrator by Radford City Schools*, Order, 23 FCC Rcd 15451, 15453, ¶4 (Telecom. Access Pol. Div. 2008); *Request for Review of a Decision of the Universal Service Administrator by Grand Rapids Public Schools*, Order, 23 FCC Rcd 15413, 15416, ¶6 (Telecom. Access Pol. Div. 2008).

[35] *See Request for Waiver of the Decision by the Universal Service Administrator by Great Rivers Education Cooperative, Forrest City, Arkansas,* Order, 21 FCC Rcd 14115, 14119, ¶9 (Wireline Compet. Bur. 2006).

schools and libraries.[36] Under such circumstances, it would be inequitable to uphold the USAC Denial Letter.[37] The Commission should not do so.

V. CONCLUSION AND REQUEST FOR RELIEF

For the reasons set forth above, the School respectfully requests that the Commission grant this Request and direct USAC to overturn its prior decision and cancel the COMAD relating to the FY2003 funding requests for FRNs 941060 for Internet access and FRN 941058 for internal connections.

There is just no evidence, as opposed to surmise by USAC, of the School's failure to comply with the core program requirements, and the School complied with the Commission's rules. In the spirit of *MasterMind,* taking into consideration all of the circumstances outlined above, the School respectfully submits that the Commission must find that there has been no violation of the competitive bidding process and grant its Request to rescind the COMAD.

Respectfully submitted,

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Dated: September 8, 2009

[36] *See Request for Review of a Decision by the Universal Service Administrator by Adams County School District 14*, Order, 22 FCC Rcd 6019, 6022, ¶8 (2007).

[37] *See Approach Order*, 23 FCC Rcd at 1551, ¶4.

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To: Chief, Wireline Competition Bureau

ADMINISTRATIVE RECORD

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September 8, 2009

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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	2003
Form 471 App. Number:	340619
Funding Request Numbers:	941058, 941060

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 2003 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.

FCCAR01

previously disbursed funds made available pursuant to the referenced Funding Request Numbers ("FRNs").

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 FRNs.

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 2003-2004

April 21, 2009

Cynthia Schultz
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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:	340619
	Funding Request Number(s):	941058, 941060
	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 2003 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): 941058, 941060
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: Dahpe Lewis

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

Billed Entity Number: 10671
Form 471 Application Number: 340619
Form 486 Application Number:

Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

April 21, 2009

Cynthia 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:	340619
	Funding Request Number(s):	941058, 941060
	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 2003 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): 941058, 941060
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: Dahpe Lewis

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

Billed Entity Number: 10671
Form 471 Application Number: 340619
Form 486 Application Number:

FCC Form

Approval by OMB
3060-0806

470

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

Estimated Average Burden Hours Per Response: 4.0 hours

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

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

Block 1: Applicant Address and Identifications

Form 470 Application Number: 612520000424588

Applicant's Form Identifier: 200347010671

Application Status: CERTIFIED

Posting Date: 11/01/2002

Allowable Contract Date: 11/29/2002

Certification Received Date: 11/12/2002

1. Name of Applicant:
OUR LADY OF GRACE SCHOOL

2. Funding Year:	3. Your Entity Number
07/01/2003 - 06/30/2004	10671

4a. Applicant's Street Address, P.O.Box, or Route Number
3981 BRONXWOOD AVE

City	State	Zip Code
BRONX	NY	10466-4518

b. Telephone number	c. Fax number
(718) 547- 9918	(718) 547- 7602

d. E-mail Address

5. Type Of Applicant

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

6a. Contact Person's Name: Daphne Lewis

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

6b. Street Address, P.O.Box, or Route Number
☐ 3981 BRONXWOOD AVE

City	State	Zip Code
BRONX	NY	10466-4518

FCCAR10

6c. Telephone Number	(718) 547- 9918
6d. Fax Number	(718) 547- 7602
6e. E-mail Address	

Block 2: Summary Description of Needs or Services Requested

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

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

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

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

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

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

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

8 ☑ **Telecommunications Services**
Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?

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

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

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

Service or Function:	Quantity and/or Capacity:
Local Voice Service	4 Lines
Long Distance Service	4 Lines
Cellular Telephone Service	2 Lines

9 ☑ **Internet Access**
Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?

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

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

If you answered NO, you must list below the Internet Access Services you seek. Specify each **service or**

function (e.g., monthly Internet service) and quantity and/or capacity(e.g., for 500 users). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Internet Access services. Add additional lines if needed.

Service or Function:	Quantity and/or Capacity:
Dedicated Internet Service	60 Computers

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

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

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

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

Service or Function:	Quantity and/or Capacity:
Network Maintenance	60 Connections
Technical Support	60 Connections
Telephone System Maintenance	30 Connections
Internal Wiring	30 Connections

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

Name: Title:

Telephone number
() -

Fax number
() -

E-mail Address

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

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

Block 3: Technology Assessment

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

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

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

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

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

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

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

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

Block 4: Recipients of Service

16. Eligible Entities That Will Receive Services:

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

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

b. ○ **Statewide application for (enter 2-letter state code) representing (check all that apply):**

- ☐ All public schools/districts in the state:
- ☐ All non-public schools in the state:
- ☐ All libraries in the state:

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

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

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

FCCAR13

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

Entity	Entity Number
OUR LADY OF GRACE SCHOOL	10671

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

Ineligible Participating Entity	Area Code	Prefix

Block 5: Certification and Signature

19. The applicant includes:(Check one or both)
a. ☑ schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. Secs. 7801(18) and (38), that do not operate as for-profit businesses, and do not have endowments exceeding $50 million; and/or
b. ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to elementary and secondary schools, colleges and universities).

20. All of the individual schools, libraries, and library consortia receiving services under this application are covered by:
a. ☑ individual technology plans for using the services requested in the application, and/or
b. ☐ higher-level technology plans for using the services requested in the application, or
c. ☐ no technology plan needed; application requests basic local and/or long distance telephone service only.

21. Status of technology plans (if representing multiple entities with mixed technology plan status, check both a and b):
a. ☑ technology plan(s) has/have been approved by a state or other authorized body.
b. ☐ technology plan(s) will be approved by a state or other authorized body.
c. ☐ no technology plan needed; application requests basic local and long distance telephone service only. .

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

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

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

25. Signature of authorized person: ☑

26. Date (mm/dd/yyyy): **11/02/2002**

FCCAR14

27. Printed name of authorized person: **Daphne Lewis**

28. Title or position of authorized person: **Principal**

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

29b. Telephone number of authorized person: **(718) 547 - 9918**

29c. Fax number of authorized person: **()**

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

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

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

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

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

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

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

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

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

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

Please submit this form to:

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

FCCAR15

For express delivery services or U.S. Postal Service, Return Receipt Requested, mail this form to:

SLD-Form 470
c/o Ms. Smith
3833 Greenway Drive
Lawrence, Kansas 66046
1-888-203-8100

FCC Form 470
May 2003

New Search | Return To Search Results

FCCAR16

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

Block 1: Billed Entity Information

Applicant's Form Identifier: 1068817
471 Application Number: 340619
Cert. Postmark Date: 01/29/2003
Out of Window Letter Date: Not applicable
Funding Year: 07/01/2003 - 06/30/2004
Billed Entity Number: 10671
Form Status: CERTIFIED - In Window
RAL Date: 03/07/2003

Name: OUR LADY OF GRACE SCHOOL
Address: 3981 BRONXWOOD AVE
City: BRONX **State:** NY **Zip:** 10466 4518

Contact Name: DAHPE LEWIS
Address: 3981 BRONXWOOD AVE
City: BRONX **State:** NY **Zip:** 10466 4518

Type of Application: SCHOOL
Ineligible Orgs: N

Block 3: Impact of Services Ordered in THIS Application

Number of students to be served: 578
Number of library patrons to be served:

SERVICE DESCRIPTION	BEFORE ORDER	AFTER ORDER
f. Direct connections to the Internet: How many before and after your order?	1	1
g. Direct connections to the Internet: Highest speed before and after your order?	1.1Mbps	1.5 Mbps
h. Internet access(for schools): How many rooms have Internet access before and after your order?	30	30
j. Internet Access: How many computers (or other devices) with Internet access before and after your order?	60	60

Block 4: Worksheets

FCCAR17

Worksheet A No: 427899 **Student Count:** 578
Weighted Product (Sum. Column 8): 520.2 **Shared Discount:** N/A

1. School Name: OUR LADY OF GRACE SCHOOL
2. Entity Number: 10671 **3. Rural/Urban:** Urban
4. Student Count: 578 **5. NSLP Students:** 578 **6. NSLP Students/Students:** 100.000%
7. Discount: 90% **8. Weighted Product:** 520.2

Block 5: Discount Funding Request(s)

FRN: 941054 **FCDL Date:** 09/23/2003	
11. Category of Service: Telecommunications Service	**12. 470 Application Number:** 612520000424588
13. SPIN: 143001359	**14. Service Provider Name:** Verizon - New York Inc.
15. Contract Number: T	**16. Billing Account Number:** 7185479918
17. Allowable Contract Date: 11/29/2002	**18. Contract Award Date:**
19a. Service Start Date: 07/01/2003	**19b. Service End Date:** 06/30/2004
20. Contract Expiration Date:	
21. Attachment #: 01	**22. Block 4 Entity Number:** 10671
23a. Monthly Charges: $377.44	**23b. Ineligible monthly amt.:** $.00
23c. Eligible monthly amt.: $377.44	**23d. Number of months of service:** 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): $4,529.28	
23f. Annual non-recurring (one-time) charges: 0	**23g. Ineligible non-recurring amt.:** 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): $0.00	
23i. Total program year pre-discount amount (23e + 23h): $4,529.28	
23j. % discount (from Block 4): 90	
23k. Funding Commitment Request (23i x 23j): $4,076.35	

FRN: 941056 **FCDL Date:** 09/23/2003	
11. Category of Service: Telecommunications Service	**12. 470 Application Number:** 612520000424588
13. SPIN: 143000890	**14. Service Provider Name:** Nextel of New York, Inc.
15. Contract Number: T	**16. Billing Account Number:**
17. Allowable Contract Date: 11/29/2002	**18. Contract Award Date:**
19a. Service Start Date: 07/01/2003	**19b. Service End Date:** 06/30/2004
20. Contract Expiration Date:	
21. Attachment #: 02	**22. Block 4 Entity Number:** 10671
23a. Monthly Charges: $41.16	**23b. Ineligible monthly amt.:** $.00
23c. Eligible monthly amt.: $41.16	**23d. Number of months of service:** 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): $493.92	
23f. Annual non-recurring (one-time) charges: 0	**23g. Ineligible non-recurring amt.:** 0

23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): $0.00
23i. Total program year pre-discount amount (23e + 23h): $493.92
23j. % discount (from Block 4): 90
23k. Funding Commitment Request (23i x 23j): $444.53

FRN: 941058 **FCDL Date:** 09/23/2003	
11. Category of Service: Internal Connections	**12. 470 Application Number:** 612520000424588
13. SPIN: 143025657	**14. Service Provider Name:** Computer Technical Services, Inc.
15. Contract Number: OLG	**16. Billing Account Number:** OLG
17. Allowable Contract Date: 11/29/2002	**18. Contract Award Date:** 01/07/2003
19a. Service Start Date: 07/01/2003	**19b. Service End Date:**
20. Contract Expiration Date: 06/30/2004	
21. Attachment #: 03	**22. Block 4 Entity Number:** 10671
23a. Monthly Charges: $.00	**23b. Ineligible monthly amt.:** $.00
23c. Eligible monthly amt.: $0.00	**23d. Number of months of service:** 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): $0.00	
23f. Annual non-recurring (one-time) charges: 63251	**23g. Ineligible non-recurring amt.:** 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): $63,251.00	
23i. Total program year pre-discount amount (23e + 23h): $63,251.00	
23j. % discount (from Block 4): 90	
23k. Funding Commitment Request (23i x 23j): $56,925.90	

FRN: 941060 **FCDL Date:** 09/23/2003	
11. Category of Service: Internet Access	**12. 470 Application Number:** 612520000424588
13. SPIN: 143025657	**14. Service Provider Name:** Computer Technical Services, Inc.
15. Contract Number: OLG	**16. Billing Account Number:** OLG
17. Allowable Contract Date: 11/29/2002	**18. Contract Award Date:** 01/07/2003
19a. Service Start Date: 07/01/2003	**19b. Service End Date:**
20. Contract Expiration Date: 06/30/2004	
21. Attachment #: 04	**22. Block 4 Entity Number:** 10671
23a. Monthly Charges: $1,200.00	**23b. Ineligible monthly amt.:** $.00
23c. Eligible monthly amt.: $1,200.00	**23d. Number of months of service:** 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): $14,400.00	
23f. Annual non-recurring (one-time) charges: 0	**23g. Ineligible non-recurring amt.:** 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): $0.00	
23i. Total program year pre-discount amount (23e + 23h): $14,400.00	
23j. % discount (from Block 4): 90	
23k. Funding Commitment Request (23i x 23j): $12,960.00	

Block 6: Certifications and Signature

24a. Schools: Y
24b. Libraries or Library Consortia: N

26a. Individual Technology Plan: Y
26b. Higher-Level Technology Plan(s): N
26c. No Technology Plan Needed:

27a. Approved Technology Plan(s): Y
27b. State Approved Technology Plan: N
27c. No Technology Plan Needed:

<< Previous

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USAC
Universal Service Administrative Company

Schools & Libraries Division

Notification of Commitment Adjustment Letter
Funding Year 2003: 7/01/2003 - 6/30/2004

October 6, 2008

DAHPE LEWIS
OUR LADY OF GRACE SCHOOL
3981 BRONXWOOD AVE
BRONX, NY 10466 4518

Re: Form 471 Application Number:	**340619**
Funding Year:	**2003**
Applicant's Form Identifier:	**1068817**
Billed Entity Number:	**10671**
FCC Registration Number:	**0013732771**
SPIN Name:	**Computer Technical Services**
Service Provider Contact Person:	**Patricia LoSasso-Rose**

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

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

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

TO APPEAL THIS DECISION:

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

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

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

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

4. Provide an authorized signature on your letter of appeal.

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

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC web site, or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

FUNDING COMMITMENT ADJUSTMENT REPORT

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

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

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

Schools and Libraries Division
Universal Services Administrative Company

cc: Patricia LoSasso-Rose
Computer Technical Services

Funding Commitment Adjustment Report for
Form 471 Application Number: 340619

Funding Request Number:	941058
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143025657
Service Provider Name:	Computer Technical Services
Contract Number:	OLG
Billing Account Number:	OLG
Site Identifier:	10671
Original Funding Commitment:	$56,925.90
Commitment Adjustment Amount:	$56,925.90
Adjusted Funding Commitment:	$0.00
Funds Disbursed to Date:	$56,925.90
Funds to be Recovered from Applicant:	$56,925.90

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of a review it was determined that the service provider Computer Technical Services participated in the preparation of the Form 470 which established the competitive bidding process for FRN 941058 by drafting the content of the Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. Accordingly, the applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. By having the service provider engaged in the preparation and submission of its Form 470, the applicant surrendered control of the competitive bidding process to the service provider who participated in the competitive bidding process as a bidder. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any funds disbursed in violation of the program's competitive bidding rules. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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

Funding Request Number:	941060
Services Ordered:	INTERNET ACCESS
SPIN:	143025657
Service Provider Name:	Computer Technical Services
Contract Number:	OLG
Billing Account Number:	OLG
Site Identifier:	10671
Original Funding Commitment:	$12,960.00
Commitment Adjustment Amount:	$12,960.00
Adjusted Funding Commitment:	$0.00
Funds Disbursed to Date:	$12,960.00
Funds to be Recovered from Applicant:	$12,960.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of a review it was determined that the service provider Computer Technical Services participated in the preparation of the Form 470 which established the competitive bidding process for FRN 941060 by drafting the content of the Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. Accordingly, the applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. By having the service provider engaged in the preparation and submission of its Form 470, the applicant surrendered control of the competitive bidding process to the service provider who participated in the competitive bidding process as a bidder. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any funds disbursed in violation of the program's competitive bidding rules. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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

Our Lady of Grace School
3981 BRONXWOOD AVENUE
BRONX, NEW YORK 10466
(718) 547-9918

DECLARATION

1. I, Daphne Lewis, am the principal of Our Lady of Grace School ("Our Lady of Grace" or "School") in the Bronx, New York. I have occupied that position since September of 1999. In my position I have overall responsibility for the School's participation as an applicant in the Schools and Libraries Support Mechanism ("E-Rate Program") administered by the Universal Service Administrative Company ("USAC"). That responsibility included the School's applications for E-Rate Program support for Funding Years 2003 and 2004 ("Funding Years"). As such I am familiar with Our Lady of Grace's participation in the E-Rate Program application process for such support for the Funding Years.

2. I have reviewed the Notification of Commitment Adjustment Letters, issued in October, 2008, whereby USAC has rescinded the support previously approved under Funding Commitment Decision Letters for certain Funding Request Numbers for each of the Funding Years ("COMADs"), as well as the School's appeals filed with USAC concerning those COMADs and USAC's recent April 21, 2009 denials of those appeals.

3. Our Lady of Grace and only Our Lady of Grace personnel, including myself, decided what E-Rate eligible services the School required and for which the School would seek E-Rate Program support in each of the Funding Years. No service provider, consultant or other third party, including Computer Technical Services ("CTS"), dictated, controlled, influenced or otherwise had a role in the substantive decisions about or selection of the services sought on the relevant FCC Form 470 applications for the Funding Years. The contents of those applications were determined solely by Our Lady of Grace and the School's personnel. Our Lady of Grace personnel certified the FCC Form 470s. The descriptions of the services sought chosen by the School did not provide a preference to any bidder. The service providers selected and reflected on the relevant FCC Form 471s, including CTS, were chosen solely by Our Lady of

Grace and School personnel, including myself, through a competitive bidding process conducted and controlled by the School and its personnel and no other party.

I declare under penalty of perjury this 20th day of July, 2009 that the foregoing representations and statements are true and correct.

Daphne Lewis

Daphne Lewis
Principal
Our Lady of Grace School

DECLARATION

1. I, John Rodriguez, am the former President of Computer Technical Services, Inc. ("CTS"). I held that position from the time it was formed in 2001 until CTS was dissolved in 2006. I further incorporate by reference the contents of the attached documents from the Supreme Court of the State of New York, Bronx County, dated July 25, 2006, attesting to the dissolution of CTS.

2. I never received a copy of any Notification of Commitment Adjustment Letters ("COMAD") from the Universal Service Administrative Company ("USAC").

3. In my capacity at CTS I had responsibility for CTS' participation as a service provider in the Universal Service Program's Schools and Libraries Support Mechanism ("E-Rate Program") administered by USAC. This included E-Rate Program- supported services to be provided by CTS for Funding Years ("FY") 2002, 2003, 2004 and 2005.

4. I have reviewed the COMADs sent to Immaculate Conception Grade School (Billed Entity No. 10691), whereby USAC has rescinded the support approved under Funding Commitment Decision Letters for the following Funding Request Nos. ("FRN"): 796580 for FY 2002; FRNs 941033, 941034 for FY 2003; FRNs 1067034, 1067036, 1067038, 1067040, 1067041 for FY 2004; and FRNs 1222900, 1222901, 1222903, 1224617, 1224626 for FY 2005 for the Immaculate Conception Grade School. In particular, I have reviewed the Funding Commitment Adjustment Explanation therein.

5. I also have reviewed the COMADs sent to Our Lady of Grace School (Billed Entity No. 10671), whereby USAC has rescinded support approved under FCDLs for FRNs 941058 and 9411060 in FY 2003 and FRN 1072548 in FY 2004.

6. At no time did I or any member of CTS participate in the preparation or submission of Immaculate Conception's or Our Lady of Grace's FCC Forms 470 for the Funding Years at issue in the COMADs.

7. At no time did I or any member of CTS participate, other than as a bidder, in Immaculate Conception's or Our Lady of Grace's competitive bid process.

8. CTS provided the services to Immaculate Conception and Our Lady of Grace, properly billed USAC and was properly paid for the work performed.

I declare under penalty of perjury this 27th day of August, 2009, that the foregoing representations and statements are true and correct.

John Rodriguez

SUPREME COURT OF THE STATE OF NEW YORK
BRONX COUNTY

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In the Matter of the Application of

Index No.: 8731/06

PABLO RODRIGUEZ,

Petitioner,

NOTICE OF ENTRY

For the Judicial Dissolution and Liquidation of Computer Technical Services, Inc., Pursuant to BCL §1104-a, *et seq.*, for an Accounting, for the Appointment of a Receiver Pursuant to BCL § 1202, *et seq.*; for an Order Granting Judgment in favor of Petitioner for any sum found to be Due and Owing and for a Temporary Restraining Order Pursuant to BCL § 1115 and CPLR § 6301 .

COUNSEL:

PLEASE TAKE NOTICE that the within is a true and accurate copy of the Decision and Order of Honorable Judge George D. Salerno, dated July 10, 2006, and filed in the Supreme Court of the State of New York, Bronx County.

Dated: New York, New York
July 25, 2006

Yours, etc.

By: _____

Stewart A. McMillan, Esq.
Attorneys for Petitioner,
PABLO RODRIGUEZ
50 East 42nd Street, Suite 1306
New York, New York 10017
Tel. No. (212) 661-2490
File No. 3150-0031

TO: Uche Emelumadu, Esq.
Madu, Edozie & Madu, P.C.
Attorneys for Respondent,
YANELLY AMADOR
3007 Eastchester Road
Bronx, NY 10469
(718) 379-3500

Desmond Lyons, Esq.
Lyons and McGovern, LLP
Attorneys for Respondent,
COMPUTER TECHNICAL SERVICES, INC.
16 New Broadway
Sleepy Hollow, New York 10591
(914) 631-1336

Israel Rubin, Esq.
Greenberg Traurig, LLP
COURT APPOINTED RECEIVER
200 Park Avenue
New York, NY 10166
(212) 801-2226

Supreme Court
of the
State of New York

GEORGE D. SALERNO
JUSTICE

JUSTICES' CHAMBERS
851 GRAND CONCOURSE
BRONX, NEW YORK 10451

July 13, 2006

Hon. Israel Rubin
Greenberg Traurig, LLP
200 Park Avenue
New York, New York 10166

Dear Judge Rubin:

Enclosed please find a copy of my order, as well as a copy of the Petitioner Rodriguez's Order to Show Cause.

You may wish to have the parties forward, to you, a copy of the remaining papers, which are: Amador's Opposition papers, and the Transcript from the May 15, 2006 proceeding. Thank you.

Sincerely,

George D. Salerno, J.S.C.

Encl:

cc: Uche Emelumadu, Esq.
Madu, Edozie & Madu, P.C.
Attorneys for Respondent Amador
3007 Eastchester Road
Bronx, New York 10469
718-379-3500

cc: Stewart A. McMillan, Esq.
McMillan, Constabile, LLC
Attorneys for Petitioner,
Pablo Rodriguez
2180 Boston Road
Larchmont, New York 10538
(914)834-3500
(212)661-2490 - Direct Line

G.DS

PART 2

Case Disposed	☐
Settle Order	☐
Schedule Appearance by Receiver	☑

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX:

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In RE: PABLO RODRIGUEZ

-against-

For the Dissolution and Liquidation of Computer Technical Services Inc. etc

Index Nº. 8731/06

Hon. George D. Salerno

Justice.

The following papers numbered 1 to 6 Read on this motion,
Noticed on _____ and duly submitted as No. ____ on the Motion Calendar of 5/22/06

	PAPERS NUMBERED	
RODRIGUEZ's Petition w/ Notice of Motion - Order to Show Cause - Exhibits and Affidavits Annexed Aff. of Service	1-3	4a-4e
Answering Affidavit and Exhibits AMADOR's Aff in Opp	5	
Replying Affidavit and Exhibits Transcript of 5/15/06 Hearing	6	
_____ Affidavits and Exhibits		
Pleadings - Exhibit		
Stipulation(s) - Referee's Report - Minutes		
Filed Papers		
Memoranda of Law		

Upon the foregoing papers this and the hearing held on May 15, 2006, the Petitioner's OSC is decided in the annexed memorandum decision and order

Motion is Respectfully Referred to:
Justice: _____
Dated: _____

Dated: July 10, 2006

Hon. George D. Salerno
J.S.C.
GEORGE D. SALERNO

SUPREME COURT OF THE STATE OF NEW YORK
BRONX COUNTY

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In the Matter of the Application of

PABLO RODRIGUEZ

Index No. 873 1/06

Petitioner

For the Judicial Dissolution and Liquidation of
Computer Technical Services, Inc., Pursuant to
BCL§1104-a, et seq., for an Accounting for the [redacted]
Appointment of a Receiver [redacted]
BCL§1202, et seq.; for an [redacted]
in favor of Petitioner for [redacted]
and Owing; and for a Tempo[redacted]
Order Pursuant to BCL§1115 and [redacted]

----------X

HON. GEORGE D. SALERNO:

Petitioner moves by Order to Show Cause, pursuant to Business Corporation Law §1104-a for an accounting and dissolution of the corporation, Computer Technical Services Inc., and upon granting such relief appointing a receiver to wind up the affairs of the corporation pursuant to Business Corporation Law §1202. Pending oral argument and a hearing [redacted] was issued enjoining [redacted] corporate funds or sell[redacted] business of the corporation.

This proceeding was commenced by Pablo Rodriguez who is allegedly the

President and majority shareholder of Computer Technical Services, Inc., a corporation established pursuant to the laws of New York State on September 9, 2001. When the corporation was formed only two persons were shareholders, the petitioner and Jamie Parra. The corporation was engaged in the business of providing computer and internet technology services. Approximately one year after the corporation was formed, Yamelly Amador was hired as a secretary and later [redacted] an explanation [redacted] ownership, except to acknowledge that stock was issued to Amador because of his close personal relationship to her. Jamie Parra also became a shareholder and held the title of Vice President.

Prior to the commencement of this proceeding Parra transferred his shares to Rodriguez and as a result of this transfer Rodriguez claims to own 66 2/3% of the corporate stock. Both Amador and Rodriguez claim to be the recipient of Parra's [redacted] Amador refers to this payment by check, no exhibit was submitted. Moreover, [redacted] even assuming such a transaction occurred the use of corporate funds to purchase the individual shares of a stockholder would ordinarily retire the stock. A fortiori,

Parra contradicts the alleged transaction as portrayed by Amador. He testified at the hearing that he transferred his shares prior to the commencement of this proceeding to Rodriguez. In addition, petitioner annexed to his submission a copy of a letter from Parra, dated January 10, 2005 in which Parra attests to the transfer of his shares to petitioner Rodriguez.

[redacted] alleging corporate waste and the diversion of corporate assets. He also alleges that irreconcilable differences have arisen between himself and Amador which interfere with the management and operation of the corporation.

In this regard, Rodriguez charges Amador with opening a separate (corporate) account at North Fork Bank without authority, as a means of diverting corporate funds. The impact of opening a separate account apart from the [redacted] petitioner electronically transferred funds earned by the corporation to the North Fork Account. Moreover, the corporate address listed for the account opened at

North Fork Bank is the home address of Amador's brother. Amador asserts that the North Fork Bank was opened with the full knowledge of Rodriguez; however, no corporate resolutions are submitted by Amador to demonstrate Rodriguez's consent.

Interestingly, Amador submits a copy of the application made by Computer [illegible] on March 14, 2005 for a business line of credit from North Fork in [illegible] justify the opening of a North Fork Bank account Amador alleges that Rodriguez removed her as a signatory to the corporate account at JP Morgan Chase.

This saga of distrust and charges of misuse of corporate funds is spread though petitioner's submission and Amador's opposition to the relief sought by petitioner. For example annexed to petitioner's moving papers is a list of checks signed by Amador made payable to herself from September 30, 2005 to January 6, 2006 in the sum of $32,000.00. [illegible] her the application for a business line of credit filed at North Fork Bank and states that her income is $45,000. Also the salary information provided to JP Morgan Chase listed Amador's annual income as $35,000. Petitioner also claims that

Amador made unauthorized payments to members of her family such as Suriel Castillo and that Amador's brother Henry Rojas applied for unemployment benefits even though he was never employed by the corporation. It also appears that Amador formed a new corporation that bears a name strikingly similar to Computer Technical Services the entity that Amador claims to hold a majority interest. Petitioner identifies two checks drawn on the corporation account maintained by at Chase each [redacted] checks paid for a new entity [redacted]

The clear and convincing evidence presented by the parties to the proceeding before this court leaves no doubt that Computer Technical Services cannot continue to function effectively. Moreover, the dissension is manifestly affecting the profitability of the corporation (see Matter of Gordon v. Weiss Inc., 32 A.D.2d 279, 301 N.Y.S.2d 839). The principal protagonists involved in the operation of Computer Technical Services anticipated rewards for their efforts which encompass the [redacted] participating in the growth and the increased [redacted] value of the business [redacted] company. (See Ingle v. Glamore Motor Sales Inc., 73 N.Y.2d 183, 535 N.E.2d 1311, 538 N.Y.S.2d 771). Unfortunately this expectation has not been met.

Therefore, petitioner's motion is granted and this Court appoints Hon. Israel

Rubin, Greenberg Traurig, LLP 200 Park Avenue, New York, New York 10166, 212-801-2226, as a receiver of the property for the purpose of winding up the affairs of the corporation.

This constitutes the decision and order of this Court.

Date: October 19, 2006 Frank A. Salerno J.S.C.

[redacted]

[redacted]

[redacted]

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
)ss.:
COUNTY OF NEW YORK)

I, **SEVEDA WILLIAMS,** being sworn, say; I am not a party to this action, am over 18 years of age, and reside in **Brooklyn, New York.**

On **July 27, 2006,** I served the within **NOTICE OF ENTRY** by faxing and depositing true copies thereof enclosed in post-paid wrappers, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to:

Uche Emelumadu, Esq.
Madu, Edozie & Madu, P.C.
Attorneys for Respondent,
YANELLY AMADOR
3007 Eastchester Road
Bronx, NY 10469

Desmond Lyons, Esq.
Lyons and McGovern, LLP
Attorneys for Respondent,
COMPUTER TECHNICAL SERVICES, INC.
16 New Broadway
Sleepy Hollow, New York 10591

Israel Rubin, Esq.
Greenberg Traurig, LLP
COURT APPOINTED RECEIVER
200 Park Avenue
New York, NY 10166

SEVEDA WILLIAMS

Sworn to before me this
27th day of July, 2006

Notary Public
DANIEL A. DONNELLAN
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 11/30/2008

CERTIFICATE OF SERVICE

I, Jennifer A. Cetta, certify on this 8th day of September, 2009, a copy of the foregoing "Supplement To Request For Review" has been served via electronic mail or first class mail, postage pre-paid, to the following:

Priya Aiyar
Legal Advisor to Chairman Genachowski
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554
Priya.Aiyar@fcc.gov

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Letter of Appeal
Schools and Libraries Division-
Correspondence Unit
100 S. Jefferson Road
P.O. Box 902
Whippany, NJ 07981

Jennifer A. Cetta