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Received & Inspected

October 23, 2009

OCT 26 2009

CC Docket No. 02-06  
Letter of Appeal  
FCC Office of Secretary  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

FCC Mail Room

**Re: FCC Appeal of Universal Service Administrative Company's ("USAC") letter of denial dated August 25, 2009 for payment due on SPIN No. 143017760 to Micro System Engineering and the Consortium on the contract between Dallas Independent School District ("DISD") and the Consortium (the "Consortium Contract").**

To whom it may concern;

This letter is an appeal to USAC Appeal letter of August 25, 2009 regarding USAC's decision to deny payments due on SPIN No. 143017760 due to the MSE and the companies comprising the Consortium.

Micro System Engineering ("MSE"), the SPIN holder and the Consortium appeal the denial of payment as set forth in USAC's August 25, 2009 correspondence to MSE. The relevant appellate information is as follows:

Appellant: MSE and the Consortium, the service provider  
Applicant BEN—140542 Dallas Independent School District  
Service Provider SPIN—143017760 Micro System Engineering  
Application Numbers—360412, 360904, 360931, 369205, 369537  
Funding Request Numbers—1017129, 1016407, 1016865, 1016639, 1016173  
Name of Letter: Further Explanation of Administrator's Invoicing  
Decision FCC Form 471  
Funding Year 2003 (07/01/2003-06/30/2004)

Appellant is appealing USAC's decision to deny the pending FCC Forms 474 and pending payments. It is appealing the facts as set out in the Factual Background of the denial letter. The denial letter is based upon a conviction of Mr. Wong and Mr. Bohuchot and a suspension letter from someone at the FCC (which is based upon an indictment and press releases by the government). The letter fails to provide any real evidence to back up the allegations and the denial of payment. It does not specify any evidence from the trial of Messrs. Bohuchot and Wong that proves any wrong doing by the MSE or the Consortium regarding the E-rate contracts. Although Mr. Bohuchot and Mr. Wong were convicted of the offenses cited in this letter, those convictions are being appealed. The conviction are being appealed to the 5<sup>th</sup> Circuit Court of Appeals under Docket Nos. 08-11112 and 08-11090. See Notice of Appeal attached.

Number of Copies rec'd. 0  
L-143017760

Further, the indictment referred to the letter provided a broad spector of allegations regarding covering the time period of the bid for the 2003 USAC Funding Year. The allegations were related to a Seat Management contract awarded to HP for which MSE was a subcontractor as well as the E-rate contract. See the Indictment referenced in your letter. However, the only evidence of the alleged wrong doing that was presented at trial related to the Seat Management contract awarded to HP. See Trial transcript. This was completely unrelated to the E-rate process and did not use any federal funds. There was no testimony or evidence provided at the trial to indicate any wrongdoing related to providing information on the E-rate RFP's\bids. In fact, the testimony provided was to the contrary. Members of the DISD evaluation committee testified under oath at the trail that Mr. Bohuchot did not contact them and was not involved in any way in the evaluation process.

Finally, the DISD RFP's\bids in question were primarily based on a discount from list and therefore could not have been affected by any "insider information", since it was a sealed process and there were no opportunities for adjusting prices or providing additional information. The hardware, software, and cabling requested in the RFP's\bids were for items that Dallas ISD had used as standards for an extended period. While no one was aware of the exact products required, anyone familiar with DISD knew that they used Compaq\HP servers, Cisco network equipment, Ortronics cabling materials, and ran on a Novell network. All of the RFP's\bids were based on these standards which were well known to the entire vendor community.

Additionally, all work was performed and equipment provided for which the Application for payment were submitted. DISD approved all of the payments and paid its share of the bills. The Consortium members were also prevented from not fulfilling the DISD Contract. If the Consortium would have stopped working at any point in time, they would have been sued by DISD or USAC for failure to perform. It is complete injustice to require companies to do the work that they contracted to do for the price they agreed to do it for and then not be able to stop work and not get paid for doing it. There is no evidence that the Consortium was not the low bid (and gave \$10M back in unneeded funding) and that they did not perform all of the work that they were required to do. The judge in the trial also found that there was no victim in the case and that DISD received what it was to receive. See trial transcript.

The competitive bid process was properly followed, a DISD E-Rate committee carefully considered all bids, and the lowest, best-value bid was selected. USAC and DISD performed many of its own investigations into the process and never found any wrong doing. By making unsupported allegations and conclusions in your letter, you completely ignore the overwhelming evidence you have that affirmatively proves there was nothing wrong about the awarding, or implementation of the Consortium contract. We also submit the previous letter submitted to USAC on September 1, 2006 in support of this fact. See Attached.

It is my understanding that Tom Lazo, representing the Dallas members of the consortium, has submitted an appeal as well. The denial letter was sent to him independently. His appeal relates only to Invoices for work done by Lazo Technologies, ATS, Wai-Wize, and HPS on a

single FRN. This appeal includes those Invoices but should not be construed to supersede or replace his appeal.

You may contact Mr. Larry Lehmann as set forth below to discuss this appeal.

Address: 931 Acom, Giddings, Texas 78942  
Phone: (713) 410-9265  
Fax: (979) 542-1309  
Email: Larry7out@yahoo.com

We request that you overrule the denial of the Pending Application Numbers and make the payments due to the Consortium.

Very Truly Yours,

A handwritten signature in cursive script, appearing to read "Stephanie Shaw-Green".

Stephanie Shaw-Green  
Micro Systems Engineering Representative

Enclosures

Cc: Docket No. 02-06

**Administrator's Decision on Invoice Appeal**

August 25, 2009

Stephanie Shaw-Green  
Micro System Engineering  
10661 Rockley Road  
Houston, TX 77099

Re: 471 Application Number: 369537  
Funding Request Number(s): 1016173  
Correspondence Dated: July 6, 2009

After thorough review and investigation of all relevant facts, the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal. 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 SLD Invoice Number, please note that for each invoice for which an appeal is submitted, a separate letter is sent.

Funding Request Number(s): 1016173  
Decision on Appeal: **Denied**  
Explanation:

The FCC has concluded in FCC Order 07-1797 the following:  
"that USAC was correct in its decision to deny payments to Petitioners because DISD and the MSE Consortium, through its lead agent, violated the Commission's competitive bidding rules and requirements. Accordingly, we affirm USAC's decision to deny payment of Petitioners' outstanding invoices and we deny Petitioners' request for review."

If you believe there is a basis for further examination of your application, you may file an appeal 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 above 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

100 South Jefferson Road, P.O. Box 902, Whippany, NJ 07981  
Visit us online at: <http://www.USAC.org/s/>

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 USAC/School and Libraries web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

Thank you for your continued support of and participation in the E-rate program.

Schools and Libraries Division  
Universal Service Administrative Company

cc:

AJ Lopez

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**Administrator's Decision on Invoice Appeal**

August 25, 2009

Stephanie Shaw-Green  
Micro System Engineering  
10661 Rockley Road  
Houston, TX 77099

Re: 471 Application Number: 369205  
Funding Request Number(s): 1016639  
Correspondence Dated: July 6, 2009

After thorough review and investigation of all relevant facts, the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal. 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 SLD Invoice Number, please note that for each invoice for which an appeal is submitted, a separate letter is sent.

**Funding Request Number(s):** 1016639  
**Decision on Appeal:** **Denied**  
**Explanation:**

The FCC has concluded in FCC Order 07-1797 the following:  
"that USAC was correct in its decision to deny payments to Petitioners because DISD and the MSE Consortium, through its lead agent, violated the Commission's competitive bidding rules and requirements. Accordingly, we affirm USAC's decision to deny payment of Petitioners' outstanding invoices and we deny Petitioners' request for review."

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Thank you for your continued support of and participation in the E-rate program.

Schools and Libraries Division  
Universal Service Administrative Company

cc:

July 2, 2009

**Via email: [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org)**

**Fax (973)599-6542 and Federal Express**

Letter of Appeal

Schools and Libraries Division-Correspondence Unit

100 S. Jefferson Rd.

P.O. Box 902

Whippany, NJ 07981

**Re: Appeal of Universal Service Administrative Company's ("USAC") letter of denial dated May 5, 2009 for payment due on SPIN No. 143017760 to Micro System Engineering and the Consortium on the contract between Dallas Independent School District ("DISD") and the Consortium (the "Consortium Contract").**

To whom it may concern;

This letter is an appeal to your letter of May 5, 2009 regarding USAC's decision to deny payments due on SPIN No. 143017760 due to the MSE and the companies comprising the Consortium.

Micro System Engineering ("MSE"), the SPIN holder and the Consortium appeal the denial of payment as set forth in your May 5, 2009 correspondence to MSE. The relevant appellate information is as follows:

Appellant: MSE and the Consortium, the service provider  
Applicant BEN—140542 Dallas Independent School District  
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Phone: (713) 410-9265  
Fax: (979) 542-1309  
Email: Larry7out@yahoo.com

We request that you overrule the denial of the Pending Application Numbers and make the payments due to the Consortium.

Very Truly Yours,



Stephanie Shaw-Green  
Micro Systems Engineering Representative

Enclosures

Cc: DISD



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FAX COVER

TO: Stephanie M. Shaw-Green  
Micro System Engineering  
281-983-5599

FROM: Kristy Carroll, Deputy General Counsel

DATE: May 5, 2009

RE: Administrator's Decision

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11 pages including cover

Please feel free to call me at 202-263-1603 if you do not receive all of the pages.



VIA Facsimile and Overnight Delivery

May 5, 2009

Stephanie M. Shaw-Green  
Micro System Engineering  
10661 Rockley Road  
Houston, TX 77099

Re: Further Explanation of Administrator's Invoicing Decision  
FCC Form 471 Application Numbers: 360412, 360904, 360931, 369205, 369537  
Funding Request Numbers: 1017129, 1016407, 1016865, 1016639, 1016173  
Funding Year 2003 (07/01/2003 - 06/30/2004)

Ms. Shaw-Green:

Currently pending with USAC is \$5,557,753.18 requested on Service Provider Invoice Forms (FCC Forms 474) submitted by Micro System Engineering (MSE), Service Provider Identification Number (SPIN) 143017760, listed on Attachment A. Also pending with USAC is \$694,818.62 requested on FCC Forms 474 submitted by MSE, SPIN 143017760, listed in Attachment B.

**USAC has determined to DENY these pending invoices and payments. Please be advised that this letter is the official notification of action on these invoices and pending payments by the Universal Service Administrative Company (USAC). Please refer to the instructions below regarding how to appeal the Administrator's decision, if you wish to do so. The purpose of this letter is to provide you with detailed information concerning the reasons for USAC's denial of these invoices.**

**Factual Background**

The pending FCC Form 474 and payments are associated with the Dallas Independent School District's (DISD) Funding Year 2003 FCC Form 471 applications listed above. These applications rely on contracts between MSE and DISD. USAC understands that MSE, along with other companies including Lazo Technologies, formed a consortium of service providers that submitted bid proposals to DISD for the provision of services related to the Schools and Libraries Program for Funding Year 2003. USAC has been informed that MSE served as the designated agent of the consortium.

In July 2008, Ruben Bohuchot, former DISD Chief Technology Officer, and Frankie Logyang Wong, co-owner and President of MSE, were convicted of multiple federal crimes including conspiracy to commit bribery, conspiracy to launder monetary instruments, and bribery concerning programs receiving federal funds related to DISD's and MSE's participation in the Schools and Libraries Program.<sup>1</sup> The Indictment brought against Bohuchot and Wong alleged, among other things, the following:

- (i) Bohuchot would and did solicit things of value.
- (ii) Wong and Coleman would and did cause things of value to be provided to Bohuchot, his family, and his friends.
- (iii) In an effort to ensure that MSE would receive payment as a result of the awarding of DISD contracts, Bohuchot would and did cause non-public information to be provided to Wong before the information was provided to competitors of MSE;
- (iv) Bohuchot would and did sign documents authorizing DISD to enter into contracts benefiting MSE.<sup>2</sup>

USAC disbursed more than \$92 million to MSE based upon DISD's Funding Year 2003 FCC Form 471 applications cited above. These FCC Form 471 applications relied on the contracts that were tainted by the bribes and the provision of inside information for which Mr. Bohuchot and Mr. Wong have been convicted.

#### Applicable Federal Communications Commission Rules Governing the Schools and Libraries Program

Purpose of the Schools and Libraries Program. The Schools and Libraries Program provides financial support through the Universal Service Fund (USF) to eligible telecommunications service providers and non-telecommunications service providers that provide eligible services to eligible schools, school districts and libraries (generally referred to as "applicants").<sup>3</sup> Four service categories are funded by the Schools and Libraries Program: telecommunications services, Internet access services, the internal connections necessary to permit eligible entities to access the Internet, and basic maintenance of internal connections.<sup>4</sup> The Schools and Libraries Program pays for a portion of these eligible services with the applicant paying the remainder. Payments by the Schools and Libraries Program are referred to as discounts and fund from 20% up to

<sup>1</sup> See Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Mr. Frankie Logyang Wong, Notice of Suspension and Initiation of Debarment Proceedings (February 26, 2009)(Wong Suspension); Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Mr. Ruben B. Bohuchot, Notice of Suspension and Initiation of Debarment Proceedings (February 26, 2009)(Bohuchot Suspension).

<sup>2</sup> See *United States v. Ruben B. Bohuchot, et al.*, Criminal Docket No. 3:07-CR-167-L-1, Indictment at 8-9 (N.D. Tex. filed May 22, 2007, and entered May 24, 2007, under seal; unsealed May 29, 2007)(Indictment).

<sup>3</sup> See 47 C.F.R. §§ 54.501-54.503, 54.517.

<sup>4</sup> See *id.*, see also 47 C.F.R. §§ 54.506, 54.507.

90% of the costs of eligible services, depending on the level of poverty and the urban/rural status of the population served by the applicant.<sup>5</sup>

Fundamental Competitive Bidding Requirements. In preparing requests for funding, applicants seeking discounted services through the Schools and Libraries Program must follow certain competitive bidding requirements. After preparing a technology plan, an applicant initiates the competitive bidding process by submitting an FCC Form 470 to USAC for posting on the USAC website.<sup>6</sup> This posting enables prospective service providers to bid on the equipment and services for which the applicant plans to request universal service support. After the FCC Form 470 has been posted, the applicant must wait at least 28 days before entering into agreements with service providers (to provide one or more of the eligible services and/or products), must comply with all applicable state and local procurement laws, and must comply with the other competitive bidding requirements established by the FCC.<sup>7</sup>

"The FCC's rules require a fair and open competitive bidding process free from conflicts of interest. Under the Commission's rules, service providers may not participate in the bidding process other than as bidders because, as the Commission has ruled, "direct involvement in an application process by a service provider would thwart the competitive bidding process."<sup>8</sup> Communications between applicants and service providers that unfairly influence the outcome of the competition, provide inside information, or allow the provider to unfairly compete taints the competitive process. USAC guidance provides in relevant part as follows:

The competitive bidding process must be fair and open. "Fair" means that all bidders are treated the same and that no bidder has advance knowledge of the project information. "Open" means there are no secrets in the process, such as information shared with one bidder, but not with others, and all bidders know what is required of them. The [FCC] Form 470 or the RFP should be clear about the products, services, and quantities the applicant is seeking.

<sup>5</sup> See 47 C.F.R. § 54.505.

<sup>6</sup> See 47 C.F.R. §§ 54.504(b), 54.508; *Schools and Libraries Universal Service, Description of Services Requested and Certification Form 470*, OMB 3060-0806.

<sup>7</sup> See 47 C.F.R. §§ 54.504, 54.511; *In re Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, 12 FCC Rcd 8776, ¶ 575 (rel. May 8, 1997) ("Universal Service Order").

<sup>8</sup> *Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, El Paso, Texas. et al, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, SLD Nos. 321479, 317242, 317016, 311465, 317452, 315362, 309005, 317363, 314879, 305340, 315578, 318522, 315678, 306050, 331487, 320461, CC Docket Nos. 96-45, 97-21, *Order*, 19 FCC Rcd 26407, 26434 ¶ 60 (2003) ("Ysleta Order"); See also *Request for Review of Decisions of the Universal Service Administrator by MasterMind Internet Services, Inc., Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Order*, 16 FCC Rcd 4028-4032-33, ¶ 10 (2000); *Request for Review of Decisions of the Universal Service Administrator by SEND Technologies LLC, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, *Order*, DA 07-1270 (2007); *Request for Review of Decisions of the Universal Service Administrator by Caldwell Parish School District, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, *Order*, DA 08-449 (2008).

In order to be sure that a fair and open competition is achieved, any marketing discussions held with service providers must be neutral, so as not to taint the competitive bidding process. That is, 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.<sup>9</sup>

USAC Obligation to Recoup Improperly Disbursed Funds. FCC rules require USAC to rescind funding commitments in all or part, and recover funds when USAC learns that funding commitments and/or disbursements of funds were inconsistent with program rules.<sup>10</sup> In particular, FCC rules require USAC to "recover the full amount disbursed for any funding requests in which the beneficiary failed to comply with the Commission's competitive bidding requirements as set forth in section 54.504 and 54.511 of [the FCC's] rules and amplified in related Commission orders."<sup>11</sup>

#### Explanation of the Administrator's Decision

The criminal convictions indicate that a federal jury determined that Mr. Bohuchot and Mr. Wong participated in a bribery and money laundering scheme that included the contracts between DISD and MSE upon which the Funding Year 2003 FCC Form 471 applications cited above rely. As part of this scheme, Mr. Bohuchot "adjusted the requirements of DISD's request for proposals to benefit" the consortium members.<sup>12</sup> In exchange, Mr. Bohuchot "received bribes that included extensive access to and control of large sports-fishing vessels, payment for numerous vacations and various entertainment services, and cash that [Mr. Bohuchot] attempted to disguise as repayments from another individual for living expenses."<sup>13</sup> During the same period of time, "MSE provided things of value to Mr. Bohuchot, including extensive access to and control of large sports-fishing vessels, payment for numerous vacations and various entertainment services and cash."<sup>14</sup>

This bribery scheme tainted the competitive bidding process that resulted in the contracts upon which DISD's Funding Year 2003 FCC Form 471 applications rely and violated the fundamental FCC requirement that the services for which applicants seek funding from the Schools and Libraries Program be based on a fair and open competitive bidding

<sup>9</sup> See <<http://www.usac.org/sl/applicants/step03/run-open-fair-competition.aspx>>

<sup>10</sup> See *Changes to the Board of Directors of the National Exchange Carrier Association*, CC Docket Nos. 97-21, 96-45, FCC 99-291 (1999); *Changes to the Board of Directors of the National Exchange Carrier Association*, CC Docket Nos. 97-21, 96-45, FCC 00-350 (2000); *Federal-State Joint Board on Universal Service, Changes to the Board of Directors for the National Exchange Carrier Association, Inc., Schools and Libraries Universal Service Support Mechanism, Order on Reconsideration and Fourth Report and Order*, CC Docket Nos. 96-45, 97-21, 02-6, 19 FCC Rcd 15252 (2004) ("*Schools and Libraries Fourth Report and Order*").

<sup>11</sup> *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Rcd 15808, ¶ 21 (2004).

<sup>12</sup> Wong Suspension at 2, Bohuchot Suspension at 2.

<sup>13</sup> Bohuchot Suspension at 2-3.

<sup>14</sup> Wong Suspension at 2-3, citing Indictment at 4-5, 7-21.

process. USAC would not have approved the Funding Year 2003 FCC Form 471 applications if USAC had known about the crime that had been committed. Under federal law applicable to the Schools and Libraries Program, competitive bidding free from bribery, fraud, conflicts of interest or other unfair influence is a condition of receiving Schools and Libraries Program funds. Entities that do not comply with this and other conditions are not eligible to receive Schools and Libraries Program support and any funds disbursed inappropriately under this standard must be recovered. Because USAC is required to recover funds for any funding request where the FCC's competitive bidding requirements were violated, USAC is denying the pending FCC Forms 474 and pending payments.

USAC is providing a copy of this notification letter to Tom Lazo, President of Lazo Technologies because USAC understands that Mr. Lazo is the current representative of the MSE Consortium.

#### **TO APPEAL THIS DECISION**

If you wish to appeal a decision in this letter, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

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

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  - insert name of the letter and funding year - both are located at the top of the letter, **AND**
  - the exact text of the decision that you are appealing.
3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

Ms. Shaw-Green  
May 5, 2009  
Page 6 of 6

To submit your appeal to USAC by email, email your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org). USAC will automatically reply to incoming emails to confirm receipt.

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

To submit your appeal to us on paper, send your appeal to:

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

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

You have the option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. 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.

Schools and Libraries Division  
Universal Service Administrative Company

cc: Tom Lazo  
Lazo Technologies  
611 West Mockingbird Lane  
Dallas, TX 75247

Attachment A

Invoice	Line	SP or App Inv No	SPIN	SP Name	BEN	Applicant	Req Disc	471	FRN	
676563	2485043	3000802	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 20,208.00	368537	1016173	SERVICE PROVIDER
676572	2485052	3000943	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 20,208.00	368537	1016173	SERVICE PROVIDER
676434	2484886	3000242	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 22,281.21	360904	1016407	SERVICE PROVIDER
676483	2484895	3000223	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 22,374.22	360904	1016407	SERVICE PROVIDER
676488	2484931	30003102	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 22,734.00	360904	1016407	SERVICE PROVIDER
676506	2484853	300282	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 22,374.00	360904	1016407	SERVICE PROVIDER
676514	2484858	3000362	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 22,374.00	360904	1016407	SERVICE PROVIDER
676528	2484972	3000482	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 22,281.19	360904	1016407	SERVICE PROVIDER
676540	2484880	30002382	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 22,374.00	360904	1016407	SERVICE PROVIDER
676548	2484988	277085	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 22,734.00	360904	1016407	SERVICE PROVIDER
676557	2485012	3001882	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 21,516.30	360904	1016407	SERVICE PROVIDER
677091	2486479	30003022	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 22,374.00	360904	1016407	SERVICE PROVIDER
711931	2800668	307795	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 209,233.82	360904	1016407	SERVICE PROVIDER
634176	2299885	295814	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 883,898.40	369205	1016639	SERVICE PROVIDER
640338	2332329	297223	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 73,874.40	369205	1016639	SERVICE PROVIDER
667630	2457467	STWYR8-2	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 395,171.15	360931	1016885	SERVICE PROVIDER
667630	2457471	STWYR8-2	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 85,251.80	360931	1016885	SERVICE PROVIDER
667630	2457473	STWYR8-2	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 125,018.84	360931	1016885	SERVICE PROVIDER

Attachment A

Invoice	Line	SP or App Inv No	SPIN	SP Name	BIEN	Applicant	Reg Disc	471	FRN	
668047	2458908	STWYR0-3	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 360,188.91	360412	1017129	SERVICE PROVIDER
636608	2312229	285009	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 31,189.83	360412	1017129	SERVICE PROVIDER
627876	2265823	192372	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 82,387.42	360412	1017129	SERVICE PROVIDER
640312	2332289	296934	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 182,234.84	360412	1017129	SERVICE PROVIDER
694814	2546775	307782	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 544,187.86	360412	1017129	SERVICE PROVIDER
694823	2546813	308248	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 36,866.82	360412	1017129	SERVICE PROVIDER
694937	2546815	308261	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 14,066.04	360412	1017129	SERVICE PROVIDER
694939	2546816	308252	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 29,638.54	360412	1017129	SERVICE PROVIDER
694941	2546818	308253	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 1,517.76	360412	1017129	SERVICE PROVIDER
650374	2373600	2958	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 341,728.31	360412	1017129	SERVICE PROVIDER
650385	2373618	299557	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 421,360.33	360412	1017129	SERVICE PROVIDER
653203	2389116	300366	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 189,622.74	360412	1017129	SERVICE PROVIDER
653205	2389121	300358	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 70,568.27	360412	1017129	SERVICE PROVIDER
653208	2389122	300364	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 122,606.82	360412	1017129	SERVICE PROVIDER
867513	2457411	303401	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 388,108.12	360412	1017129	SERVICE PROVIDER
678432	2484940	290050	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 50,077.48	360412	1017129	SERVICE PROVIDER
872030	2472807	300314B	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 223,895.22	360412	1017129	SERVICE PROVIDER
714317	2612259	309725	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 203,972.27	360412	1017129	SERVICE PROVIDER

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Attachment A

Invoica	Line	SP or App Inv No	SPIN	SP Name	BEN	Applicant	Req.Disc	471	FRN		
714328	2812296	310285	143017780	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 148,421.05	360412	1017129	SERVICE PROVIDER	
711828	2600614	304048	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 108,749.84	360412	1017129	SERVICE PROVIDER	
							\$5,557,763.18				

Attachment B

Invoice	Line	SP or App Inv No	\$PIN	SP Name	BEN	Applicant	Req Disc	471	FRN	Invoice Type
627683	2286857	293804	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 20,208.00	388537	1018173	SERVICE PROVIDER
627421	2264679	3002742	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 22,734.00	360904	1016407	SERVICE PROVIDER
627422	2264688	3001382	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 22,734.00	360904	1016407	SERVICE PROVIDER
627423	2264898	3002762	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 22,734.00	360904	1016407	SERVICE PROVIDER
627677	2266824	293803	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 170,006.18	360412	1017129	SERVICE PROVIDER
627813	2287173	293612b	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 368,573.84	360412	1017129	SERVICE PROVIDER
628662	2289977	193001	143017760	Micro System Engineering	140542	DALLAS INDEP SCHOOL DISTRICT	\$ 67,828.61	360412	1017129	SERVICE PROVIDER
							\$ 694,818.63			

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	CASE 3:07-CR-167-L(02)
	§	
	§	(J. Lindsay)
FRANKIE WONG	§	

**NOTICE OF APPEAL**  
**AND**  
**MOTION FOR BOND PENDING APPEAL**

**1. Notice of Appeal**

Mr. Wong hereby appeals his conviction and sentence in this case.

**2. Motion for Bond Pending Appeal**

Mr. Wong currently is on bond. He also requests bond pending appeal, as follows:

**a. The Standard for Bond Pending Appeal**

Title 18 U.S.C. § 3143(b) allows bail pending appeal if the defendant shows that (1) he is not likely to flee or pose a danger to the community; (2) “the appeal is not for purposes of delay;” and (3) the appeal raises a substantial question of law or fact likely to result in (i) a reversal, (ii) an order for a new trial, (iii) a sentence that does not include a term of imprisonment, or (iv) a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process. 18 U.S.C. § 3143(b)(1)(A) & (b)(1)(B). A “substantial question of law or fact” is defined as a “‘close’ question or one that very well could be decided either way” or that “raises a

substantial doubt (not merely a fair doubt) as to the outcome of its resolution.” *United States v. Valera-Elizondo*, 761 F.2d 1020, 1025 (5th Cir. 1985). The test is then whether the substantial question, *if granted*, would result in a new trial or a sentence without further imprisonment. *Valera-Elizondo*, 761 F.2d at 1024. A “substantial question of law or fact” does *not* require a finding that the district court erred or that the case will be reversed: “Judges do not knowingly leave substantial errors uncorrected, or deliberately misconstrue applicable precedent. Thus, it would have been capricious of Congress to have conditioned bail only on [a finding of] error.” *Id.* at 1022-23 (quoting *United States v. Miller*, 753 F.2d 19, 23 (3rd Cir. 1985)). Rather, the Court must merely conclude that the appeal raises a “substantial question” that, if resolved favorably for the defendant, would more probably than not reverse the defendant’s conviction or sentence.

## **b. Substantial Issue for Appeal**

### **i. Insufficient Evidence**

Mr. Wong is neither a flight risk nor a danger to the community, and the only issue is whether he raises a “substantial issue” in his appeal that, if granted, would eliminate his sentence. After trial, Mr. Wong filed a “motion for acquittal” (docket entries 166, 189, and 216), arguing insufficient evidence to prove money laundering under *United States v. Santos* and insufficient evidence of a material “quid pro quo.” While the Court denied this motion (docket entry 218), the standard for bond pending appeal is only whether the motion presents a “close” question. We respectfully suggest that it does.

We are not aware of evidence of any “quid pro quo” concerning “E-rate.” Concerning “SEATS,” we adopt the arguments presented in the pleadings cited above supporting acquittal.

**ii. Limits on Cross Examination**

In addition, we understand that the Court limited cross examination of two important government witnesses: Mr. Thomas and Mr. Coleman.

**Mr. Thomas:** Mr. Thomas provided evidence concerning access to the “RFP” on the SEATS bid. Because Thomas’ credibility was important, Mr. Wong’s counsel sought to impeach him with any motive to curry favor with the government – specifically, that he had committed crimes of which the government knew and for which he could be prosecuted but never was (namely, attempting to bribe DISD security personnel on work unrelated to Mr. Wong). While the Court has discretion over many areas of cross examination, this impeachment was fundamental to the defense.

**Mr. Coleman:** Mr. Coleman also provided evidence about the “RFP” in exchange for a lesser plea bargain. The government “redacted” Coleman’s name from various charges in the indictment, and Mr. Wong’s counsel sought to cross examine him about the merit of those charges. The Court did not allow counsel to elicit from Coleman that those charges – which involve Wong as well – were false.

These are “close” issues, given the importance of these two witnesses and the “circumstantial” nature of the case, which highlights the need for their cross examinatio.

Respectfully submitted,

/s/ David Gerger

David Gerger  
Texas Bar No. 07816360  
GERGER & CLARKE  
1001 Fannin, Suite 1950  
Houston, Texas 77002  
Phone: 713-224-4400  
Fax: 713-224-5153

**Certificate of Service**

A copy of this pleading was served the day of filing on Assistant United States Attorney by fax or by electronic mail from the Clerk of Court.

/s/ David Gerger

David Gerger

# FORREST & KELLEY

A Limited Liability Partnership

Attorneys at Law

3555 Timmons Lane, Suite 1015

Houston, Texas 77027

TERI H. KELLEY, J.D.

Telephone (713) 627-3737

Telecopier (713) 627-3738

September 1, 2006

**Via Facsimile: 202-776-0080**  
**and Federal Express**

Mr. Mel Blackwell  
Universal Service Administrative Company  
Schools and Libraries Division  
2000 L. Street, N.W., Suite 200  
Washington, D.C. 20036

**Re: Universal Service Administrative Company's ("USAC") withholding of payments due to Micro System Enterprises, Inc. on the contract between Dallas Independent School District ("DISD") and the Consortium (the "Consortium Contract").**

Dear Mr. Blackwell:

I represent Micro System Enterprises, Inc. ("MSE") with regard to its participation in the Schools and Libraries E-Rate Program, and am responding to your letter of August 16, 2006 regarding USAC's decision to withhold payments due, through MSE, to DISD and the companies comprising the Consortium.

Your letter implies that my client, Mr. Wong, as President of MSE, lied in his Declaration of September 16, 2005, when he testified that neither he, nor to his knowledge anyone associated with the Consortium, knowingly provided privileged access or gave gifts to Ruben Bohuchot as a means of gaining favor in the selection made as a result of the procurement process related to the Consortium Contract. However, your letter fails to provide any evidence to back up such a grave implication. It does not specify any evidence that links the alleged gifts you vaguely mention with the bidding, award or implementation of the Consortium Contract. My client stands behind his Declaration.

Simply put, the competitive bid process was properly followed, DISD carefully considered all bids, and the lowest, best-value bid was selected. By making unsupported allegations and conclusions in your letter, you completely ignore the overwhelming evidence you have that affirmatively proves there was nothing illegal about the letting, awarding, or implementation of the Consortium Contract. In fact, DISD, Mr. Hinojosa, Mr. John Martin, the members of the