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12/23/2009

FCC Mail Room

Letter of Appeal
Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

CC: 02-6

Re: Letter of Appeal of Funding Commitment Decision Letter for funding Year 2009, issued November 17, 2009

Dear Sir or Madam:

I am submitting this letter of appeal regarding denial of E-rate FY 2009 funding request for Basic Maintenance of Internal Connections, on the grounds that, the request for basic maintenance was not justified as cost effective. A revised service agreement was submitted during Program Integrity Assurance (PIA) on October 6, 2009.

Appellant Name:	Erate Exchange, LLC
Applicant Name:	Torchlight Academy
471 Application Number:	679876
Billed Entity Number:	16021115
FRN:	1889261
Service Provider:	Network Specialists

SLD Explanation for denial: *"This finding request is denied as a result of a Cost Effectiveness Review, which has determined that your request for basic maintenance has not been justified as cost effective as required by FCC rules. 1. Cost of maintenance per piece of equipment at \$2,271.15 is excessive. 2. Cost of maintenance per cabling drop is \$54.43 is excessive."*

The issue in this case boils down simply to this: The denial of funding was based on an administrative error and lack of communication during Program Integrity Assurance (PIA) as a revised service agreement was submitted during Program Integrity Assurance (PIA) on October 6, 2009. We did not receive a request for additional information about the Cost Effectiveness Review again after October 6, 2009. We have not heard anything in regards to this until the FCDL was issued. Based on the Bishop Perry Order, we request FRN 1889261 be funded and USAC actions remain consistent with this order.

Given that the denial of funding in this case was based on merely an administrative error, regarding the submission of the revised service agreement, the Parties respectfully request that the SLD process this Letter of Appeal and approve the funding commitment for Torchlight Academy. The denial of funding for an administrative error places a particular hardship on a school district such as Torchlight Academy that otherwise should have been approved and received E-rate funding for its application.

We respectfully request that you overturn the denial and restore full funding of this FRN. Thank you for reviewing this appeal. Please use the contact information below.

Shari Dwyer Phillips, President, E-rate Exchange, LLC, PO Box 451, Syracuse, NY 13206, Tel. 315.422.7608, Fax 866.283.9332, sdp@erateexchange.com

Sincerely,
E-rate Exchange, LLC
Ms. Shari D. Phillips
President

CC: Enclosures - The revised service agreement and October 6th, 2009 email for FRN 1889261

Amanda Boyle

From: Shannon Griffin [smg@erateexchange.com]
Sent: Tuesday, October 06, 2009 4:13 PM
To: MDONAWA@sl.universalservice.org
Cc: 'Shari Phillips'
Subject: RE: ERate App# 679876TORCHLIGHT ACADEMY
Attachments: Revised Torchlight service agreement proposal REF_1060911A.rtf

Maria –

Please see the attached revision to the cost per cabling and maintenance. Please let me know if you have any questions. Thank you!

-Shannon



E-RATE EXCHANGE
focused, experienced, credit-worthy e-rate consulting

Shannon M. Griffin
Office Manager

Phone: 315.422.7608
Fax: 866.283.9332
Email: smg@ErateExchange.com
www.ErateExchange.com

From: Donawa, Maria [mailto:MDONAWA@sl.universalservice.org]
Sent: Friday, September 18, 2009 1:16 PM
To: Shari D. Phillips@1-866-2839332
Cc: sdp@erateexchange.com
Subject: ERate App# 679876TORCHLIGHT ACADEMY

TORCHLIGHT ACADEMY

Sep 18, 2009

Shari D. Phillips
TORCHLIGHT ACADEMY
Telephone:
Application Number

()
679876

Response Due Date: 2 October 2009

The Program Integrity Assurance (PIA) team is in the process of reviewing all Funding Year 2009 Form 471 Applications for schools and libraries discounts to ensure that they are in compliance with the rules of the Universal Service program. We are currently in the process of reviewing your Funding Year 2009 Form 471 Application. To complete our review, we need some additional information. The information needed to complete the review is listed below.

Based on the documentation that you have provided, the entire FRN 1889261 will be denied. This funding request is denied as a result of a Cost Effectiveness Review, which has determined that your request has not

been justified as cost effective as required by FCC rules. For additional guidance on determining eligible services, please refer to the USAC website at: <http://www.usac.org/sl/applicants/step06/>.

- The cost per cabling drop at \$54.43 is considered excessive.
- The cost of maintenance per piece of equipment at \$2,721.15 is considered excessive.

If the entire FRN should not be denied and you have alternative information, please provide the supporting documentation.

If you agree with the above denial, please reply back to confirm. If you fail to respond to this email within 15 days, we will perform the action listed above.

Please fax or email the requested information to my attention. If you have any questions or you do not understand what we are requesting, please feel free to contact me.

It is important that we receive all of the information requested **within 15 calendar days** so we can complete our review. **Failure to respond may result in a reduction or denial of funding. If you need additional time to prepare your response, please let me know as soon as possible.**

Should you wish to cancel your Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any cancellation request the Form 471 application number(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Maria Donawa
Schools & Libraries Division
Program Integrity Assurance
Phone: 973-581-5081
FAX: 973-599-6538
E-Mail: mdonawa@sl.universalservice.org

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Version: 8.5.409 / Virus Database: 270.13.105/2380 - Release Date: 09/18/09 07:49:00

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Version: 8.5.420 / Virus Database: 270.14.4/2417 - Release Date: 10/06/09 06:50:00

Contract for Internal Connections Maintenance Services

Submitted to:

**Torchlight Academy
3211 Bramer Drive
Raleigh, NC 27604**

Submitted by:

**Network Specialists DBA.
4810 Fall of Neuse Rd Suite E.
Raleigh, NC 27612**

This is a revision to original contract Dated February 5, 2009 to reflect a list of devices maintained and cost breakdown.
This revised contract is retroactive beginning 1st of July 2009.

October 6, 2009

Purpose:

This formal proposal is presented to Torchlight Academy by Network Specialists DBA (Network Specialists) to fulfill the need for internal network connections maintenance services. The maintenance and services include installation, management, diagnosis, repair, maintenance of the wide and local area networks including their respective components, various software / hardware, DHCP, DNS servers, routers, switches and associated peripherals connected to Torchlight Academy's network.

Needs:

Torchlight Academy has a requirement and a need for professional internal connections support.. Information Technology Specialist help is regularly needed to maintain the LAN and to keep the existing network components, running efficiently and at optimal performance.

Services to be provided:

Network Specialists will provide an engineer on a regular and as needed basis for an average of 53.5 hours per month for the duration of the agreement. The engineer will have thorough understanding of Torchlight Academy's network, possess LAN/ WAN experience, and is trained in network hardware technologies, Microsoft Server and desktop operating System Technologies, in addition to other hardware and software solutions. Network Specialists will provide service continuity and support that Torchlight Academy requires during hardware or software upgrade and maintenance of all present and future equipment. Torchlight Academy's network will be maintained to have minimal down time, should a sudden network failure or malfunction occur. Network Specialists, will dispatch an engineer to provide a solution via remote connection within 20 minutes or be onsite within 4 hours of notification.

Implementation statement:

- 1) Upon approval, formal acceptance and signing of this proposal by Torchlight Academy and Network Specialists work can begin on or anytime after July 1st 2009 as soon as funding becomes available. The 1st week begins with a thorough study of Torchlight Academy's current and future needs, a thorough review of existing network resources, software hardware and other components.
- 2) While addressing the most urgent network issues according to their priorities. In the 2nd week Network Specialists will develop and agree on a work/time statement with Torchlight Academy to meet their information technology goals and objectives and how Network Specialists will participate in achieving these objectives. The plan will have measurable and attainable objectives with clear completion time lines, reviews checks and balances on a monthly basis.

- 3) The 1st month provide a completed work statement plan, a report and analysis of the first months completed work, provide detailed network documentations, an inventory of active network components and a network diagram.
- 4) Regularly maintain, troubleshoot, repair, update, optimize, install software/hardware components, attend to network priorities and monitor network components.
- 5) Monthly report, with analysis in relation to work statement. Monthly Review with Torchlight Academy.

Time Schedule table.

This table reflects the above implementation statement and assignment responsibility.

Mile Marker	Time Line	Responsibility	Description of Actions
Contract Approval	Start of contract agreement	Torchlight Academy	Formal approval and acceptance of proposal. Once signed by Torchlight Academy and Network Specialists DBA, it will become the official contract agreement.
Determine the needs objectives and goals. Current Network resources. Urgent issues and Priorities	1 st week	Network Specialists/ Torchlight Academy	Network Specialists will conduct a thorough study of Torchlight's Academy's current and future objectives and goals, a thorough review of existing network resources software hardware and other components. Understand urgent network issues. Prioritize tasks.
Determine the measure of success in task completion. Checks and balances.	2 nd week & 3 rd week	Network Specialists/ Torchlight Academy	Develop and agree on a work/time statement with Torchlight Academy to meet their information technology goals and objectives and how Network Specialists will participate in achieving these objectives. The plan will have measurable and attainable objectives with clear completion time lines, reviews checks and balances. Meanwhile Attend to priority urgent network issues.
First Monthly Report Including Work statement.	1 st month	Network Specialists	Provide a completed work statement plan. Provide a report and analysis of first month completed work. Provide detailed network documentations, inventory of active network components and Network Diagram.

Regular months	Weekly	Network Specialists	Regularly maintain, troubleshoot, repair, update, optimize, install software/hardware components, and attend to network priorities and monitor network via automatic incident notification, remotely and on site. Attend to any Network urgencies.
Regular monthly report/reviews	Monthly	Torchlight Academy/ Network Specialists.	Monthly Review with Torchlight Academy of Monthly report, with analysis in relation to work statement and this contract.

List of devices and their respective location

- A- Server Systemax Model # SYXS-ST-989726 S/N 106710607
This Server is located in the front communication room. This server Functions as DHCP server, DNS Domain Name Server, email server
- B- Server IBM Model# 8649-5AX S/N KP-fv636
Located in IT management office
- C- UPS Model #: ULTRA-1000 S/N 40113460806
UPS Supports server in communication room.
- D Wireless Router WRT54GSV7 S/N CGNC1G612707. Located in front communication room.
- E Wireless Access Point Located in Lab.
- F Switch 16 port Ethernet Switch Model: EF4116
SN:RD71059000590EB107PP
- G Switch 24 Ports D-link Model : DGS-1024D S/N DRBW000075 located in communication room.
- H Switch Model # EF4116 S/N:RV700F2001164EV1070PP 16 port switch located in back office serving live network connections
- I Ethernet workgroup switch switch 8 ports Model # Ezx588w
S/N:127000760 Located in computer Lab.
- J Ethernet Switch 16 Ports Model # EF4116 S/N:RD71059000582 Located in computer Lab.
- K Ethernet Switch 16 ports. Model TLS-SF1016D S/N 07820800358 Located in computer Lab.
- L Procurve Switch 2810-24 G 24 port switch 2 1 in Front 1 in back
- M Procurve Switch 2610-24-PWR 24 Port Switch 2 1 in Front 1 in back
- N Procurve Switch 2610-48-PWR 48 Port Switch 2 1 in Front 1 in back
- O SSG 140 Firewall, 256 Mb Front communication room
- P UPS Model# BE 500R AP S/N380616x110

Cost Breakdown

The following table of cost breakdown of devices includes service and maintenance of **all internal network drops** to each of the devices from source to destination, also includes power connection to each of the devices from its respective source at the surge protection strip or UPS.

Device	Quantity	Maintenance Hrs/Month	Discounted Hrly/rate	Monthly Cost	Yearly Cost
Server DHCP/ DNS/ Email	1	11	\$62	\$682.00	\$8184.00
Firewall	1	8	\$62	\$496.00	\$5952.00
Switches	12	18	\$62	\$1116.00	\$13392.00
UPS	2	3	\$62	\$186.00	\$2232.00
Wireless Router	1	4.5	\$62	\$279.00	\$3348.00
Access Point	1	2	\$62	\$124.00	\$1488.00
Server Proxy	1	7	\$62	\$434.00	\$5208.00

Total yearly cost \$39804.00

Price and Payment.

Items	Numbers	Notes
Engineer Level 1	\$62/hr	
Total hours weekly	12.34 hours	
Total hours monthly	53.5 hours	
Total Monthly Price	\$3317.00	
Total Yearly Price	\$39804.00	
E-Rate discount	90%	
School Monthly Cost	\$331.70	
School Yearly Cost	\$3980.00	

Payment: Monthly payment occurs in advance. Payment is due on the first day of every month. For example payment for July’s services is to be paid on or prior to the first day of July.

Changes: The 53.5 monthly hours are interchangeable and can be used at the discretion of Torchlight Academy. Torchlight Academy must use the monthly-allotted hours in groups of 4-hours. Hours for next month may be used for this month. Hours when not used may be carried-over to next months.

Terms & Conditions

- 1) **Conditions of this Agreement:** The parties acknowledge and agree that this Service Agreement is contingent upon Torchlight Academy obtaining E-Rate funding for internal network connections and maintenance from the Schools and Libraries Division of Universal Service Administration Corporation and Library Board of Directors.
- 2) **Services:** Network Specialists DBA an independent contractor, agrees to perform for Torchlight Academy during the term of this agreement, the services previously described in this document.
- 3) **Specific devices managed under this agreement:** DHCP & DNS Servers, Routers, Hubs, and Switches.
- 4) **Service Defined:** Network Specialists will provide an engineer at Torchlight Academy location upon request and up to 9 days per month. Should the customer require additional days or services for special projects outside of the agreed upon parameters, the customer will be expected to pay these charges even if they are E-rate ineligible.
- 5) **Term:** The Initial term of this Agreement shall commence on the first day of July 2009, and end on the last day of June 2010.
- 6) **Designation of Duties:** Network Specialists shall receive requests for services to be performed from Mr. Henry Amaker The Director of Technology at Torchlight Academy.
- 7) **Confidentiality:** Network Specialists DBA (Network Specialists) shall not disclose, publish or authorize others to publish design data, drawings, specifications, reports or other information pertaining to the work assigned to Network Specialists by Torchlight Academy without prior written approval of Torchlight Academy. Upon expiration, termination of this Agreement, Network Specialists agrees to return to Torchlight Academy all drawings, specifications, data and other material obtained by Network Specialists from Torchlight Academy, or developed by Network Specialists, in connection with the performance of this Agreement.
- 8) **Reimbursable Expenses:** Any expenses to services not related to this agreement must be pre-approved by Torchlight Academy and will be billed to Torchlight Academy separately. Torchlight Academy office exists within Network Specialists service area radius therefore no travel charges will be incurred or billed to services related to this contract.
- 9) **Force Major:** Network Specialists shall have no liability for damages or delays or failure in performance due to: acts of God, the elements, or any other causes beyond Network Specialists control.
- 10) **Limitation of Network Specialists Liability:** Torchlight Academy shall hold harmless Network Specialists, its officers and employees against all losses, claims, liabilities, damages and expenses of any nature, directly or indirectly arising out or as a result of any act of omission, or error by Network Specialists, its employees, agents or subcontractors in the performance of this Agreement. Torchlight Academy agrees to limit any and all liability or claim for damages, cost of defense, or expenses against Network Specialists to a sum not to exceed \$10,000, resulting from any error, omission, or act of negligence.
- 11) **Delinquent Payments:** Delinquent Payments on any undisputed balance are subject to a late payment charge of 1.5% per month. Torchlight Academy agrees to reimburse Network Specialists for any attorneys' fees and any other costs associated with collecting delinquent payments.

12) General: Any supplement, modification or waiver of any provision of this Agreement must be in writing and signed by authorized representatives of both parties. This is the entire Agreement between Torchlight Academy and Network Specialists with respect to the services and deliverables provided hereunder and supersedes all prior agreements, proposals, communications and understandings between Torchlight Academy and Network Specialists whether written or oral. All signed copies of this agreement shall be deemed originals.

Torchlight Academy

Network Specialists DBA.

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____