

MURPHY, HESSE, TOOMEY & LEHANE, LLP
Attorneys At Law

Marlene H. Dortch, Secretary
Federal Communications Commission
June 24, 2010
Page 26 of 26

student population and the severity of its educational and technological needs. Throughout the period of time to which this matter pertains, the District did, in the best of faith, attempt to meet those needs in the most cost-effective manner possible. This effort is entirely consistent with the aim and mission of USAC.

For each of the foregoing reasons, the District appeals the determination set forth in USAC's April 26, 2010 Decision on Appeal and respectfully requests that USAC not seek to recover any funding from Brockton.

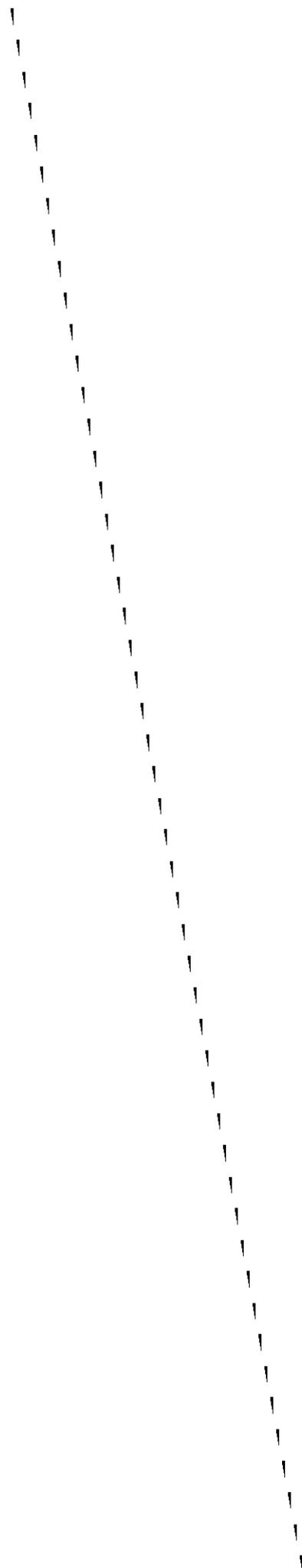
Respectfully submitted,
Brockton Public School District
By its attorneys,



Kathleen Yaeger Ciampoli
Murphy, Hesse, Toomey & Lehane, LLP
300 Crown Colony Drive, Suite 410
Quincy, MA 02269-1923
(617) 479-5000

cc: John Jerome, Brockton Public Schools
Daniel Vigeant, Brockton Public Schools
Edward Lenox, Esq., Murphy, Hesse, Toomey & Lehane, LLP

A



MURPHY, HESSE, TOOMEY & LEHANE, LLP
Attorneys At Law

CROWN COLONY PLAZA
300 CROWN COLONY DRIVE
SUITE 410
P.O. BOX 9126
QUINCY, MA 02269-9126
TEL: (617) 479-5000 FAX: (617) 479-6469

75 FEDERAL STREET
SUITE 410
BOSTON, MA 02110
TEL: (617) 479-5000 FAX: (617) 338-1324

ONE MONARCH PLACE
SUITE 1310R
SPRINGFIELD, MA 01144
TEL: (800) 227-6485 FAX: (617) 479-6469

Arthur P. Murphy
James A. Toomey
Katherine A. Hesse
Michael C. Lehane
John P. Flynn
Regina Williams Tate
Edward F. Lenox, Jr.
Mary Ellen Sowyrda
David A. DeLuca
Ann M. O'Neill
Donald L. Graham
Andrew J. Waugh
Geoffrey P. Wermuth
Robert S. Mangiaratti
Doris R. MacKenzie Ehrens
Geoffrey B. McCullough

Lorna M. Hebert
Joseph T. Bartulis, Jr.
Clifford R. Rhodes, Jr.
Kathryn M. Murphy
Karis L. North
Thomas W. Colonab
Alisia St. Florian
Donna A. Heimlich
Jason M. Gering
Bryan R. LeBlanc
Brandon H. Moss
Kevin F. Brennan
Kathleen E. Yaeger
Brian P. Fox
Lauren C. Galvin
Jessica L. Ritter
Carolyn J. Lyons

Please Respond to Boston

November 7, 2008

Filed electronically at appeals@sl.universalservice.org
and via facsimile to 1-973-599-6542

Letter of Appeal
Schools and Libraries Division, Dept. 125
Correspondence Unit
100 South Jefferson Road
Whippany, NJ 07981

Re: Billed Entity Name: Brockton Public School District
Form 471 Application Number: 575224
Billed Entity Number: 120639
FCC Registration Number: 001812971

Our office represents the Brockton Public School District. This letter is a **Letter of Appeal** and is submitted in response to **Notification of Commitment Adjustment Letter dated September 8, 2008**. Specifically, the Brockton Public School District appeals the following:

1. the determination of USAC that **“Achieve’s bids to applicants indicate that Achieve markets their service to applicants as a no cost service because Achieve is able to guarantee applicants that they will receive USDLA grants to pay their share for the Achieve funding requests;”**

MURPHY, HESSE, TOOMEY & LEHANE, LLP
Attorneys At Law

2. USAC's determination that **"the information obtained shows that Achieve guarantees that the applicants will receive a grant from the USDLA to use to pay the applicant's share for the Achieve funding requests;"**
3. USAC's determination that **"both the applicant and the service provider are responsible for these rule violations because the applicant was unable to conduct a fair and open competitive bidding process based on Achieve's no-cost guarantee;"**
4. the determination of the Universal Service Administrative Company ("USAC") that **"the applicant is responsible for all or some of the program rule violations"** to the extent that violations have occurred; and,
5. USAC's determination that **"both the applicant and the service provider are responsible for this rule violation."**

In support of this appeal, the District offers the following information:

A) **The District Conducted a Fair and Open Competitive Bidding Process in Accordance with USAC Rules.**

The District fully conducted a fair and open competitive bidding process in accordance with USAC rules. In furtherance of, and in order to ensure compliance with USAC procurement rules, the District engaged the services of a third-party consultant whose area of consultancy is concentrated in E-Rate funding, filing and compliance. In accordance with USAC requirements, the District filed its Form 470 application describing the services it was seeking to procure. A copy of the Form 470 application is attached hereto as **EXHIBIT 1**. All certifications made therein, to the best of the District's knowledge information and belief, were true and accurate as of the date of filing.

Following the submission of Form 470, the District did, in fact, post the same and make its RFP available for the full requisite 28 day period required by USAC rules and regulations before considering any bid received and before selecting a service provider. At the end of the 28 day waiting period, only one bid was received by the District in response to its RFP/Form 470

MURPHY, HESSE, TOOMEY & LEHANE, LLP
Attorneys At Law

and that bid belonged to Achieve Telecom Network of Massachusetts, LLC (“Achieve”). A copy of the Achieve bid is attached hereto at **EXHIBIT 2**.

B) Achieve’s Bid Indicated that It Was Approved as a Provider of Services by Both USAC and the Commonwealth of Massachusetts and that it Was Qualified to Provide the Services.

(i) *Achieve Was Approved as a Provider by USAC.*

On the first page of the Achieve bid, Achieve identifies itself as a “certified Eligible Telecommunications Service Provider (ETP) with the Schools and Libraries Division” of USAC (“SLD”). In fact, even as of November 5, 2008 – nearly two months *after* the above-referenced Notification of Commitment Adjustment was issued, and in which improprieties are alleged against Achieve – the company is listed as an approved telecommunications vendor on the SLD web site and has appropriately filed the necessary Service Provider Annual Certification (“SPAC”) form each year for their SLD issued Service Provider Identification Number (“SPIN”). This information was verified under the SLD issued case number of 21-804432 on November 5, 2008. Achieve telecom was clearly fully-vetted by USAC and was (and apparently remains) in good standing.

(ii) *Achieve Was A Registered Provider with the Commonwealth of Massachusetts.*

Achieve filed a tariff with the Department of Telecommunications and Energy for the Commonwealth of Massachusetts (“MDTE”) dated and effective September 22, 2003. A copy of Section 2.2.B.5 of the tariff is attached hereto as **EXHIBIT 3**. In it, Achieve represents to MDTE (and subsequently to a district that relies upon it) among other things, that “discounts are available only to the extent that they are funded by the federal Universal service fund;” that “to be eligible for discount, schools and libraries will be required to comply with the terms and

MURPHY, HESSE, TOOMEY & LEHANE, LLP
Attorneys At Law

conditions set forth in the Rules;” and, that “schools and libraries and consortia shall participate in a competitive bidding process for all services eligible for discounts, in accordance with any state and local procurement rules and in accordance with both FCC and USAC rules.” Clearly, Achieve was vetted by MDTE and it was determined that its qualifications, procedures and requirements were in compliance with MTDE standards.

(iii) *Achieve Demonstrated that It Was Qualified to Perform the Services.*

In the Proposer Qualifications section of its bid, Achieve represented itself as a highly-qualified provider of telecommunications services and identified existing E-rate funded projects in school districts across Massachusetts and the United States.

C) Achieve Never Disclosed any Partnership with USDLA.

To the extent that a partnership or affiliation existed between Achieve and USDLA, it was an arrangement that was never disclosed to the District and one of which the District was never aware. While Achieve did inform the District of the opportunity to apply for a grant from USDLA, it also informed the District generally that other potential sources of grants were available to cover the District’s share of the cost of the services.

(i) *Achieve Did Not Indicate in its Bid that It Had any Relationship or Partnership with USDLA.*

Nowhere in its bid does Achieve offer any indication or suggestion that it was in any way affiliated with or in partnership with USDLA. In fact, nowhere in the Achieve bid is USDLA referenced. If there were any partnership between Achieve and USDLA, the District would have expected to find a disclosure to that effect in the bid, particularly where Achieve disclosed at least one other partnership. Specifically, in the Proposer Qualifications section of its bid, Achieve discloses a partnership with Roberts Communications Network, Inc. (“RCN”). It did not

MURPHY, HESSE, TOOMEY & LEHANE, LLP
Attorneys At Law

disclose any relationship or partnership with USDLA in its narrative description of its Proposer Qualifications nor anywhere else in its bid.

(ii) ***Achieve Never Made Any Suggestion to District Personnel that It Was In Any Way Affiliated with or in Partnership with USDLA.***

The first suggestion made to the District that a relationship might exist between Achieve and USDLA appeared in the USAC Funding Commitment Adjustment Report appended to the Notification of Commitment Adjustment. Notably, the report cites “information obtained” during the course of its investigation which indicated that Achieve “has a partnership with USDLA and solicits donations of behalf of USDLA.” The District is not in possession of any such information. Both Anne Thompson, former Technology Coordinator/director for the District, and her successor, Dan Vigeant, in affidavits appended to this appeal, attest to the fact that no one from either Achieve or USDLA ever suggested a partnership or relationship between USDLA and Achieve. To the extent that such a relationship existed or exists today, it is one of which the District was never made aware.

D) **Achieve Never Suggested that Its Services Would Be at No Cost to the District.**

Achieve never represented, or even suggested, that its services would be provided to the District at no cost.

(i) ***Achieve Did Not Indicate in its Bid that Its Services would be at No Cost to the District.***

Nowhere in its bid does Achieve offer any indication or suggestion that its services would be provided to the District at no cost. In fact, Section 4.2 of Achieve’s bid, captioned “Technology Overview” states in part that “Schools and Libraries are eligible for funding discounts by the Federal E-rate program that provides between 20% and 90% of the total cost to eligible k-12 schools and libraries.” Section 5.0 of Achieve’s bid contains information on

MURPHY, HESSE, TOOMEY & LEHANE, LLP
Attorneys At Law

pricing. That section too does not suggest the possibility (let alone guarantee) that Achieve's services would or could be offered to the District at no cost.

(ii) *Achieve Never Made Any Representation to District Personnel That Its Services Would Be Provided At No Cost to the District.*

In Affidavits appended to this appeal, both Anne Thompson (**EXHIBIT 4**) and her successor, Dan Vigeant (**EXHIBIT 5**) have attested to the fact that Achieve never represented that it was offering a service that would be at "no cost" to the District. Achieve never represented, either orally or in writing to the District, that if the District selected Achieve as its service provider and applied for such a Grant from USDLA, that approval of the Grant by USDLA was guaranteed. Achieve did not present an automatic Grant from USDLA as part of its proposal to the District.

The District had sufficient funds in its overall technology budget to cover the District Share for its E-Rate Program supported services, including the services ultimately obtained from Achieve. In support of this point, attached hereto as **EXHIBIT 6** is an email dated October 24, 2006 from Jon D. Geniuch who, prior to assuming his present position as Assistant Principal within the District, held the position of Instruction Technology Curriculum Specialist for the District. In the email, Geniuch emphasized the need to ensure that monies were in fact available, and not already otherwise earmarked for telephone bills or other telecommunications costs, in order to cover the District's share of the cost of digital transmission and delivery services.

CONCLUSION

To the extent that Achieve has engaged in any impropriety by promising other applicants that it would provide services at no cost, it never made any such promise, representation or suggestion to the District. To the extent that any partnership existed between Achieve and USDLA as alleged by USAC, then it was a partnership that the District had no knowledge of. Where any such partnership between USDLA and Achieve also apparently escaped the scrutiny of both USAC and MDTE officials, it would seem unfair and unjust to expect the District to discover it sooner, or to levy the severe consequence of funding withdrawal against the District

MURPHY, HESSE, TOOMEY & LEHANE, LLP
Attorneys At Law

where it performed reasonable due diligence, engaged in an honest and open bidding process and selected the only vendor to respond to its RFP – one that held itself out as highly qualified, experienced, and both familiar with, and in compliance with, USAC and FCC rules.

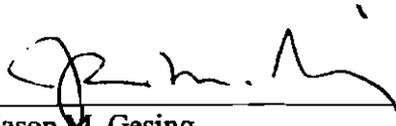
To the extent that any wrongdoing has occurred, the District denies any responsibility for, or complicity in it. The District's arrangement with Achieve is a monthly one and is cancellable at any time. The District is willing to try and find another vendor to provide these services and remains willing to pay for its share of the cost of such services without assistance from USDLA or any other non E-Rate source. This has always been and remains the case.

The initial determination of USAC to provide an 82% discount to the Brockton Public School District for telecommunications services underscores the poverty that pervades its student population and the severity of its educational and technological needs. Throughout the period of time to which this matter pertains, the District has, in the best of faith, attempted to meet those needs in the most cost-effective manner possible. This effort is entirely consistent with the aim and mission of USAC.

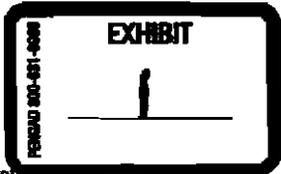
For each of the foregoing reasons, the District appeals the determination set forth in the Notification of Commitment Adjustment and respectfully requests that the District's funding commitment be fully restored.

Respectfully submitted,
Brockton Public School District

By its attorneys,



Jason M. Gesing
MURPHY, HESSE, TOOMEY & LEHANE, LLP
300 Crown Colony Drive, Suite 410
Quincy, MA 02269-1923
(617) 479-5000



FCC Form

Approved by OMB
3060-0806

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

470

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.)

Form 470 Application Number: 560310000617305
Applicant's Form Identifier: Brockton-10
Application Status: CERTIFIED
Posting Date: 01/06/2007
Allowable Contract Date: 02/03/2007
Certification Received Date: 01/06/2007

1. Name of Applicant: BROCKTON PUBLIC SCHOOL DIST		
2. Funding Year: 07/01/2007 - 06/30/2008	3. Your Entity Number: 120639	
43 CRESCENT ST		
City: BROCKTON	State: MA	Zip Code: 02401-4311
D. Telephone number: (508) 580-7500	C. Fax number: (508) 580-7587	
5. Type Of Applicant <input type="radio"/> Individual School (individual public or non-public school) <input checked="" type="radio"/> School District (LEA-public or non-public[e.g., diocesan] local district representing multiple schools) <input type="radio"/> Library (including library system, library outlet/branch or library consortium as defined under LSTA) <input type="radio"/> Consortium (intermediate service agencies, states, state networks, special consortia of schools and/or libraries)		
First, if the Contact Person's Street Address is the same as in Item 4 above, check this box. If not, please complete the entries for the Street Address below.		
6b. Street Address, P.O.Box, or Route Number <input checked="" type="radio"/> 5701 E. Circle Drive #380		

City Clairo	State NY	Zip Code 13039
Check the box next to your preferred mode of contact and provide your contact information. One box MUST be checked and an entry provided.		
<input type="radio"/> 6c. Telephone Number (888) 416-8389		
<input type="radio"/> 6d. Fax Number (877) 310-2598		
<input checked="" type="radio"/> 6e. E-mail Address munca@ocerate.com		

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

- a. Tariffed or month-to-month services to be provided without a written contract. A new Form 470 must be filed for non-contracted tariffed or month-to-month services for each funding year.
- b. Services for which a new written contract is sought for the funding year in Item 2.
 Check if you are seeking a multi-year contract and/or a contract featuring voluntary extensions
- c. A multi-year contract signed on or before 7/10/97 but for which no Form 470 has been filed in a previous funding year.

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

What kinds of service are you seeking: Telecommunications Services, Internet Access, Internal Connections, Other than Basic Maintenance, or Basic Maintenance of Internal Connections? Refer to the Eligible Services List at www.sl.universalservice.org for examples. Check the relevant category or categories (8, 9, 10 and/or 11 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? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

- a. YES. I have released or intend to release an RFP for these services. It is available or will become available on the Web at or via (check one):
 the Contact Person in Item 6 or the contact listed in Item 12.

- b. NO. I have not released and do not intend to release an RFP for these services.

Whether you check YES or 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. Attach additional lines if needed.

c. Check this box if you prefer discounts on your bill.

Check this box if you prefer reimbursement after paying your bill in full.

Check this box if you do not have a preference.

Service or Function:	Quantity and/or Capacity:
Local and long distance telephone service	650 new or existing lines
Cellular/PCS service	350 new or existing accounts
Other wireless services	30 new or existing sites
Paging services	35 new or existing accounts
Satellite services	30 new or existing sites
Distance Learning	30 new or existing sites
Dedicated telecom service	30 new or existing sites, (T1,T3, TLS and equiv)
Digital Transmission Services	30 new or existing sites

9 F Internet Access

Do you have a Request for Proposal (RFP) that specifies the services you are seeking? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

a. YES, I have released or intend to release an RFP for these services. It is available or will become available on the Web or via (check one):
 the Contact Person in Item 6 or the contact listed in Item 12.

b. NO, I have not released and do not intend to release an RFP for these services.

Whether you check YES or 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 Telecommunications services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Attach additional lines if needed.

c. Check this box if you prefer discounts on your bill.

Check this box if you prefer reimbursement after paying your bill in full.

Check this box if you do not have a preference.

Service or Function:	Quantity and/or Capacity:
Dedicated Internet access	30 new or existing sites, min 30 circuits, T1,T3, TLS and equiv.
E-mail service	mobile/wireless for 350 new or existing devices and for 30 sites
Wireless Internet access	30 new or existing sites
Distance learning	30 new or existing sites
Firewall and/or filtering services	30 new or existing sites

10 F Internal Connections Other than Basic Maintenance

Do you have a Request for Proposal (RFP) that specifies the services you are seeking? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

a. YES, I have released or intend to release an RFP for these services. It is available or will become available on the

Web at or via (check one):

the Contact Person in Item 6 or the contact listed in Item 12.

b. NO. I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Internal Connections Services you seek. Specify each service or function (e.g., a router, hub and cabling) and quantity and/or capacity (e.g., connecting 1 classroom of 30 students). 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. Attach additional lines if needed.

c. Check this box if you prefer discounts on your bill.

Check this box if you prefer reimbursement after paying your bill in full.

Check this box if you do not have a preference.

Service or Function:

Quantity and/or Capacity:

Misc network equipment/upgrades

30 new or existing sites, wired and wireless

Maintenance, installation & technical support

30 new or existing sites

11 Basic Maintenance of Internal Connections

Do you have a Request for Proposal (RFP) that specifies the services you are seeking? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

a. YES. I have released or intend to release an RFP for these services. It is available or will become available on the Web at or via (check one):

the Contact Person in Item 6 or the contact listed in Item 12.

b. NO. I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Basic Maintenance Services you seek. Specify each service or function (e.g., basic maintenance of routers) and quantity and/or capacity (e.g., for 10 routers). 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. Attach additional lines if needed.

c. Check this box if you prefer discounts on your bill.

Check this box if you prefer reimbursement after paying your bill in full.

Check this box if you do not have a preference.

Service or Function:

Quantity and/or Capacity:

Maintenance, installation & technical support

30 new or existing sites

Basic network/phone system maintenance

30 new or existing sites

12 (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 Authorized Person who signs this form.

Name:

Title:

Telephone number

0

Fax number

0

E-mail Address

13a. Check this box if there are any restrictions imposed by state or local laws or regulations on how or when service providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures, and/or a Web address where they are posted and provide a contact name and telephone number.

Massachusetts state and local procurement laws

Check this box if no state and local procurement/competitive bidding requirements apply to the procurement of services sought on this Form 470.

13b. If you have plans to purchase additional services in future years, or expect to seek new contracts for existing services, you may summarize below (including the likely timeframes). If you are requesting services for a funding year for which a Form 470 cannot yet be filed online, include that information here.

14. Basic telephone service only: If your application is for basic telephone service and voice mail only, check this box and skip to Item 16. Basic telephone service is defined as wireline or wireless single line voice service (local, cellular/PCS, and/or long distance) and mandatory fees associated with such service (e.g., federal and state taxes and universal service fees).

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.

16. Eligible Entities That Will Receive Services:

Check the ONE choice (Item 16a, 16b or 16c) 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	30
<i>For these eligible sites, please provide the following</i>	
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
508	338,427,580,583,584,587,588,602,607,894
617	815

17. Billed Entities

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. If a Billed Entity cited on your Form 471 is not listed below, funding may be denied for the funding requests associated with this Form 470.

Entity	Entity Number
PARENT INFORMATION CENTER	16037013
BROCKTON PUBLIC SCHOOL DIST	120639
PAINE SCHOOL	16037011
CHAMPION HMCS (505)	224375

18. Ineligible Participating Entities

List the names of any entity/entities here for whom services are requested that are not eligible for the Universal Service Program.

Ineligible Participating Entity	Area Code	Prefix
---------------------------------	-----------	--------

- 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. 7081(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).

-
- 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, cellular, PCS, and/or long distance telephone service and/or voice mail only

21. I certify that I will post my Form 470 and (if applicable) make my RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology plan goals. I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the status and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

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, except as permitted by the Commission's rules at 47 C.F.R. Sec. 54.500(k). Additionally, I certify that the entity or entities listed on this application have not received anything of value or a promise of anything of value, other than the services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.

23. I acknowledge that support under this support mechanism is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support.

24. I certify that I am authorized to order telecommunications and other supported services for the eligible

entity(ies). I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this application, 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. I certify that I have reviewed all applicable state and local procurement/competitive bidding requirements and that I have complied with them. I acknowledge that persons willfully making false statements on this form can be punished by fine or forfeiture, under the Commissions 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.

26. I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program.

27. Signature of authorized person:

28. Date (mm/dd/yyyy): 01/06/2007

29. Printed name of authorized person: Nichole O'Neal

30. Title or position of authorized person: President

31a. Address of authorized person: 5701 E. Circle Drive #380
City: Cicero State: NY Zip: 13039

31b. Telephone number of authorized person: (888) 416 - 8389

31c. Fax number of authorized person: (877) 3102590

31d. E-mail address number of authorized person: noneal@ocerate.com

31e. Name of authorized person's employer: O'Neal Consulting

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 SLD web site at www.sl.universalservice.org 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 any applicable 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**

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

**SLD Forms
ATTN: SLD Form 470
3833 Greenway Drive
Lawrence, Kansas 66046
1-888-203-8100**

FCC Form 470
November 2004

[New Search](#)

[Return To Search Results](#)



January 9, 2007

Ms. Nichole O'Neal
President
O'Neal Consulting
5701 E. Circle Drive #380
Cicero, NY 13039

Subject: Response to SLD 470 Application Number: 560310000617305

Achieve Telecom Network of MA, LLC, SPIN Number 143026761, is pleased to submit this response to SLD 470 Application Number 560310000617305 for your review and consideration in response to your specific request for Digital Transmission Services; Satellite Services; and Distance Learning. In this response Achieve Telecom offers a comprehensive solution for an end-to-end network video solution that features the delivery of high-quality live, scheduled and on-demand video content and all of the requested service as fully-managed telecommunications services as defined by the Federal Communications Commission and welcome the opportunity to showcase the value these digital transmission service bring to the Springfield Public Schools. Achieve Telecom currently has similar projects with DC Public Schools as well as multiple school districts in Massachusetts including Springfield, Somerville and Chelsea.

Achieve Telecom is a certified Eligible Telecommunications Service Provider (ETP) with the Schools and Libraries Division of the Universal Service Administrative Company and offers fully-managed telecommunication services. Achieve Telecom provides tariffed telecommunications services across the United States in accordance with the regulations of the Federal Communications Commission. Achieve Telecom is also an 8(a) SBA certified woman owned business and SOMWBA certified in the Commonwealth of Massachusetts.

Please see the attached proposal, which documents the scope of work, pricing and specifications.

If you have any questions with regard to the attached proposal or need any further assistance please feel free to contact me directly.

Sincerely,

Achieve Telecom Network
40 Shawmut Rd., Suite 200
Canton, MA 02021
888-743-1144 (toll free)

Joy Jackson
President, CEO

2.0 Table of Contents

3.0 PROPOSER QUALIFICATIONS 4

4.0 SERVICES AND SUPPORT 6

 4.1 EDUCATIONAL MISSION SUMMARY 6

 4.2 TECHNOLOGY OVERVIEW 7

 4.3 OVERVIEW OF ACHIEVE TELECOM NETWORK PRODUCTS AND SERVICES 8

 4.4 ACHIEVEXPRESS TECHNICAL SPECIFICATIONS 10

 4.5 THE ACHIEVEXPRESS USER EXPERIENCE 14

5.0 PRICING 15

 5.1 FEATURES AND PRICING SCHEDULE 16

 5.2 BROCKTON MONTHLY TELECOMMUNICATION SERVICE CHARGES 17

Copyright and Confidentiality Notice: Material contained in this document is proprietary to Achieve Telecom Network and is to be treated confidentially by all recipients. Acceptance of delivery of this material constitutes acknowledgment of the confidential relationship under which disclosure and delivery are made. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or any information storage and retrieval system without prior written consent.

3.0 Proposer Qualifications

Achieve Telecom Network of MA, LLC is a certified, Eligible Telecommunications Service Provider (ETSP) (SPIN Number 143026761) with the Schools and Libraries Division of the Universal Service Administrative Company and offers fully-managed telecommunications services. Achieve Telecom provides tariffed telecommunications services across the United States in accordance with the regulations of the Federal Communications Commission (FCC) and is certified by the FCC to deliver and offer these services.

Achieve Telecom is certified by the State Office of Minority and Women Business Assistance as a small, woman-owned business in the Commonwealth of Massachusetts as well as 8(a) certified by the United States Small Business Administration.

Achieve Telecom Network provides digital transmission and distance learning services to improve K-12 technology resources and enhance performance of students in the most difficult school settings, urban and rural America. Achieve Telecom provides high quality, fully managed telecommunications services for the delivery of educational content via video-on-demand ("AchieveXpress"), interactive TV ("AchieveXpress IC") and videoconferencing ("AchieveXpress VC") to support the learning process for teachers and students across the country.

Achieve Telecom has fully operational E-rate funded projects in Somerville, Springfield and Chelsea, Massachusetts which represents approximately one hundred installed schools. We also have showpiece pilot projects at McKinley Technology High School in DC and West Roxbury High School in the Boston Public School District.

Achieve Telecom also has contracts with the District of Columbia Public Schools for the installation of the AchieveXpress service for the entire district which represents 150 schools and Prince George's County, MD for fully operational AchieveXpress with IPTV and Video Conferencing in six high schools with plans to eventually implement a district-wide solution.

The AchieveXpress satellite networks are provided in partnership with Roberts Communications Network, Inc. ("RCN") which specializes in providing satellite communications used to transmit the audio, video and data for educational programming, sporting events, and shopping channels. RCN supplies satellite bandwidth and certain technology and engineering services to support all the fully managed Achieve Telecom networks whether it is AchieveXpress, AchieveXpress IC or AchieveXpress VC.

We believe the future of Simulcast Transmission in the point-to-multipoint environment of these industries will best be served by satellite communications technology for years to come. Consequently, RCN has recently completed a total upgrade of its satellite communications network at a cost of approximately Twenty Million Dollars (\$20,000,000).

The AchieveXpress satellite communications network provides forty one (41) channels of digital audio, video, and data utilizing the following infrastructure:

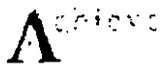
- 1 Fifty three (53) uplink facilities located throughout North America consisting of three (3) multiple antenna fixed uplink facilities (teleports), twenty six (26) single antenna fixed uplink facilities, and twenty four (24) single antenna transportable uplink facilities (trucks/trailers/shelters).

2. One hundred ten (110) new MPEG-2 digital encoding systems (Wegener Communications) ("Envoy") and five thousand five hundred (5,500) new MPEG-2 digital integrated receiver decoders (IRDS) (Wegener Communications) ("Unity 500").
3. Full time leases (24 hours a day x 365 days per year) on five (5) C-band transponders on satellite Galaxy 3C through December 31, 2007 with renewal options through December 31, 2009. In addition, a full time lease on one (1) C-band partial transponder on satellite Galaxy 1.

Overall, twenty (20) channels of digital audio and video utilizing the following infrastructure are provided:

1. A fully redundant KU-band uplink facility located in Las Vegas, Nevada.
2. A twenty (20) channel statistical multiplex encryption system (Harmonic) and Nagra Conditional Access System.
3. A full time lease on one (1) KU-band transponder on satellite Galaxy 3C through August 17, 2010.
4. A complete mirrored back-up of the Network Operations Center is located in Plymouth NH.

The AchieveXpress solution uses the power of iDirect, a two-way satellite vendor. iDirect Technologies provides its two-way broadband IP access over satellite solution through a channel distribution strategy employing a worldwide network of service providers and network operators.



4.0 Services and Support

4.1 Educational Mission Summary

Introduction

The Achieve Telecom Network's distance learning transmission service, called AchieveXpress, is a comprehensive telecommunications service that permits video, audio and text files to be transmitted from one site to one or more sites for use by educational institutions and libraries. AchieveXpress delivers rich educational opportunities by providing enriched experiences with video distribution for multimedia curriculum, staff development and interactive communications.

To provide students with the best education requires compelling curriculum delivered in an engaging learning environment by qualified teachers. Video is appealing and familiar to students. It can make abstract ideas come to life, and demonstrate things that cannot be created or visualized in the classroom. Live and on-demand video, including video conferencing can enhance and expand curriculum resources and offerings. Video solutions can also provide anytime, anywhere staff development for classroom management, subjects and technology. It can be an effective communication tool for District communications, human relationships management, and emergency procedures. AchieveXpress distance learning service with content delivery, video-on-demand, interactive TV and video conferencing provides for enhanced curriculum, professional development and administrative communications.

Computer technology is now integrated into the curriculum and students expect rich media content and highly interactive educational programs. Enhancing education through video can provide students with experiences that are not traditionally available in the classroom. It can bring people, places, things, and events into the classroom that students might otherwise never experience. Video delivers historical documentaries, current news and events, visits by specialists, and enhanced field trips such as science activities and explorations. Integration of video and multimedia can support a range of student needs with various learning requirements.

To provide the best student education, teachers must be current in their subject matter, classroom management, and technology. This requires significant professional development that can be costly and time-consuming. Schools must create professional development programs that minimize disruption to classroom activities and control costs associated with courses, seminars and travel.

School districts depend very heavily on communications for school operations and administration. Video conferencing can enhance and extend district meetings allowing staff to share ideas and best practices. It can improve the dissemination of information such as human relations policies, emergency procedures and even provide districts with the opportunity to hold parent meetings to discuss topics of importance to the broader school community. Content delivery, video-on-demand, interactive TV and video conferencing provide schools and school districts with the necessary tools to meet these needs.

The use of video rich educational materials, content delivery, video-on-demand, Interactive TV and video conferencing provide schools and school districts with many important benefits:

- Expanded curriculum offerings through broader availability of resources
- Enhanced learning experiences through video and rich media content
- Distance learning to bring broader curricular offering, particularly in foreign language courses and advanced placement opportunities to all students
- Convenient and expanded teacher professional development
- Reduced administrative cost and travel associated with collaborative meetings and conferences

The AchieveXpress solution bring a dedicated and very robust data network to allow schools and school districts to easily and cost-effectively benefit from the educational advantages of content delivery, video-on-demand, interactive TV and video conferencing.

4.2 Technology Overview

The telecommunications services of AchieveXpress are used to electronically deliver training and instructional materials and other data to equipment provided by Achieve Telecom that is then connected to the Customer's local area network. Achieve Telecom provides AchieveXpress as a fully managed telecommunications service that provisions additional terrestrial or satellite connections for delivery.

The AchieveXpress solution provides an end-to-end network video solution that features the delivery of high-quality live, scheduled and on-demand video content as an infrastructure solution for distance learning and other applications that require multi-media formats and delivery of all content to multiple locations. The AchieveXpress solution significantly enhances the security, reliability, quality and manageability of distance learning applications and content. In addition, AchieveXpress enables K-12 school districts and other customers to move information close to targeted end-users and enhance overall learning by synchronizing information across the entire district. The underlying premise of AchieveXpress is to, "Get valuable information where it is needed, when it is needed in a secure, reliable and high quality manner that eliminates any management responsibility for school personnel."

AchieveXpress delivery of content for the school district can be "live" to facilitate interactive TV delivery and/or videoconferencing or "on-demand" to facilitate video and other content delivery on the demand of the teachers and administrators.

AchieveXpress provides a limited suite of applications, focused on the critical need for authentication and authorization. The key feature of AchieveXpress is the underlying infrastructure that enables school-selected applications to provide users with the maximum benefit and increase the K-12 school district's ability to shared high-quality resources (video, audio and text assets) across the entire teaching and learning spectrum and across all grades.

teachers and students by means of this distributed network service. AchieveXpress does not provide any of the content that is to be delivered, but rather provides the transmission circuit over which this delivery shall take place. Achieve Telecom will provide the Customer with the information necessary to format Customer-provided or Third-Party content for use over the AchieveXpress network.

Educational resources and training via AchieveXpress can be delivered live or on-demand and at the quality that teachers and students expect from cable TV-like experiences. Teachers and students can access educational material collectively in a central school location or individually from their school, office and home computers.

Achieve Telecom delivers AchieveXpress as a managed telecommunications service. Schools and libraries are eligible for funding discounts by the Federal E-rate program that provides between 20% and 90% of the total cost to eligible K-12 schools and libraries.

4.3 Overview of Achieve Telecom Network Products and Services

The AchieveXpress service provides robust Internet Protocol ("IP") delivery across a dedicated Wide Area Network ("WAN") provided by the service, that in turn provides a single point of access to the customer's Local Area Network ("LAN").

AchieveXpress is the product of Achieve Telecom, a certified, Eligible Telecommunications Service Provider (ETP) with the Schools and Libraries Division of the Universal Service Administrative Company and offers fully-managed telecommunication services. Achieve Telecom provides tariffed telecommunications services across the United States in accordance with the regulations of the Federal Communications Commission.

4.3.1 BYOD/WAN

Achieve Telecom Network Services, Distance Learning Transmission Service, Distance Learning

The Achieve Telecom Network's Distance Learning Transmission Service, called AchieveXpress, is a comprehensive telecommunications service that permits video, audio and text files to be transmitted from one site to one or more sites for use by corporations, government facilities, educational institutions, or libraries.

The telecommunications services of AchieveXpress provide an end-to-end network video solution that features the delivery of high-quality live, scheduled and on-demand video content that are used to electronically deliver instructional materials and other data to equipment provided by Achieve Telecom that is then connected to the Customer's local network. AchieveXpress delivery of content for the school district can be "live" to facilitate interactive TV delivery and/or videoconferencing or "on-demand" to facilitate video and other content delivery on the demand of the teachers and administrators.

The AchieveXpress solution significantly enhances the security, reliability, quality and manageability of distance learning applications and content. In addition, AchieveXpress enables K-12 school districts and other customers to move information close to targeted end-users and enhance overall learning by synchronizing information across the entire district. The underlying premise of AchieveXpress is to, "Get valuable information where it is needed, when it is needed in a secure, reliable and high quality manner that eliminates any management responsibility for school personnel."