



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2009-2010

September 24, 2010

Eric D. Forsyth
East Stroudsburg Area School District
50 Vine Street
P.O. Box 298
East Stroudsburg, PA 18301

Re: Applicant Name: EAST STROUDSBURG AREA SCH DIST
Billed Entity Number: 125952
Form 471 Application Number: 677445

1, 6 PRI circuits, DID/DOD T-1 6 PRI circuits, 13 DID # blocks of 20, 3 POTS lines provided under this contract for Funding Year 2009, FCC Form 471 application number 677445, FRN 1856051 in the amount of \$6,883.74 per month. USAC has determined that the contract with signature date of January 26, 2009 is not an addendum to the 2007 contract, but it is instead for new services that were not posted on a current year Form 470. The rules of the Program require that a new Form 470 be posted for 28 days prior to changing the terms or services of a contract to allow all potential bidders to participate in the competitive bidding process. The services and/or products requested on the Form 471 are substantially different than those specified on Funding Year 2009 Form 470 application number 350050000696398. Program rules require applicants to make a bona fide request for services by filing an FCC Form 470. The services requested on your Form 470 do not describe the planned service requirements requested on the Form 471. During the appeal process, you confirmed that the contract signed on January 26, 2009 is a "New" contract. You also stated that this contract "superseded" the contract signed on January 2007. Consequently, your appeal is denied.

- FCC rules require that all products and services for which an applicant requests discounts on an FCC Form 471 must be competitively bid on an FCC Form 470. The FCC Form 470 must include a complete description of the services for which discounts are sought, be posted on the website for 28 days, and applicants must carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting an FCC Form 471. See 47 C.F.R. secs. 54.504(a)-(c), 54.511(a) and (c). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098, FCC 97-246 para. 9 (rel. Jul. 10, 1997). The only exceptions to the posting requirement are for: (1) contracts signed on or before July 10, 1997 for the life of the contract; and (2) contracts signed between July 10, 1997 and before January 30, 1998 (the date

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Eric D. Forsyth
East Stroudsburg Area School District
50 Vine Street
P.O. Box 298
East Stroudsburg, PA 18301

Billed Entity Number: 125952
Form 471 Application Number: 677445
Form 486 Application Number:

From: Eric Forsyth <eric-forsyth@esasd.net>
Subject: **Re: E-Rate appeal for Funding Year 2010 FCC Form 471 Application number 677445, FRN 1856051 East Stroudsburg Area School District.**
Date: September 20, 2010 3:45:19 PM EDT
To: "Diaz, Jose" <JDIAZ@sl.universalservice.org>
Julie Schell Tritt <jtschell@comcast.net>, Borosh Brian <brian-borosh@esasd.net>, Sharon Laverdure <sharon-laverdure@esasd.net>



Dear Mr. Diaz:

District response:

Because the District sought additional voice lines that were not included in the January 2007 contract with CTSI, the District posted a Form 470 -- 350050000696398 -- in November 2008. The District then signed a NEW contract with CTSI in January 2009, which superseded the contract signed January 2007.

There was no competitive bidding violation as the District filed a new 470 before it signed a new contract.

It is extremely important that you understand that this new contract, which expires 6/30/2012, and the associated 470 number was used on our FY 2010 E-rate funding request as well. At the time of the FY 2010 filing window close in February 2010, the District's FY 2009 E-rate application continued to languish in Selective Review and was not ultimately decided until May 2010. Should USAC determine, for some reason, that the new contract, signed 1/26/2009, is invalid, it will also invalidate the District's E-rate funding for FY 2010 as well. If this happens, it will be the direct result of the fact that USAC did not provide a timely review and decision of our FY 2009 E-rate application until well after FY 2010 E-rate filing window had closed, thus leaving the District with no option to post a new Form 470.

Sincerely,

Eric D. Forsyth, RSBS
Director of Administrative Services

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September 14, 2010

Eric Forsyth
East Stroudsburg Area School District
Contact Phone Number: 570-424-8500
Application Number: 677445,

Response Due Date: September 29, 2010

As discussed yesterday afternoon, the Program Compliance team is in the process of reviewing your appeal for Funding Year 2010 Form 471 Application number 677445, FRN 1856051. To complete our review, we need some additional information. The information needed to complete the review is listed below.

1 of 1

- The record shows that during this entity selective review process you provided a contract between CTSI, LLC, dba Frontier Communications, CTSI Company and East Stroudsburg Area School District. This contract in the amount of \$4,828.68 was signed by the district on January 22, 2007 for a term of 36 months with an expiration date of June 30, 2010. The district applied and received discounts for the services provided under this contract during Funding Year 2008, FCC Form 471 application number 594700, FRN 1641848 in the amount of \$4,828.68 per month.
- The record also shows that during this entity selective review process you also provided a **revised or new contract** between CTSI, LLC, dba Frontier Communications, CTSI Company and East Stroudsburg Area School District. This agreement was made on January 26, 2009 between CTSI, LLC, dba Frontier Communications, CTSI Company and East Stroudsburg Area School District. The district applied for discounts for the services provided under this contract during Funding Year 2009, FCC Form 471 application number 677445, FRN 1856051 in the amount of \$6,883.74 per month.
- The record shows that FRN 1856051 was denied due to a competitive bidding violation. A new Form 470 should be posted when the services and/or price of the original contract are modified.

Please respond:

- What is the Status of the contract between CTSI, LLC, dba Frontier Communications, CTSI Company and East Stroudsburg Area School District that was signed on January 22, 2007 for a term of 36 months with an expiration date of June 30, 2010? Is this contract still active? Is the district still legally bound with CTSI, LLC, dba Frontier Communications, CTSI Company under the terms of this contract? Please explain.

District response: Because the District sought additional voice lines that were not included in the January 2007 contract with CTSI, the District posted a Form 470 -- 350050000696398 -- in November 2008. The District then signed a NEW contract with CTSI in January 2009 which

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