November 11, 2010

VIA ELECTRONIC FILING

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Appeal of USAC Decision Denying Request For Funding Under Schools and Libraries Support Mechanism
CC Docket No. 02-6

Applicant Name:	Vanguard Academy
Billed Entity Number:	226842
Funding Year:	2008, 07/01/2008 – 06-30-2009
Form 471 App. Number:	629573
Funding Request Number:	1741713

Dear Ms. Dortch:

Integrity Communications, Ltd. ("Integrity"), acting through counsel and pursuant to Sections 54.719.721 of the Commission's rules, hereby timely files this Request for Review or In The Alternative Waiver ("Appeal"), which requests Commissions review and reversal of the adverse decision of the Administrator of the Universal Service Administrative Company ("USAC") denying the funding request enumerated above for the Funding year 2008. See Funding Decision Commitment letter attached as Exhibit 3 hereto.

More specifically, on September 15, 2010, USAC's Schools and Libraries Division ("SLD") issued a decision denying a request for funding submitted by Vanguard Academy. In its decision USAC held that Vanguard Academy committed a "Bidding Violation." We are contending this did not occur.

Specifically USAC stated;

MR1: "The Contract Award Date was changed from 02/05/2008 to 02/04/2008 to agree with the applicant documentation."

Response; this was to correct a clerical error which is allowed under program rules.

MR2: "The Contract No. was changed from N/A to C to agree with the applicant documentation.

Response; this was to correct a clerical error which is allowed under program rules.

DR1: “FCC Rules require an applicant to conduct a fair and open competitive bidding process prior to selecting its service provider. The service provider’s creation of the bid evaluation matrix taints the competitive bidding process. Therefore, funding is denied.”

Response; This did not occur and Vanguard and Integrity emphatically deny these allegations. Integrity DID NOT create Vanguards bid evaluation matrix as was testified to by both parties. Please reference attached statements from Vanguard and Integrity for pertinent details.

DR2: “Equipment ordered did not match the equipment delivered by the service provider, resulting in an unauthorized service substitution. Additionally, some equipment was missing. Therefore, funding is denied.

Response; This denial reason is completely false. In a previous statement provided by Integrity to USAC this issue was fully addressed and clarified. Ms. Samuels was stunned to discover this error and was very appreciative to Integrity for bringing the mistake to their attention and grateful for the factual information that was provided. The equipment in question, which was audited, was purchased independently by Vanguard, separate from E-Rate money. The equipment the auditors THOUGHT they were auditing had not been installed, as USAC had not, and still has not funded that equipment. The auditors made a mistake. They had no business even looking at the specified equipment as it had nothing to do with E-Rate. Vanguard paid 100% for this equipment out of their pocket! In a statement from Vanguard referencing this issue, Vanguard stated they were unaware of the substitutions and would address this with Integrity. They did, and when they were reminded that they had bought this equipment with their own money they remembered and were relieved that there had been no unauthorized substitution nor any rule violations committed as incorrectly claimed by the auditors.

Integrity, as the proposed service provider under the referenced FRN, is aggrieved by USAC’s funding denial decision and submits that the denial is unwarranted and unjustified under the rules, policies and requirements governing the E-rate Program as interpreted and applied by the Commission.

Integrity reserves the right to supplement this Appeal with a full discussion of the facts, Integrity’s position and supporting arguments.

Exhibit 1

May 27, 2010

USAC
Denise L. Samuel
Senior Internal Auditor
202-423-2607

Dear Denise Samuel:

Subject: Response To Audit Findings For Funding Years 2006 To 2009
Tainted Competitive Bidding Process:
During the audit visit, the following information was provided to the USAC Audit Team. In the school year 2002-2003, Integrity Communications first visited and enlightened Vanguard Academy about the Schools and Libraries Program. Vanguard Academy in turn went to the USAC website and educated itself on how to prepare an ERATE application. Yes, there were times when Vanguard Academy would call Integrity Communications and asked clarification questions on some of the ERATE language, but let's be perfectly clear at no time or any occasion did this applicant delegate any type of power to Integrity Communications. In the process of creating the bid evaluation matrix, again Vanguard Academy called and asked Integrity Communications some questions and they shared resource information and source places that directed Vanguard Academy to the USAC website. A reminder, the criteria used to prepare the bid evaluation template is public information found in the USAC website! Again, Vanguard Academy strongly states that Integrity Communications has never provided any type of guidance on bid selection and/or evaluation. Vanguard Academy most adamantly denies that it has ever involved Integrity Communications in the competitive bidding process. Also, Vanguard Academy affirms to its ability to hold fair and open competitive bidding processes and to its ability to never be impaired! Your recommendations to create objective criteria in the ratings of bids has already been put in place and Vanguard Academy will also be contacting USAC management to request a (HATS) visit.

Failure To Consider All Bids Received:
You are stating that Vanguard Academy failed to consider Network Services bid. Again, as we previously discussed with you, Network Services bid was incomplete and we also believed it was a solicitation. As you reviewed the TWO page bid, you saw how general and vague their bid was. It was also shared with you that they never contacted and/or followed up with Vanguard Academy. The reason a bid evaluation form was not filled out for Network Services; they failed to submit a complete bid proposal (re: detailed and specific monthly charges and services they could provide). Be assured, Vanguard Academy already has in place procedures to ensure that all bids received are carefully considered!

Cost- Effectiveness:
You are stating that Vanguard Academy did not select the most cost-effective means of securing Internet Access and Basic Maintenance of Internal Connections services. It's a fact, for

FY 2007 and 2008 Vanguard Academy only received bids from Integrity Communications. We filed the Form 470 within the ERATE rules and required timeline. As for cost-effectiveness, Vanguard Academy did it's best to review all pricing in the bids. We even contacted SWBT to see if the T1 data access contract pricing could be reviewed and revised, and it was in 2008. As for the basic maintenance of internal connections pricing, Vanguard Academy believes, for FY2007 and 2008 it was cost-effective. You are comparing and reaching a conclusion on the bids in FY2007 and 2008 from a future bid received in FY2009! Vanguard Academy believes that at the time, to its best ability, all bids were carefully considered and that the correct bids were selected for the most cost-effective service or equipment offered! Vanguard Academy is a charter school. The ERATE Program has made it possible for the school to purchase the technology needed to take it and its students into the 21st century. Also, Vanguard Academy has hired a full-time IT person to oversee the Technology Department.

Equipment Discrepancies:
Vanguard Academy believes your inability to verify receipt and location of equipment and that the school has not maintained an accurate inventory listing is a bit stretched. We provided you with a very detailed inventory list, serial numbers included, of all the ERATE equipment purchased. There were 5 items missing (FY 2004) and you were faxed and emailed a detailed list of the equipment: (1/GM4Ti; 3/FM32Ti; 1/WM4Ti). Integrity Communications was immediately contacted and we're getting this resolved. As we stated under "Cost-Effectiveness" Vanguard Academy has hired a full-time IT person. This person will be responsible for maintaining and/or updating all of the school's technology fixed assets list, on properly recorded equipment and the maintenance of it. On the Fixed Asset List II discrepancies, Vanguard Academy was completely unaware of this until your audit visit and you shared the discovery with us. Also, Integrity Communications never notified us that equipment substitutions were made and we will take action to correct this discrepancy. Rest assured, Vanguard will ensure that USAC will not be invoiced for equipment that has not been delivered and/or installed. Vanguard Academy cannot speak for Integrity Communications, but Vanguard Academy has always strived to conduct business ethically, truthfully and with the utmost accountability. Therefore, we are extremely distressed and believe that you have misconstrued and found us unjustly guilty by association.
Be advised, Vanguard Academy will be engaging an attorney to advice and direct our next steps to acquire the funding on these unjust findings.
Sincerely,

Robert L. Olivarez, Superintendent
Maria De La Garza, Business Manager

Exhibit 2

Integrity Communications
Response to USAC's Audit
of Vanguard Academy
June 2010

Denise,

Enclosed are Integrity Communications responses to your initial email regarding the recent audit of Vanguard Academy. Below you will find a copy of all the past email correspondence between you and me for any interested parties easy reference. Thank you for allowing me the time and opportunity to respond to your findings and initial recommendations. After careful review I feel quite sure you will want to reconsider your opinion and recommend USAC fund 100 percent of Vanguards pending FRN's.

First, would you please provide me with the FCC Order or Regulation that allows USAC to audit a project that has never been funded, as if it had been? This entire audit was based on inaccurate facts that never occurred and on FRN's that weren't even funded! Mr. Olivares even asked one of you how USAC can audit something that they haven't paid any money out on? He was very disturbed, and rightfully so, by this entire fiasco.

Furthermore, per our conversations Denise, I don't suspect you personally are aware of the tortuous interference being conducted by USAC against Integrity. It is however beyond obvious, and there is substantial evidence that suggests that we have been targeted with intention to do financial harm by USAC.

It has been brought to my attention that USAC intends to do an in-depth audit on every school district that received funding using Integrity over the last 5 years. We were further told by a reliable source that USAC was going to find a way to not fund a single outstanding FRN or pay Integrity any of the pending invoices that are now approaching 3 years old. Furthermore, the FCC ORDERED USAC nearly a year ago to resume processing the applications from schools with our SPIN number. This HAS NOT happened, and it's apparent IS NOT going to happen in the near future.

The smaller poorer school districts that are being audited by USAC have all told me they felt like they were being "INTERROGATED" and that it was obvious it was all because of Integrity. They have all said it was obvious that USAC was going to dig until they found some insignificant mistake to justify not funding ANY of the FRN's for projects awarded by the school districts to Integrity. Needless to say this unfair biased treatment has caused undue harm and irreversible damage to our reputation and our business. Instead of having a spirit of helping the schools work through the entangled complicated process and confusing policies and procedures, it's perceived by most small poor school districts that USAC wants to find ways to make them pay millions of dollars back that they didn't have to start with for services they were enticed to take in

the beginning.

In fact, the last year ANY of Integrity's client's received internal connections funding was 2006. And that was LESS than a million dollars for over 20 million dollars that were applied for. Furthermore, there have been over 750 thousand dollars of legitimate invoices submitted since 2007 to USAC for completed work that the schools have paid their portion for that USAC refuses to pay their portion of with absolutely NO viable explanation why.

Having said all this Denise, I will address the first accusation that is completely erroneous. You quoted the following:

Vanguard Academy

Audit Finding

Tainted Competitive Bidding Process

Funding Years 2007 to 2009

"Criteria

> …[W]hen an applicant delegates power to an entity that also will participate in the bidding process as a prospective service provider, the applicant irreparably impairs its ability to hold a fair and open competitive bidding process. MasterMind Order, FCC 00-167 π10, released May 23, 2000."

"**Effect**

By allowing Integrity Communications to provide guidance on bid selection and evaluation, Vanguard Academy and Integrity Communications violated FCC rules prohibiting service providers from being involved in the competitive bidding process and impairing Vanguard Academy's ability to hold a fair and open competitive bidding process."

Vanguard unequivocally DENIES this allegation and DID NOT delegate ANY power to Integrity at ANY time. Robert Olivares made that quite clear in his response to these allegations. There is obviously no legitimate evidence or documentation substantiating these claims or you surely would have provided it to me in my request earlier. Integrity personnel NEVER provided guidance on bid selection or evaluation of bids. Integrity was NEVER involved nor had ANY power in the competitive bidding process and DID NOT in ANY WAY impair Vanguards ability to hold a fair and competitive bidding process.

Please see Mr. Olivares's response to this allegation below which we concur with totally:

"Dear Denise Samuel:

Subject: Response To Audit Findings For Funding Years 2006 To 2009

Tainted Competitive Bidding Process:

During the audit visit, the following information was provided to the USAC Audit Team. In the school year 2002-2003, Integrity Communications first visited and enlightened Vanguard Academy about the Schools and Libraries Program. Vanguard Academy in turn went to the USAC website and educated itself on how to prepare an ERATE application. Yes, there were times when Vanguard Academy would call Integrity Communications and asked clarification questions on some of the ERATE language, but let's be perfectly clear at no time or any occasion did this applicant delegate any type of power to Integrity Communications. In the process of creating the bid evaluation matrix, again Vanguard Academy called and asked Integrity Communications some questions and they shared resource information and source places that directed Vanguard Academy to the USAC website. A reminder, the criteria used to prepare the bid evaluation template is public information found in the USAC website! Again, Vanguard Academy strongly states that Integrity Communications has never provided any type of guidance on bid selection and/or evaluation. Vanguard Academy most adamantly denies that it has ever involved Integrity Communications in the competitive bidding process. Also, Vanguard Academy affirms to its ability to hold fair and open competitive bidding processes and to its ability to never be impaired!"

Regarding your following recommendation of denying ALL funding requests I must respectfully disagree. You state, “there were other competitive bidding related rule violations”. Why didn’t you address these “OTHER” violations so that Vanguard and Integrity could have responded to them? Please provide the appropriate legitimate evidence supporting these false, damaging allegations, or be so kind and fair as to withdraw your inaccurate conclusion. It is a violation of Vanguard’s and Integrity’s right of due process of law to refer to “other competitive bidding related rule violations concerning the same years” without relating what those alleged violations are and what evidence you contend supports the conclusion. This poor school district and these low income children have already been unfairly deprived their much needed technology due to USAC’s unfair stall tactics. There simply WAS NO compromising of the process and they should be allowed to obtain the services this program was designed to deliver. You have cited no evidence to support your unfounded conclusion.

“Recommendation

We recommend USAC management deny all funds requested by Vanguard Academy for services provided by Integrity Communications. Because there were other competitive bidding related rule violations concerning the same funding years, we recommend USAC management consider all findings collectively. See table below.

FRN	Amount Requested	Amount Committed
1602686	$18,930	$0
1602788	$131,824	$0

1740051	$148,302	$0
1740202	$89,689	$0
1741713	$122,850	$0
1741548	$23,706	$0
1741644	$4,320	$0
1879127	$23,765	$0
Total	**$563,386**	**$0**

C Management Response

Regarding the second finding, "Equipment Discrepancies":

This entire report and determination was based off of equipment and services that had never been funded, delivered, implemented or paid for by USAC. The equipment you were looking at and ultimately condemned Integrity and Vanguard for in your report had absolutely NOTHING to do with USAC and should not have even been looked at by the auditing team. Because USAC had not provided funding, why were you even looking for the equipment?

This was minimum, basic, necessary equipment that Vanguard had purchased with THEIR OWN money while they waited (and are still waiting) for funding from USAC to upgrade their infrastructure. Vanguard has applied for equipment and for maintenance for their equipment and has not been funded, or has wrongfully been denied ALL funding for years. The last internal connections funding Vanguard received from USAC was for funding year 2004!

Please see your allegations, assumptions and recommendations regarding the second finding, “Equipment Discrepancies” below:

Vanguard Academy

Audit Finding

Equipment Discrepancies

Funding Years 2007 and 2008

Criteria

The Beneficiary should maintain, to date, asset and inventory records of equipment purchased as components of supported internal connections services sufficient to verify the actual location of such equipment for a period of five years after purchase. 47 C.F.R. § 54.516(a).

The Administrator shall grant a request by an applicant to substitute a service or product for one identified on its FCC Form 471 where: (i) the service or product has the same functionality; (ii)[t]he substitution does not violate any contract provisions or state or local procurement laws; (iii) [t]he substitution does not result in an increase in the percentage of ineligible services or functions; and (iv) [t]he applicant certifies that the requested change is within the scope of the controlling FCC Form 470, including any associated Request for Proposal, for the original services. In the event that a service substitution results in a change in the pre-discount price for the supported service, support shall be based on the lower of either the pre-discount price of the service for which support was originally requested or the pre-discount price of the new, substituted service. 47 C.F.R. 54.504(f)(1),(2).

Condition

We were unable to verify the receipt and location of equipment because Vanguard Academy did not maintain an accurate inventory listing. We noted discrepancies between the type of equipment to be covered under the contracts with Integrity Communications for Basic Maintenance of Internal Connections and the actual equipment ordered as noted on the Item 21 Attachment as well as the equipment listed on Vanguard Academy’s fixed asset lists. See the tables below for details.

Fixed Asset List I Discrepancies

Equipment Description Per Fixed Asset List	Inventoried Equipment	Discrepancy
4 SMMI	3 SMMI	-1
4 GM4T1i	3 GM4T1i	-1
20 FM32Ti	17 FM32T1i	-3
2 WM4Ti	1 WM4Ti	-1

We were unable to determine the maintenance costs associated with the missing equipment because the cost for these components was included in the maintenance cost for the Extreme Networks Alpine switches.

Fixed Asset List II Discrepancies

The equipment listed on the Fixed Asset List II for equipment purchased during Funding Year 2008 did not agree with the equipment listed on the Item 21 Attachment. Overall, we noted that the models for the network switches ordered would provide a capacity of 360 ports (Summit X450e-48 ports x 7 quantity = 336 ports + Summit X450e-24 ports x 1 quantity = 360 total ports) versus the equipment that provided 312 ports (Summit 300-24 x 12 quantity + Summit X150-24T x 1 quantity = 312) that was installed by Integrity Communications. Therefore, we determined that Integrity Communications executed a service substitution without notifying USAC management, and Vanguard Academy received less equipment functionality than requested.

Cause

The fixed asset lists were not properly reviewed to reflect the type of equipment installed and covered by the maintenance agreements executed between Vanguard Academy and Integrity Communications. In addition, Vanguard Academy did not maintain records to document its inventory procedures or provide any evidence demonstrating compliance with its internal policy of conducting a physical inventory of all Schools and Libraries funded equipment on at least a periodic basis.

Furthermore, Integrity Communications did not install the equipment that Vanguard Academy applied for and on which the request for Schools and Libraries Program funding was based. In addition, Integrity Communications failed to notify USAC management of the service substitution and any difference between the costs of the equipment included in the Item 21 Attachment and the installed equipment.

In addition, Vanguard Academy did not possess sufficient knowledge of FCC rules and requirements governing the purchase, installation, and maintenance of equipment. This lack of knowledge contributed to Vanguard Academy's equipment discrepancies.

Effect

For Fixed Asset List I, we were unable to determine the maintenance costs associated with the missing equipment because the cost for these components was included in the maintenance cost

for the Extreme Networks Alpine switches. This matter applies to FRNs 1602788 and 1740202 for Basic Maintenance of Internal Connections. As a result, we are unable to quantify a monetary effect for this exception.

For Fixed Asset List II, the monetary effect of this finding is the total amount of funding requested under FRN 1741713 for Internal Connections for the purchase and installation of network and Uninterruptible Power Supply (UPS) equipment.

Recommendation

We recommend USAC management deny funding requested for FY 2008 FRN 1741713 for $89,689 for Internal Connections for the purchase and installation of network switches for which we determined that Integrity Communications performed an unauthorized service substitution that resulted in reduced capacity compared to the equipment for which Vanguard Academy applied.

Additionally, we recommend Vanguard Academy and Integrity Communications take steps to ensure that USAC management is not invoiced for equipment that has not been delivered and installed.

We also recommend Vanguard Academy create and maintain updated fixed asset lists to properly record equipment purchased and maintained. Vanguard Academy should also monitor equipment deliveries to ensure that only billed equipment is received (e.g., correct quantity and equipment model description), installed, properly recorded on the fixed asset lists and invoiced to USAC. We also recommend Vanguard Academy track the serial numbers for all equipment listed on its fixed asset lists to facilitate a proper audit trail.

Beneficiary Response

Service Provider Response

USAC Management Response

I think since this response was totally based on Equipment that was in fact never funded or installed that it should be revised to read “no funded equipment to audit. No infractions”. There’s absolutely no foundation for any of the claims. You have not provided any evidence that USAC was invoiced for the equipment above. How can you recommend that Vanguard be denied funding for equipment which has not been funded by the Schools and Libraries program and which was not installed pursuant to the funding request to USAC?

In your rush to judgment, you apparently overlooked the fact that USAC DID NOT FUND the request for the Summit X450 switches, so there was no reasonable expectation that you would find them. Therefore, as the perceived substitution did not involve USAC funded equipment, there was no reason to, nor any violation in, NOT notifying USAC.

Furthermore, the fact that Vanguard paid 100 percent for the equipment and services rendered by Integrity Communications, which had nothing to do with the Erate work, also discredits your assertion that “Vanguard Academy and Integrity Communications take steps to insure that USAC management is not invoiced for equipment that has not been delivered and installed”. Integrity did not invoice USAC for equipment or services not approved by USAC for funding.

I discussed this at length with the Vanguard personnel and they had forgotten that they had purchased, using THEIR funds, this equipment, in order for them to operate their school at a minimum level until they received funding from USAC in order to get totally up to speed.

As regards your second equipment issue, the 3808 Chassis, we were advised by Vanguard that they have located it. That equipment was installed and signed off on by Vanguard personnel in 2004. Which was the last year that USAC granted funding for Vanguards internal connections. We understand that Vanguard has been using another contractor to maintain their system therefore Integrity has no knowledge of or is able to take responsibility for the equipment.

Consequently the only right and fair thing to do regarding this “Equipment

Discrepancies” finding would be to revise it accordingly or better yet just delete it from your report altogether.

To recap Denise;

Vanguard Academy vehemently denies having given any authority or power to Integrity Communications at anytime regarding their bidding process.

Integrity Communications concurs with Vanguards response and their sentiments and outright denies having ever been given any such power or authority.

Therefore to infer differently should be construed to be biased and prejudiced and would suggest the audit findings were not based on evidence.

Through cooperative research and due-diligence by Integrity and Vanguard it has been determined that all of the findings and recommendations need to be revised to accurately reflect the facts. That NONE of the equipment should have been audited since NONE of the equipment was ever funded.

Vanguard Academy and Integrity Communications unanimously agree that all derogatory and potentially harmful allegations be dismissed and that the final report should read in such a way that a recommendation for all pending funding requests be funded immediately and that the badly needed and long over due services should be provided without delay.

I hope this has been enlightening to you Denise. I appreciate you giving us adequate time to accurately research this data and provide you with the most accurate, complete, and concise information to enable you to make a just and fair determination and recommendation to your superiors. Please don’t hesitate to let me know if I can be of further assistance.

Regards,

Bill

Exhibit 3

FUNDING COMMITMENT REPORT
Service Provider Name: Integrity Communications
SPIN: 143018592
Funding Year: 2008

Name of Billed Entity: VANGUARD ACADEMY
Billed Entity Address: 400 S I ROAD
Billed Entity City: PHARR
Billed Entity State: TX
Billed Entity Zip Code: 78577
Billed Entity Number: 226842
Contact Person's Name: Robert L. Olivarez
Preferred Mode of Contact: FAX
Contact Information: (956) 702-2180
Form 471 Application Number: 629573
Funding Request Number: 1741713
Funding Status: Not Funded
Category of Service: Internal Connections
Site Identifier: 48 00195 08649
Form 470 Application Number: 330760000648444
Contract Number: C
Billing Account Number: 956-283-1700
Service Start Date: 07/01/2008
Contract Expiration Date: 06/30/2009
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: $99,654.60
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: $.00
Pre-Discount Amount: $99,654.60
Applicant's Discount Percentage Approved by SLD: 90%
Funding Commitment Decision: $.00 - Selective - Bidding Violation
Funding Commitment Decision Explanation: MR1: The Contract Award Date was changed from 02/05/2008 to 02/04/2008 to agree with the applicant documentation. <><><><><> MR2: The Contract No. was changed from N/A to C to agree with the applicant documentation. <><><><><> DR1: FCC Rules require an applicant to conduct a fair and open competitive bidding process prior to selecting its service provider. The service provider?s creation of the bid evaluation matrix taints the competitive bidding process. Therefore, funding is denied. <><><><><> DR2: Equipment ordered did not match the equipment delivered by the service provider, resulting in an unauthorized service substitution. Additionally, some equipment was missing. Therefore, funding is denied.

FCDL Date: 09/15/2010
Wave Number: 80L
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2011