

**Before The
Federal Communications Commission
Washington, D.C.**

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| In the Matter of |) | |
| |) | |
| Request for Review by |) | CC Docket No. 02-6 |
| Net56, Inc. of Decisions of the |) | |
| Universal Service Administrator |) | |
| |) | CC Docket No. 96-45 |
| |) | |
| Schools and Libraries Universal Service |) | Posen-Robbins School District 143 1/2 |
| Service Support Mechanism |) | 2009-10 Funding Year |
| |) | FRNs 1908586, 1908687 |

**REQUEST FOR REVIEW BY NET56, INC. OF DECISIONS OF THE UNIVERSAL
SERVICE ADMINISTRATOR**

Net56, Inc. (“Net56”) respectfully requests, pursuant to Sections 54.719 through 54.723 of the Commission’s rules,¹ that the Commission review and reverse the Universal Service Administrative Company (“USAC”) Decision on Appeal for funding year 2009-10 (“Administrator’s Decision”) and the associated USAC funding commitment decision for the above-referenced FRNs.² The Administrator’s Decision was issued on October 26, 2010 in response to Letters of Appeal filed by Net56 on May 7, 2010 and June 10, 2010.³ For the reasons set forth herein, the Commission should grant Net56’s appeal of the Administrator’s Decision and remand the underlying funding application to USAC for immediate approval.⁴

¹ 47 C.F.R. §§ 54.719-54.723.

² See Administrator’s Decision on Appeal for Funding Year 2009-10, dated October 26, 2010, attached hereto as Exhibit A (“Administrator’s Decision”); see also the Funding Commitment Decision Letter, dated March 9, 2010 (“FCDL”) and the USAC Denial Letter, dated May 26, 2010 (“Denial Letter”), jointly attached hereto as Exhibit B.

³ See Letter of Appeal, dated May 7, 2010 (“May 7 Letter of Appeal”) and Letter of Appeal, dated June 10, 2010 (“June 10 Letter of Appeal”), jointly attached hereto as Exhibit C (“Letters of Appeal”).

⁴ The FCC Form 471 Application Number on which the above-referenced FRNs were submitted to USAC is Funding Year 2009-10 Form 471 Application Number 685333, attached hereto as Exhibit D (the “District’s Form 471”). Posen-Robbins School District is the Billed Entity for the application, and its Billed Entity Number (“BEN”) is 135638.

Background

Net56 is a small, privately-owned technology solutions provider. Net56 began participating in the E-rate program in 2003 in response to local school districts' interest in more personalized, responsive services that are tailored to their rapidly changing needs. Currently, Net56 provides e-rate and non e-rate services to eight school districts in northern Illinois, including the Posen-Robbins School District, the recipient of the services which are the subject of this appeal (the "District"). The District, located 20 miles south of Chicago, is comprised of six schools serving 1500 students in pre-kindergarten through eighth grade. 100% of the students are eligible for the National School Lunch Program. As a result, the District is eligible to receive services under the E-rate program at the 90% discount level.

On January 28, 2008, Net56 and the District signed a five-year Master Service Agreement. This framework agreement did not commit the District to purchase any particular e-rate services, or any e-rate services at all. That commitment was instead made through a one-year e-rate agreement that was also signed on February 1, 2008. Several months into the 2008 funding year, USAC advised Net56 and the District that it was conducting a special compliance review of the funding applications filed by school districts served by Net56. USAC did not supply Net56 or the District with any information on the reason for the compliance review, despite Net56's numerous attempts to seek out such information before it prepared to place bids for the 2009 funding year.

Because the District's e-rate agreement with Net56 was only for one-year (as opposed to the five-year MSA), when it came time to start the process for the 2009 funding year, the District again posted a new Form 470 on January 12, 2009 for the same Internet access, web and email

hosting, firewall, and wide area network services,⁵ initiating a 28-day competitive bidding period. In response to the Form 470, Net56, also recognizing that its one-year e-rate contract with the District did not apply to the 2009 funding year, proposed a new written offer with specific proposed rates for each of these eligible e-rate services in a form similar to the prior year's one-year agreement. The District accepted Net56's bid and signed the offer on February 10, 2009, thereby entering into a contract ("2009-10 E-Rate Contract"). On February 12, 2009, the District filed a Form 471 with USAC, requesting funding for the e-rate services to be provided by Net56 pursuant to this contract.⁶ However, in the Form 471 the District mistakenly listed as the contract date the January 28, 2008 date of the MSA rather than the February 10, 2009 date of the 2009-10 E-Rate Contract.

As a result of this error, on March 9, 2010 USAC issued a FCDL denying all funding because the contract date listed in the Form 471 (January 28, 2008) was prior to the required 28-day waiting period which ended a year later.⁷ Net56 submitted a Letter of Appeal to USAC, which explained that the District mistakenly and inadvertently entered an incorrect date in Block 5 of its Form 471. Net56 provided a copy of the correct Funding Year 2009 contract between the District and Net56, which was awarded February 10, 2009 (after the allowable contract date of February 9, 2009) and asked USAC to approve the District's funding request.⁸

But USAC then denied this appeal because it held that the District and Net56 "failed to provide a breakdown of the eligible versus ineligible services being received from Net56 and their respective dollar amounts..."⁹ The decision also held that the District had not actually

⁵ See FCC Form 470 Application Number 481490000720609, attached hereto as Exhibit E (the "District's Form 470").

⁶ See Exhibit D.

⁷ FCDL at 3-4.

⁸ See May 7 Letter of Appeal.

⁹ May 26, 2010 Letter at 4.

paid for E-rate services, and that some of the funding requests were not cost-effective. Net56 appealed this denial on June 10, 2010, and USAC denied that appeal on October 26, 2010.¹⁰

Net56 addresses these three bases for USAC's denial below.

I. The Administrator's Decision Erroneously Ignores the Right Contract.

USAC's determination that the District and Net56 "failed to provide a breakdown of the eligible versus ineligible services being received from Net56 and their respective dollar amounts"¹¹ is based upon review of the wrong contract – the 2008 MSA rather than the 2009-10 E-Rate Contract.¹²

As explained above, the five-year MSA only provided a foundation for a relationship between Net56 and the District upon which the District could later choose, if it wished, to contract for specific e-rate services. USAC instead incorrectly understood this agreement to be "the contract" for the provision of e-rate services for the 2009 funding year. Since the 2008 MSA document does not provide any breakdown of e-rate eligible and ineligible services and their respective costs, USAC denied the District's funding request on the basis that this breakdown was missing.

But that breakdown is plainly included in the parties' 2009-10 E-Rate Contract, which is the document that the parties agreed to and executed during the bid period. This contract clearly describes and states the separate monthly price of each eligible e-rate service, distinct from all ineligible services. As such, the 2009-10 E-Rate Contract satisfied the requirement that USAC erroneously found to have been violated, by allocating eligible and ineligible services and their respective costs.

¹⁰ Administrator's Decision at 1.

¹¹ May 26, 2010 Letter at 4.

¹² June 10 Letter of Appeal at 2.

USAC nonetheless decided that the MSA was the only contract because the District had listed the MSA in its Form 471 and referenced it later in responding to a USAC question regarding the applicable contract. Nothing in the Commission's rules directs USAC to deny funding on the basis of a minor error in responding to USAC inquiries when in reality the parties complied with program rules. Here, it is obvious from the record that the Parties intended the allocation and rates from the 2009-10 E-Rate Contract to apply, and that these rates were executed after the end of the 28-day competitive bidding period. If the District and Net56 had believed the 2008 MSA was a contract for e-rate services for funding year 2009-10, the District would have had no need to seek bids at the beginning of 2009 through a new Form 470, and Net56 would have had no need to provide a new quotation.¹³ Therefore, the 2009-10 E-Rate Contract signed on February 10, 2009 is the relevant contract between Net56 and this contract clearly allocates and states the price for each e-rate service covered by the District's Form 471.

Nothing in the Administrator's Decision alleges any flaw in the 2009-10 E-Rate Contract; instead, its decision is based on the supposition that it effectively does not exist. But that agreement not only does exist, but the record clearly shows that that agreement reflects the intentions of the parties at the time the Form 471 was submitted at the end of the competitive bidding period. It was signed and dated at the end of the bidding period and two days before the submission of the Form 471, and it is the only document that has a description and 2009-10 rates for the services for which funding has been sought. USAC should not be permitted to ignore this contract simply because the District referenced the incorrect agreement in its Form 471 and a later letter to USAC.

II. The District Paid for E-Rate Services

¹³ The term of the MSA is 60 months, into 2013.

USAC also asserts that funding should be denied because it thought that the District did not pay for eligible services. USAC made that finding because the District's payments for 2009 were delivered to a leasing company in the amount that was originally established by the lease agreement attached to the 2008 MSA. USAC apparently concluded that this payment must be solely attributed to the ineligible equipment described in the lease agreement between the District and the leasing company, and not to the eligible services provided under the parties subsequent E-Rate Contract.

It is true that the lease agreement originally described a payment of \$6,590.00 without reference to allocation of any part of that payment for Net56 services (eligible or ineligible). However, the District and the leasing company subsequently agreed in writing (to reflect their original intent) that the equipment was not worth this amount and that a portion of the lease payment would be provided by the leasing company to Net56 for services. The District and Net56 also agreed in writing to a service-by-service allocation of these funds to eligible and ineligible services. These documents are included in Attachments 4 and 5 to Net56's June 10 Letter of Appeal to USAC.

USAC's position should be reversed because it does not comport with reality. *USAC has not disputed that the leasing company did in fact transfer a portion of these funds that it received from the District to Net56.* USAC also did not dispute that that the amount of the District's funds transferred to Net56 were more than enough to pay the District's non-discounted share of eligible services. If the payments were made solely for equipment owned by the leasing company, then it would not have delivered the funds to Net56. Instead, the leasing company did pay Net56 on behalf of the District both for eligible and ineligible services, in accordance with the exact allocations specified by Net56 and the District in Attachment 4 of the June 10 Letter of

Appeal and in their 2009-10 E-Rate Contract. It is incorrect and exceedingly unfair for USAC to ignore these payments, which were actually made, on the sole basis that USAC reads the lease agreement to mean something other than what the parties expressly clarified it to mean. USAC's basis is especially inappropriate given that the lease agreement is not the applicable contract for e-rate services.

Net56 now recognizes that the District's payment for e-rate services through the leasing company was confusing to USAC, and it has therefore moved away from that model.¹⁴ But the fact is that the District did make payments that cover its non-discounted share, and these payments were received and retained by Net56 as the e-rate services provider, and not by the leasing company for equipment that it owned. The Administrator's Decision was therefore incorrect in concluding that the District had not paid for eligible services.

III. USAC's All-or-Nothing Implementation of the Cost-Effectiveness Rule is Inequitable.

If the Commission agrees with the positions set forth above, then it should direct USAC to provide full funding for the Internet Access services provided under FRN 1908586 and FRN 1908687. However, in the case of WAN, firewall, email and web hosting services covered under FRN 1908586, USAC also denied funding on the basis that these services were not cost-effective.¹⁵ In the Letter of Appeal to USAC, Net56 asked USAC to reconsider that decision to the limited extent necessary to modify the FCDL to grant funding in the amount that USAC did conclude would have been cost-effective. The Commission previously instructed USAC that even when an applicant violates the cost-effectiveness rule, it is still entitled to funding in the

¹⁴ It should be noted, however, that Net56 specifically asked USAC staff in 2006 whether this kind of lease arrangement would be permissible, and was told that it was not a problem.

¹⁵ May 26, 2010 Letter at 1-3.

amount associated with the least expensive cost-effective service.¹⁶ In the *Macomb Order*, the school district received identical services from multiple service providers, including the lowest-cost bidder and two providers who offered the service at a higher price. USAC determined that the Macomb district violated the Commission’s cost-effectiveness rule by not selecting the lowest-cost bidder to provide all of the services and denied the entire funding request on the basis that more than 30 percent of the request was ineligible. In its decision on appeal, the Commission found that USAC should not have denied all funding even though it agreed with USAC’s determination that the school district violated program rules by not selecting the most cost-effective service offering.¹⁷ The Commission recognized that it would be unnecessarily unfair to deprive an applicant or service provider of all funding for an eligible service based upon an all-or-nothing approach.

In the Administrator’s Decision, USAC denied the appeal regarding cost-effectiveness because Net56 was the only bidder and its bid was found to not be cost-effective. “USAC cannot honor your request to approve funding up to the amount that is found to be cost effective because doing so would constitute a change in price and after the close of the bidding process as such price changes and renegotiation of the contract would constitute a violation of the FCC competitive bidding rules.”¹⁸ This is nonsense. Net56 is simply asking to be able to receive at least a fraction of the contract price for a service that no one denies has already been provided in full. This is not a “renegotiation” that Net56 has requested *from the District*; it is a request for a shred of equity *from USAC*. As such, it is not a renegotiation with the District any more so than it would have been in the *Macomb* case.

¹⁶ See Letter of Appeal to USAC at 4, citing *Request for Review by Macomb Intermediate School District Technology Consortium*, File no. SLD-44190, Order, FCC 07-64 (rel. May 8, 2007) (the “Macomb Order”).

¹⁷ Macomb Order at paras. 6-9.

¹⁸ Administrator’s Decision at 3-4.

Net56 understands from USAC staff that its all-or-nothing approach reflects its belief that the Commission does not want to put USAC into the position of having to determine a cost-effective rate to award. However, USAC necessarily must determine at least an estimate of cost-effectiveness in order to apply the *Ysleta* test to find that a service is not cost-effective. The Administrator's Decision in fact specifically quotes rates it believes that it would have found to be cost-effective. No greater effort would have been required to provide funding in these amounts. It may well not always be a fair amount, but it would always be fairer than denying funding altogether.

For these reasons, the Commission should remand the cost-effectiveness decision to USAC and direct it to grant funding for the web hosting, firewall and e-mail service components of FRN 1908586 in the amounts that USAC determined would have been cost-effective.

IV. It Would be Inequitable to Deny All Funding

Even if the Commission finds that the District and/or Net56 failed to comply with some technical element of program rules, the Commission should give substantial consideration to the inequities that have been imposed on Net56 in this case as a result of USAC's extremely slow decision-making process. The delay in issuance of the FCDL unreasonably prejudiced Net56 and the District. Net56 initially contacted USAC in February 2006 to try to determine if its proposed contract structure was acceptable, and it walked away from those discussions believing that it had been given a go-ahead. USAC then later confirmed Net56's impression by providing funding for other districts using the same approach with Net56 for subsequent funding years. USAC apparently decided sometime in 2008 that it had concerns with Net56's approach, but until the FCDLs in 2010 it would never clearly articulate to Net56 what those concerns were. Once USAC notified Net56 that it was conducting a special review of the applications of the

school districts served by Net56, both Net56 and repeatedly asked USAC during the fall of 2008 for the details of any concerns so that Net56 could address them before contracts were submitted for the 2009-10 school year, to no avail. During this time, Net56 and the District could have incorporated guidance from USAC into their approach to funding year 2009-10 so that there would have been no problems with that application. But USAC kept the District and Net56 in the dark until it was too late.

As the Commission has noted, “the timing of the Commission’s and USAC’s processes may be critical to schools and libraries. Lengthy intervals for processing or reviewing applications could have a disruptive effect on the budget or procurement schedule for schools or libraries.”¹⁹ In *Request for Review of Totowa Borough Public Schools*, the Wireline Competition Bureau found that USAC “erred by unreasonably delaying its notification to Totowa of the problems with its Form 470” for eight months.²⁰ More recently, the Bureau addressed a scenario in which an applicant’s numerous communications with USAC were ignored, ruling in favor of the applicant and pointing to the applicant’s “several attempts to follow-up with USAC, and

¹⁹ *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, WC Docket No. 05-195, 20 FCC Rcd 11308, 11321, ¶ 29 (2005). In the same NPRM/FNPRM, the Commission reiterated that such delays and the resultant impact on mandated budget or procurement schedules “can have a significant negative impact on schools’ and libraries’ ability to achieve connectivity goals.” *See id.* at 11325, ¶ 38.

²⁰ *Request for Review by Totowa Borough Public Schools, Schools and Libraries Universal Service Support Mechanism*, Order, File No. SLD-265823, CC Docket No. 02-6, DA 04-3898, ¶ 4 and n.14 (Wireline Comp. Bur. 2004) (citing previous instances of unreasonable or excessive delay). *See also Request for Waiver by Lettie W. Jensen Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, Order, File No. SLD-267950, CC Docket Nos. 96-45 and 97-21, DA 01-2401, ¶¶ 5-7 (Com. Car. Bur. 2001) (holding that a two-month delay in notification regarding an omitted signature was unreasonable); *Request for Waiver by Council Bluffs Community Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, Order, File No. SLD-E007282, CC Docket Nos. 96-45 and 97-21, DA 00-1909, ¶ 4 (Com. Car. Bur. 2000) (determining that a failure to post applicant’s Form 470 for approximately six weeks was excessive).

USAC's delay in responding."²¹ A common theme in these cases is that dispensation should be provided to applicants when unreasonable delays by USAC inflicted prejudicial harm.

There is no dispute that Net56 in fact provided valuable, eligible services to the District. There is no dispute that during the competitive bidding period, Net56 quoted specific rates to the District for each eligible service, and that the District signed that proposed contract. There is also no dispute as to the amounts billed and paid for each eligible service – indeed, USAC's May 26, 2010 Letter even references the rate for each separate service in discussing their cost-effectiveness. (Thus, USAC on the one hand cites the exact rates from the 2009-10 E-Rate Contract while on the other hand perplexingly claiming that these rates have not been identified by being separately allocated.) There is no dispute that the Internet Access services were provided at cost-effective rates. There is no dispute that the District properly sought competitive bids, or that Net56 was the best offer available to the District. USAC's only basis for denying all funding is that the District and Net56 supposedly failed to clearly allocate prices between eligible and ineligible services – even though they timely executed contract terms that did exactly that.

Under all of these circumstances, USAC's denial of every cent of requested funding elevates form over substance and unfairly penalizes the District and Net56 for USAC's extremely slow process. The Commission should therefore grant Net56's appeal of the Administrator's Decision and the underlying funding decision and remand the District's 2009 funding application to USAC for approval.

²¹ Request for Review by Bradford Regional Medical Center; Rural Health Care Universal Service Support Mechanism, Order, File No. RHCP 14491, WC Docket No. 02-60, 25 FCC Rcd 7221, 7223, ¶ 4 (Wireline Comp. Bur. 2010).

Conclusion

For the foregoing reasons, the Commission should grant Net56's appeal of the Administrator's Decision and the underlying funding decision and remand the District's 2009-10 funding application to USAC for approval.

Respectfully submitted,



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Counsel for Net56, Inc.

December 22, 2010

CERTIFICATE OF SERVICE

I, Debra Sloan, hereby certify that a true and correct copy of the foregoing *Request For Review By Net56, Inc. of Decisions of The Universal Service Administrator* was mailed postage prepaid this 22nd day of December, 2010 to the following:

Universal Service Administrative Company
Schools and Libraries Division
100 South Jefferson Road
P.O. Box 902
Whippany, New Jersey 07981

/s/ Debra Sloan

Debra Sloan

EXHIBIT A



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

October 26, 2010

Paul B. Hudson
Davis Wright Tremaine
1919 Pennsylvania Ave. NW, Suite 200
Washington, DC 20006

Re: Applicant Name: POSEN-ROBBINS SCH DIST 143 1/2
Billed Entity Number: 135638
Form 471 Application Number: 685333
Funding Request Number(s): 1908586, 1908687
Your Correspondence Dated: May 07, 2010

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2009 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1908586, 1908687
Decision on Appeal: **Denied**
Explanation:

- USAC is in receipt of your appeal letter dated May 7, 2010 regarding funding requested on FCC Form 471 #685333 between Net56, Inc. and Posen-Robbins School District 143.5. USAC is also in receipt of your response dated June 10, 2010 to the denial notice related to that same FCC Form 471 application.

In your appeal letter you indicate that it is your position that:
"The District Listed the Wrong Contract Date on Form 471"
"The District Complied with the 28-Day Competitive Bidding Requirement"

In your response to the related denial notice you indicate that it is your position that:
"USAC Reviewed the Wrong Contract."

"The District Paid Amounts Expressly Designated for Eligible Services."

In support of your position, in your June 10, 2010 response to USAC you provided four documents listed as Attachments 2, 3, 4 and 5 in support of your appeal.

You state that Attachment 2, entitled "Posen-Robbins School District 143.5 Internet Access Quote," is the contract which should be used in USACs review. This document is signed and dated February 10, 2009.

USAC disagrees that we based our decision on the wrong contract for the following reasons:

In USAC's information request from Program Integrity Assurance (PIA) to the applicant, dated May 5, 2009, the applicant was asked to provide a copy of the full contract related to FRNs 1908586 and 1908687, signed by the applicant and dated. In the response, dated May 20, 2009, the applicant provided the contract which was evaluated by USAC and not the document which you provided as Attachment 2 to your June 10, 2010 response to USAC's May 26, 2010 letter.

The contract provided by the applicant is entitled "Net56 Master Service Agreement" and it was signed and dated January 28, 2008. This contract includes the Net56 quote - Quote Number PRSD143.5. Both of the Net56, Inc. FRNs on FCC Form 471 #685333 reference this quote number/contract as the contract associated with the FRN. Both of the Net56, Inc. FRNs on FCC Form 471 #685333 list a contract award date of February 1, 2008 and a contract end date of June 30, 2013, which indicates that this is a multi-year contract.

USAC disagrees with your statement that USAC incorrectly concluded that the District had not paid for E-Rate services for the following reasons:

The contract specifies a payment of \$6,590.00 per month. According to the contract, that entire amount is to be paid to American Capital Financial Services Inc., pursuant to Exhibit D of the contract, which is the Master Lease Agreement. That payment is the only payment specified in the contract.

The Master Lease Agreement lists 17 terms and conditions. All of those 17 terms and conditions address and specifically mention equipment and none of the 17 address services or describe or mention the specific services provided by Net56.

Schedule A of the Master Lease Agreement specifically states that the entire amount of the payment, \$6,590.00 per month, is for rent of equipment, as described in Schedule A to the Master Lease Agreement.

The Schedule A of the Master Lease Agreement has a section entitled "Equipment." That section of the agreement clearly identifies the hardware and software being leased under this lease agreement. The "Total Monthly Rent" for the equipment listed in this section is \$6,590.00. There is no comparable section, attachment or exhibit describing any services included in the agreement.

Attachment 4 to your response to USAC's May 26, 2010 letter is an undated attachment which was provided in your February 19, 2010 information. However, in reviewing this document, we are unable to resolve the discrepancy between the information provided earlier in the year and this information because Attachment 4 states that "this clarification does not amend the terms of the Master Lease" and the Master Lease only specifies the lease of equipment and not services.

USAC disagrees with your statement that the District listed the incorrect contract date on the FCC Form 471 and that the district complied with the 28-day competitive bidding process for the following reasons:

In your appeal letter dated May 7, 2010 you state that the "The District Listed the Wrong Contract Date on Form 471." You state that the correct contract award date for the District's contract with Net56 should be 2/10/2009. Utilizing that date, the original denial of these two FRNs for a contract award date violation (selecting a vendor and awarding a contract before the end of the required 28 day FCC Form 470 posting period) would be eliminated.

However, in the May 5, 2009 PIA information request, PIA stated that the contract award date for FRNs 1908586 and 1908687 was listed as February 1, 2008. PIA asked "was the incorrect date entered at the time the FCC Form 471 was completed? Yes or no." In the applicant's May 20, 2009 response, the applicant responded "No."

Since USAC has determined that the contract in force for these FRNs is the January 28, 2008 contract as described above. Your Attachment 2 is not accepted as the contract in force regarding these FRNs and your appeal regarding contract award dates is moot.

Finally, you cite the Macomb Order (FCC 07-64) and ask for funding to be instated at a level that is cost-effective based on the precedent set in the Order. However, since the facts in this application are substantively different from that in the Order, it cannot be used as precedent.

The Macomb Order relates to an applicant spreading their procurement over multiple suppliers, each with bids at different price points, the lowest of which was a cost effective bid, the others were found to be not cost effective. The Commission allowed the applicant to procure the same amount of service from a single provider at their original price, and did not result in renegotiated pricing for the other providers that were deemed not cost-effective by USAC.

In this case, however, the procurement resulted in a single winning bidder and the funding requests were all deemed not cost-effective. Applicants cannot renegotiate their contracts in order to overcome a cost-effectiveness denial. Finally, the pricing indicated in our analysis served only to demonstrate that the costs exceeded the FCC's thresholds.

USAC cannot honor your request to approve funding up to the amount that is found to be cost effective because doing so would constitute a change in price and

after the close of the bidding process such price changes and renegotiation of the contract would constitute a violation of the FCC competitive bidding rules. Therefore, your original bid prices are what must be utilized in the cost effectiveness reviews and the cost effectiveness determinations related to those bid prices stand.

In summary, the violations of cost effectiveness and of the school not paying their share have not been resolved. Therefore the denials of the funding requests cited in your appeal stand.

- FCC rules require applicants to certify that, at the time they submit the FCC Form 471, they have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the products and/or services purchased as well as to pay the non-discounted charges for eligible products and/or services. *See* 47 C.F.R. sec. 54.504(c)(1)(iii); FCC Form 471, Block 6, Item 25. In its Academy of Excellence Order, the FCC clarified that the necessary resources requirements were satisfied as long as: (i) when filing their FCC Form 471 applications, applicants have specific, reasonable expectations of obtaining the funding needed to ensure availability of the necessary resources; (ii) applicants do not authorize USAC to pay support to the service provider for the eligible services until the applicant has received the funding and thus has the necessary resources to pay the applicants' share of the costs; and (iii) applicants provide sufficient documentation to USAC of such funding and resources availability, as USAC may request. *See* In the Matter of Requests for Review of Decisions of the Universal Service Administrator by Academy of Excellence Phoenix, AZ, et al., Schools and Libraries Universal Service Support Mechanism, File No. SLD-261209, et al., CC Docket No. 02-6, Order, 22 FCC Rcd 8722, FCC 07-60 para. 11 (rel. May 8, 2007). USAC reviews applicant's certification by conducting an Item 25 "necessary resources" review. The FCC has emphasized the importance of conducting this review to protect the integrity of the schools and libraries support mechanism. *See* Request for Review by New Orleans Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 16653, DA 01-2097 (rel. Sep. 18, 2001). This rule requires the applicant to secure access to all of the resources to effectively use the discounted services by the time their services commence and to pay its service provider the full cost of the non-discounted portion owed to the service provider from the funds budgeted within that funding year.
- FCC rules state that, in selecting a service provider, the applicant must carefully consider all bids submitted and must select the most cost-effective service or equipment offering, with price being the primary factor, which will result in being the most cost-effective means of meeting educational needs and the technology plan goals. *See* 47 C.F.R. secs. 54.511(a), 54.504(b)(2)(vii), 54.504(c)(1)(xi). *See also* Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, et al., CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 26407, FCC 03-313 paras. 47-55 (Dec. 8, 2003)

(*Ysleta Order*). Service providers shall not charge the entities a price above the lowest corresponding price. See 47 C.F.R. sec. 54.511 (b). In order to ensure that the applicants are not requesting discounts for services beyond their reasonable needs, USAC denies funding request(s) for not being cost-effective the costs of the products and services in a funding request are significantly higher than the costs generally available in the applicant's marketplace for the same or similar products or services. For example, equipment at prices two or three times greater than the prices available from commercial vendors would not be cost effective, unless there were extenuating circumstances. See *Ysleta Order* para. 54.

- You selected your vendor for new products and/or services prior to the expiration of the 28 day posting period. FCC rules require that except under limited circumstances, all FCC Forms 470 received be posted on the USAC website for 28 days, and that applicants 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). FCC rules further require that the Administrator send the applicant a confirmation when the FCC Form 470 has been posted, and inform the applicant of the earliest date upon which they may sign a contract with the vendor it selects. See 47 C.F.R. sec. 54.504(b)(4). 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). New products and/or services include tariff telecommunications services that are NOT subject to an existing, binding, written contract.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Tarra Batts

Paul B. Hudson
Davis Wright Tremaine
1919 Pennsylvania Ave. NW, Suite 200
Washington, DC 20006

Billed Entity Number: 135638
Form 471 Application Number: 685333
Form 486 Application Number:

EXHIBIT B



FUNDING COMMITMENT DECISION LETTER
(Funding Year 2009: 07/01/2009 - 06/30/2010)

March 9, 2010

Mary Piazza
Net56, Inc
1266 West Northwest Hwy
Suite 740
Palatine, IL 60067

Re: Service Provider Name: Net56, Inc
Service Provider Identification Number: 143025679

Thank you for participating in the Schools and Libraries Program (Program) for Funding Year 2009. This letter is your notification of our decision(s) regarding application funding requests that listed your company's Service Provider Identification Number (SPIN).

NEXT STEPS

- File Form 498, Service Provider Information Form, if appropriate
- File Form 473, Service Provider Annual Certification Form (SPAC), for the above Funding Year
- Work with your customer to provide appropriate invoicing to USAC: Service Provider Invoice (Form 474) or Billed Entity Applicant Reimbursement (Form 472)

Please refer to the Funding Commitment Report(s) (Report) following this letter for specific funding request decisions and explanations. Each Report contains detailed information extracted from the applicant's Form 471. A guide that provides a definition for each line of the Report is available in the Reference Area of our website.

Once you have reviewed this letter, we urge you to contact your customers to establish any necessary arrangements regarding start of services, billing of discounts, and any other administrative details for implementation of discount services. As a reminder, only eligible services delivered in accordance with Federal Communications Commission (FCC) rules are eligible for these discounts.

TO APPEAL THIS DECISION:

You have the option of filing an appeal with the SLD or directly with the FCC.

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

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the decision letter and the decision you are appealing:
 - Appellant name,
 - Applicant or service provider name, if different from appellant,
 - Applicant Billed Entity Number (BEN) and Service Provider Identification Number (SPI)
 - Form 471 Application Number as assigned by USAC,
 - "Funding Commitment Decision Letter for Funding Year 2009," AND
 - The exact text or the decision that you are appealing.

3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by the decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email to appeals@sl.universalservice.org. USAC will automatically reply to incoming emails to confirm receipt.

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

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

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

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

OBLIGATION TO PAY NON-DISCOUNT PORTION

Applicants are required to pay the non-discount portion of the cost of the products and/or services to their service provider(s). Service providers are required to bill applicants for the non-discount portion. The FCC stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If USAC is being billed via the FCC Form 474, the service provider must bill the applicant at the same time it bills USAC. If USAC is being billed via the FCC Form 472, the applicant pays the service provider in full (the non-discount plus discount portion) and then seeks reimbursement from USAC. If you are using a trade-in as part of your non-discount portion, please refer to our website for more information.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

FUNDING COMMITMENT REPORT
Service Provider Name: Net56, Inc
SPIN: 143025679
Funding Year: 2009

Name of Billed Entity: POSEN-ROBBINS SCH DIST 143 1/2
Billed Entity Address: 14025 HARRISON AVE
Billed Entity City: POSEN
Billed Entity State: IL
Billed Entity Zip Code: 60469-1022
Billed Entity Number: 135638
Contact Person's Name: Tarra Batts
Preferred Mode of Contact: EMAIL
Contact Information: erate@prsd1435.org
Form 471 Application Number: 685333
Funding Request Number: 1908586
Funding Status: Not Funded
Category of Service: Internet Access
Form 470 Application Number: 481490000720609
Contract Number: PRSD143.5
Billing Account Number: N/A
Service Start Date: 07/01/2009
Contract Expiration Date: 06/30/2013
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: \$263,280.00
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$.00
Pre-Discount Amount: \$263,280.00
Applicant's Discount Percentage Approved by SLD: 90%
Funding Commitment Decision: \$.00 - Insufficient documentation
Funding Commitment Decision Explanation: DR1: A contract for a new service was signed prior to the required 28-day waiting period computed from the date of the posting of the Form 470 to USAC Web Site which violates program rules.

FCDL Date: 03/09/2010

Wave Number: 043

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2011

FUNDING COMMITMENT REPORT
Service Provider Name: Net56, Inc
SPIN: 143025679
Funding Year: 2009

Name of Billed Entity: POSEN-ROBBINS SCH DIST 143 1/2
Billed Entity Address: 14025 HARRISON AVE
Billed Entity City: POSEN
Billed Entity State: IL
Billed Entity Zip Code: 60469-1022
Billed Entity Number: 135638
Contact Person's Name: Tarra Batts
Preferred Mode of Contact: EMAIL
Contact Information: erate@prsd1435.org
Form 471 Application Number: 685333
Funding Request Number: 1908687
Funding Status: Not Funded
Category of Service: Basic Maintenance of Internal Connection
Form 470 Application Number: 481490000720609
Contract Number: PRSD143.5
Billing Account Number: N/A
Service Start Date: 07/01/2009
Contract Expiration Date: 06/30/2013
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: \$96,000.00
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$.00
Pre-Discount Amount: \$96,000.00
Applicant's Discount Percentage Approved by SLD: 90%
Funding Commitment Decision: \$.00 - 28 Day Waiting Period Violated
Funding Commitment Decision Explanation: DR1: A contract for a new service was signed prior to the required 28-day waiting period computed from the date of the posting of the Form 470 to USAC Web Site which violates program rules.

FCDL Date: 03/09/2010

Wave Number: 043

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2011

Date: May 26, 2010

BEN 135638

Paul B. Hudson
Davis Wright Tremaine, Counsel for Net56, Inc.
Contact Phone Number: 202-973-4275
Application Number(s): 68 5333, FRN 1908586 & 1908687

Response Due Date: June 10, 2010

Based on a review of documentation related to FY 2009 FRNs 1908586 and 1908687, the entire FRNs will be denied. These funding requests are denied as a result of the following:

Review of FRN #1908586

FRN 1908586 requests funding in the amount of \$263,280 for Internet access. Your on-line Item 21 attachment addresses each of the Net56 solution components included in this FRN separately. The FRN is broken into the following areas:

- Web Hosting service - requesting \$60,000
- Firewall service - requesting \$65,580
- Email service - requesting \$60,000
- Broadband circuits to be used for Internet access - requesting \$77,700

Review of Web Hosting Solution Component:

In the response to USAC's information request regarding the specific services included in the Web Hosting portion of the Net56 solution, it was indicated that these services include web retention and web journaling. Web retention is archiving of information. Web journaling is an application. These products/services are ineligible under program rules. For details, please refer to the Eligible Services List: <http://www.universalservice.org/sl/tools/eligible-services-list.aspx>.

In response to USAC's request for cost allocation information, your service provider, Net56, in their response dated February 22, 2009, indicated that the cost associated with web retention and journaling was \$1,000 per month or \$12,000 annually. The funding request was reduced by that amount.

After modification and removal of the costs associated with the web retention and journaling, this portion of the FRN was subjected to a cost effectiveness review by USAC. This review was conducted based on the Item 21 attachments and follow up questions and your responses to the follow up questions. This cost effectiveness review compared the funding requested for the solution from Net56 with the funding required for a comparable premises-based solution.

The result of that review was that the funding requested was not justified as cost effective as required by FCC rules. The FCC has stated that in some situations in which "the price of services is so exorbitant that it cannot, on its face, be cost effective" and cited as an example selling a service "at prices two to three times greater than the prices available from commercial vendors would not be cost effective, absent extenuating services" *Ysleta Order*, FCC 03-313, paragraph 54.¹ Specifically, the Internet access Web Hosting services exceed two times the cost of a

¹ See 47 C.F.R. secs. 54.511(a), 54.504(b)(2)(vii), 54.504(c)(1)(xi). See also Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, et al., CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 26407, FCC 03-313 paras. 47-55 (Dec. 8, 2003) (*Ysleta Order*).

comparable solution from commercial vendors. The funding required for the Net56 solution over the five year life of the contract is \$240,000. However, the cost of a comparable solution that is based on purchasing the server equipment and annual maintenance would be approximately \$28,500. This amount accounts for the purchase of two servers at a market price of \$14,250, including installation and maintenance for five years.

Review of Firewall Service Solution Component:

In the response to USAC's information request regarding the specific services included in the Firewall Service portion of the Net56 solution, it was indicated that these services include firewall capabilities at each of the point of entry to each of the school sites and at the Net56 data center. Specifically, this firewall service includes on-premise software at each school site which is running on a switch that is not included in the Item 21 attachment for this FRN. This firewall service also includes firewall hardware equipment located at the Net56 data center. The Net56 data center is an ineligible location; accordingly, equipment located there is ineligible for funding. Also, since the funding request includes the firewall capability of the software running on the switch, which is located at the point of entry of each building, it has been determined that the equipment located at the Net56 data center is redundant and therefore ineligible for that reason as well.

In response to USAC's request for cost location information, your service provider, Net56, in their response dated February 22, 2009, indicated that the cost associated with the firewall equipment located at the Net56 data center was \$1,350 per month or \$16,200 annually. The funding request was reduced by that amount.

After modification and removal of the costs associated with the firewall equipment located at the Net56 data center, this portion of the FRN was subjected to a cost effectiveness review by USAC. This review was conducted based on the Item 21 attachments, related follow up questions and your responses to those follow up questions. This cost effectiveness review compared the funding requested for the solution from Net56 with the funding required for a comparable premises-based solution.

The result of that review was that the funding request was not justified as cost effective as required by FCC rules. The FCC has stated that in some situations in which "the price of services is so exorbitant that it cannot, on its face be cost effective" and cited as an example selling a service "at prices two to three times greater than the prices available from commercial vendors would not be cost effective, absent attenuating services" *Ysleta Order*, FCC 03-313, paragraph 54.² Specifically, the Internet access firewall approaches two times the cost of a comparable solution from commercial vendors. The funding required for the Net56 solution over the five year life of the contract is \$246,900. However, the cost of a comparable solution that is based on purchasing firewall equipment for each of the seven locations and annual maintenance would be approximately \$140,000. This amount accounts for the purchase of seven Cisco PIX Firewall devices at market price of \$5,000 each, plus 50 percent of that cost for installation and configuration, plus 50 percent of that equipment cost annually for maintenance.

Review of Email Service Solution Component:

In the response to USAC's information request regarding the specific services included in the Email Service portion of your Net56 solution, it was indicated that these services include email retention and email journaling. Email retention is archiving of information. Email journaling is an application. These products/services are ineligible under program rules. For details, please

² See *id*

³ See *id*

refer to the Eligible Services List: <http://www.universalservice.org/sl/tools/eligible-services-list.aspx>.

In response to USAC's request for cost allocation information, your service provider, Net56, in their response dated February 22, 2009, indicated that the cost associated with the email retention and journaling was \$1,000 per month or \$12,000 annually. The funding request was reduced by that amount.

After modification and removal of the costs associated with the email retention and journaling and the web retention and journaling, this portion of the FRN was subjected to a cost effectiveness review by USAC. This review was conducted based on the Item 21 attachments and follow up questions and your responses to the follow up questions. This cost effectiveness review compared the funding requested for the solution from Net56 with the funding required for a comparable premises-based solution.

The result of that review was that the funding requested was not justified as cost effective as required by FCC rules. The FCC has stated that in some situations in which "the price of services is so exorbitant that it cannot, on its face, be cost effective" and cited as an example selling a service "at prices two to three times greater than the prices available from commercial vendors would not be cost effective, absent extenuating services" *Ysleta Order*, FCC 03-313, paragraph 54.³ Specifically, the Internet access email services exceed two times the cost of a comparable solution from commercial vendors. The funding required for the Net56 solution over the five year life of the contract is \$240,000. However, the cost of a comparable solution that is based on purchasing the server equipment and annual maintenance would be approximately \$28,500. This amount accounts for the purchase of two servers at a market price of \$14,250, including installation and maintenance for five years.

Review of Broadband circuits for Internet access:

These circuits are an eligible service and this portion of the funding request was not subjected to a cost effectiveness review.

Review of FRN #1908687

FRN 1908687 requests funding in the amount of \$96,000 for Basic Maintenance of Internal Connections (BMIC). The funding request is broken into the following areas:

- Remote maintenance on LAN switches, servers and wireless access points: \$30,000
- On site maintenance of Cisco 3560 layer 3 switches/routers for administrative center and five schools: \$66,000

This funding request was subjected to a cost effectiveness review and the determination of that review was that the funding request was cost effective.

Contract Review: Service Eligibility Issues

In response to the April 14, 2009 request by USAC for all contracts between the Posen-Robbins School District 143.5 and the service provider, Net56, the applicant provided one contract. The contract is signed by Gregory Wright, Superintendent of Schools and dated January 28, 2008. It is for a term of 60 months. Based on your FCC Form 471 filing and associated Item 21 attachment, this contract covers both the Internet Access and the Basic Maintenance of Internal Connections (BMIC) FRNs.

Upon review, your contract specifies several additional ineligible services that are included in the funding requests beyond what was disclosed in your responses to information requests. Such services include, but are not limited to, the following: maintenance, operation and repair of school owned equipment located in the Net56 data center (co-located equipment), providing anti-virus services on co-located equipment, deploy anti-virus at desktop, floating on-site support for District Staff to the Desktop, redesign of district website, Tier 1 and Tier 2 helpdesk support to desktop, business continuity plan, application hosting, accounting and student information system application support, SharePoint portal services, providing environmentally controlled atmosphere and generated backup power for co-located equipment and unlimited professional development on applications like Microsoft Office Suite, SharePoint, Class Server.

Because FRN 1908586, had already been determined to be not cost effective based on the information that was previously provided, USAC did not attempt to re-perform cost allocations and the cost effectiveness reviews based upon this additional information, and the previous determinations as detailed above stand.

However, it is important to note that during the course of this review, both you and your service provider failed to provide a breakdown of the eligible versus ineligible services being received from Net56 and their respective dollar amounts that is consistent with the services and costs noted in your contract, which, additionally, tie in clearly to your Schools and Libraries Program funding requests. As explained in greater detail below, the documentation provided by you indicates that the monthly payments are exclusively for the rental/lease of equipment that is not fundable because it is located at an ineligible entity.

Contract Review: Payments

The Master Service Agreement portion of the aforementioned contract, in section 3, states that this is the sole agreement between the school and the service provider "relating to the subject matter hereof." Accordingly, there is no other agreement/contract related to the services requested in FCC Form 471 application #685333.

This contract specifies a "Total Monthly Fee of \$32,940 less monthly e-rate funding and monthly cost on non e-ratable funded services equals the Districts – Monthly Payment Program offering of \$6,590.00 Fifty Six (56) Monthly payments of a Sixty (60) Month Term to be offered by a financial entity pursuant to ExhibitD ." ExhibitD is a master lease agreement between the school and Atlantic Capital Financial Services Inc. There is no other payment specified in the contract other than the payment to Atlantic Capital Financial Services Inc.

Master Lease Agreement Review

This Master Lease Agreement is also signed by Gregory Wright and dated January 28, 2008. Schedule A of the lease agreement provides more specific terms and conditions. It specifies 55 payments in the amount of \$6,590, which is listed as "Total Monthly Rental." In section 1 of Schedule A, this lease agreement specifies that the \$6,590 is the "Base Monthly Rent" of a suite of hardware and software which is listed and which is identical to the suite of hardware and software listed in the Net56 contract Exhibit A. Exhibit A indicates that the implementation location of this equipment is the Net56 location at 1266 W. Northwest Hwy, Palatine, Illinois, which is an ineligible location. Per the lease agreement, the entire amount of the payments is associated with the rental/lease of this equipment.

Both FRNs, 1908586 and 1908687, reference the same contract, contract number PRSD143.5, which is the contract number shown at the top of the signature page of the Net56 contract.

Although eligible services may have been provided by Net56, there is no documentation regarding any payment for eligible or ineligible Internet access services or basic maintenance services. Therefore, there is no documentation to support that you paid your Schools and Libraries Program share for any eligible Internet access services, because the lease agreement, which represents the full payment for services, is solely for the rental/lease of ineligible equipment.

Net56 Additional Information

USAC management met with several applicants as well as Net56 regarding these concerns. On October 7, 2009, Net56 provided a two page letter in response to USAC's questions. The request was to respond as to why Net56 maintained that the servers would be eligible as a Priority 1 Service; to answer how they arrived at their pricing structure; and to provide the grid referred to by some applicants that would purportedly allocate costs related to eligible and ineligible services.

The Net56 response was reviewed. First, the documentation provided did not affect the determination regarding the servers. Second, the question regarding pricing structure was not answered directly, but rather, a "Total Cost of Ownership" document was provided, which compared costs of the Net56 solution with ineligible staff costs. It is important to note that while a particular solution may lower the overall Total Cost of Ownership to an individual school district, the Schools and Libraries program can only fund eligible products and services that are used in accordance with FCC Rules, which may not always result in the lowest total cost of ownership to the applicant. Third, the grid provided, while it did pertain to the funding requests, did not serve to answer the many questions relating to disparities between the Item 21 documentation, the contract and the finance agreement.

Conclusion

The funding requests were reviewed for service eligibility. Ineligible services were cost allocated and the associated costs were removed from the funding requests. Cost effectiveness reviews were then performed. FRN 1908586 failed cost effectiveness review.

During the course of the review of these FRNs, the contract and lease agreement were provided to USAC. The services noted in the contract differ from your responses during the cost effectiveness review; however, the determination that FRN 1908586 was subjected to cost effectiveness review and it failed that cost effectiveness review stands, since the additional information in the contract would only lead to further cost allocations, which would still provide a cost effectiveness failure.

In regard to service eligibility of the products and services specified in your contract, no documentation was provided to USAC that clearly allocates eligible and ineligible products and services and their respective costs. As a result, it is not possible to ascertain how your Schools and Libraries Program funding requests relate to the eligible and ineligible products and services noted on the contract.

Additionally, the lease agreement, which includes the only payment related to your contract and both of the associated funding requests, specifies that the payments are for the lease/rental of hardware at the Net56 data center, an ineligible location. While Net56 may be providing eligible Internet access services and basic maintenance services as a part of the contract, there is no documentation to support that any services, eligible or ineligible, are included in the payments to

the lease company. Accordingly, there is no documentation regarding the payment of your Schools and Libraries Program share of Internet access or basic maintenance services.

Finally, USAC management made additional attempts to obtain information from Net56 in regard to these concerns; however, the documentation provided did not affect the outcome of the decision.

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

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

Please fax or email the requested information to my attention. If you have any questions, please feel free to contact me. It is important that we receive all of the information requested within **15 calendar days** so we can complete our review. Failure to do so may result in a reduction or denial of funding. If you need additional time to prepare your response, please let me know as soon as possible.

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

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

Jennifer Baumann
Program Compliance
USAC, Schools and Libraries Division
Phone: 973-581-6726
Fax: 973-599-6525
E-mail: jbauman@sl.universalservice.org

EXHIBIT C

May 7, 2010

Letter of Appeal
Schools and Libraries Division – Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

VIA EMAIL: appeals@sl.universalservice.org

To Whom It May Concern:

The purpose of this letter is to appeal the decision set forth in the USAC Funding Commitment Decision Letter (“FCDL”) for Funding Year 2009, dated March 9, 2010, for Posen-Robbins School District 143 1/2 (the “District”).¹

Identifying Information:

| | |
|---------------------------|-------------------------------------|
| Appellant Name: | Net56, Inc. |
| Applicant Name: | Posen-Robbins School District 143 ½ |
| Applicant BEN: | 135638 |
| Service Provider SPIN: | 143025679 |
| Form 471 Application No.: | 685333 |
| FRNs: | 1908586, 1908687 |
| USAC Action: | FCDL dated March 9, 2010 |

Appeal Contact:

Paul B. Hudson
Davis Wright Tremaine
1919 Pennsylvania Ave. NW, Suite 200
Washington, DC 20006
202-973-4275
paulhudson@dwt.com

¹ A copy of the FCDL is attached hereto as Attachment 1.

Appeal

The Funding Commitment Decision Explanation provided in the FCDL for both FRN #1908586 and FRN #1908687 is as follows:

DRI: A contract for a new service was signed prior to the required 28-day waiting period computed from the date of the posting of the Form 470 to USAC Web Site which violates program rules.

No other basis for the denial was provided in the FCDL, and no further letter of explanation was provided by USAC.

The District Listed the Wrong Contract Date on Form 471. The District mistakenly and inadvertently entered an incorrect date in Block 5 of its 2009 Form 471. USAC denied the District's funding on the grounds that the 2009 contract was awarded prior to the allowable contract date of February 9, 2009, in violation of USAC's 28-day competitive bidding requirement. The correct contract award date of the contract between the District and Net56 for Funding Year 2009 is **February 10, 2009**. It is this date that should have been provided in Block 5 of the Form 471. A copy of this contract is provided as Attachment 2 hereto. USAC considers an error in FCC Form 471, Block 5, Item 18 an error that can be corrected via the Form 471 Receipt Acknowledgement Letter (RAL), but neither the District nor Net56 were aware of the error at that time. Nonetheless, this demonstrates that the error is deemed only clerical and should be permitted to be corrected on appeal.

The District Complied with the 28-Day Competitive Bidding Requirement. The District posted its Form 470 for the e-rate services covered by FRNs #1908586 and FRN #1908687 on January 12, 2009. In response, Net56 proposed a written quotation to the District for e-rate services for the 2009 Funding Year. The District accepted Net56's bid and signed the quotation on February 10, 2009, thereby entering into a contract *after the allowable contract date of February 9, 2009*. It is this contract, attached hereto as Attachment 2, which is the relevant contract for the 2009 Funding Year. This contract describes the e-rate services and states a monthly price of \$29,940 for eligible services for the period July 1, 2009- June 30, 2010.

Conclusion

USAC should approve the District's funding requests for FRN #1908586 and FRN #1908687. USAC's denial was based on an error for which corrective action is allowed. The District contracted with Net56 after posting its Form 470 for a 28-day period in compliance with the program's competitive bidding requirements.

Letter of Appeal
Schools and Libraries Division – Correspondence Unit
Page 3

If USAC needs more information from Net56 or the District, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Hudson", written in a cursive style.

Paul B. Hudson
Counsel for Net56, Inc.

cc: Tarra Batts
Posen-Robbins School District 143 ½
14025 Harrison Avenue
Posen, IL 60469-1022

Attachment 1

Funding Commitment Decision Letter



Universal Service Administrative Company

Schools and Libraries Division

FUNDING COMMITMENT DECISION LETTER
(Funding Year 2009: 07/01/2009 - 06/30/2010)

March 9, 2010

Mary Piazza
Net56, Inc
1266 West Northwest Hwy
Suite 740
Palatine, IL 60067

Re: Service Provider Name: Net56, Inc
Service Provider Identification Number: 143025679

Thank you for participating in the Schools and Libraries Program (Program) for Funding Year 2009. This letter is your notification of our decision(s) regarding application funding requests that listed your company's Service Provider Identification Number (SPIN).

NEXT STEPS

- File Form 498, Service Provider Information Form, if appropriate
- File Form 473, Service Provider Annual Certification Form (SPAC), for the above Funding Year
- Work with your customer to provide appropriate invoicing to USAC: Service Provider Invoice (Form 474) or Billed Entity Applicant Reimbursement (Form 472)

Please refer to the Funding Commitment Report(s) (Report) following this letter for specific funding request decisions and explanations. Each Report contains detailed information extracted from the applicant's Form 471. A guide that provides a definition for each line of the Report is available in the Reference Area of our website.

Once you have reviewed this letter, we urge you to contact your customers to establish any necessary arrangements regarding start of services, billing of discounts, and any other administrative details for implementation of discount services. As a reminder, only eligible services delivered in accordance with Federal Communications Commission (FCC) rules are eligible for these discounts.

TO APPEAL THIS DECISION:

You have the option of filing an appeal with the SLD or directly with the FCC.

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

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the decision letter and the decision you are appealing:
 - Appellant name,
 - Applicant or service provider name, if different from appellant,
 - Applicant Billed Entity Number (BEN) and Service Provider Identification Number (SPIN)
 - Form 471 Application Number as assigned by USAC,
 - "Funding Commitment Decision Letter for Funding Year 2009," AND
 - The exact text or the decision that you are appealing.

3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by the decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email to appeals@sl.universalservice.org. USAC will automatically reply to incoming emails to confirm receipt.

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

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

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

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

OBLIGATION TO PAY NON-DISCOUNT PORTION

Applicants are required to pay the non-discount portion of the cost of the products and/or services to their service provider(s). Service providers are required to bill applicants for the non-discount portion. The FCC stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If USAC is being billed via the FCC Form 474, the service provider must bill the applicant at the same time it bills USAC. If USAC is being billed via the FCC Form 472, the applicant pays the service provider in full (the non-discount plus discount portion) and then seeks reimbursement from USAC. If you are using a trade-in as part of your non-discount portion, please refer to our website for more information.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

FUNDING COMMITMENT REPORT
Service Provider Name: Net56, Inc
SPIN: 143025679
Funding Year: 2009

Name of Billed Entity: POSEN-ROBBINS SCH DIST 143 1/2
Billed Entity Address: 14025 HARRISON AVE
Billed Entity City: POSEN
Billed Entity State: IL
Billed Entity Zip Code: 60469-1022
Billed Entity Number: 135638
Contact Person's Name: Tarra Batts
Preferred Mode of Contact: EMAIL
Contact Information: erate@prsd1435.org
Form 471 Application Number: 685333
Funding Request Number: 1908586
Funding Status: Not Funded
Category of Service: Internet Access
Form 470 Application Number: 481490000720609
Contract Number: PRSD143.5
Billing Account Number: N/A
Service Start Date: 07/01/2009
Contract Expiration Date: 06/30/2013
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: \$263,280.00
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$.00
Pre-Discount Amount: \$263,280.00
Applicant's Discount Percentage Approved by SLD: 90%
Funding Commitment Decision: \$.00 - Insufficient documentation
Funding Commitment Decision Explanation: DR1: A contract for a new service was signed prior to the required 28-day waiting period computed from the date of the posting of the Form 470 to USAC Web Site which violates program rules.

FCDL Date: 03/09/2010
Wave Number: 043
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2011

FUNDING COMMITMENT REPORT
Service Provider Name: Net56, Inc
SPIN: 143025679
Funding Year: 2009

Name of Billed Entity: POSEN-ROBBINS SCH DIST 143 1/2
Billed Entity Address: 14025 HARRISON AVE
Billed Entity City: POSEN
Billed Entity State: IL
Billed Entity Zip Code: 60469-1022
Billed Entity Number: 135638
Contact Person's Name: Tarra Batts
Preferred Mode of Contact: EMAIL
Contact Information: erate@prsd1435.org
Form 471 Application Number: 685333
Funding Request Number: 1908687
Funding Status: Not Funded
Category of Service: Basic Maintenance of Internal Connection
Form 470 Application Number: 481490000720609
Contract Number: PRSD143.5
Billing Account Number: N/A
Service Start Date: 07/01/2009
Contract Expiration Date: 06/30/2013
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: \$96,000.00
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$.00
Pre-Discount Amount: \$96,000.00
Applicant's Discount Percentage Approved by SLD: 90%
Funding Commitment Decision: \$.00 - 28 Day Waiting Period Violated
Funding Commitment Decision Explanation: DR1: A contract for a new service was signed prior to the required 28-day waiting period computed from the date of the posting of the Form 470 to USAC Web Site which violates program rules.
FCDL Date: 03/09/2010
Wave Number: 043
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2011

Attachment 2

E-Rate Contract



Posen Robbins School District 143.5
Internet Access Quote

Posen Robbins School District 143.5 selects Net56, Inc (SPIN # 1430256729) as vendor of choice to provide the outlined services below for School Year beginning July 1, 2009, Ending June 30, 2010. The below agreed upon services are subject to final School Board and budget approval.

Signature: *[Signature]*
Name: James Turbo
Title: Business Manager
Posen Robbins School District 143.5
Date: 2/19/2009

Number of Number of Computers
7 1000

Internet Access

Internet Access Monthly Fee (7 Buildings/ Classrooms/ Computers)

Includes: 50 MB between Posen Robbins School District 143.5 and Internet w/ Guarantee 50 MB Internet access.
Includes: 1.50 MB Circuit between Posen Robbins School District 143.5 and Internet

\$6,475.00 Monthly Fee
\$6,475.00 Amount E-Ratable
Erate @ 90.00%

WAN/LAN Basic Maintenance

WAN/LAN Basic Maintenance Services (7 Buildings/ Classrooms/ Computers)

Includes Basic Maintenance: On-Site Maintenance for Cisco 3560 series layer 3, S/W Switch/Routers for 7 Buildings;
7DNS/DHCP Servers for 7 building, All Switches and Wireless Access Points

\$5,500.00 Monthly Fee
\$5,500.00 Amount E-Ratable
Erate @ 90.00%

Firewall

Firewall Monthly Fee (7 Buildings/ Classrooms/ Computers)

Includes: Cisco Firewall Service for total district;

\$5,465.00 Monthly Fee
\$5,465.00 Amount E-Ratable
Erate @ 90.00%

Web Hosting Fee

Portal and Hosting Fee (2 Web Servers, 1 Secure zoned server and 1DMZ zoned server)

\$5,000.00 Monthly Fee
\$5,000.00 Amount E-Ratable
Erate @ 90.00%

Email Local and Web

Email Server (2 Email Servers, 1 Secure zoned server and 1DMZ zoned server)

\$5,000.00 Monthly Fee
\$5,000.00 Amount E-Ratable
Erate @ 90.00%

Terminal Services & Central Storage & Application Hosting & Tier 1 Help Desk

Basic Maintenance Service to support (District)

\$5,500.00 Monthly Fee
\$2,500.00 Amount E-Ratable (Remote Basic Maintenance for LAN Switches and Servers)
Erate @ 90.00%

Monthly Non Discounted 4USAC Monthly E-Rate Dis District Monthly Contracted Fee

P1 E-Rate Monthly Fees Internet Access \$21,940.00 \$19,746.00 \$2,194.00
E-Rate Monthly Fees Basic Maint 8,000.00 \$7,200.00 800.00
\$29,940.00 \$27,946.00 \$2,994.00

June 10, 2010

Jennifer Baumann
Program Compliance
USAC, Schools and Libraries Division

VIA EMAIL: jbauman@sl.universalservice.org

Re: May 7, 2010 Letter of Appeal
Appellant/Service Provider: Net56, Inc.
Applicant/BEN: Posen-Robbins School District 143 1/2
Form 471 Application No: 685333
FRNs: 1908586, 1908687

Dear Ms. Baumann:

I am writing in response to your letter of May 26, 2010 ("May 26 Letter")¹ regarding the above-referenced Letter of Appeal. Net56 disagrees with the conclusion that the FRNs should be denied in their entirety. As explained below, that decision was based on review of the wrong contract and on the incorrect conclusion that the District did not pay its share of the costs of the services provided by Net56.

The May 26 Letter states that Net56, Inc. and the District had not allocated e-rate and non e-rate services and their respective costs. Specifically, the May 26 Letter states:

[Net 56 and the District] failed to provide a breakdown of the eligible versus ineligible services being received from Net56 and their respective dollar amounts ... (May 26 Letter, page 4)

While Net56 may be providing eligible Internet access services and basic maintenance services as part of the contract, there is no documentation to support that any services, eligible or ineligible, are included in the payments to the lease company. Accordingly, there is no documentation regarding the payment of your Schools and Libraries Program share of Internet access or basic maintenance services. (May 26 Letter, page 5)

In regard to service eligibility of the products and services specified in your contract, no documentation was provided to USAC that clearly allocates eligible and ineligible products and services and their respective costs. As a result, it is not possible to ascertain how your Schools

¹ Copy attached as Attachment 1.

and Libraries funding requests relate to the eligible and ineligible products and services noted on the contract. (May 26 Letter, page 5)

These conclusions are incorrect. First, the decision is based upon the wrong contract. Second, USAC incorrectly concluded that the District had not paid for the e-rate services, when in fact the District did pay in accordance with agreements between the District, the leasing company, and Net56 that clearly allocate the cost between eligible e-rate services and ineligible services. Net56 demonstrates these facts below and through three attached documents.

USAC Reviewed the Wrong Contract. USAC incorrectly understood the 60-month term January 28, 2008 agreement to be the contract between Net56 and the District for the provision of e-rate services. However, as USAC correctly noted, that agreement does not provide for the provision of e-rate eligible services. Thus, while this agreement does say that it was at the time the sole agreement “relating to the subject matter hereof,” that subject matter was not the provision of e-rate services. Instead, the District separately and subsequently contracted for the e-rate services applied for in this application after the District posted its Form 470 on January 12, 2009. In response to its Form 470, Net56 proposed a written quotation to the District for e-rate services for the 2009 funding year. The District accepted Net56’s bid and signed the quotation on February 10, 2009, thereby entering into a new contract. It is this document, which is attached hereto as Attachment 2, that is the relevant contract in this proceeding.² This contract clearly describes the e-rate services and states a monthly price of \$29,940 for eligible services.³

If the District and Net56 had believed the January 28, 2008 agreement was a contract for e-rate services for Funding Year 2009, the District would have had no need to seek bids at the beginning of 2009 through a Form 470, and Net56 would have had no need to provide a new quotation. The term of the January 2008 agreement is 60 months, into 2013. Moreover, even if that agreement included e-rate services for 2009, which it does not, it would have been superseded by the subsequent agreement executed after the District posted its Form 470 for 2009. Therefore, (1) the e-rate agreement provided in Attachment 2 is the relevant contract between Net56 and the District and (2) this contract clearly allocates and states the price for each e-rate service covered by the Application.

The District Paid Amounts Expressly Designated for Eligible Services. The May 26 Letter states that “Although eligible services may have been provided by Net56, there is no documentation regarding any payment for eligible” services. This mistaken conclusion is based upon USAC’s understanding that the District only made payments to the leasing company for ineligible equipment and not for the e-rate services. On the contrary, Net56 previously provided to USAC a copy of an agreement signed by the District and American Capital Financial Services, Inc. that clarifies the original lease to allocate \$5,997.83 of the District’s monthly payment

² Net56 identified the correct contract in response to your questions about the contract discrepancy by letter dated May 19, 2010. See Attachment 3.

³ Net56 does not appeal USAC’s determination that some of the services the parties had understood to be eligible are ineligible. However, the allocation requirement is still satisfied because each service is priced separately.

toward services provided by Net56, and not for equipment. Net56 also provided a copy of a written agreement between itself and the District expressly clarifying how this portion of the lease payment would be applied to the District's monthly bill for all services, with a specific detailed and separate allocation between the e-rate and non e-rate services, for funding year 2009-10. This agreement shows that \$2,994.00 of the District's monthly payment was allocated to e-rate services, with specific amounts allocated to each FRN. This \$2,994.00 is the District's full 10% share of the \$29,940.00 monthly fee set forth in the parties' e-rate contract.

These documents were provided to USAC in February, but they are not addressed in your May 26 Letter. We are resubmitting these documents as Attachments 4 and 5 to this letter and request that USAC consider them under this appeal review.

In sum, the District did pay its non-discounted share for each of the e-rate services that are covered by 471 Application No. 685333 in the amounts as required by the e-rate contract provided as Attachment 2, pursuant to the express written agreement with the leasing company set forth in Attachment 4, and in accordance with the written agreement with Net56 set forth in Attachment 5 that allocates this payment between eligible and ineligible services.

Cost-Effectiveness. The May 26 Letter indicates a belief that some of the services covered under FRN # 1908687 are not cost-effective. While Net56 does not agree with that conclusion, it only appeals that decision to the limited extent necessary to grant funding in the amount that USAC did conclude would have been cost-effective for each component of the FRN, as set forth below. The FCC has held that even when an applicant violates the cost-effectiveness rule, it is still "entitled to E-rate funding ... at a rate associated with the least expensive" cost-effective service.⁴ That FCC decision illustrates that the FCC does not intend for cost-effectiveness determinations to be only an all-or-nothing choice and that applicants should not be denied the portion of their request that clearly would have been cost effective. Because USAC did not assert any basis to challenge the eligibility or cost-effectiveness of the broadband circuits component of the FRN, the amount for that component should be funded in its entirety even if the other components are deemed to be not cost-effective.

Conclusion

USAC should therefore approve at least the following amounts for funding:

FRN #1908586

\$96,000.00 (\$30,000 for maintenance of LAN switches, servers and wireless access points;
\$66,000 for maintenance of Cisco 3560 router)

FRN # 1908687

⁴ *Requests for Review by Macomb Intermediate School District Technology Consortium*, File No. SLD-441910, Order, FCC 07-64, ¶ 9 (rel. May 8, 2007).

Jennifer Baumann
June 10, 2010
Page 4

\$117,100.00 (\$5,700 for web hosting; \$28,000 for firewall service; \$5,700 for email service; and \$77,700 for broadband circuits, as set forth below)

Web Hosting Solution Component: USAC believes that a comparable solution could be obtained for a price of approximately \$28,500 over five years, or \$5,700 per year. USAC should therefore approve at least \$5,700 in funding for this component of the FRN. (\$60,000 request reduced by \$12,000 for retention and journaling, and by \$42,300 for cost-effectiveness.)

Firewall Service Solution Component: USAC believes that a comparable solution could be obtained for a price of \$140,000 over five years, or \$28,000 per year. USAC should therefore approve at least \$28,000 in funding for this component of the FRN. (\$65,580 request reduced by \$16,200 for firewall equipment, and by \$21,380 for cost-effectiveness.)

Email Service Solution Component: USAC believes that a comparable solution could be obtained for a price of \$28,500 over five years, or \$5,700 per year. USAC should therefore approve at least \$5,700 in funding for this component of the FRN. (\$60,000 request reduced by \$12,000 for retention and journaling, and by \$42,300 for cost-effectiveness.)

Broadband Circuits to be used for Internet access: \$77,700.

Should you have further questions or if you need more information from Net56 or the District to complete your review, please let me know.

Sincerely,



Paul B. Hudson
Counsel for Net56, Inc.

cc: Tarra Batts
Posen-Robbins School District 143 ½
14025 Harrison Ave
Posen, IL 60469-1022

Mel Blackwell (via email)
Catriona Ayer (via email)

Date: May 26, 2010

BEN 135638

Paul B. Hudson
Davis Wright Tremaine, Counsel for Net56, Inc.
Contact Phone Number: 202-973-4275
Application Number(s): 68 5333, FRN 1908586 & 1908687

Response Due Date: June 10, 2010

Based on a review of documentation related to FY 2009 FRNs 1908586 and 1908687, the entire FRNs will be denied. These funding requests are denied as a result of the following:

Review of FRN #1908586

FRN 1908586 requests funding in the amount of \$263,280 for Internet access. Your on-line Item 21 attachment addresses each of the Net56 solution components included in this FRN separately. The FRN is broken into the following areas:

- Web Hosting service - requesting \$60,000
- Firewall service - requesting \$65,580
- Email service - requesting \$60,000
- Broadband circuits to be used for Internet access - requesting \$77,700

Review of Web Hosting Solution Component:

In the response to USAC's information request regarding the specific services included in the Web Hosting portion of the Net56 solution, it was indicated that these services include web retention and web journaling. Web retention is archiving of information. Web journaling is an application. These products/services are ineligible under program rules. For details, please refer to the Eligible Services List: <http://www.universalservice.org/sl/tools/eligible-services-list.aspx>.

In response to USAC's request for cost allocation information, your service provider, Net56, in their response dated February 22, 2009, indicated that the cost associated with web retention and journaling was \$1,000 per month or \$12,000 annually. The funding request was reduced by that amount.

After modification and removal of the costs associated with the web retention and journaling, this portion of the FRN was subjected to a cost effectiveness review by USAC. This review was conducted based on the Item 21 attachments and follow up questions and your responses to the follow up questions. This cost effectiveness review compared the funding requested for the solution from Net56 with the funding required for a comparable premises-based solution.

The result of that review was that the funding requested was not justified as cost effective as required by FCC rules. The FCC has stated that in some situations in which "the price of services is so exorbitant that it cannot, on its face, be cost effective" and cited as an example selling a service "at prices two to three times greater than the prices available from commercial vendors would not be cost effective, absent extenuating services" *Ysleta Order*, FCC 03-313, paragraph 54.¹ Specifically, the Internet access Web Hosting services exceed two times the cost of a

¹ See 47 C.F.R. secs. 54.511(a), 54.504(b)(2)(vii), 54.504(c)(1)(xi). See also Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, et al., CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 26407, FCC 03-313 paras. 47-55 (Dec. 8, 2003) (*Ysleta Order*).

comparable solution from commercial vendors. The funding required for the Net56 solution over the five year life of the contract is \$240,000. However, the cost of a comparable solution that is based on purchasing the server equipment and annual maintenance would be approximately \$28,500. This amount accounts for the purchase of two servers at a market price of \$14,250, including installation and maintenance for five years.

Review of Firewall Service Solution Component:

In the response to USAC's information request regarding the specific services included in the Firewall Service portion of the Net56 solution, it was indicated that these services include firewall capabilities at each of the point of entry to each of the school sites and at the Net56 data center. Specifically, this firewall service includes on-premise software at each school site which is running on a switch that is not included in the Item 21 attachment for this FRN. This firewall service also includes firewall hardware equipment located at the Net56 data center. The Net56 data center is an ineligible location; accordingly, equipment located there is ineligible for funding. Also, since the funding request includes the firewall capability of the software running on the switch, which is located at the point of entry of each building, it has been determined that the equipment located at the Net56 data center is redundant and therefore ineligible for that reason as well.

In response to USAC's request for cost location information, your service provider, Net56, in their response dated February 22, 2009, indicated that the cost associated with the firewall equipment located at the Net56 data center was \$1,350 per month or \$16,200 annually. The funding request was reduced by that amount.

After modification and removal of the costs associated with the firewall equipment located at the Net56 data center, this portion of the FRN was subjected to a cost effectiveness review by USAC. This review was conducted based on the Item 21 attachments, related follow up questions and your responses to those follow up questions. This cost effectiveness review compared the funding requested for the solution from Net56 with the funding required for a comparable premises-based solution.

The result of that review was that the funding request was not justified as cost effective as required by FCC rules. The FCC has stated that in some situations in which "the price of services is so exorbitant that it cannot on its face be cost effective" and cited as an example selling a service "at prices two to three times greater than the prices available from commercial vendors would not be cost effective, absent extenuating services" *Ysleta Order*, FCC 03-313, paragraph 54.² Specifically, the Internet access firewall approaches two times the cost of a comparable solution from commercial vendors. The funding required for the Net56 solution over the five year life of the contract is \$246,900. However, the cost of a comparable solution that is based on purchasing firewall equipment for each of the seven locations and annual maintenance would be approximately \$140,000. This amount accounts for the purchase of seven Cisco PIX Firewall devices at market price of \$5,000 each, plus 50 percent of that cost for installation and configuration, plus 50 percent of that equipment cost annually for maintenance.

Review of Email Service Solution Component:

In the response to USAC's information request regarding the specific services included in the Email Service portion of your Net56 solution, it was indicated that these services include email retention and email journaling. Email retention is archiving of information. Email journaling is an application. These products/services are ineligible under program rules. For details, please

² See *id*

³ See *id*

refer to the Eligible Services List: <http://www.universalservice.org/sl/tools/eligible-services-list.aspx>.

In response to USAC's request for cost allocation information, your service provider, Net56, in their response dated February 22, 2009, indicated that the cost associated with the email retention and journaling was \$1,000 per month or \$12,000 annually. The funding request was reduced by that amount.

After modification and removal of the costs associated with the email retention and journaling and the web retention and journaling, this portion of the FRN was subjected to a cost effectiveness review by USAC. This review was conducted based on the Item 21 attachments and follow up questions and your responses to the follow up questions. This cost effectiveness review compared the funding requested for the solution from Net56 with the funding required for a comparable premises-based solution.

The result of that review was that the funding requested was not justified as cost effective as required by FCC rules. The FCC has stated that in some situations in which "the price of services is so exorbitant that it cannot on its face be cost effective" and cited as an example selling a service "at prices two to three times greater than the prices available from commercial vendors would not be cost effective, absent extenuating services" *Ysleta Order*, FCC 03-313, paragraph 54.³ Specifically, the Internet access email services exceed two times the cost of a comparable solution from commercial vendors. The funding required for the Net56 solution over the five year life of the contract is \$240,000. However, the cost of a comparable solution that is based on purchasing the server equipment and annual maintenance would be approximately \$28,500. This amount accounts for the purchase of two servers at a market price of \$14,250, including installation and maintenance for five years.

Review of Broadband circuits for Internet access:

These circuits are an eligible service and this portion of the funding request was not subjected to a cost effectiveness review.

Review of FRN #1908687

FRN 1908687 requests funding in the amount of \$96,000 for Basic Maintenance of Internal Connections (BMIC). The funding request is broken into the following areas:

- Remote maintenance on LAN switches, servers and wireless access points: \$30,000
- On site maintenance of Cisco 3560 layer 3 switches/routers for administrative center and five schools: \$66,000

This funding request was subjected to a cost effectiveness review and the determination of that review was that the funding request was cost effective.

Contract Review: Service Eligibility Issues

In response to the April 14, 2009 request by USAC for all contracts between the Posen-Robbins School District 143.5 and the service provider, Net56, the applicant provided one contract. The contract is signed by Gregory Wright, Superintendent of Schools and dated January 28, 2008. It is for a term of 60 months. Based on your FCC Form 471 filing and associated Item 21 attachment, this contract covers both the Internet Access and the Basic Maintenance of Internal Connections (BMIC) FRNs.

Upon review, your contract specifies several additional ineligible services that are included in the funding requests beyond what was disclosed in your responses to information requests. Such services include, but are not limited to, the following: maintenance, operation and repair of school owned equipment located in the Net56 data center (co-located equipment), providing anti-virus services on co-located equipment, deploy anti-virus at desktop, floating on-site support for District Staff to the Desktop, redesign of district website, Tier 1 and Tier 2 helpdesk support to desktop, business continuity plan, application hosting, accounting and student information system application support, SharePoint portal services, providing environmentally controlled atmosphere and generated backup power for co-located equipment and unlimited professional development on applications like Microsoft Office Suite, SharePoint, Class Server.

Because FRN 1908586, had already been determined to be not cost effective based on the information that was previously provided, USAC did not attempt to re-perform cost allocations and the cost effectiveness reviews based upon this additional information, and the previous determinations as detailed above stand.

However, it is important to note that during the course of this review, both you and your service provider failed to provide a breakdown of the eligible versus ineligible services being received from Net56 and their respective dollar amounts that is consistent with the services and costs noted in your contract, which, additionally, tie in clearly to your Schools and Libraries Program funding requests. As explained in greater detail below, the documentation provided by you indicates that the monthly payments are exclusively for the rental/lease of equipment that is not fundable because it is located at an ineligible entity.

Contract Review: Payments

The Master Service Agreement portion of the aforementioned contract, in section 3, states that this is the sole agreement between the school and the service provider "relating to the subject matter hereof." Accordingly, there is no other agreement/contract related to the services requested in FCC Form 471 application #685333.

This contract specifies a "Total Monthly Fee of \$32,940 less monthly e-rate funding and monthly cost on non e-ratable funded services equals the Districts – Monthly Payment Program offering of \$6,590.00 Fifty Six (56) Monthly payments of a Sixty (60) Month Term to be offered by a financial entity pursuant to Exhibit D." Exhibit D is a master lease agreement between the school and Atlantic Capital Financial Services Inc. There is no other payment specified in the contract other than the payment to Atlantic Capital Financial Services Inc.

Master Lease Agreement Review

This Master Lease Agreement is also signed by Gregory Wright and dated January 28, 2008. Schedule A of the lease agreement provides more specific terms and conditions. It specifies 55 payments in the amount of \$6,590, which is listed as "Total Monthly Rental." In section 1 of Schedule A, this lease agreement specifies that the \$6,590 is the "Base Monthly Rent" of a suite of hardware and software which is listed and which is identical to the suite of hardware and software listed in the Net56 contract Exhibit A. Exhibit A indicates that the implementation location of this equipment is the Net56 location at 1266 W. Northwest Hwy, Palatine, Illinois, which is an ineligible location. Per the lease agreement, the entire amount of the payments is associated with the rental/lease of this equipment.

Both FRNs, 1908586 and 1908687, reference the same contract, contract number PRSD143.5, which is the contract number shown at the top of the signature page of the Net56 contract.

Although eligible services may have been provided by Net56, there is no documentation regarding any payment for eligible or ineligible Internet access services or basic maintenance services. Therefore, there is no documentation to support that you paid your Schools and Libraries Program share for any eligible Internet access services, because the lease agreement, which represents the full payment for services, is solely for the rental/lease of ineligible equipment.

Net56 Additional Information

USAC management met with several applicants as well as Net56 regarding these concerns. On October 7, 2009, Net56 provided a two page letter in response to USAC's questions. The request was to respond as to why Net56 maintained that the servers would be eligible as a Priority 1 Service; to answer how they arrived at their pricing structure; and to provide the grid referred to by some applicants that would purportedly allocate costs related to eligible and ineligible services.

The Net56 response was reviewed. First, the documentation provided did not affect the determination regarding the servers. Second, the question regarding pricing structure was not answered directly, but rather, a "Total Cost of Ownership" document was provided, which compared costs of the Net56 solution with ineligible staff costs. It is important to note that while a particular solution may lower the overall Total Cost of Ownership to an individual school district, the Schools and Libraries program can only fund eligible products and services that are used in accordance with FCC Rules, which may not always result in the lowest total cost of ownership to the applicant. Third, the grid provided, while it did pertain to the funding requests, did not serve to answer the many questions relating to disparities between the Item 21 documentation, the contract and the finance agreement.

Conclusion

The funding requests were reviewed for service eligibility. Ineligible services were cost allocated and the associated costs were removed from the funding requests. Cost effectiveness reviews were then performed. FRN 1908586 failed cost effectiveness review.

During the course of the review of these FRNs, the contract and lease agreement were provided to USAC. The services noted in the contract differ from your responses during the cost effectiveness review; however, the determination that FRN 1908586 was subjected to cost effectiveness review and it failed that cost effectiveness review stands, since the additional information in the contract would only lead to further cost allocations, which would still provide a cost effectiveness failure.

In regard to service eligibility of the products and services specified in your contract, no documentation was provided to USAC that clearly allocates eligible and ineligible products and services and their respective costs. As a result, it is not possible to ascertain how your Schools and Libraries Program funding requests relate to the eligible and ineligible products and services noted on the contract.

Additionally, the lease agreement, which includes the only payment related to your contract and both of the associated funding requests, specifies that the payments are for the lease/rental of hardware at the Net56 data center, an ineligible location. While Net56 may be providing eligible Internet access services and basic maintenance services as a part of the contract, there is no documentation to support that any services, eligible or ineligible, are included in the payments to

the lease company. Accordingly, there is no documentation regarding the payment of your Schools and Libraries Program share of Internet access or basic maintenance services.

Finally, USAC management made additional attempts to obtain information from Net56 in regard to these concerns; however, the documentation provided did not affect the outcome of the decision.

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

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

Please fax or email the requested information to my attention. If you have any questions, please feel free to contact me. It is important that we receive all of the information requested within **15 calendar days** so we can complete our review. Failure to do so may result in a reduction or denial of funding. If you need additional time to prepare your response, please let me know as soon as possible.

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

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

Jennifer Baumann
Program Compliance
USAC, Schools and Libraries Division
Phone: 973-581-6726
Fax: 973-599-6525
E-mail: jbauman@sl.universalservice.org

May 19, 2010

Jennifer Baumann
Program Compliance
USAC, Schools and Libraries Division

VIA EMAIL: jbauman@sl.universalservice.org

Re: May 7, 2010 Letter of Appeal
Appellant/Service Provider: Net56, Inc.
Applicant/BEN: Posen-Robbins School District 143 1/2
Form 471 Application No: 685333
FRNs: 1908586, 1908687

Dear Jennifer:

I am writing in response to your letter of May 12, 2010 (copy attached) regarding the above-referenced Letter of Appeal.

In Part I, you asked: Please explain the contract discrepancy and advise which contract is the correct contract that is associated with FY 2009 FRNs 1908586 and 1908687.

Response: The contract signed and dated February 10, 2009 (copy provided with the Letter of Appeal) is the correct contract associated with FY 2009 FRNs 1908586 and 1908687. The District incorrectly entered the date of a different, prior contract signed in 2008. That prior agreement is a longer document with more traditional contract language, so the person completing Form 471 apparently misunderstood it to be the relevant contract. However, that agreement did not commit the District to purchase the e-rate eligible services covered under FRNs 1908586 and 1908687. That commitment was established through the contract signed on February 10, 2009. Thus, the District contracted for the e-rate services applied for under FRNs 1908586 and 1908687 after it posted its Form 470 on January 12, 2009.

You asked: Also, the applicant indicated the CAD for service is *February 1, 2008* on FCC Form(s) 471 Block 5 Item 18. Was the incorrect date entered at the time the FCC Form 471 was completed? Yes or No.

Response: Yes, the date entered in Form 471 was incorrect. The applicant mistakenly and inadvertently entered an incorrect Contract Award Date (CAD) of February 1, 2008 in Block 5, Item 18. The incorrect date was entered at the time the FCC Form 471 was completed.

Jennifer Baumann
May 18, 2010
Page 2

You asked: If Yes, please provide the ... correct Contract Award Date.

Response: The Contract Award Date is February 10, 2009.

In Part II, you asked: Is the Form 470 # 481490000720609 on Form 471 application # 685333 the establishing Form 470 for services associated with Funding Request Number(s) 1908586 and 1908687? Yes or No.

Response: Yes. Form 470 # 481490000720609 on Form 471 application # 685333 is the establishing Form 470 for the services associated with FRNs 1908586 and 1908687.

Should you have further questions or if you need more information from Net56 or the District to complete your review, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Hudson", written in a cursive style.

Paul B. Hudson
Counsel for Net56, Inc.

May 19, 2010

Jennifer Baumann
Program Compliance
USAC, Schools and Libraries Division**VIA EMAIL:** jbauman@sl.universalservice.org**Re: May 7, 2010 Letter of Appeal**
Appellant/Service Provider: Net56, Inc.
Applicant/BEN: Posen-Robbins School District 143 1/2
Form 471 Application No: 685333
FRNs: 1908586, 1908687

Dear Jennifer:

I am writing in response to your letter of May 12, 2010 (copy attached) regarding the above-referenced Letter of Appeal.

In Part I, you asked: Please explain the contract discrepancy and advise which contract is the correct contract that is associated with FY 2009 FRNs 1908586 and 1908687.

Response: The contract signed and dated February 10, 2009 (copy provided with the Letter of Appeal) is the correct contract associated with FY 2009 FRNs 1908586 and 1908687. The District incorrectly entered the date of a different, prior contract signed in 2008. That prior agreement is a longer document with more traditional contract language, so the person completing Form 471 apparently misunderstood it to be the relevant contract. However, that agreement did not commit the District to purchase the e-rate eligible services covered under FRNs 1908586 and 1908687. That commitment was established through the contract signed on February 10, 2009. Thus, the District contracted for the e-rate services applied for under FRNs 1908586 and 1908687 after it posted its Form 470 on January 12, 2009.

You asked: Also, the applicant indicated the CAD for service is *February 1, 2008* on FCC Form(s) 471 Block 5 Item 18. Was the incorrect date entered at the time the FCC Form 471 was completed? Yes or No.

Response: Yes, the date entered in Form 471 was incorrect. The applicant mistakenly and inadvertently entered an incorrect Contract Award Date (CAD) of February 1, 2008 in Block 5, Item 18. The incorrect date was entered at the time the FCC Form 471 was completed.

Jennifer Baumann
May 18, 2010
Page 2

You asked: If Yes, please provide the ... correct Contract Award Date.

Response: The Contract Award Date is February 10, 2009.

In Part II, you asked: Is the Form 470 # 481490000720609 on Form 471 application # 685333 the establishing Form 470 for services associated with Funding Request Number(s) 1908586 and 1908687? Yes or No.

Response: Yes. Form 470 # 481490000720609 on Form 471 application # 685333 is the establishing Form 470 for the services associated with FRNs 1908586 and 1908687.

Should you have further questions or if you need more information from Net56 or the District to complete your review, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Hudson", written in a cursive style.

Paul B. Hudson
Counsel for Net56, Inc.



Posen-Robbins School District 143.5
Internet Access Quote

Posen-Robbins School District 143.5 selects Net56, Inc (SPIN # 143025679) as vendor of choice to provide the District the outlined services below for School Year beginning July 1, 2009, Ending June 30, 2010. The below agreed upon services are subject to final School Board and budget approval.

[Signature]
President

[Signature]
James Turnbo
Business Manager
Posen-Robbins School District 143.5
Date: 2/10/2009

Signature: _____
Name: _____
Title: _____
Date: 2/10/2009

Number of Computers: 1000

Internet Access

Internet Access Monthly Fee (7 Buildings/ _____ Classrooms/ _____ Computers)
Includes: 50 MB between Posen-Robbins School District 143.5 and Internet w/ Guarantee 50 MB Internet access.
Includes: 1 50 MB Circuit between Posen-Robbins School District 143.5 and Internet
\$6,475.00 Monthly Fee
\$6,475.00 Amount E-Ratable
E-Rate @ 90.00%

WAN/LAN

Basic Maintenance
WAN/LAN Basic Maintenance Services (7 Buildings/ _____ Classrooms/ _____ Computers)
Includes: Basic Maintenance: On-Site Maintenance for Cisco 3560 series layer 3, Gb-Switch/Routers for 7 buildings;
7 DNS/DHCP Servers for 7 building. All Switches and Wireless Access Points
\$5,500.00 Monthly Fee
\$5,500.00 Amount E-Ratable
E-Rate @ 90.00%

Firewall

Firewall Monthly Fee (7 Buildings/ _____ Classrooms/ _____ Computers)
Includes: Cisco Firewall Service for total district
Firewall Services
\$5,465.00 Monthly Fee
\$5,465.00 Amount E-Ratable
E-Rate @ 90.00%

Web Hosting Fee

Portal and Hosting Fee (2 Web Servers, 1 Secure zoned server and IDMZ zoned server)
Web Hosting Services
\$5,000.00 Monthly Fee
\$5,000.00 Amount E-Ratable
E-Rate @ 90.00%

Email Local and Web

Email Service (2 Email Servers, 1 Secure zoned server and IDMZ zoned server)
Hosted Application
\$5,000.00 Monthly Fee
\$5,000.00 Amount E-Ratable
E-Rate @ 90.00%

Terminal Services & Central Storage & Application Hosting & Tier 1 Help Desk

Basic Maintenance Service to support (District)
Additional Services
\$5,500.00 Monthly Fee
\$2,500.00 Amount E-Ratable (Remote Basic Maintenance for LAN Switches and Servers)
E-Rate @ 90.00%

P1

E-Rate Monthly Fees Internet Access
Monthly Non Discounted USAC Monthly E-Rate Dis District Monthly Contracted fee
\$21,940.00 \$19,746.00 \$2,194.00

BN

E-Rate Monthly Fees Basic Maint
\$8,000.00 \$7,200.00 \$800.00
\$29,940.00 \$2,994.00

EXHIBIT D

| | | |
|--|---|--|
| FCC Form 471 | Do not write in this area. | Approval by OMB 3060-0806 |
| <p>Schools and Libraries Universal Service Description of Services Ordered and Certification Form 471 Estimated Average Burden Hours per Response: 4 hours</p> <p>This form asks schools and libraries to list the eligible telecommunications -related services they have ordered and estimate the annual charges for them so that the Fund Administrator can set aside sufficient support to reimburse providers for services.</p> <p>Please read instructions before beginning this application. (You can also file online at www.sl.universalservice.org.) The instructions include information on the deadlines for filing this application.</p> | | |
| Applicant's Form Identifier (Create your own code to identify THIS form 471) | '09 471 | Form 471 Application# (To be assigned by administrator) |
| | | 685333 |
| Block 1: Billed Entity Information (The "Billed Entity" is the entity paying the bills for the service listed on this form.) | | |
| 1 a | Name of Billed Entity | POSEN-ROBBINS SCH DIST 143 1/2 |
| 2 a | Funding Year: July 1, | 2009 Through June 30: 2010 |
| | | Billed Entity Number: 135638 |
| 4 a | Street Address, P.O. Box, or Routing Number | 14025 HARRISON AVE |
| | City | POSEN |
| | State | IL |
| | | Zip Code 60469 1022 |
| 5 a | Type of Application | <input type="checkbox"/> Individual School (individual public or non-public school) <input checked="" type="checkbox"/> School District (LEA; public or non-public [e.g. diocesan] local district representing multiple schools) <input type="checkbox"/> Library (including library system, library outlet/branch or library consortium as defined under LSTA) <input type="checkbox"/> Consortium <input type="checkbox"/> Check here if any members of this consortium are ineligible or non-governmental entities |
| 6 | Contact Person's Name | Tarra Batts |
| First, if the Contact Person's Street Address is the same as in Item 4, check this box. <input type="checkbox"/> If not, please complete the entries for the Street Address below. | | |
| b | Street Address, P.O. Box, or Routing Number | 14025 HARRISON AVE |
| | City | POSEN |
| | State | IL |
| | | Zip Code 60469 1022 |



| | | | |
|--|--------------------|-----------------------------|---------------------|
| Entity Number | <u>135638</u> | Applicant's Form Identifier | <u>'09 471</u> |
| Contact Person | <u>Tarra Batts</u> | Phone Number | <u>708-388-7200</u> |
| <p>This information will facilitate the processing of your applications. Please complete all rows that apply to services for which you are requesting discounts. Complete this information on the FIRST Form 471 you file, to encompass this and all other Forms 471 you will file for this funding year. You need not complete this information on subsequent Forms 471. Provide your best estimates for the services ordered across ALL of your Forms 471.</p> <p>Schools/school districts complete Item 7. Libraries complete Item 8. Consortia complete Item 7 and/or Item 8.</p> | | | |

Block 2: Impact of Services Ordered on Schools

| IF THIS APPLICATION INCLUDES SCHOOLS... | | BEFORE ORDER | AFTER ORDER |
|---|--|--------------|-------------|
| 7a | Number of students to be served | | 1881 |
| b | Telephone service: Number of classrooms with phone service | 100 | 100 |
| c | Dial-up Internet access: Number of connections (up to 56kbps) | 0 | 0 |
| d | Direct broadband services: Number of buildings served at the following speeds: | | |
| | Less than 10 mbps | 0 | 0 |
| | Between 10 mbps and 200 mbps | 0 | 0 |
| | Greater than 200 mbps | 0 | 0 |
| e | Direct connections to the Internet: Number of drops | 2 | 2 |
| f | Number of classrooms with Internet access | 310 | 310 |
| g | Number of computers or other devices with Internet access | 525 | 550 |

Block 3: Impact of Services Ordered on Libraries**NOT APPLICABLE AS THIS APPLICATION IS FOR DISTRICT****Worksheet A No:** 1129848**Student Count:** 1881**Weighted Product (Sum. Column 8):** 1692.9**Shared Discount:** 90%**1. School Name:** ADMINISTRATIVE CENTER**2. Entity Number:** 16033509 **NCES:** 17 32370 0**3. Rural/Urban:** Urban**4. Student Count:** 0**5. NSLP Students :** 0**6. NSLP Students/Students:****7. Discount:** 90%**8. Weighted Product:** 0**9. Pre-K/Adult Ed/Juv:** N**10. Alt Disc Mech:** N**1. School Name:** CHILDS ELEMENTARY SCHOOL**2. Entity Number:** 69645 **NCES:** 17 32370 03373**3. Rural/Urban:** Urban**4. Student Count:** 185**5. NSLP Students :** 185**6. NSLP Students/Students:** 100.000%**7. Discount:** 90%**8. Weighted Product:** 166.5**9. Pre-K/Adult Ed/Juv:** N**10. Alt Disc Mech:** N**1. School Name:** GORDON SCHOOL**2. Entity Number:** 69635 **NCES:** 17 32370 3374**3. Rural/Urban:** Urban**4. Student Count:** 556**5. NSLP Students :** 556**6. NSLP Students/Students:** 100.000%**7. Discount:** 90%**8. Weighted Product:** 500.4**9. Pre-K/Adult Ed/Juv:** N**10. Alt Disc Mech:** N**1. School Name:** KELLAR SCHOOL**2. Entity Number:** 69642 **NCES:** 17 32370 03375**3. Rural/Urban:** Urban

4. Student Count: 512 5. NSLP Students : 512 6. NSLP Students/Students: 100.000%
 7. Discount: 90% 8. Weighted Product: 460.8
 9. Pre-K/Adult Ed/Juv: N 10. Alt Disc Mech: N

1. School Name: POSEN SCHOOL
 2. Entity Number: 69636 NCES: 17 32370 03376
 3. Rural/Urban: Urban
 4. Student Count: 361 5. NSLP Students : 361 6. NSLP Students/Students: 100.000%
 7. Discount: 90% 8. Weighted Product: 324.9
 9. Pre-K/Adult Ed/Juv: N 10. Alt Disc Mech: N

1. School Name: TURNER ELEMENTARY SCHOOL
 2. Entity Number: 69643 NCES: 17 32370 03377
 3. Rural/Urban: Urban
 4. Student Count: 267 5. NSLP Students : 267 6. NSLP Students/Students: 100.000%
 7. Discount: 90% 8. Weighted Product: 240.3
 9. Pre-K/Adult Ed/Juv: Y 10. Alt Disc Mech: N

Block 5: Discount Funding Request(s)

| | |
|--|---|
| FRN: 1908117 FCDL Date: | |
| 10. Original FRN: | |
| 11. Category of Service: Telecommunications Service | 12. 470 Application Number: 481490000720609 |
| 13. SPIN: 143000893 | 14. Service Provider Name: Nextel West Corp |
| 15a. Non-Contracted tariffed/Month to Month Service: | 15b. Contract Number: CNMMW01032008 |
| 15c. Covered under State Master Contract: | 15d. FRN from Previous Year: 1718161 |
| 16a. Billing Account Number: 217890516 | 16b. Multiple Billing Account Numbers?: |
| 17. Allowable Contract Date: 02/09/2009 | 18. Contract Award Date: 01/24/2008 |
| 19a. Service Start Date: 07/01/2009 | 19b. Service End Date: |
| 20. Contract Expiration Date: 06/30/2010 | |
| 21. Attachment #: NXTL | 22. Block 4 Worksheet No.: 1129848 |
| 23a. Monthly Charges: \$2,628.63 | 23b. Ineligible monthly amt.: \$00 |
| 23c. Eligible monthly amt.: \$2,628.63 | 23d. Number of months of service: 12 |
| 23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$31,543.56 | |
| 23f. Annual non-recurring (one-time) charges: 0 | 23g. Ineligible non-recurring amt.: 0 |
| 23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00 | |
| 23i. Total program year pre-discount amount (23e + 23h): \$31,543.56 | |
| 23j. % discount (from Block 4): 90 | |
| 23k. Funding Commitment Request (23i x 23j): \$28,389.20 | |

| | |
|--|--|
| FRN: 1908236 FCDL Date: | |
| 10. Original FRN: | |
| 11. Category of Service: Telecommunications Service | 12. 470 Application Number: 481490000720609 |
| 13. SPIN: 143001912 | 14. Service Provider Name: Illinois Bell Telephone Company |
| 15a. Non-Contracted tariffed/Month to Month Service: Y | 15b. Contract Number: T |
| 15c. Covered under State Master Contract: | 15d. FRN from Previous Year: |
| 16a. Billing Account Number: | 16b. Multiple Billing Account Numbers?: |
| 17. Allowable Contract Date: 02/09/2009 | 18. Contract Award Date: |

| | | | |
|--|--|---------------------------------------|--|
| 19a. Service Start Date: 07/01/2009 | | 19b. Service End Date: 06/30/2010 | |
| 20. Contract Expiration Date: | | | |
| 21. Attachment #: AT&T Local | | 22. Block 4 Worksheet No.: 1129848 | |
| 23a. Monthly Charges: \$3,771.85 | | 23b. Ineligible monthly amt.: \$0.00 | |
| 23c. Eligible monthly amt.: \$3,771.85 | | 23d. Number of months of service: 12 | |
| 23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$45,262.20 | | | |
| 23f. Annual non-recurring (one-time) charges: 0 | | 23g. Ineligible non-recurring amt.: 0 | |
| 23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00 | | | |
| 23i. Total program year pre-discount amount (23e + 23h): \$45,262.20 | | | |
| 23j. % discount (from Block 4): 90 | | | |
| 23k. Funding Commitment Request (23i x 23j): \$40,735.98 | | | |

| | | | |
|---|--|--|--|
| FRN: 1908317 | | FCDL Date: | |
| 10. Original FRN: | | | |
| 11. Category of Service: Telecommunications Service | | 12. 470 Application Number: 481490000720609 | |
| 13. SPIN: 143001912 | | 14. Service Provider Name: Illinois Bell Telephone Company | |
| 15a. Non-Contracted tariffed/Month to Month Service: Y | | 15b. Contract Number: T | |
| 15c. Covered under State Master Contract: | | 15d. FRN from Previous Year: | |
| 16a. Billing Account Number: | | 16b. Multiple Billing Account Numbers?: | |
| 17. Allowable Contract Date: 02/09/2009 | | 18. Contract Award Date: | |
| 19a. Service Start Date: 07/01/2009 | | 19b. Service End Date: 06/30/2010 | |
| 20. Contract Expiration Date: | | | |
| 21. Attachment #: AT&t Long Distance | | 22. Block 4 Worksheet No.: 1129848 | |
| 23a. Monthly Charges: \$101.45 | | 23b. Ineligible monthly amt.: \$0.00 | |
| 23c. Eligible monthly amt.: \$101.45 | | 23d. Number of months of service: 12 | |
| 23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$1,217.40 | | | |
| 23f. Annual non-recurring (one-time) charges: 0 | | 23g. Ineligible non-recurring amt.: 0 | |
| 23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00 | | | |
| 23i. Total program year pre-discount amount (23e + 23h): \$1,217.40 | | | |
| 23j. % discount (from Block 4): 90 | | | |
| 23k. Funding Commitment Request (23i x 23j): \$1,095.66 | | | |

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|--|--|--|--|
| FRN: 1908415 | | FCDL Date: | |
| 10. Original FRN: | | | |
| 11. Category of Service: Internet Access | | 12. 470 Application Number: 711860000590403 | |
| 13. SPIN: 143003990 | | 14. Service Provider Name: Comcast Business Communications | |
| 15a. Non-Contracted tariffed/Month to Month Service: N | | 15b. Contract Number: IL-12031-013007-01 | |
| 15c. Covered under State Master Contract: N | | 15d. FRN from Previous Year: 1614845 | |
| 16a. Billing Account Number: | | 16b. Multiple Billing Account Numbers?: N | |
| 17. Allowable Contract Date: 12/15/2006 | | 18. Contract Award Date: 02/07/2007 | |
| 19a. Service Start Date: 07/01/2009 | | 19b. Service End Date: | |
| 20. Contract Expiration Date: 06/30/2012 | | | |
| 21. Attachment #: Comcast | | 22. Block 4 Worksheet No.: 1129848 | |
| 23a. Monthly Charges: \$7,660.00 | | 23b. Ineligible monthly amt.: \$0.00 | |
| 23c. Eligible monthly amt.: \$7,660.00 | | 23d. Number of months of service: 12 | |
| 23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$91,920.00 | | | |
| 23f. Annual non-recurring (one-time) charges: 0 | | 23g. Ineligible non-recurring amt.: 0 | |
| 23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00 | | | |
| 23i. Total program year pre-discount amount (23e + 23h): \$91,920.00 | | | |
| 23j. % discount (from Block 4): 90 | | | |

| |
|--|
| 23k. Funding Commitment Request (23i x 23j): \$82,728.00 |
|--|

| | |
|--|--|
| FRN: 1908586 FCDL Date: | |
| 10. Original FRN: | |
| 11. Category of Service: Internet Access | 12. 470 Application Number: 481490000720609 |
| 13. SPIN: 143025679 | 14. Service Provider Name: Net56, Inc |
| 15a. Non-Contracted tariffed/Month to Month Service: | 15b. Contract Number: PRSD143.5 |
| 15c. Covered under State Master Contract: | 15d. FRN from Previous Year: 1724807 |
| 16a. Billing Account Number: | 16b. Multiple Billing Account Numbers?: |
| 17. Allowable Contract Date: 02/09/2009 | 18. Contract Award Date: 02/01/2008 |
| 19a. Service Start Date: 07/01/2009 | 19b. Service End Date: |
| 20. Contract Expiration Date: 06/30/2013 | |
| 21. Attachment #: NET56 | 22. Block 4 Worksheet No.: 1129848 |
| 23a. Monthly Charges: \$24,940.00 | 23b. Ineligible monthly amt.: \$3,000.00 |
| 23c. Eligible monthly amt.: \$21,940.00 | 23d. Number of months of service: 12 |
| 23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$263,280.00 | |
| 23f. Annual non-recurring (one-time) charges: 0 | 23g. Ineligible non-recurring amt.: 0 |
| 23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00 | |
| 23i. Total program year pre-discount amount (23e + 23h): \$263,280.00 | |
| 23j. % discount (from Block 4): 90 | |
| 23k. Funding Commitment Request (23i x 23j): \$236,952.00 | |

| | |
|---|--|
| FRN: 1908687 FCDL Date: | |
| 10. Original FRN: | |
| 11. Category of Service: Basic Maintenance of Internal Connections | 12. 470 Application Number: 481490000720609 |
| 13. SPIN: 143025679 | 14. Service Provider Name: Net56, Inc |
| 15a. Non-Contracted tariffed/Month to Month Service: | 15b. Contract Number: PRSD143.5 |
| 15c. Covered under State Master Contract: | 15d. FRN from Previous Year: 1724886 |
| 16a. Billing Account Number: | 16b. Multiple Billing Account Numbers?: |
| 17. Allowable Contract Date: 02/09/2009 | 18. Contract Award Date: 02/01/2008 |
| 19a. Service Start Date: 07/01/2009 | 19b. Service End Date: |
| 20. Contract Expiration Date: 06/30/2013 | |
| 21. Attachment #: NET56 | 22. Block 4 Worksheet No.: 1129848 |
| 23a. Monthly Charges: \$8,000.00 | 23b. Ineligible monthly amt.: \$.00 |
| 23c. Eligible monthly amt.: \$8,000.00 | 23d. Number of months of service: 12 |
| 23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$96,000.00 | |
| 23f. Annual non-recurring (one-time) charges: 0 | 23g. Ineligible non-recurring amt.: 0 |
| 23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00 | |
| 23i. Total program year pre-discount amount (23e + 23h): \$96,000.00 | |
| 23j. % discount (from Block 4): 90 | |
| 23k. Funding Commitment Request (23i x 23j): \$86,400.00 | |

Block 6: Certifications and Signature

Application ID:685333

Do not write in this area.

| | | | |
|----------------|-------------|-----------------------------|--------------|
| Entity Number | 135638 | Applicant's Form Identifier | '09 471 |
| Contact Person | Tarra Batts | Phone Number | 708-388-7200 |

Block 6: Certifications and Signature

24. I certify that the entities listed in Block 4 of this application are eligible for support because they are: (check one or both)
- 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. 7801(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 schools including, but not limited to elementary, secondary schools, colleges, or universities
25. I certify that the entity I represent or the entities listed on this application have secured 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. I certify that the entities I represent or the entities listed in this application have secured access to all of the resources to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. I certify that the Billed Entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).

| | | |
|----|--|--------------|
| a. | Total funding year pre-discount amount on this Form 471 (Add the entities from Item 23l on all Block 5 Discount Funding Requests.) | \$529,223.16 |
| b. | Total funding commitment request amount on this Form 471 (Add the entities from Items 23k on all Block 5 Discount Funding Requests.) | \$476,300.84 |
| c. | Total applicant non-discount share (Subtract Item 25b from Item 25a.) | \$52,922.32 |
| d. | Total budgeted amount allocated to resources not eligible for E-rate support | \$36,000.00 |
| e. | Total amount necessary for the applicant to pay the non-discount share of the services requested on this application AND to secure access to the resources necessary to make effective use of the discounts. (Add Items 25c and 25d.) | \$88,922.32 |
| f. | <input type="checkbox"/> Check this box if you are receiving any of the funds in Item 25e directly from a service provider listed on any Forms 471 filed by this Billed Entity for this funding year, or if a service provider listed on any of the Forms 471 filed by this Billed Entity for this funding year assisted you in locating funds in Items 25e. | |

26. I certify that all of the schools and libraries or library consortia listed in Block 4 of this application are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, and an SLD-certified technology plan approver, prior to the commencement of service. The plans are written at the following level(s):
- a. an individual technology plan for using the services requested in this application; and/or
- b. higher-level technology plan(s) for using the services requested in this application; or
- c. no technology plan needed; applying for basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.
27. I certify that I posted my Form 470 and (if applicable) made my RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted were carefully considered and the most cost-effective service offering was selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals.



28. I certify that the entity responsible for selecting the service provider(s) has reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that the entity or entities listed on this application have complied with them.
29. 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 Billed Entity has not received anything of value or a promise of anything of value, other than services and equipment requested under this form, from the service provider(s) or any representative or agent thereof or any consultant in connection with this request for services.
30. I certify that I and the entity(ies) I represent have complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. There are signed contracts covering all of the services listed on this Form 471 except for those services provided under non-contracted tariffed or month-to-month arrangements. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.
31. I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.
32. 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 statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.
33. I certify that I am authorized to order telecommunications and other supported services for the eligible entity (ies) listed on this application. 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, that all of the information on this form is true and correct to the best of my knowledge, that the entities that are receiving discounts pursuant to this application have complied with the terms, conditions and purposes of this program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under the Title 18 of the United States Code, 18 U.S.C. Sec. 1001 and civil violations of the False Claims Act.
34. 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. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities listed on this application, or any person associated in any way with my entity and/or entities listed on this application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.
35. I certify that if any of the Funding Requests on this Form 471 are for discounts for products or services that contain both eligible and ineligible components, that I have allocated the cost of the contract to eligible and ineligible companies as required by the Commission's rules at 47 C.F.R. Sec. 54.504(g)(1),(2).
36. I certify that this funding request does not constitute a request for internal connections services, except basic maintenance services, in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. Sec. 54.506(c).
37. I certify that the non-discounted portion of the costs for eligible services will not be paid by the service provider. The pre-discount costs of eligible services features on this Form 471 are net of any rebates or discounts offered by the service provider. I acknowledge that, for the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.

38. Signature of authorized person

39. Signature Date 2/12/2009 9:16:16 PM

The Americans with Disabilities Act, the Individuals with Disabilities Education Act and the Rehabilitation Act may impose obligations on entities to make the services purchased with these discounts accessible to and

usable by people with disabilities.

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 Services Ordered and Certification Form (FCC Form 471) 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, consistent with the Communications Act of 1934, FCC regulations and orders, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law, information provided in or submitted with this form or in response to subsequent inquiries may be disclosed to the public.

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 471
P.O. Box 7026
Lawrence, Kansas 66044-7026**

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

**SLD Forms
ATTN: SLD Form 471
3833 Greenway Drive
Lawrence, Kansas 66046
(888) 203-8100**

Print

<< Previous

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EXHIBIT E

470

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

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.)

Block 1: Applicant Address and Identifications

| |
|---|
| Form 470 Application Number: 481490000720609 |
| Applicant's Form Identifier: FY 09 470 |
| Application Status: CERTIFIED |
| Posting Date: 01/12/2009 |
| Allowable Contract Date: 02/09/2009 |
| Certification Received Date: 01/12/2009 |

| | | |
|---|--------------------|---|
| 1. Name of Applicant: POSEN-ROBBINS SCH DIST 143 1/2 | | |
| 2. Funding Year: 07/01/2009 - 06/30/2010 | | 3. Your Entity Number 135638 |
| 4a. Applicant's Street Address, P.O.Box, or Route Number 14025 HARRISON AVE | | |
| City POSEN | State IL | Zip Code 60469-1022 |
| b. Telephone number (708) 388- 7200 | | c. Fax number (708) 388- 3868 |
| 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) | | |
| 6a. Contact Person's Name: Tarra Batts | | |
| <i>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.</i> | | |
| 6b. Street Address, P.O.Box, or Route Number <input checked="" type="checkbox"/> 14025 HARRISON AVE | | |
| City POSEN | State IL | Zip Code 60469-1022 |
| <i>Check the box next to your preferred mode of contact and provide your contact information. One box MUST be checked and an entry provided.</i> | | |

| | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | 6c. Telephone Number (708) 388- 7200 ext. 2224 |
| <input checked="" type="checkbox"/> | 6d. Fax Number (708) 388- 3868 |
| <input checked="" type="checkbox"/> | 6e. E-mail Address erate@prsd1435.org |

Block 2: Summary Description of Needs or Services Requested

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 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.

| | | |
|--|---|--|
| <input checked="" type="checkbox"/> Check this box if you prefer discounts on your bill. | <input type="checkbox"/> Check this box if you prefer reimbursement after paying your bill in full. | <input type="checkbox"/> Check this box if you do not have a preference. |
|--|---|--|

| Service or Function: | Quantity and/or Capacity: |
|--|---|
| Local and Long Distance Voice Service/ Centrex with Eligible Maintenance | 80 lines covering 7 buildings with centrex calling features |
| Voice Mail | Up to 200 accounts |
| E911 Lines | 14 |
| Cellular Service | Up to 60 Lines |
| Alarm Lines | 14 Lines |
| Video Distance Learning | 6 |

9 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 and 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 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 <input checked="" type="radio"/> Check this box if you prefer discounts on your bill. | <input checked="" type="radio"/> Check this box if you prefer reimbursement after paying your bill in full. | <input checked="" type="radio"/> Check this box if you do not have a preference. |
|--|--|---|

| Service or Function: | Quantity and/or Capacity: |
|------------------------|---------------------------|
| Internet Access | 7 buildings |
| Web hosting services | 1 District Web Page |
| Wide Area Network | 7 Buildings |
| Firewall Service | 7 Buildings |
| Email Hosting Services | 250 Email Accounts |

10 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 and 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 <input checked="" type="radio"/> Check this box if you prefer discounts on your bill. | <input checked="" type="radio"/> Check this box if you prefer reimbursement after paying your bill in full. | <input checked="" type="radio"/> Check this box if you do not have a preference. |
|--|--|---|

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 and 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.

| | | |
|--|---|--|
| <input checked="" type="checkbox"/> Check this box if you prefer discounts on your bill. | <input type="checkbox"/> Check this box if you prefer reimbursement after paying your bill in full. | <input type="checkbox"/> Check this box if you do not have a preference. |
|--|---|--|

| Service or Function: | Quantity and/or Capacity: |
|---|---------------------------|
| DNS Server Maintenance/ Support | 14 DNS Servers |
| DHCP Server Maintenance/ Support | 14 DHCP Servers |
| Router Maintenance | 20 Routers |
| Network Switch Maintenance / Support | 63 Network Switches |
| Web Server Maintenance | 1 Server |
| Email Server Maintenance | 1 Server |
| Wireless Access Point Maintenance/ Support | 75 Access Points |
| Wirless LAN Controller Maintenance/ Support | 1 Wireless LAN Controller |

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: David Wright | Title: IT Tech |
|-----------------------|-------------------|

Telephone number
(708) 388 - 7200 extn: 2224

Fax number
(708) 388 - 3868

E-mail Address
erate@prsd1435.org

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.

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.

The Disrict's future plans include purchasing services for internet access and telecommunications. The district will continue to seek assistance in the procurement of support of servers, switches, routers, access points, and other network peripherals.

Block 3: Technology Resources

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.

Block 4: Recipients of Service

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 | 7 |
| <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 |
| 708 | 259, 371, 385, 388, 417, 473, 489, 516, 932 ⇅ |

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 |
|--------|---------------|
| | |

| | |
|---------------------------------------|---------------|
| POSEN-ROBBINS SCH DIST 143 1/2 | 135638 |
| POSEN SCHOOL | 69636 |
| CHILDS ELEMENTARY SCHOOL | 69645 |
| GORDON SCHOOL | 69635 |
| TURNER ELEMENTARY SCHOOL | 69643 |
| ZIEBELL ELEMENTARY SCHOOL | 69634 |
| KELLAR SCHOOL | 69642 |

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 |
|--|------------------|---------------|
|--|------------------|---------------|

Block 5: Certification and Signature

19. I certify that the applicant includes:(Check one or both.)

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).

20. I certify that all of the individual schools, libraries, and library consortia receiving services under this application are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, an SLD-certified technology plan approver, prior to the commencement of service. The plans were written at the following level(s):

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): **01/12/2009**
29. Printed name of authorized person: **Tarra Batts**
30. Title or position of authorized person: **Director of Technology**
- 31a. Address of authorized person: **14025 Harrison Ave.**
City: **Posen** State: **IL** Zip: **60469-1022**
- 31b. Telephone number of authorized person: **(708) 388 - 7200** ext. **2224**
- 31c. Fax number of authorized person: **(708) 3883868**
- 31d. E-mail address number of authorized person: **erate@prsd1435.org**
- 31e. Name of authorized person's employer: **Posen Robbins School District 143.5**

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**

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November 2004

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