



**NAVAJO NATION DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL**

*Louis Denetsosie*  
Attorney General

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MEMORANDUM

APR - 3 2006

TO: Norbet Nez  
Computer Operations Supervisor  
Navajo Technology Empowerment Center  
Division of Community Development

FROM: *Dana L. Bobroff*  
Dana L. Bobroff  
Deputy Asst. Attorney General  
Human Services and Government Unit  
Navajo Nation Department of Justice

DATE: March 21, 2006<sup>(5)</sup>

SUBJECT: RFS No. 06-0615: E-Rate Matching Funds

The Department of Justice ("DOJ") has reviewed RFS No. 06-0615 concerning Division of Community Development ("DCD") entering a lease with On-Sat. As best as DOJ was able to interpret the correspondence, On-Sat would lease communication equipment from the Navajo Nation at a price of \$3325 per Chapter and in return the Nation would select On-Sat as the service provider for Chapter internet services at a cost of \$3325 per Chapter. The dollars received by On-Sat would be used as matching funds for the Navajo Nation Education Consortium E-Rate discount match funding.<sup>1</sup>

As a preliminary matter, DOJ has the following comments and concerns on the proposed lease with On-Sat:

1. The memorandum from Norbert Nez to DOJ dated March 15, 2006 specifically states that "[a]ccording to preliminary discussions On-Sat would lease communication equipment from the Navajo Nation, provided that On-Sat is selected as a service

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<sup>1</sup> While correspondence indicates that the deadline for submitting documents on the match to the Universal Service Administration Company was February 16, 2006, RFS No. 06-0615 was not submitted to DOJ until March 15, 2006.

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provider." It is not clear from RFS No. 06-0615 whether the Chapter internet services provider is paid through the E-rate funding. However, arrangements such as what has been proposed, wherein the Nation receives a monetary reward for selecting a certain vendor, are highly suspect under both federal and Navajo Nation law and are not allowed under the Navajo Business Opportunity Act ("NBOA").

2. Even if the Chapter internet services provider is not paid through E-rate funding, the proposed arrangement would not be grounds for avoiding NBOA's bidding requirements.
3. As to the required matching funds, Form 471 specifically states in bold letters that "[i]f you obtain these funds from an outside source, the funds must not come directly or indirectly from your service provider(s)." If scrutinized, the substance of the proposed arrangement, wherein On-Sat would be selected as the service provider and On-Sat would provide the matching funds by leasing equipment from the Nation, would reveal that the match funds were indirectly received from a service provider in violation of the Form 471 prohibition.
4. Under the Navajo Nation Appropriation's Act, 12 N.N.C. § 820(K), any additional revenue received by the Nation, such as the revenue from a lease with On-Sat, is deposited in the General Fund unless otherwise specifically designated by Navajo Nation Council. Accordingly, the revenue from the On-Sat lease will be deposited in the General Fund and not available for DCD to use as matching funds until Council specifically enacts legislation to that effect.
5. As best as DOJ was able to interpret RFS No. 06-0615, On-Sat would lease communication equipment from the Navajo Nation at a price of \$3325 per Chapter and in return the Nation would select On-Sat as the service provider for Chapter internet services at a cost of \$3325 per Chapter. This

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arrangement would not seem to result in any net gain of additional dollars to the Nation. Thus, DOJ is confused as to how this would result in producing the additional dollars needed for the matching funds, regardless of the other concerns DOJ has raised.

While DOJ's analysis is preliminary and based only on the information it has received so far, for the reasons stated above DOJ advises that the proposed arrangement not be pursued. If you have questions, please contact me at tribal extension 6936.

DLB/fnp.072

xc: Arbin Mitchell, Director  
Division of Community Development  
  
: Harold Skow, Director  
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