

Garnet E. Person, CFR
Chief Executive Officer

Received & Inspected

NOV 28 2011

FCC Mail Room

10989 Red Run Blvd.
Suite 202
Owings Mills, MD 21117
(410) 902-5800
Toll Free: (866) 372-8337
Fax: (410) 581-1209
www.erateelite.com

November 21, 2011

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: Request for Review: CC Docket No. 02-6
District of Columbia Public Library
Application No 703693 (Form 471, Funding Year 2010)
Billed Entity No. 217681

Dear Secretary Dortch:

This request for review addresses the Schools and Libraries Division's ("SLD") decision to deny funding and a subsequent appeal for FCC Form 471 703693 Funding Request No. 2078952 submitted by E-Rate Elite Services, Inc. ("EES") on behalf of the District of Columbia Public Library ("DCPL").¹ The October 6, 2010 Funding Commitment Decision Letter (FCDL) denied the aforementioned FRN and provides the following explanation: "30% or more of this FRN includes a request for My SQL database and Content Management Systems which are ineligible services based on program rules".

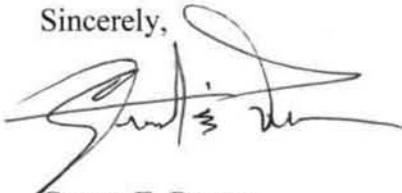
On June 4, 2010, Mr. Brian Kickey indicated the My SQL and Content Management Systems were ineligible for funding. We do not dispute the eligibility of either software. However, within our June 15, 2010 response we indicated that My SQL was open source software and the content management systems are all provided at no cost. In addition, we included a response from the service provider confirming there was no cost in their quote related to either service. My SQL is open source software free to all consumers. Accordingly, we submit the combined cost of the My SQL and Content Management Systems does not violate the 30% rule, as neither has *any* associated cost. Moreover, the requested web hosting is a bundled service inclusive of ineligible software, with no cost to allocate.

¹ Funding Commitment Decision Letter from Schools and Libraries Division, Universal Service Administrative Company, to DCPL, c/o Garnet Person (dated October 6, 2010).

SLD issued an appeal decision on October 14, 2011, as we did not receive the March 31, 2011 decision letter. E-Rate Elite moved its office on July 1, 2011. SLD forwarded a copy of the March 31, 2011, which indicated the applicant did not provide further evidence that SLD erred in their initial decision. We submit there is no additional information available that has not been provided to support the open source/free status of My SQL. We have clearly indicated the service is free regardless of the service provider or service plan that was selected. In fact, it would be inappropriate for a service provider to charge for "open source" software. We have previously made all of these statements and supported them with documentation.

Accordingly, DCPL has complied with all program guidelines as set forth above. Based on the foregoing, we respectfully request the Federal Communications Commission grant this appeal and remand this FRN back to SLD for funding under the established policies and procedures for evaluating applications during Funding Year 2010.

Sincerely,

A handwritten signature in black ink, appearing to read "Garnet E. Person", written over a horizontal line.

Garnet E. Person
Chief Executive Officer
E-Rate Elite Services, Inc.



Administrator's Decision on Appeal – Funding Year 2010-2011

Received & Inspected

NOV 28 2011

FCC Mail Room

March 31, 2011

Garnet E. Person
E-rate Elite Services, Inc.
300 Red Brook Blvd
Suite 202
Owings Mills, MD 21117

Re: Applicant Name: DISTRICT OF COLUMBIA PUBLIC LIBRARY
Billed Entity Number: 217681
Form 471 Application Number: 703693
Funding Request Number(s): 2078952
Your Correspondence Received: December 04, 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 2010 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): 2078952
Decision on Appeal: **Denied**
Explanation:

- On appeal, USAC contacted Garnet Person via phone and email on February 22, 2011 and asked for a copy of the RFP as per the free services advisory. The record shows that on March 2, 2011, USAC contacted and reminded the applicant that the requested documentation due date was March 9, 2011. As this information was not forthcoming, USAC was unable to determine if your funding request was in compliance with Program Rules. On appeal, you have failed to provide any evidence that USAC erred in its initial determination. Consequently, your appeal is denied.

- USAC reviews all program applications and makes funding commitment and disbursement decisions in compliance with FCC rules. *See* 47 C.F.R. sec. 54.500 et. seq. To conduct these reviews, USAC has put in place administrative measures to ensure the prompt resolution of applications. If applicants do not respond within the designated time period, USAC reviews the application based on the information before it. *See* Request for Review by Marshall County School District, 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, 18 FCC Rcd 4520, 4522, Order, DA 03-764 para. 6 (rel. Mar. 13, 2003). Typically, applicants are required to respond to USAC's requests for additional information necessary to complete their application within 15 days of being contacted. *See* Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Mechanism, CC Docket No. 02-6, Order, 21 FCC Rcd 5316-5317, FCC 06-54 para. 23 (rel. May 19, 2006). *See also* SLD section of the USAC website, Reference Area, "Deadline for Information Requests," www.usac.org/sl. For those instances where USAC contacts the applicant in reference to a Selective Review Information Request, the applicant is provided 30 days to comply with the request. This procedure is necessary to prevent undue delays during the application review process.
- Your FCC Form 471 application included costs for the following ineligible products and/or services: My SQL and Content Management Systems. USAC has given you an opportunity to provide a copy of the Request For Proposal ("RFP"), if there is one, and any additional documentation to indicate the extent to which free services, and/or discounts or trade-ins were part of your evaluation process in determining your selection of Service Provider bids for Program eligible services relied upon to evaluate bids and to select the service provider and you failed to do so. Accordingly, your funding request was denied. In your appeal, you did not show that USAC's determination was incorrect. Consequently, your appeal is denied.
- FCC rules provide that funding may be approved only for eligible products and services. *See* 47 C.F.R. secs. 54.502, 54.503. The USAC website contains a list of eligible products and services. *See* USAC website, www.usac.org/sl, Eligible Services List. FCC rules further require that if 30% or more of the applicant's funding request includes ineligible products and/or services, then the funding request must be denied, otherwise the funding request will be reduced accordingly. *See* 47 C.F.R. sec. 54.504(d). The FCC's Aiken County Public Schools Order directed USAC to permit the applicant 15 calendar days from the date of receipt of notice in writing by USAC to revise its funding request to remove the ineligible services or allow the applicant to provide additional documentation to show why the services are eligible. *See* Requests for Review of the Decisions of the Universal Service Administrator by Aiken County Public Schools Aiken, SC, et al., Schools and Libraries Universal Service Support Mechanism, File No. SLD-397612, et al., CC Docket No. 02-6, Order, 22 FCC Rcd 8735, FCC 07-61 para. 11 (May 8, 2007).

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

Garnet E. Person
E-rate Elite Services, Inc.
300 Red Brook Blvd
Suite 202
Owings Mills, MD 21117

Billed Entity Number: 217681
Form 471 Application Number: 703693
Form 486 Application Number:



Universal Service Administrative Company
Schools & Libraries Division

Received & Inspected

NOV 28 2011

FCC Mail Room

Administrator's Decision on Appeal – Funding Year 2010-2011

October 14, 2011

Garnet E. Person
District Of Columbia Public Library
P.o. Box 563
Owings Mills, MD 21117

Re: Applicant Name: DISTRICT OF COLUMBIA PUBLIC LIBRARY
Billed Entity Number: 217681
Form 471 Application Number: 703693
Funding Request Number(s): 2078952
Decision Letter Date: March 31, 2011
Date Appeal Postmarked: October 11, 2011
Your Correspondence Dated: October 11, 2011

Our records show that your appeal was postmarked more than 60 days after the date your Administrator's Decision on Appeal Letter was issued, as shown above. Federal Communications Commission (FCC) rules require applicants to postmark appeals within 60 days of the date on the decision letter being appealed. FCC rules do not permit the Universal Service Administrative Company (USAC) to consider your appeal.

If you believe there is a basis for further examination of your application, 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 POSTMARKED within 60 days of the above 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.

Schools and Libraries Division
Universal Service Administrative Company

Garnet E. Person
District Of Columbia Public Library
P.o. Box 563
Owings Mills, MD 21117

Billed Entity Number: 217681
Form 471 Application Number: 703693
Form 486 Application Number: