

Exhibit B

Bloomfield Public School District,
Petition for Reconsideration and Waiver of Commission Rule on
30-Day Filing, CC Docket No. 02-6 (filed Mar. 29, 2012)

Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Requests for Review of)	
Decisions of the)	
Universal Service Administrator by)	
)	
Bloomfield Public School District)	File Nos. SLD-498,690, 545994, 600085,
Bloomfield, New Mexico)	656519, 693027, 739004
)	
)	CC Docket No. 02-6
)	

**PETITION FOR RECONSIDERATION AND
WAIVER OF COMMISSION RULE ON 30-DAY FILING**

The Board of Education of the Bloomfield Public School District, Bloomfield, New Mexico (School District) petitions the Federal Communications Commission (Commission) to reconsider the School District’s request for review of the Universal Service Administrative Company’s (USAC) denial of funding under the E-rate program, dated October 21, 2010, and appended to this Petition as Exhibit A. Further, the School District requests that the Commission waive the 30-day deadline for filing the reconsideration request. As grounds therefore, the School District states the following.

RECONSIDERATION

1. On June 12, 2009, USAC notified the School District that its service provider, Trillion Partners, Inc. (Trillion) was named as one of several defendants in a complaint brought by the State of Arizona alleging antitrust, bid rigging, procurement fraud, and conflict of interest violations of Arizona law. The complaint alleged that, among other things, Trillion, who

submitted a bid related to Tucson Unified School District (TUSD) E-rate program applications, obtained inside information from TUSD's E-rate program consultant and provided gifts and gratuities to TUSD administrative employees involved in the procurement process. Trillion and TUSD settled the case and entered into consent judgments with Arizona.

2. Apparently, the TUSD matter raised concerns by USAC as to whether *other* funding requests associated with Trillion were noncompliant, and caused USAC to request information from the School District to determine whether it was in compliance with Commission rules governing the E-rate program.

3. On June 2, 2010, USAC notified the School District that it was in the process of reviewing the School District's funding requests with Trillion to ensure that they were in compliance with USAC rules. USAC was concerned that e-mail correspondence between the School District and Trillion which predated the filing of Form 470 may have affected the fair and competitive bidding process.

4. In August of 2010, the School District first contacted its legal counsel, Cuddy & McCarthy, LLP, about the matter involving the allegations against the School District for violations of the federal requirements for an open procurement process to award their E-rate contract.

5. On September 9, 2010, the School District responded to USAC, explaining the problems with Wide Area Network services in underserved rural areas of New Mexico, its lack of pertinent technical expertise, and its search for alternatives through contact with a technology vendor, Trillion. The School District also discussed the receipts for meals and travel that USAC claimed demonstrated violations of the Commission's procurement rules.

6. On October 21, 2010, the USAC issued a Notification of Commitment Adjustment Letter, denying E-rate funding on the grounds that funds were committed in violation of E-rate program rules. USAC alleged that prior to and throughout the School District's contractual relationship with Trillion, School District employees were offered and accepted meals, gratuities, or entertainment from Trillion, which resulted in a competitive process that was no longer fair and open.

7. The School District then appealed the USAC denial, but the School District's legal counsel was not consulted to assist in preparing the appeal. In fact, the School District's legal counsel was not aware until recently that the USAC had issued the Notification of Commitment Adjustment, nor that an appeal of that decision had been filed with the Commission.

8. On February 23, 2012, the Commission denied the School District's request for a review of USAC's decision. In its Order, the Commission noted that, while USAC had denied the School District funding requests due to receipt of gifts, the Commission based on its decision on its finding that the School District violated the Commission's competitive bidding rules by engaging in improper communications with Trillion. As support for the decision in its Order denying review, the Commission relies on prior decisions relating to E-rate funding.

9. The Commission's decision focused on the communications issues referred to in ¶3 above, and not the meals or other gratuities. The School District perceives that this results from the Commission's Order DA-11-1854, issued after the USAC Notification of Commitment Adjustment Letter, but before the Commission decision in this case. In Order DA-11-1854, dated November 4, 2011, the Commission found that the gifts at issue did not, by themselves,

compromise the competitive bidding process because they were minimal or given to employees who had no authority to influence the bidding process.

10. On February 27, 2012, the School District contacted its legal counsel about this matter for the first time since August 2010. No attorney for the School District had been involved in any of the review, analysis, or appeals process during this critical time. Also critical is that no one from Trillion or the School District obtained any input from Sondra Adams, the School District's former Director of Technology and the employee involved in the e-mail communications challenged by USAC. Legal counsel contacted Ms. Adams, and in support of this Petition she presents an affidavit to explain the e-mail communications, and the misinterpretation as to her conversations with Trillion.

11. The Commission has established a fair and open bidding or proposal process as a means to prevent waste, fraud, and abuse of federal program resources. *Schools and Libraries Universal Service Support Mechanism*, Third Report and Order and Second Further Notice of Proposed Rulemaking, CC Docket No. 02-6, 18 FCC Rcd 26912, 26939, para. 66.

12. The Commission rules conclude that, when a FCC Form 470 contact person influences an applicant's competitive bidding or proposal process by controlling the dissemination of information regarding the services requested and, when an applicant delegates that power to an entity that also participates in the bidding or proposal process as a prospective service provider, the applicant impairs its ability to hold a fair competitive bidding process. *Request for Review of Mastermind Internet Services, Inc. Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket No. 96-45, Order, 16 FCC Rcd 4028.

13. Under the Commission rules, all potential bidders and service providers must have access to the same information and must be treated in the same manner throughout the procurement process. *Request for Review of Mastermind Internet Services, Inc. Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket No. 96-45, Order, 16 FCC Rcd 4033, para. 10.

14. Title 47 C.F.R. § 54.5039(a) presents the Commission's competitive bidding requirements. This subsection states that "all entities participating in the schools and libraries universal service support program must conduct a fair and open competitive bidding process."

15. This Section of the Code also identifies activities or behaviors that would not result in a fair and open competitive bidding or procurement process:

- a. The applicant for supported services has a relationship with a service provider that would unfairly influence the outcome of a competition or would furnish the service provider with inside information;
- b. Someone other than the applicant or an authorized representative of the applicant prepares, signs, and submits the FCC Form 470 and certification;
- c. A service provider representative is listed as the FCC Form 470 contact person and allows that service provider to participate in the competitive bidding process;
- d. The service provider prepares the applicant's FCC Form 470 or participates in the bid evaluation or vendor selection process in any way;
- e. The applicant turns over to a service provider the responsibility for ensuring a fair and open competitive bidding process;
- f. An applicant employee with a role in the service provider selection process also has an ownership interest in the service provider seeking to participate in the competitive bidding process; and

- g. The applicant's FCC Form 470 does not describe the supported services with sufficient specificity to enable interested service providers to submit responsive bids.

16. USAC guidance provides further clarification:

The competitive bidding process must be fair and open. “Fair” means that all bidders are treated the same and that no bidder has advance knowledge of the project information. “Open” means that there are no secrets in the process, such as information shared with one bidder but not with others, and all bidders know what is required of them. The [FCC] Form 470 or the RFP should be clear about what products, services, and quantities the applicant is seeking. In order to be sure that a fair and open competition is achieved, any marketing discussions held with service providers must be neutral, so as not to taint the competitive bidding process. That is, the applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with “inside” information or allow it to unfairly compete in any way. *See* <http://www.usac.org/sl/applicants/step03/run-open-fair-competition.aspx>.

17. In denying the School District’s funding under the E-rate program, USAC pointed to e-mail correspondence between the School District and Trillion that occurred before the School District filed its Form 470. USAC contends that the e-mail exchanges suggest the School District intended to select Trillion for the contract for services without a fair and open competition.

18. The School District respectfully denies that it engaged in anything but a fair and open competitive bidding or procurement process. The communications between School District employees and Trillion were neutral and did not taint the bidding process. *See* Exhibit B, Affidavit of Sondra Adams. Neither did the discussions unfairly influence the outcome of the competition for E-rate services. *Id.* The School District did not furnish Trillion with any inside information which was not available to or shared with other prospective vendors, or allow it to unfairly compete in any way. *Id.*

19. The School District is located in an underserved area of New Mexico and has very limited options on networking services and Internet access. *Id.* To resolve its problems presented by its current inadequate and malfunctioning Wide Area Network, the School District started looking into options for networking services and Internet access, and identified Wireless Wide Area Networking as a possible solution. Rather than using limited School District resources on network engineering services, the School District sought the outside assistance of Trillion for its technical expertise only. Use of technical expertise was permissible under New Mexico procurement law and did not taint the competitive bidding process or slant the selection in favor of any proposed vendors.

20. The decision to use Wireless Wide Area Network services was solely the School District's decision.

21. Trillion did not prepare, sign, or submit the School District's Form 470 and certification. *Id.* This form was prepared and submitted by the School District and its E-rate consultant.

22. Trillion did not participate in the bid evaluation or vendor selection process in any way. *Id.*

23. On January 10, 2006, the School District published a solicitation for public bids or proposals through Form 470 for Wireless Wide Area Network data and voice services. Several bidders called the School District to inquire about the services required, but the School District received only one bid at the closing of the bid time frame. *Id.* The vendor was Trillion. The School District evaluated its bid response to ensure that it included all of the services and functionality the School District needed. Trillion was awarded the contract by public action of the School District Board of Education. *Id.*

24. The School District fully complied with the 28-day waiting period, during which every Wireless Wide Area Network vendor in the country had an opportunity to bid on the School District's Wireless Wide Area Network services.

25. Trillion met the School District's requirements, were cost effective, and were within budget. *Id.* The contract to Trillion was awarded in accordance with USAC requirements.

26. The School District provided all potential bidders access to the same information and treated them in the same manner throughout the procurement process. *Id.*

REQUEST FOR WAIVER OF 30-DAY FILING DEADLINE

1. Petitions for reconsideration must be filed within 30 days of the release date. 47 C.F.R. § 1.4(b)(2).

2. The Commission sent the School District the Commission's decision on its appeal of the USAC decision by memorandum dated March 7, 2012. The memorandum indicated that the School District had 30 days from the release date of the decision to file a petition for reconsideration.

3. In an oversight, the 30-day filing period was calculated from the date of the memorandum (March 7, 2012), not from the release date.

4. The release date for the Commission Order in this case was February 23, 2012. Thus, the 30-day period for filing a petition for reconsideration would actually have been March 24, 2012, which is a Saturday, thus making the due date Monday, March 26, 2012.

5. We understand that the Commission has strictly construed deadlines for filing petitions for reconsideration, and that it has in the past dismissed as untimely three petitions for reconsideration in Order DA 11-1018, dated June 8, 2011. However, in the situations covered by

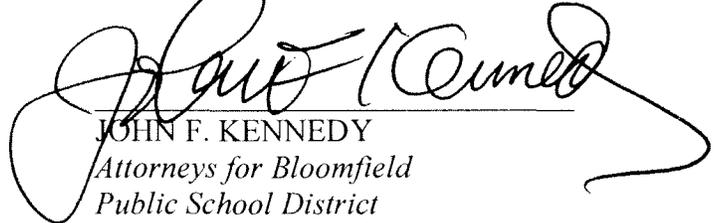
Order DA 11-1019, the appeals were filed 58 days or longer, one more than two years, after the Commission's original denials.

6. In this case due to a de minimus oversight, the Petition is filed three days past the deadline.

7. We also understand that the Commission's rules may be waived only by good cause shown. 47 C.F.R. § 1.3. Given that the School District is only days past the deadline, no third party will suffer any detriment if the deadline is extended, and the public interest would be served by allowing the waiver, we respectfully request a waiver of the 30-day rule and that the Commission allow our Petition for Reconsideration to be filed as timely.

WHEREFORE, the School District respectfully requests the Commission reconsider its denial of the School District's request for review of the USAC decision and grant a waiver of the 30-day rule for filing this Petition for Reconsideration.

CUDDY & MCCARTHY, LLP



JOHN F. KENNEDY
*Attorneys for Bloomfield
Public School District*



Notification of Commitment Adjustment Letter

Funding Year 2006: July 1, 2006 - June 30, 2007

October 21, 2010

Virginia Bryant
Trillion Partners, Inc
9208 Waterford Center Blvd. Suite 150
Austin, TX 78758

Re: SPIN: 143025872
Service Provider Name: Trillion Partners, Inc
Form 471 Application Number: 498690
Funding Year: 2006
FCC Registration Number:
Applicant Name BLOOMFIELD SCHOOL DISTRICT
Billed Entity Number: 143262
Applicant Contact Person: Steve Tenzer

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now adjust the overall funding commitment. The purpose of this letter is to make the required adjustments to the funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the service provider is responsible for all or some of the program rule violations. Therefore, the service provider is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html.

TO APPEAL THIS DECISION:

You have the option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC).

If you wish to appeal the Commitment Adjustment Decision indicated in this letter to USAC your appeal must be received or postmarked within 60 days of the date of this letter. If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received 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 email address (if available) for the person who can most readily discuss this appeal with us.
 2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Number(s) (FRN) you are appealing. Your letter of appeal must include the
 - Billed Entity Name,
 - Form 471 Application Number,
 - Billed Entity Number, and
 - FCC Registration Number (FCC RN) from the top of your letter.
 3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. 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 an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a 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 your appeal 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 Rd.
P. O. Box 902
Whippany, NJ 07981

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

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.

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/sl/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to the applicant for informational purposes. If USAC has determined the applicant is also responsible for any rule violation on the FRN(s), a separate letter will be sent to the applicant detailing the necessary applicant action.

Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or the applicant(s) submits to USAC are consistent with Program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds the Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the service provider is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: Steve Tenzer
BLOOMFIELD SCHOOL DISTRICT

Funding Commitment Adjustment Report
Form 471 Application Number: 498690

Funding Request Number:	1438436
Contract Number:	N/A
Services Ordered:	TELCOMM SERVICES
Billing Account Number:	
Original Funding Commitment:	\$215,708.08
Commitment Adjustment Amount:	\$215,708.08
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$138,156.28
Funds to be Recovered from Service Provider:	\$138,156.28

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of a review, documentation provided by you and/or your vendor indicated that there was not a fair and open competitive bid process free from conflicts of interest. The documents provided by you and/or your service provider indicated that, prior to/throughout your contractual relationship with the service provider listed on the FRN, you were offered and accepted gifts, meals, gratuities, or entertainment from the service provider, which resulted in a competitive process that was no longer fair and open. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and service provider.

Funding Request Number:	1438482
Contract Number:	N/A
Services Ordered:	INTERNET ACCESS
Billing Account Number:	
Original Funding Commitment:	\$16,239.30
Commitment Adjustment Amount:	\$16,239.30
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$13,838.33
Funds to be Recovered from Service Provider:	\$13,838.33

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of a review, documentation provided by you and/or your vendor indicated that there was not a fair and open competitive bid process free from conflicts of interest. The documents provided by you and/or your service provider indicated that, prior to/throughout your contractual relationship with the service provider listed on the FRN, you were offered and accepted gifts, meals, gratuities, or entertainment from the service provider, which resulted in a competitive process that was no longer fair and open. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and service provider.



Notification of Commitment Adjustment Letter

Funding Year 2007: July 1, 2007 - June 30, 2008

October 21, 2010

Matthew Hetman
BLOOMFIELD SCHOOL DISTRICT
PO Box 242157
Montgomery, AL 36124 6729

Re: Form 471 Application Number: 545994
Funding Year: 2007
Applicant's Form Identifier: 143262-2007-471
Billed Entity Number: 143262
FCC Registration Number: 0014521603
SPIN: 143025872
Service Provider Name: Trillion Partners, Inc

Service Provider Contact Person: Virginia Bryant

Our routine review of Schools and Libraries Program (Program) funding commitments has revealed certain applications where funds were committed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the required adjustments to your funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html.

TO APPEAL THIS DECISION:

You have the option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC).

If you wish to appeal the Commitment Adjustment Decision indicated in this letter to USAC your appeal must be received 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 email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Number(s) (FRN) you are appealing. Your letter of appeal must include the
 - Billed Entity Name,
 - Form 471 Application Number,
 - Billed Entity Number, and
 - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. 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.
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5. Provide an authorized signature on your letter of appeal.

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

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

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

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.

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/sl/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on the FRN(s), a separate letter will be sent to the service provider detailing the necessary service provider action.

Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or your service provider(s) submits to USAC are consistent with Program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: Virginia Bryant
Trillion Partners, Inc

Funding Commitment Adjustment Report for
Form 471 Application Number: 545994

Funding Request Number:	1508051
Services Ordered:	TELCOMM SERVICES
SPIN:	143025872
Service Provider Name:	Trillion Partners, Inc
Contract Number:	N/A
Billing Account Number:	
Site Identifier:	143262
Original Funding Commitment:	\$215,708.08
Commitment Adjustment Amount:	\$215,708.08
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date	\$167,772.96
Funds to be Recovered from Applicant:	\$167,772.96

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of a review, documentation provided by you and/or your vendor indicated that there was not a fair and open competitive bid process free from conflicts of interest. The documents provided by you and/or your service provider indicated that, prior to/throughout your contractual relationship with the service provider listed on the FRN, you were offered and accepted gifts, meals, gratuities, or entertainment from the service provider, which resulted in a competitive process that was no longer fair and open. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and service provider.

Funding Request Number: 1508056
Services Ordered: INTERNET ACCESS
SPIN: 143025872
Service Provider Name: Trillion Partners, Inc
Contract Number: N/A
Billing Account Number:
Site Identifier: 143262
Original Funding Commitment: \$16,239.30
Commitment Adjustment Amount: \$16,239.30
Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date \$12,630.56
Funds to be Recovered from Applicant: \$12,630.56

Funding Commitment Adjustment Explanation:

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EXHIBIT B
AFFIDAVIT OF SONDRAD ADAMS, FORMER DIRECTOR OF TECHNOLOGY
BLOOMFIELD SCHOOL DISTRICT

We were unable to get this affidavit signed today; the document will be filed tomorrow as soon as it is executed.

**CUDDY
&
McCARTHY**
A Limited Liability Partnership

JOHN F. MCCARTHY, JR.
JOHN F. KENNEDY
M. KAREN KILGORE
SANDRA J. BRINCK
PATRICIA SALAZAR IVES
AARON J. WOLF
REBECCA DEMPSEY
JACQUELYN ARCHULETA-STAEHLIN
JULIE A. WITTENBERGER
CHERYL D. FAIRBANKS
RAMON VIGIL, JR.
ANDREW M. SANCHEZ
PATRICK T. ORTIZ
CHARLES V. GARCIA
ARTURO L. JARAMILLO

EVELYN A. PETTON
YOUNG-JUN (JUN) ROH
MATTHEW L. CAMPBELL
IAN DOUGLAS
SHANA S BAKER
REGINA MOSS

REPLY TO SANTA FE OFFICE

March 30, 2012

Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Re: ECFS Filing Receipt - Confirmation number: 2012329258941

We filed a petition for reconsideration yesterday with the Federal Communications Commission, referenced by the above confirmation number. We indicated that Exhibit B, Affidavit of Sondra Adams would be forthcoming. Please find it submitted with today's e-filing.

Sincerely,

CUDDY & MCCARTHY, LLP



Jennifer Lee Bradley

6. In denying the School District's funding under the E-rate program, USAC pointed to e-mail correspondence between the School District and Trillion that occurred before the School District filed its Form 470. USAC contends that the e-mail exchanges suggest the School District intended to select Trillion for the contract for services without a fair and open competition.

7. The references to e-mail exchanges are to my discussions with Trillion. The School District is located in an underserved area of New Mexico and has very limited options on networking services and Internet access. To resolve its problems presented by its current inadequate and malfunctioning Wide Area Network, I started looking into options for networking services and Internet access, and identified Wireless Wide Area Networking as a possible solution. Rather than using limited School District resources on network engineering services, I sought the outside assistance of Trillion for its technical expertise only. My discussions with Trillion are summarized as follows.

8. On July 19, 2005, at 3:25 PM, I received an e-mail from Gary Gaessler, Regional Sales Manager with Trillion. He asked me some questions regarding site locations, T1 connections, and fiber location and distance. He also discussed services, such as firewalls, content filtering, e-mail filtering, *etc.* This was a neutral conversation, by which Mr. Gaessler was discussing the types of services or products Trillion had to offer, in light of the School District's current technology needs so that I could determine what products or services may address the School District's technological infrastructure needs at the time.

9. On August 28, 2005, at 4:55 PM, I sent an e-mail to Mr. Gaessler, indicating that the School District planned to work with its E-rate consultant to get its Form 470 filed. I did ask for examples of language used in previous Form 470s and provided information about our current

technology system. I also agreed to meet with Trillion representatives to discuss their product offerings. However, I did not provide Trillion with any information that was not available to anyone else who would have been submitting a proposal for the services, and Trillion did not prepare, review, or complete the Form 470.

10. On August 30, 2005, at 11:15 AM, I received an e-mail from Gary Gaessler, Regional Sales Manager with Trillion. He provided me an example of a description for a Wireless Wide Area Network and Voice Service, which he read from USAC's Eligible Services List. He also suggested that the services could be provided on a multi-year basis or allow for voluntary extensions. Mr. Gaessler offered to review a Form 470, but we did not provide this to him, nor did we use his suggested language in the description of services published in Form 470 for solicitation of bids. Again, this was a neutral conversation and I provided no information to Mr. Gaessler that would affect the bidding processes.

11. On August 30, 2005, at 4:38 PM, I received an e-mail from Gary Gaessler, Regional Sales Manager with Trillion. He asked me whether any of the dates and times that he identified in the e-mail were available to meet with me, the School District's lead technician, and Trillion's IP Tel Engineer and project manager to discuss the School District's current LAN network, i.e., switching, equipment, models, hubs, QOS capabilities, *etc.* This was a neutral conversation, and he was gathering information to determine the scope and nature of the School District's current technology in use so that his bid would be responsive to the School District's needs. The same information was available to any vendor.

12. These communications between me and Trillion were neutral and did not taint the bidding process.

13. Neither did our discussions unfairly influence the outcome of the competitive procurement process for E-rate services.

14. I did not furnish Trillion with inside information or information of any kind which was not available to or shared with other interested vendors, or allow it to unfairly compete in any way.

15. On January 10, 2006, the School District went out to bid through Form 470 for Wireless Wide Area Network data and voice services. Several bidders called in to the School District to inquire about the services required, essentially seeking the same information sought by Trillion in ¶11, above. However, the School District received only one bid at the closing of the bid time frame. The vendor was Trillion. The School District evaluated its bid response to ensure that it included all of the services and functionality the School District needed. Trillion was awarded the contract.

16. Trillion met the School District's requirements, were cost effective, and were within budget.

17. The School District provided all potential bidders access to the same information and treated them in the same manner throughout the procurement process.

18. Trillion did not prepare, sign, or submit the School District's Form 470.

19. Trillion did not participate in the bid evaluation or vendor selection process in any way.

20. I provided all potential bidders access to the same information and treated them in the same manner throughout the procurement process.

Further, the Affiant states not.

