

This letter is an appeal in response to the Notification of Commitment Adjustment Letters received on Feb 4 2013 & Feb 25 2013. Please direct any correspondence regarding this appeal to:

Abe Munk
15 Remon Lane
Lakewood, NJ 08701
P: 732-901-4015
F: 732-901-0393
E: admunk@admng.com

The Notification of Commitment Adjustment Letter references the following FRN(s):

FRN: 1854283, 2162300, 1854281, 2038566
Billed Entity Name: YESHIVA ORCHOS CHAIM
Form 471 Application Number: 798703, 678997, 752628
Billed Entity Number: 227947
FCC Registration Number: not provided

The Funding Commitment Adjustment Explanation states:

FRN 1854283, 2162300: "During a review, it was determined that funding was provided for the following ineligible items: additional PBX system - Bogen Quantum PBX Expansion unit."

FRN 1854281, 2038566: "During a review, it was determined that funding was provided for the following ineligible items: Maintenance for a Bogen Expansion PBX unit that is functioning as a redundant PBX system."

The reason for the adjustment to all of the FRNs is the same. USAC determined the Bogen systems to be functioning as a redundant PBX. During the review, we submitted replies to correspondence received from USAC, clearly stating that we did not agree to such determination, including information supporting our position. All relevant correspondence is attached to this appeal. We did not receive any notice in reply to said statement, nor any explanation to sustain USAC's determination. The Notification of Commitment Adjustment Letter simply restated that which the original correspondence claimed, with no additional information supporting that claim, nor an answer to the information we supplied.

Concisely, the points of appeal are as follows:

1. We designed the system to best fit the needs of the applicant, utilizing each system for its strengths, creating a hybrid approach at a price point near that of a single system performing the same tasks. Neither system is in standby, both are active and online, and each is an essential element in the transmission of information - disparate in the needs they fill. The reason we chose to keep the systems separate, as well as the reasons we could keep it cost effective are explained in further detail in the attached documentation.
2. As service providers, we have acted in good faith to our client and to the fund, and the services we have provided, many of which underwent PIA review, were determined eligible. We find it hard to continue to provide services, knowing that arbitrary decisions at a later date can revert funding commitments, leaving us financially responsible for products and services we have already provided to our clients.
3. Additionally, FRN 1854281, which was for maintenance of internal connections was not cost allocated to adjust only the portion covering the Bogen system. The correct cost-allocated amount would be \$1620.00.

ITEM #1 explanation:

The following is the information you requested with regard to the design of the communication system installed in the applicant's facility. A great deal of thought was incorporated into the design, affected by many factors, to best suit the needs of the students, teachers, and office faculty. It was discussed extensively with the administrative staff of the school, and designed to be the most cost-effective solution to their needs.

The main focus of the inquiry was to explain the necessity for a "redundant PBX", or to describe the functional purpose of the Asterisk Based PBX designed to be installed alongside the Bogen Multicom Quantum. We have chosen to offer our clients Asterisk based PBX systems as a general purpose PBX, specifically since the core architecture is designed to allow us to better match the needs of a school environment. However, the Bogen Quantum Multicom IP PBX was the best choice for student communication needs. Designed with classroom use as its prime focus, the Bogen system is naturally suitable for the use of the students. The Quantum design; however, pales in comparison with our school oriented PBX in every other aspect of communication. This list is a far cry from exhaustive, but features such as: voicemail, PIN locked dialing, wireless compatibility, PRI or VOIP trunks, or absolute lack thereof, suggest using an alternative to the Bogen PBX.

It was decided; therefore, that we would design a hybrid approach, utilizing the Bogen Quantum for the areas it excels, and another PBX for the remainder. We were confident that we could do so without increasing the price, and expected our final quotes to remain reasonable and competitive. This is due largely to the fact that facilitating such a quantity of analog ports to a largely IP based PBX for the students' use would cost about the same as the Quantum system. Additionally, we felt that the slightly added complexity was outweighed by the benefit of having the best form of communication available for the classrooms, the areas most proximate to the students for the bulk of the day. We have learned that redundant systems generally remain idle, as users have no need for them or desire to learn another system. Our studies of the usage patterns after the installation revealed that both systems were being used extensively, suggesting that clients were comfortable with our decision.

We understand that ultimately price is the largest factor in a decision, as even after funding, our clients, who are generally working not-for-profit, can ill afford to pay the premium for the technology they require. To that end, as we designed the system to be split across the two PBXs, we carefully engineered it to remain as cost-effective, and to avoid any redundant expenditure. As we designed it, neither system is "in standby mode", neither is "not active and online", and both are "an essential element in the transmission of information". "Redundant" is generally defined as exceeding what is necessary or normal. Since neither serves the same function, we definitely don't consider our design to exceed what is necessary, thus we do not agree with our design being classified as "redundant". Different than normal, perhaps, but not exceeding what is normal. We feel that we acted in good faith, both to the applicant, and to the Fund, providing what we considered to be the best design, for a reasonable price, utilizing eligible products, and within the framework of the eligibility requirements.

ITEM #3 - Correspondence originally mentioning cost allocation

Avrohom D. Munk

From: Cromie, Donna <Donna.CROMIE@sl.universalservice.org>
Sent: Monday, January 28, 2013 1:55 PM
To: Avrohom D. Munk
Subject: RE: Erate 471# 798703 & 678997 & 752628 YESHIVA ORCHOS CHAIM

-2 pages-

Hi Mr. Munk,

These FRNs were by themselves. These are OK.

Donna M. Cromie
Associate Manager, Program Compliance
30 Lanidex Plaza West | Parsippany, NJ 07054
T: 973.581.5263 | F: 973.599.6582
Donna.Cromie@sl.universalservice.org

From: Avrohom D. Munk [mailto:ADMunk@ADMNG.com]
Sent: Monday, January 28, 2013 1:49 PM
To: Cromie, Donna
Subject: RE: Erate 471# 798703 & 678997 & 752628 YESHIVA ORCHOS CHAIM

Donna,

I can provide the cost allocation for these if necessary since these amounts include other equipment also. However, I'm assuming that the information I already sent you last week would cover this also.

If you need any additional information, please let me know.

Thanks again,

Abe

From: Cromie, Donna [mailto:Donna.CROMIE@sl.universalservice.org]
Sent: Monday, January 28, 2013 12:48 PM



Schools and Libraries Division

January 28, 2013	
Abe Munk	
YESHIVA ORCHOS CHAIM	
Telephone:	(732) 901-4480
Fax:	(732) 901-0393
Email:	admunk@admng.com
Application Number	678997 & 798703 & 752628

Response Due Date: 2/12/2013

Time Sensitive – 15-Day Response Expected

As we discussed in our conversation, the Program Compliance team is in the process of reviewing your **Funding Year 2009, 2010 & 2011** Form 471 application for schools and libraries discounts to ensure that it is in compliance with the rules of the Universal Service program. To complete my review, I need some additional information. The information needed to complete the review is listed below.

Based on review of the documentation that you have provided, USAC may need to rescind your funding commitment for the FRNs listed below as required by program rules. The funding commitment may be rescinded for this FRN and we will seek recovery of any disbursed funds from the service provider for this FRN because the funding was improperly committed and/or disbursed for the following ineligible products/services:

The PBX phone system is ineligible, functioning as a redundant PBX unit.

FY 2009	Annual Pre-Discount amount	Annual Post-Discount amount improperly committed
FRN 1854281		
Basic Maintenance for Bogen Multicom Quantum PBX System	\$15,900.00	\$14,310.00



Please confirm that you agree with the **\$14,310.00** the commitment adjustment and recovery of improperly disbursed funds determination. Yes or No

FY 2010	Annual Pre-Discount amount	Annual Post-Discount amount improperly committed
FRN 2038566		
Basic Maintenance for Bogen Multicom Quantum PBX System	\$15,900.00	\$14,310.00

Please confirm that you agree with the **\$14,310.00** the commitment adjustment and recovery of improperly disbursed funds determination. Yes or No

FY 2011	Annual Pre-Discount amount	Annual Post-Discount amount improperly committed
FRN 2162349		
Basic Maintenance for Bogen Multicom Quantum PBX System	\$17,100.00	\$15,390.00

Please confirm that you agree with the **\$15,390.00** the commitment adjustment and recovery of improperly disbursed funds determination. Yes or No

If you disagree with our eligibility determination and you have alternative information, please provide third party supporting documentation (e.g., vendor bill, contract, service agreement, etc.).

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 commitment adjustment and/or recovery of previously disbursed funds.** If recovery is needed, USAC may seek recovery of any improperly disbursed funds from the service provider.