Wolfson
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July 11, 2013

Letter of Appeal
School & Libraries – Correspondence Unit
30 Lanidex Plaza West
P.O. Box 685
Parsipanny, NJ 07054-0685

RE: Notification of Commitment Adjustment Letter

Dated:	**June 25, 2013**
Funding Year:	**2009**
SPIN:	**143031923**
SP Contact:	**Kathy Freund**
Form 471 App #:	**695480**
FRN:	**1910466**
Applicant Name:	**Tiseres Bnos**
Billed Entity Number:	**16051998**
Applicant Contact:	**Yoel Holtzman**
COMAD Amount:	**$3,135.24**
Funds to be recovered:	**$3,135.24**

Below we have responded to the specific claims of the COMAD notification we received which calls for the FRN referred to above to be rescinded in full. The goal of our appeal is to respond to the claims contained in the COMAD so that the USAC shall decide to discontinue its commitment adjustment action. In addition to this however we hope to use this appeal as a means to provide information that will persuade USAC to correct what we understand to be serious mistake in their conclusion that the Bogen Multicom System is an ineligible product.

The impact of that decision will be to deprive the schools and libraries which are participating in the program from having access to an extremely well respected, reliable, feature rich and cost effective communication system. In addition were the COMADS to stand, it will be placing an extreme hardship on Service Providers who acted in good faith selling a product that was considered to be eligible and was in fact approved for funding for over 13 years prior to this action. Further there will be a high cost to the program in that many of the schools and libraries that are affected by the COMADS will replace the Bogen Multicom by expanding their PBX or adding a second PBX, either of which will likely be at a much higher price than the cost of the Bogen Multicom.

The Bogen Multicom is a very robust system which was designed to provide a very wide spectrum of communication options all specifically designed for schools and similar facilities. Like many other products that have a broad scope of options and features the Bogen Multicom can potentially be configured in such a way as to make it partly or possibly even wholly ineligible. However the design and configuration used by our company is one that based on our understanding of the program rules is eligible.

Based on information gathered from discussions with other service providers and several consultants we are under the impression that misinformation and undue emphasis on the potentially ineligible configuration of the Bogen Multicom has led USAC to a false conclusion that the Bogen Multicom should be considered an illegible product. We hope to help correct that perspective and we offer our assistance in providing any additional information needed to help clarify USAC's understanding of this product. We have been assured by Bogen that they are willing to meet with USAC and provide any information and provide a system demonstration to help correct any wrong impression USAC may have of the Bogen Multicom so as to reverse its current opinion.

Configuration: The basic idea behind our PBX design for schools and libraries is to use the most appropriate and cost effective product for each different type of application. In keeping with this idea we utilize a "primary" PBX which provides the capability for advanced multiline telephone instruments, IP Telephones, voicemail and standard and advanced telephone line interface such as PRI or SIP Trunks. For the areas of the school or library that require standard telephone service (single line phones), particularly where more durable wall mounted phones are needed, we use the Bogen Multicom. The Bogen Multicom and the "primary" PBX are integrated in such a fashion that they are effectively one system, station-to-station calls and calls to the public switched network flow freely between the two systems. Most users do not even realize there are actually two systems integrated.

The cost of utilizing the two systems will typically be similar to the cost of adding the additional capacity to the "primary" PBX, so there is no issue of cost effectiveness. Even in a situation where the cost may be slightly higher the benefit of a more rugged system which was specifically designed for school and in particular classroom use adds additional value. In addition, the higher reliability combined with the fact that the cost of the system component cards and in particular the station cards for the Bogen Multicom are typically less expensive than those of the "primary' PBX makes maintenance and replacement costs lower, further enhancing the cost effectiveness consideration.

Although the design as described above is typically how we utilize the Bogen Multicom it should be noted that telephone lines can be connected directly to the Bogen Multicom enabling access to the public switched network without requiring a "primary" PBX. It is the combination of the two systems however that provides the best and most cost effective solution for the school's over all telephony requirements.

Potential Ineligible Designs: Although it is constantly being upgraded (it now supports VoIP phones and multi-system networking) the Bogen Multicom is a vintage school communication system. Although it is not the design or configuration that we use, the Bogen Multicom can be configured to function as a stand alone intercom or a public address system. If the system were to be configured as an intercom only or public address system, the item 21 list of components used would reflect this. We feel it is likely that persons not familiar with the program could have easily and innocently used the wrong language and inadvertently represented the system in such a way so as to give the impression it is just an intercom or PA system.

We hope that this overview will give a proper perspective on the information we are providing below in response to the COMAD and that you will decide to discontinue the commitment adjustment action.

1-The COMAD in the section titled "Funding Commitment Adjustment Explanation" described the reason for the COMAD as being "After a thorough review, it was determined that the funding commitment for this request must be rescinded in full. During a review, it was determined that funding was provided for the following ineligible item; Bogen PBX Expansion Unit. .....FCC rules provide that funding may be approved only for eligible products and/or services."

The paragraph continues with information as to how determine if a product and/or service is eligible; it states "The USAC web site contains a list of eligible products and/or services. See the web site, www.usac/sl/about/eligible-services-list.aspx for the Eligible Services List".

As of this writing the URL referred to above is no longer available, however the Bogen PBX Expansion Unit (Bogen Multicom) in question was listed as an eligible product on the Schools and Libraries Web Site. See attached screens shots of the Web Site for verification.

In addition, even according to the generic Eligible Service List, the Bogen PBX Expansion Unit (Bogen Multicom) qualifies as an eligible product as a "Private Branch Exchange (PBX)" and as a "Key System". As per the Eligible Services List in the "Internal Connections" section Page 15 it states (emphasis added):

"Centralized components that are an essential element in the transport of telephone services within a school or library ***are eligible***. This includes:

Private Branch Exchange (PBX)
Key System (KSU)
Wireless
VoIP Telephony Equipment

In addition, the following features are eligible:
Automatic Route Selection
E911
Voice Compression Module
Voice Interface Card
One switchboard/attendant console necessary for the operation of
Eligible Centrex telephone service is eligible.
An intercom system that is an integral component of a PBX or
Other eligible product can be included in the cost of the
eligible component"

The Bogen PBX Expansion (Bogen Multicom) functioning as a "Private Branch Exchange (PBX)" or as a "Key System" provides telephone services (to the Public Switched Network and for internal use) is therefore an eligible product.

During the review process we as well as our colleagues who have also received COMAD notifications were questioned regarding other possible reasons that the Bogen PBX Expansion Unit may have been considered as in ineligible product based on its specific use as apposed to it being inherently ineligible. In the event that the COMAD failed to name any of these other reasons we shall pose them now and respond to them in order to avoid potential convolution of the appeal process.

A- Possible Claim: The Bogen PBX Expansion Unit is being used as an Intercom which is an ineligible product.

Based on our design and installation, the Bogen PBX Expansion Unit is not being used as an (ineligible) intercom. The Bogen PBX Expansion Unit provides the eligible Private Branch Exchange (PBX) functionality as described in the Eligible Products List, Internal Connections section, page 41 in that it provides "a centralized telephone switching system located at a business or organization site. The PBX provides station-to-station dialing and access to the public switched network".

As indicated above, station-to-station dialing is an eligible function of the PBX. In addition as stated above, as per the Eligible Services List in the "Internal Connections" section Page 15 "...An intercom system that is an integral component of a PBX or other eligible product can be included in the cost of the eligible component"

B- Possible Claim: Where the Bogen PBX Expansion Unit is being used in conjunction with or integrated with another PBX the Bogen PBX Expansion Unit is Redundant.

The only reference to the word "redundant" in the Eligible Items List is in the "Internal Connections" section, page 17 where it lists components that are ineligible, it states "Components that are installed in standby mode, redundant, not active and online, or otherwise not an essential element in the transmission of information within the school or library"

The Bogen PBX Expansion Unit provides telephone services (to the Public Switched Network and for internal use) and is therefore an "essential element in the transmission of information within the school or library" therefore maintaining its status as an eligible product.

The Bogen PBX Expansion Unit is active and online at all times and the locations within the school where the Bogen PBX Expansion Unit provides telephones services are not overlapped by the other PBX, therefore there is no redundancy.

C- Possible Claim: Where the Bogen PBX Expansion Unit is being used in conjunction with or integrated with another PBX the Bogen PBX Expansion Unit is not Cost Effective.

The Bogen PBX Expansion Unit is typically used to provide telephone services for those locations within the school that require single line telephones.

Depending on the specific installation, the total installation cost of using the Bogen PBX Expansion Unit for the single line telephones combined with another PBX will be similar to the cost of expanding the other PBX to accommodate the capacity required to provide single line telephone services for the locations that the Bogen PBX Expansion Unit is providing.

In addition the benefit of a more rugged system which was specifically designed for school and in particular classroom use adds additional value.

The higher reliability combined with the fact that the cost of the system component cards and in particular the station cards for the Bogen Multicom are typically less

expensive than those of the "primary' PBX makes maintenance and replacement costs lower, further enhancing the cost effectiveness consideration.

Based on the costs being similar, there being additional value and lower maintenance costs, the Bogen PBX Expansion Unit being used in conjunction with or integrated with another PBX is Cost Effective.

2- After having defined the reason for the determination that a COMAD was required, the "Funding Commitment Adjustment Explanation" paragraph of the COMAD notification then explains from who USAC will seek recovery and why.

The "Funding Commitment Adjustment Explanation" says as follows; "On the SPAC Form, the authorized person certifies at Item 10 that the service provider has billed its customer for services deemed eligible for support. Therefore USAC has determined that the service provider is responsible for this service violation. Accordingly, the

commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the service provider"

On the SPAC Form, the full text of item 10 is:

"10. The Service Provider Invoice Forms that are submitted by this service provider contain requests for universal service support for services which have been billed to the service provider's customers on behalf of schools, libraries, and consortia of those entities, as deemed eligible for universal service support by the fund administrator."

Paragraph 10 clearly states that the determination of eligibility is the responsibility of the fund administrator. The service provider is certifying that he is billing for items that have been determined by the fund administrator to be eligible. Based on the information provided above, the Bogen PBX Expansion Unit (Bogen Multicom) was deemed eligible by the system administrator as evidenced by the fact that the items were listed on the website as eligible and the items by form and function meet the requirements of the generic Eligible Items List. In addition the application in which the Bogen PBX Expansion Unit (Bogen Multicom) was included was reviewed through the Program Integrity Insurance (PIA) procedure and deemed eligible. All the items were clearly listed on the Item 21 Attachment which was thoroughly reviewed by PIA so there can be no argument that known to be ineligible items were included and were only discovered during the subsequent review.

Further, the Bogen PBX Expansion Unit (Bogen Multicom) has been reviewed by PIA and approved for funding by the program for over 13 years.

Even if the program administrator were to conclude, for reasons that this writer cannot envision, that the Bogen PBX Expansion Unit (Bogen Multicom) should be considered ineligible that would constitute a change in its status. It would be unreasonable to expect the Service Provider to make a determination of ineligibility that the program administrator himself had not done after over 13 years of review.

Based on this, the Service Provider acted correctly when billing for the Bogen PBX Expansion Unit (Bogen Multicom) and was not responsible for any violation of program rules.

3- Conclusion

a. The Bogen PBX Expansion Unit (Bogen Multicom), as designed and installed, is an eligible product so there is no basis for the COMAD.
b. At the time of billing the Bogen PBX Expansion Unit (Bogen Multicom) was reviewed and concluded to eligible by the fund administrator so the Service Provider did not violate any program rules.

We therefore request that you discontinue the commitment adjustment action.

Thank you for your time and attention to this matter.

Sincerely,

David Klein
President

DK:kf
Encs.