

October 1, 2013

Request for Appeal –CC Docket No. 02-6
 Marlene H. Dortch, Secretary
 Federal Communications Commission
 Office of the Secretary
 9300 East Hampton Drive
 Capitol Heights, MD 20743

Request for APPEAL and Waiver -YEAR 13 – SLD Administrator’s Decision on the Service Delivery Extension Request Appeal

and REQUEST FOR WAIVER– YEAR 13 – Late filing of this FCC appeal due the Government shutdown on OCT 1, 2013

Dear Sir or Madam,

- Billed Entity Number: **16045095**
- Name of BEN: **Espiritu Community Development Corporation**
- Contact person name: **Luis Valdez**
- Contact information: **lvaldez@espiritu.org**
 4825 E. Roosevelt Street
 Phoenix, AZ 85008
 (602) 629-6400
 FAX (602) 629-6470
- Form 471 Application Number: **728964**
- Funding Request Numbers (FRNs): **2033703**
- SLD Action Appealed: Letter Dated August 2, 2013 - **Administrator’s Decision on Service Delivery Extension Request Appeal – Denied in full, August 2, 2013.**

Reason for Appeal and Waiver to the service delivery deadline extension request:

1 - We are appealing the Administrators’ decision for a Service Delivery Extension Request for FRN **2033703** for Year 13. In October 28, 2012 we submitted the Implementation Extension request – case # 22-429653, and invoice extension request case # 22-429654, a Form 500 was submitted the following day. Our records show that contract extensions and invoice extensions have been approved through 10/4/2013. We have no record of an USAC implementation deadline extension denial letter from our October 2012 request – no denial letter was received. We assumed that the request filed in October was approved because both the F500 and Last Date to Invoice were approved – we filed all three forms the same time. We did not receive a copy of the August 2, 2013 USAC denial to our appeal.

ESPIRITU YEAR 13 REPORT										8/13/2012					
Applicati on Number	FRN	Applicant Name	Fundin g year	BEN	SPIN	Service Provider Name	Committ ment Status	486 SSD	Last Date to Invoice	Comtd Category of Service	Orig Requested Amount	Comtd Total Cost	Comtd Commitment Request	Invoicing Mode	Total Authorized Disbursement
728964	2033703	ESPIRITU COM	2010	16045095	143027748	Interactive	DIFUNDED	7/1/2010	1/28/2013	INTERNAL CONN	\$47,368.08	\$48,258.51	\$43,432.66	NOT SET	

ESPIRITU YEAR 13 REPORT											4/4/2013					
Applicati on Number	FRN	Applicant Name	Fundin g year	BEN	SPIN	Service Provider Name	Commitm ent Status	486 SSD	Last Date to Invoice	Cntd Category of Service	Orig Requested Amount	Cntd Total Cost	Cntd Commitment Request	Invoicing Mode	Total Authorized Disbursement	
728964	2033703	ESPIRITU.COM	2010	16045095	143027748	Interactive	DIFUNDED	7/1/2010	4/29/2013	INTERNAL CONR	\$47,368.08	\$48,258.51	\$43,432.66	NOT SET		

ESPIRITU YEAR 13 REPORT											8/12/2013					
Applicati on Number	FRN	Applicant Name	Fundin g year	BEN	SPIN	Service Provider Name	Commitm ent Status	486 SSD	Last Date to Invoice	Cntd Category of Service	Orig Requested Amount	Cntd Total Cost	Cntd Commitment Request	Invoicing Mode	Total Authorized Disbursement	
728964	2033703	ESPIRITU.COM	2010	16045095	143027748	Interactive	DIFUNDED	7/1/2010	10/4/2013	INTERNAL CONR	\$47,368.08	\$48,258.51	\$43,432.66	NOT SET		

2 - We requested the extensions because the Video conferencing service provider (IDS) was unable to complete delivery and installation for reasons beyond that service provider's control, which consisted of project delays by the prior service provider in completing the conduit, copper and fiber cabling necessary to provide connectivity between buildings and classrooms to the Internet. The school had delays prior to that for roof repairs, building re construction and storm damage (Arizona monsoons) and had been affected by the deep cuts that Arizona schools had to their budgets, These construction projects were delayed and had to be rescheduled and Internal connections projects moved back to later dates until these issues were resolved. The service provider identified below has been hampered by these delays and was unable to complete installation/implementation and satisfies the Criteria #3 for deadline extensions.

3 - We request a waiver for the procedural error by missing the September 30, 2012 deadline for making the Implementation deadline request as we attempted in good faith to comply with Commission rules in a timely manner in seeking an extension for non-recurring services. The USAC denial does not serve the public interest, will have an adverse impact on our school and the request will not lead to an undue advantage in funding.

We request to extend the Service Delivery expiration, Last date to Invoice and file another Form 500 to allow for this appeal as well as required service substitution to replace obsolete/discontinued part numbers, (service substitution submitted 4/19/2013, case # 22-494288).

Reason for Request for Waiver to the Appeal deadline:

1 - We were unable to file the FCC appeal within the 60 day period (Oct 2, 2013) due to the Government shutdown for filing of this appeal.

Thank you for processing our appeal and request for waivers,

Sincerely,



Luis Valdez
 Espiritu Community Development Corporation
 Information Technology Coordinator

In support of our appeal;

FCC DA-07-1187A1, California Youth Authority, et al

“Applicants, however, have until September 30 following the close of the funding year to complete installation of non-recurring services. The Commission provides applicants additional time to implement non-recurring services because they typically involve the installation of equipment or wiring, which may occur during the summer months when classes are not in session.”

1. *“An applicant may obtain an extension of the deadline to implement non-recurring services from the Universal Service Administrative Company (USAC) if it satisfies one of four criteria set forth in section 54.507(d) of the Commission’s rules:*

(1) the applicant’s funding commitment decision letter (FCDL) is issued by USAC on or after March 1 of the funding year for which discounts are authorized;

(2) the applicant receives a service provider change authorization or service provider substitution authorization from USAC on or after March 1 of the funding year for which discounts are authorized;

(3) the applicant’s service provider is unable to complete implementation for reasons beyond the service provider’s control; or

(4) the applicant’s service provider is unwilling to complete installation because funding disbursements are delayed while USAC investigates its application for program compliance.”

“As noted above, section 54.507(d) states that “applicants will qualify for an extension of the implementation deadline for non-recurring services if they satisfy one of the ... criteria.”

FCC DA 11-741, Lancaster School District

1. “We grant an appeal filed by Lancaster School District, Lancaster, Pennsylvania (Lancaster), seeking an extension of the services delivery implementation deadline for non-recurring services under the E-rate program¹ for funding year 2005.² The services delivery implementation deadline requires applicants to use the funded services within the funding year, except that the Commission’s rules give applicants three additional months (until September 30 following the close of the relevant funding year) to install one-time services known as non-recurring services.³ A request for an extension must be submitted to the Universal Service Administrative Company (USAC) on or before the September 30 deadline.”

2. “On January 17, 2007, USAC approved Lancaster’s request for non-recurring services.⁵ According to Lancaster, the non-recurring services were not completely installed during the following summer months when classes were out of session due to the unexpected scale of the project.⁶ As a result, the remaining installation took longer than planned because work could only be done on weekends and after school hours and Lancaster had to request an extension of time.⁷ On October 5, 2007, Lancaster submitted a service implementation deadline request, five days after the deadline.⁸ USAC denied the implementation request as untimely on January 2, 2008.”

3. “We find that the circumstances that delayed installation of Lancaster’s non-recurring services satisfy the criteria in the Commission’s rules that the service provider was unable to complete implementation for reasons beyond its control.¹⁰ Consistent with precedent, and based on our review of the record, we also find that Lancaster attempted in good faith to comply with Commission rules in a

timely manner in seeking an extension of the deadline for non-recurring services.¹¹ Therefore, to the extent that Lancaster violated section 54.507(d) of the Commission's rules, we find that good cause exists to waive this rule.¹² We also direct the USAC to waive any associated invoice filing deadlines and any other procedural deadlines that were missed while these issues were on appeal with the Commission."

FCC DA 11-1791, Covert Public School District

"Covert learned of its mistake when USAC denied its invoice because the services were not implemented by September 30, 2010.¹⁰ Covert immediately submitted a request for an extension of the services implementation deadline to USAC.¹¹ On April 19, 2011, USAC denied Covert's request,¹² and Covert then filed the instant appeal with the Commission.

4. Discussion. Based on the facts and circumstances of this case, we grant Covert's request for review and find good cause to justify a waiver of the Commission's rules and procedures. In the *Bishop Perry Order*, the Commission determined a departure from filing deadlines may be warranted upon careful review of the petitioner's case and when doing so will serve the public interest.¹⁴ The Commission granted waivers of the its rules for E-rate applicants that made ministerial, clerical or nonsubstantive procedural errors, such as missed filing deadlines, and where the mistakes could not have resulted in the applicant's receiving more funding than that to which it was entitled.¹⁵ In addition, the Wireline Competition Bureau previously permitted applicants to receive funding even when they missed the services implementation deadline. In the *Great Rivers Order* and the *Tekoa Academy Order*, the Commission waived its services implementation deadline rule where the applicants made significant efforts to comply and the service provider installed the services as directed. Covert's mistake was Procedural and granting its request will not lead to an undue advantage in funding."

FCC DA 12-323, Annette Islands School District

1. "Consistent with precedent,¹ we grant six requests from petitioners² seeking waiver or review of decisions made by the Universal Service Administrative Company (USAC) under the E-rate program (more formally known as the schools and libraries universal service support program).³ In each case, USAC found that the petitioners failed to secure timely extensions of the deadlines for services implementation, as required by section 54.507(d) of the Commissions' rules,⁴ and of the deadlines for invoice submission. Based on our review of the record, we find that the petitioners either were unable to complete implementation on time for reasons beyond the service provider's control – one of the criteria required by the rule for an extension of services implementation – or they failed to do so because of clerical error. In all cases they made significant efforts to secure the necessary extensions. Furthermore, there is no evidence of waste, fraud and abuse in the record at this time.

2. Therefore, we grant the petitioners' requests and waive section 54.507(d) of the Commission's rules. Additionally, on our own motion, we waive any Commission or USAC procedural deadline, such as the invoicing deadline, that might be necessary to effectuate our ruling."

FCC DA 12-85, Loneman Day School

1. "Consistent with precedent,¹ we grant a request filed by Loneman Day School (Loneman)² seeking review of a decision made by the Universal Service Administrative Company (USAC) under the E-rate program (more formally known as the schools and libraries universal service support program).³ In its decision, USAC found that Loneman failed to secure timely extensions of the deadlines for services implementation, as required by section 54.507(d) of the Commissions' rules,⁴ and of the deadlines for invoice submission. Based on our review of the record, we find that Loneman's service provider was

unable to complete implementation on time for reasons beyond the service provider's control – one of the criteria required by the rule for an extension of services implementation – and that Loneman made significant efforts to secure the necessary extensions. Therefore, we grant Loneman's request and waive section 54.507(d) of the Commission's rules.”

Note the date is incorrect – it should read June 6, 2013

Administrator's Decision on Implementation Extension Request

June 6, 2012

Julio Zavaleta
Espiritu Community Development Corp
4848 South 2nd Street
Phoenix, AZ 85040

FCC Form 471 Application Number: 728964
Funding Request Number(s): 2033703
Your Correspondence Dated: April 19, 2013

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 implementation extension request. 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 request included more than one FCC Form 471 Application, please note that for each application you will receive a separate determination letter.

Decision on Appeal: **Denied in full**

Explanation: Request received after the FCC deadline for Implementation Deadline Extension requests which was 9/30/2012

In accordance with the FCC Report and Order (FCC 01-195) released on June 29, 2001, the Administrator may grant an extension of time for the implementation of non-recurring services if the implementation is delayed for circumstances beyond the named service provider's control. You have been unable to establish such circumstances.

October 28, 2012

Service Delivery Deadline Extension Request
Schools and Libraries Division - Correspondence Unit
30 Lsnidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

Service Delivery Deadline Extension Request – Year 13

Dear Sir or Madam,

We are requesting a Service Delivery Extension Request for FRN 2033703 for Year 13 funding to April 30, 2013. A bitmap of the FRN from the Funding Commitment Report is at the end of this letter and Form 500 approval for the Contract Expiration Date to 1/28/2013, which is the same date as the Last Date to Invoice. We want the three dates to be the same for this FRN so the work can be completed, therefore we will also submit a request to extend the Last Date to Invoice and another F500 to extend the contract expiration date to April 30, 2013 as well.

Contact person name: **Julio Zaveleta**

Contact information (including email address): **Espiritu Community Development Corporation**
BIEN: 16045095
4848 South 2nd Street
Phoenix, AZ 85040
Telephone: 602-243-7788 ext. 234
Fax: 602-243-7799
jzaveleta@espiritu.org

Form 471 Application Number: **728964**

Funding Request Number (FRN): **2033703**

Service provider name: **Interactive Digital Solutions, LLC**

Service Provider Identification Number (SPIN): **143027748**

Reason for service delivery deadline extension request:

The applicant is requesting an extension because the service provider was unable to complete delivery and installation for reasons beyond the service provider's control, which consisted of construction delays. The delays have been affected by the deep cuts Arizona schools have had to their budgets, therefore construction projects were delayed and had to be rescheduled and projects moved back to later dates as issues were resolved.

This is the second request an extension – the first extension was approved to 9/30/2012 for this FRN.

Thank you for allowing our request to extend the service delivery for this FRN to April 30, 2013.

Sincerely,



Julio Zaveleta
Espiritu Community Development Corporation

IDENTIFICATION OF THE FRN TO BE ADJUSTED		
(A) Form 471 Application Number:	728964	
(B) Funding Request Number:	2033703	
(C) Billing Account Number:	Espiritu Community Development, Corp.	
(D) Service Provider Name:	Interactive Digital Solutions, LLC	
(E) Service Provider SPIN:	143027748	
ADJUSTMENT TO FRN LISTED ABOVE:		
(F) Service Start Date	Original Date (mm/dd/yyyy):	New Date (mm/dd/yyyy):
Change Date:		
(G) Contract Expiration Date	Original Date (mm/dd/yyyy):	New Date (mm/dd/yyyy):
Change Date:	01/28/2013	05/30/2013
(H) Cancel FRN	Original Commitment Amount:	New Commitment Amount:
Please Cancel		
(I) Reduce FRN	Original Commitment Amount from FCDL:	New Commitment Amount AFTER Reduction:
Please Reduce		

**FORM 500 NOTIFICATION LETTER REPORT
(Funding Year 2010)**

Funding Request Number (FRN): 2033703
 Form 471 Application Number: 728964
 Service Provider Name: Interactive Digital Solutions, LLC
 Service Provider Identification Number (SPIN): 143027748
 Billing Account Number: Espiritu Community
 Contract Expiration Date Change: 08/30/2013

June 6, 2013

Julio Zavaleta
 ESPIRITU COMMUNITY DEVELOPMENT CORP
 4848 South 2nd Street
 Phoenix, AZ 85040

RE: SLD Invoice #: N/A BEAR or SPI: N/A
 Invoice Date: N/A

SLD Line(s) #: N/A
 Vendor invoice #: N/A
 FCC Form 471 Application Number: 728964
 Funding Request Number(s): 2033703
 Your Correspondence Dated: April 19, 2013

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 invoice deadline extension request for the invoice number indicated above. This letter explains the basis of USAC's decision. If your request included more than one invoice number, please note that for each invoice for which an invoice deadline extension request was submitted, a separate letter is being sent.

Invoice Number: N/A Line: N/A
 Decision on Request: **Approved**

FRN	471#	Year	Applicant		Service Provider		Orig. Total	Cmtd. Total
Category			City	ST	Status	SPIN	Orig. Disc	Cmtd. Discount
FCDL Comment					486 SSD	Disbursed	Orig Request	Cmtd Request
2033703	728964	2010	ESPIRITU COMMUNITY DEVELOPMENT CORP		Interactive Digital Solutions, LLC		52,631.20	48,258.51
INTERNAL CONNECTIONS			PHOENIX	AZ	FUNDED	143027748	90%	90%
MR1: The dollars requested were reduced to remove: \$4372.69 for ineligible portion of Lifesize Express. <><><><><> MR2: The FRN was modified from \$52,631.20 in one-time charges to \$48,258.51 in one-time charges to agree with the applicant documentation.					07/01/2010	0.00	47,368.08	47,368.08
Changes								
Date Changed		Changed Item			Old Value		New Value	
12/28/2012		Last Date to Invoice			01/28/2013		04/29/2013	
11/05/2012		Contract Exp Date			01/28/2013		05/30/2013	
09/01/2012		Contract Exp Date			06/30/2012		01/28/2013	
06/23/2011		Last Date to Invoice			'1/30/2012'		'1/28/2013'	
06/03/2011		Contract Exp Date			'6/30/2011'		'6/30/2012'	
03/03/2011		Last Date to Invoice			'1/27/2012'		'1/30/2012'	

Federal Communications Commission

We regret the disruption, but during the Federal Government-wide shutdown, the FCC is limited to performing duties that are immediately necessary for the safety of life or the protection of property. FCC online systems will not be available until further notice.

SHUTDOWN UPDATE:

In light of the continuing lapse in appropriations and the resulting closure of the FCC, the Commission is unable to issue a Sunshine Notice today and hold an Open Meeting previously scheduled for October 22, 2013. As soon as the Commission resumes normal operations, we will promptly issue a Sunshine Notice and announce a new date for the October Meeting.

last reviewed/updated on 10/10/2013