

FCC Request for Waiver and Appeal of USAC Denial Detroit Public School District BEN 130944

January 27, 2014

Federal Communications Commission – *filed electronically via ECFS*
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Waiver / Appeal – CC Docket Nos. 96-45 and 02-6

USAC Appeal Decision Date: December 12, 2013
Form 471Number: 802776
Funding Year: 2011-2012
Billed Entity Name: Detroit Public School District
BEN: 130944
FRNs: 2175567, 2175583, 2175600, 2175618, 2175635,
2175643, 2175670, 2175680
Service Provider Name: L.S. Brinker Motor City Electric, A Joint Venture
Service Provider SPIN: 143028885

Contact Information:

Contact Person Name: Jon Brent
Contact Person Phone: 313-873-8522
Contact Person Fax: 313-873-3209
Contact Person E-Mail: jon.brent@detroitk12.org

SLD action being appealed:

We are appealing USAC's denial of our original Appeal dated December 12, 2013 and attached as ATT F. That denial was an appeal of SLD's denial of multiple SPIN Change Requests based on the USAC letter "Administrator's Decision on SPIN Change Request" dated August 5, 2013 (attached).

Explanation from original USAC Denial Ltr (i.e. denial of SPIN Change Request):

"...your request is denied because you did not have a legitimate reason for a SPIN change... Specifically, as part of your SPIN change request, a legitimate reason to change providers is required (e.g. data entry error, merger or acquisition, intra-company SPIN change, original SPIN not an E-Rate program participant, breach of contract between the applicant and its original service provider or the original service provider's inability to perform the requested service)."

Explanation from USAC Denial Letter (i.e. denial of our USAC Appeal):

"On appeal, you were asked to provide source documentation to support your request. You provided contracts between Detroit Public School District and the Service Providers to support the SPIN change. However, the contracts were signed after the filing of the Form 471. Since you were not able to provide source documents to support the SPIN change request, your appeal is denied."

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Basis for this appeal/waiver:

We are basing this appeal – as we did with our original USAC appeal - on the fact that the original service provider was in fact only a ‘middle man’ for the actual services being delivered by others. We believe that this case deserves special consideration because we have complied with SLD guidelines as demonstrated in our PIA review and our original request below.

Additionally, since the ‘reason for denial’ of our appeal had to do with the signing dates on our contracts, we are asking the FCC to consider that this is a special case and to grant a waiver on the requirement that these contracts had to be signed prior to the Form 471 submission.

Details of this appeal:

As stated in our original SPIN change request, the guidance on the SLD website says that “*You can request a corrective SPIN change not substituting the actual provider of your service, but instead correctly identifying that provider.*” We believe that our request satisfies this guideline.

In our case there is no change to the originally planned Service Provider that will be doing the actual work (i.e. cabling and technology infrastructure). The purpose of this SPIN change is only to remove the Construction Manager as the middle man and do that work ourselves. The Service Providers that performed the actual work have never changed. Only the ‘payee’ has changed. We explained this in PIA review and were advised that we could not request the SPIN change until post approval. Also, during PIA we did remove the Construction Manager’s fee which reduced the original requested amount of each FRN.

The relevant excerpt from our PIA response is shown below (full copy attached). Also note that this project was subject to a (successful) Selective Review back in 2011.

***DPS Response:** The contract is quite large. A copy was provided to SLD during our Selective Review in February of this year. The copy was sent to Earl Baderschneider at SLD (ebaders@sl.universalservice.org). Also, when originally requested, these FRNs were to be handled through a single Construction Manager and the CM Fee was included in the FRN amounts. Since that time, it was determined that the CM would not be used and that DPS would manage the installations internally. This will require both a SPIN change and a reduction in the requested funding. Following your advice, we will wait until post-approval to request SPIN changes for these FRNs. Our revised FRN amounts after the removal of the CM Fee (and other ineligible components discussed in your following questions) are included in the table below...*

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Summary and Requested Action:

We are requesting that SLD consider our appeal based on three main points:

1. DPS has gone to great lengths to follow SLD guidelines and to follow both the letter and the spirit of the E-Rate program. After a full Selective and PIA review there is no question as to the eligibility of any of the goods and services.
2. These funds have already been spent by the district and the denial of this SPIN change requests will result in the loss of over 1.4 million dollars that the district desperately needs.
3. We believe that the changes should be allowed base on the SLD guidelines that we are *“not substituting the actual provider of your service, but instead correctly identifying that provider”*.

Finally, we ask FCC to consider that our previous USAC Appeal would have been approved except for the fact that the signed contracts that we produced as evidence of the work performed were signed after the Form 471 submission. We have been consistently open and honest with SLD about the order in which these occurrences took place and while we understand the rules, we ask that this be treated as a special case and that we be granted a waiver and allowed to change the SPIN numbers.

We respectfully request that FCC consider our requests and allow these SPIN changes.

Sincerely,

(filed electronically via ECFS)

Jon Brent, Infrastructure Engineer, Detroit Public Schools

3031 West Grand Blvd., Suite 450

Detroit, MI 48202

Ph: 313-873-8522

Fax: 313-873-3209

jon.brent@detroitk12.org

Included below:

Attachment A: USAC Denial Letter dated August 5, 2013

Attachment B: DPS SPIN Change Request dated June 24, 2013

Attachment C: DPS response to PIA dated 08-16-2011

Attachment D: Consultant LOA

Attachment E: USAC Appeal FY2011 SPIN Change Denial 09-05-13

Attachment F: USAC Denial of Appeal FY2011 DPS 12-12-13



Schools and Libraries Division

Administrator's Decision on SPIN Change Request

August 5, 2013

Re: Applicant Name: DETROIT PUBLIC SCHOOL DISTRICT
Billed Entity Number: 130944
FCC Form 471 Application Number: 802776
Funding Request Number(s): 2175567, 2175583, 2175600, 2175618, 2175635, 2175643, 2175670, 2175680
Your Correspondence Dated: June 24, 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 SPIN Change Request for the FRN(s) 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 USAC or the Federal Communications Commission (FCC). If your SPIN Change request included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request No. (FRN): 2175567
Original Service Provider: L.S. Brinker Motor City Electric, A Joint Venture
Original SPIN: 143028885
New Service Provider: Michigan Ed. Sch. Ser., Inc.
New SPIN: 143023091
Original Commitment Amount: \$41,032.90
Disbursement Amount: \$0.00
CAP Remaining: \$41,032.90
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Funding Request No. (FRN): 2175583
Original Service Provider: L.S. Brinker Motor City Electric, A Joint Venture
Original SPIN: 143028885
New Service Provider: Michigan Ed. Sch. Ser., Inc.
New SPIN: 143023091
Original Commitment Amount: \$ 40,757.63
Disbursement Amount: \$0.00
CAP Remaining: \$ 40,757.63
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Funding Request No. (FRN): 2175600
Original Service Provider: L.S. Brinker Motor City Electric,A Joint Venture
Original SPIN: 143028885
New Service Provider: Michigan Ed. Sch. Ser., Inc.
New SPIN: 143023091
Original Commitment Amount: \$ 40,377.93
Disbursement Amount: \$0.00
CAP Remaining: \$ 40,377.93
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Decision: Denied

Explanation: You requested a SPIN Change for FRNs 2175567, 2175583, 2175600 from SPIN 143028885 to 143023091. However, your request is denied because you did not have a legitimate reason for a SPIN change to SPIN 143023091.

Specifically, as part of your SPIN change request, a legitimate reason to change providers is required (e.g. data entry error, merger or acquisition, intra-company SPIN change, original SPIN not an E-Rate program participant, breach of contract between the applicant and its original service provider or the original service provider's inability to perform the requested service). Because the specified reason for a SPIN Change is not considered a legitimate reason, your SPIN Change request to SPIN 143023091 is denied.

Funding Request No. (FRN): 2175618
Original Service Provider: L.S. Brinker Motor City Electric,A Joint Venture
Original SPIN: 143028885
New Service Provider: Bailey LaBelle LLC, A Joint Venture
New SPIN: 143035038
Original Commitment Amount: \$ 264,035.09
Disbursement Amount: \$0.00
CAP Remaining: \$ 264,035.09
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Funding Request No. (FRN): 2175635
Original Service Provider: L.S. Brinker Motor City Electric,A Joint Venture
Original SPIN: 143028885
New Service Provider: Bailey LaBelle LLC, A Joint Venture
New SPIN: 143035038
Original Commitment Amount: \$ 264,035.09
Disbursement Amount: \$0.00
CAP Remaining: \$ 264,035.09
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Funding Request No. (FRN): 2175643

Original Service Provider: L.S. Brinker Motor City Electric,A Joint Venture
Original SPIN: 143028885
New Service Provider: Bailey LaBelle LLC, A Joint Venture
New SPIN: 143035038
Original Commitment Amount: \$294,822.52
Disbursement Amount: \$0.00
CAP Remaining: \$294,822.52
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Funding Request No. (FRN): 2175670
Original Service Provider: L.S. Brinker Motor City Electric,A Joint Venture
Original SPIN: 143028885
New Service Provider: Bailey LaBelle LLC, A Joint Venture
New SPIN: 143035038
Original Commitment Amount: \$275,310.52
Disbursement Amount: \$0.00
CAP Remaining: \$275,310.52
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Funding Request No. (FRN): 2175680
Original Service Provider: L.S. Brinker Motor City Electric,A Joint Venture
Original SPIN: 143028885
New Service Provider: Bailey LaBelle LLC, A Joint Venture
New SPIN: 143035038
Original Commitment Amount: \$372,643.00
Disbursement Amount: \$0.00
CAP Remaining: \$372,643.00
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Decision: Denied

Explanation: You requested a SPIN Change for FRNs 2175618, 2175635, 2175643, 2175670, 2175680 from SPIN 143028885 to 143035038. However, your request is denied because you did not have a legitimate reason for a SPIN change to SPIN 143035038.

Specifically, as part of your SPIN change request, a legitimate reason to change providers is required (e.g. data entry error, merger or acquisition, intra-company SPIN change, original SPIN not an E-Rate program participant, breach of contract between the applicant and its original service provider or the original service provider's inability to perform the requested service). Because the specified reason for a SPIN Change is not considered a legitimate reason, your SPIN Change request to SPIN 143035038 is denied.

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 a decision in this letter to USAC, your appeal must be received by USAC 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 for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the USAC decision letter (e.g., FCDL) and the decision you are appealing:
 - appellant name
 - applicant and service provider names, if different than appellant
 - applicant BEN and service provider SPIN
 - **<insert application or form number>** as assigned by USAC
 - Funding Request Number(s) (FRNs) you are appealing if provided in the letter
 - **<insert name of the letter and funding year - both are located at the top of the letter>** AND
 - the exact text or the decision that you are appealing.
3. 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 the applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are the 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.

We strongly recommend that you use one of the electronic filing options. To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org or submit your appeal electronically by using the "Submit a Question" feature on the USAC website. 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
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

For more information on submitting an appeal to USAC, please see "Appeals" in the "Schools and Libraries" section of the USAC 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 "Appeals" in the "Schools and Libraries" section of the USAC 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.

Thank you for your continued patience and cooperation during this process.

Schools and Libraries Division
Universal Service Administrative Company

CC:

CORRECTIVE SPIN CHANGE REQUEST

Date: June 24, 2013

To: Corrective SPIN Change
 Schools and Libraries Division
 Box 125 – Correspondence Unit
 80 S Jefferson Road
 Whippany, NJ 07981

Submitted Online**Case #: 22-511128**

To Whom It May Concern: Note that there are multiple requests contained here. All changes fall under one of the two requests shown below.

We feel that these SPIN changes are Corrective rather than Operational. The guidance on the SLD website says that *“You can request a corrective SPIN change not substituting the actual provider of your service, but instead correctly identifying that provider.”* In our case there is no change in the originally planned Service Provider that will be doing the actual work. We are merely removing the Construction Manager as the middle man. We explained all of this in our PIA review process and below. Please accept these SPIN changes for FY2011.

SPIN Change Request #1 of 2 – removes the Construction Manager and replaces with actual Service Provider of new cabling in five schools.

1.	Submitter of Request Detroit Public Schools
2.	Billed Entity Number (BEN) 130944
3.	Funding Request Number (FRN) 2175618, 2175635, 2175643, 2175670, 2175680
4.	FCC Form 471 Application Number 802776
5.	Applicant Name Detroit Public Schools
6.	Applicant Contact Jon Brent
7.	Applicant Phone (313) 873-8522
8.	Applicant Email Address jon.brent@detroitk12.org
9.	Original SPIN 143028885

CORRECTIVE SPIN CHANGE REQUEST

10.	Original Service Provider L.S. Brinker Motor City Electric, A Joint Venture
11.	Original Service Provider Contact Yaroslav Stakhiv
12.	Original Service Provider Phone 313-897-9130
13.	Original Service Provider Email Address N/A
14.	New SPIN 143035038
15.	New Service Provider Bailey LaBelle LLC, A Joint Venture
16.	New Service Provider Contact Christopher W LaBelle
17.	New Service Provider Phone 586-598-7360
18.	New Service Provider Email Address Not Available
19.	<p>Reason for change. If the change is for a reason other than a data entry error or a merger/acquisition, please give a brief explanation of the circumstances requiring the change.</p> <p>As we explained during PIA review – Detroit Public Schools originally planned to use a Construction Manager to oversee these projects in five new construction schools. Between the time of our 471 filing and approval, DPS decided to manage the projects in-house. The Service Providers that performed the actual work have never changed. Only the ‘payee’ has changed. We are merely removing the Construction Manager as the ‘middle man’. We explained this in PIA review and were advised that we could not request the SPIN change until post approval. During PIA we did remove the Construction Manager’s fee which reduced the original requested amount of each FRN.</p>
20.	<p>Has the original service provider supplied any services under this funding request? If yes, you must supply the following information. NO</p> <p>For recurring services: N/A</p> <p>For non-recurring services: N/A</p>

CORRECTIVE SPIN CHANGE REQUEST

SPIN Change Request #2 of 2 – removes the Construction Manager and replaces with actual Service Provider of new PBX systems cabling in three schools.

1.	Submitter of Request Detroit Public Schools
2.	Billed Entity Number (BEN) 130944
3.	Funding Request Number (FRN) 2175567, 2175583, 2175600
4.	FCC Form 471 Application Number 802776
5.	Applicant Name Detroit Public Schools
6.	Applicant Contact Jon Brent
7.	Applicant Phone (313) 873-8522
8.	Applicant Email Address jon.brent@detroitk12.org
9.	Original SPIN 143028885
10.	Original Service Provider L.S. Brinker Motor City Electric, A Joint Venture
11.	Original Service Provider Contact Yaroslav Stakhiv
12.	Original Service Provider Phone 313-897-9130
13.	Original Service Provider Email Address N/A
14.	New SPIN 143023091
15.	New Service Provider Michigan Ed. Sch. Ser., Inc.
16.	New Service Provider Contact Mike Pacioni
17.	New Service Provider Phone 313-717-1510
18.	New Service Provider Email Address mpacioni@sbcglobal.net

CORRECTIVE SPIN CHANGE REQUEST

19.	<p>Reason for change. If the change is for a reason other than a data entry error or a merger/acquisition, please give a brief explanation of the circumstances requiring the change.</p> <p>As we explained during PIA review – Detroit Public Schools originally planned to use a Construction Manager to oversee these projects in five new construction schools. Between the time of our 471 filing and approval, DPS decided to manage the projects in-house. The Service Providers that performed the actual work have never changed. Only the ‘payee’ has changed. We are merely removing the Construction Manager as the ‘middle man’. We explained this in PIA review and were advised that we could not request the SPIN change until post approval. During PIA we did remove the Construction Manager’s fee which reduced the original requested amount of each FRN.</p>
20.	<p>Has the original service provider supplied any services under this funding request? If yes, you must supply the following information. NO</p> <p>For recurring services: N/A</p> <p>For non-recurring services: N/A</p>

End of Request



DPS Response: Please see our responses below.

Date: August 8, 2011

JON BRENT (313) 8738522
 DON DIETRICH 314-378-1667
 DETROIT PUBLIC SCHOOL DISTRICT
 Application Number(s): **802776**

Response Due Date: August 23, 2011

As we discussed in our conversation, we are in the process of reviewing all Funding Year 2011 Form 471 applications to ensure that they are in compliance with the rules of the Universal Service program. I am currently in the process of reviewing your Funding Year 2011 Form 471 Application. To complete my review I need some additional information. The information needed to complete the PIA Review is listed below.

I. Construction Manager's Fee (All FRNS)

In your response of July 26, 2011 you stated the sample Clark PBX and Cabling quotes did not include the Construction Manager's Fee. This fee appears to be supplemental products/services:

Construction Manager's Fee

The documentation you provided does not identify the costs associated with these supplemental products/services. In order to determine the eligibility of the supplemental items, please provide vendor documentation identifying the costs associated with the supplemental items. The documentation should be specific and clearly describe the scope of the work effort and cost of the supplemental items. Please identify where to find this description in the documentation.

Please provide the complete contract 10-0224-2 in order to evaluate the funding request for all 5 schools including any maintenance requested.

The documentation provided should also clearly identify any ineligible charges that were cost allocated out of your request. If you are unable to verify the eligibility of the supplemental charges requested on your Form 471, the request may be reduced or denied.

DPS Response: The contract is quite large. A copy was provided to SLD during our Selective Review in February of this year. The copy was sent to Earl Baderschneider at SLD (ebaders@sl.universalservice.org). Also, when originally requested, these FRNs were to be handled through a single Construction Manager and the CM Fee was included in the FRN amounts. Since that time, it was determined that the CM would not be used and that DPS would manage the installations internally. This will require both a SPIN change and a reduction in the requested funding. Following your advice, we will wait until post-approval to request SPIN changes for these FRNs. Our revised FRN amounts after the removal of the CM Fee (and other ineligible components discussed in your following questions) are included in the table below:

FRN	Entity	Original 471 Pre-Disc Amount	Remove Ineligibles (per Pricing Sheet)	Remove Power Strips (PIA)	Remove 8x5NBD Maintenance	Remove CM Fee Cabling	Revised Pre-Disc Amount
2175618	Clark Park	\$ 301,980.82	\$ (21,248.83)	\$ (6,840.00)	\$ (4,361.08)	\$ (5,495.82)	\$ 264,035.09
2175635	Gompers	\$ 301,909.75	\$ (21,248.83)	\$ (6,840.00)	\$ (4,361.08)	\$ (5,424.75)	\$ 264,035.09
2175643	Mackenzie	\$ 338,507.97	\$ (19,686.40)	\$ (6,840.00)	\$ (4,086.08)	\$ (13,072.97)	\$ 294,822.52
2175670	Munger	\$ 320,206.22	\$ (19,535.40)	\$ (6,840.00)	\$ (4,249.08)	\$ (14,271.22)	\$ 275,310.52
2175680	MLK HS	\$ 419,365.63	\$ (892.00)	\$ (9,690.00)	\$ (4,361.00)	\$ (31,779.63)	\$ 372,643.00
FRN	Entity	Original 471 Pre-Disc Amount				Remove CM Fee and other ineligibles (see detail sheets)	Revised Pre-Disc Amount
2175567	Clark Park	\$ 58,038.00				\$ (13,497.05)	\$ 44,540.95
2175583	Gompers	\$ 58,872.00				\$ (14,606.32)	\$ 44,265.68
2175600	Munger	\$ 59,226.66				\$ (15,340.68)	\$ 43,885.98
2175605	ML King	\$ 66,873.00	Cancelled			N/A	

Please see the Eligible Services List (Miscellaneous section) at <http://www.usac.org/sl/tools/eligible-services-list.aspx> for additional information regarding supplemental products/services.

II. Clark PBX Quote FRN 2175567 (\$58,038 OTC)

The quote provided on July 26, 2011 identified ineligibles which were not included in the funding request. It is not clear if the line items #24 through #27 included costs for the ineligible items. These appear to be labor charges: the "unit" is not defined.

Are the associated charges in items #24-#27 for eligible items only? **Yes** No

DPS Response: The charges on lines #24-27 of the quote are for eligible items only (system configuration and installation).

If **yes**, proceed to the next section.

If **no**, please provide a cost allocation \$ _____ of charges to be remove from the funding request for the associated costs. Please confirm you agree to remove these charges _____

II.A PBX Project Management

The sample Clark quote includes charges for project management.

Does project management involve initial planning? Yes **No**

Is project management outside the scope of installation and initial operation? Yes **No**

If **no** to both questions, proceed to the next section.

~~If yes to either question, project management charge \$855.36 is ineligible. Please confirm that you agree the project management charge of \$855.36 OTC should be removed from the FRN _____~~

II.B PBX Data Gathering, Programming, Training Documentation

The sample PBX quote for Clark included \$106.92 and 34 units for Data Gathering, Programming, Training Documentation.

Please explain this item #25 and the "units".

DPS Response: \$106.92 is the burdened hourly rate – the units are hours of labor – Data Gathering, Programming and Training Documentation are the tasks of gathering information on which phones will be at which stations, programming the PBX to route calls accordingly, documenting the programming so that operators of the system can be trained in its basic operations.

II.C PBX Post Cut System Support (\$1,710.72 OTC)

The PBX Post Cut System Support appears to be maintenance. Are the unit costs and "units" cost per hour and number of hours? **X** **Yes – but this is not maintenance**

DPS Response: Post Cut System Support is not maintenance, it is for resolving any issues within the first few days of system cutover. It is part of the installation process.

~~If no, please explain this charge.~~

~~The Form 470 # 626590000795153 did not post for Basic Maintenance of Internal Connections. You may have more than one Form 470 for the same FRN. Is Form 470 # 626590000795153 the establishing Form 470? ___ Yes ___ No~~

~~If no, please provide the Form 470# for Internal Connections _____ and the Form 470# for Basic Maintenance of Internal Connections _____.~~

~~If yes, the Post Cut System Support charge of \$1,710.72 OTC must be removed from the funding request. Please confirm you agree to remove \$1,710.72 from FRN 2175567 _____~~

III. FRN 2175583(Gompers Elementary) and FRN 2175600 (Munger Middle)

Please provide the PBX quotes for FRN 2175583 and FRN 2175600. Any ineligibles and/or cost allocations identified in the FRN 2175567 Clark quote must also be removed from the Gompers and Munger funding request.

DPS Response: We have attached the detailed quotes. We have re-examined each of these detail sheets for correctness. The table in our response to Question 1 shows the revised FRN amounts after the removal of the CM Fees and corrections to other eligible/ineligible item allocations.

IV. FRN 2175618 (\$301,980.82 OTC) – Clark Park School

IV.A Ineligibles

Please explain the ineligible function/use for the CAT5E items identified in the quote and removed from the funding request _____.

DPS Response: These costs are for some cabling runs that will support surveillance equipment that is not eligible for funding.

The quote also included ineligible vertical power strips which must be removed from the funding request. Any associated cost, such as the Construction Manager's Fee must also be removed. **No installation charge was identified in the quote although stated in the online Item 21.**

Vertical Power Strips (item 19 on quote)

\$6,840.00

Construction Manager's Fee cost allocation **

\$ 0

** If zero cost allocation, please explain your rationale.

Do you agree to remove the above charges from the funding request? **X Yes**

If **yes**, please confirm _____

DPS Response: We agree – these costs are identified and included in our answer to Q1 above.

~~If no, please explain.~~

IV.B NBD Svc Warranty for Catalyst 4506R Switches (\$4,361.08 OTC)

The Form 470 # 626590000795153 did not post for Basic Maintenance of Internal Connections (BMIC). You may have more than one Form 470 for the same FRN. Is Form 470 # 626590000795153 the establishing Form 470? **X Yes** ___No

DPS Response: We did not realize that maintenance was included but we did post a Form 470 for Basic Maintenance that would cover this FRN. However, given that the charges above are for 3 years and only one year would be eligible and the unclear SLD guidelines on the eligibility of Cisco Smartnet Maintenance, we are requesting that all of the charges be removed. These costs are identified and included in our answer to Q1 above.

~~If no, please provide the Form 470# for Internal Connections and the Form 470# for Basic Maintenance of Internal Connections.~~

If **yes**, the NBD Svc Warranty charge of \$4,361.08 OTC must be removed from the funding request. Please confirm you agree to remove \$4,361.08 from FRN 2175618 _____

DPS Response: We agree to the removal of these charges. These costs are identified and included in our answer to Q1 above.

Did you provide a Form 470 that post for BMIC? ___Yes ___No

~~If yes, please respond to the questions below.~~

Is the ~~Svc Warranty break/fix only; or break/fix plus software upgrades and patches, bug fixes, security patches, and online and telephone based technical assistance and tools?~~

~~_____ break/fix only~~

~~_____ break/fix plus software upgrades, patches, etc~~

If for ~~break/fix plus software upgrades and patches, bug fixes, security patches, and online and telephone based technical assistance and tools, please cost allocate the break/fix piece. \$_____~~

- V. **FRN 2175635 – Gompers Elementary School**
 FRN 2175643 - MacKenzie Middle School
 FRN 2175670 - Munger Middle School
 FRN 2175680 - M. L. King High School

Please provide the quotes for the other Network and Cabling FRNS listed above. Any ineligibles and/or cost allocations identified in the FRN 2175618 Clark quote must also be removed from FRNS 2175635, 2175643, 2175670, and 2175600.

DPS Response: We have attached the requested quotes. All ineligible costs are identified and included in our answer to Q1 above.

Please fax or email the requested information to my attention. If you have any questions, or if you require a further explanation of this request, 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 respond may result in a reduction or denial of funding. If you need additional time to prepare your response, please let me know as soon as possible. If you are unable to provide the requested information because your school has closed or will shortly close for summer break, let me know when you will be available to respond to these questions.**

Please advise me if the Contact Person on the application(s) has changed from that on the original application. This change must include the Form 471 application number(s) and be signed by the original application's Contact Person, the original application's Authorized Person or a school official (with name and title provided).

Should you wish to cancel your Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any cancellation request the Form 471 application number(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Marilyn Brown
Program Integrity Assurance
USAC, Schools and Libraries Division
Solix Inc.
30 Lanidex Plaza West
Parsippany, NJ 07054-2717
Phone: 973-581-5079

FAX: 973-599-6513 Attn Marilyn Brown
mbrown@sl.universalservice.org

E-Rate LOA (Letter of Agency)

To Whom It May Concern:

We have retained BTU Consultants, LLC under contract as Independent Consultants to serve as our agent for working with E-Rate issues for **Funding Year 2014 and all prior funding years**, in all areas of Telecommunications, Internet Services and Internal Connections. They will be assisting us in compliance issues and forms preparation. Their contact information is shown below:

BTU Consultants, LLC
4 Media Court
St. Louis, MO 63146
Phone: 314-983-0292
Fax: 314-983-0415

Lead Consultant: Donald J Dietrich
Additional Consultants: Lori Thompson, Carol Underriner

Please accept their comments, statements and signatures on our behalf. This LOA is in effect from signing through **December 31, 2014**. We trust you will cooperate with BTU Consultants, LLC in every way possible.

Thank you.

Signature of District Authority: Jon Brent Date: 12-30-2013

Printed Name / Title: Jon Brent, Executive Director

School District Name: **Detroit Public Schools – BEN 130944**

cc: BTU Consultants, LLC

**USAC / SLD Appeal
Detroit Public School District BEN 130944**

September 5, 2012

Appeals – *Submitted Online*
Schools and Libraries Division — Correspondence Unit
100 South Jefferson Road
P.O. Box 902
Whippany, New Jersey 07981

Re: Letter of Appeal - Case # 22-535384 (*filed electronically*)

Contact Information:

Contact Person Name:	Jon Brent
Contact Person Phone:	313-873-8522
Contact Person Fax:	313-873-3209
Contact Person E-Mail:	jon.brent@detroitk12.org

Other Required Information :

Funding Year:	2011-2012
Applicant Name:	Detroit Public School District
Billed Entity # :	130944
Form 471 Application#:	802776
FRN #:	2175567, 2175583, 2175600, 2175618, 2175635, 2175643, 2175670, 2175680
Service Provider Name:	L.S. Brinker Motor City Electric, A Joint Venture
Service Provider SPIN:	143028885

SLD action being appealed:

We are appealing the denial of multiple SPIN Change Requests based on the USAC letter “Administrator’s Decision on SPIN Change Request” dated August 5, 2013 (attached).

Explanation from USAC Denial Letter:

“...your request is denied because you did not have a legitimate reason for a SPIN change... Specifically, as part of your SPIN change request, a legitimate reason to change providers is required (e.g. data entry error, merger or acquisition, intra-company SPIN change, original SPIN not an E-Rate program participant, breach of contract between the applicant and its original service provider or the original service provider’s inability to perform the requested service).”

Basis for this appeal:

We are basing this appeal on the fact that the original service provider was in fact only a ‘middle man’ for the actual services being delivered by others. We believe that this case deserves special consideration because we have complied with SLD guidelines as demonstrated in our PIA review and our original request below.

USAC / SLD Appeal Detroit Public School District BEN 130944

Details of this appeal:

As stated in our original SPIN change request, the guidance on the SLD website says that “You can request a corrective SPIN change not substituting the actual provider of your service, but instead correctly identifying that provider.” We believe that our request satisfies this guideline.

In our case there is no change to the originally planned Service Provider that will be doing the actual work (i.e. cabling and technology infrastructure). The purpose of this SPIN change is only to remove the Construction Manager as the middle man and do that work ourselves. The Service Providers that performed the actual work have never changed. Only the ‘payee’ has changed. We explained this in PIA review and were advised that we could not request the SPIN change until post approval. Also, during PIA we did remove the Construction Manager’s fee which reduced the original requested amount of each FRN.

The relevant excerpt from our PIA response is shown below (full copy attached). Also note that this project was subject to a (successful) Selective Review back in 2011.

DPS Response: The contract is quite large. A copy was provided to SLD during our Selective Review in February of this year. The copy was sent to Earl Baderschneider at SLD (ebaders@sl.universalservice.org). Also, when originally requested, these FRNs were to be handled through a single Construction Manager and the CM Fee was included in the FRN amounts. Since that time, it was determined that the CM would not be used and that DPS would manage the installations internally. This will require both a SPIN change and a reduction in the requested funding. Following your advice, we will wait until post-approval to request SPIN changes for these FRNs. Our revised FRN amounts after the removal of the CM Fee (and other ineligible components discussed in your following questions) are included in the table below...

Summary and Requested Action:

We are requesting that SLD consider our appeal based on three main points:

1. DPS has gone to great lengths to follow SLD guidelines and to follow both the letter and the spirit of the E-Rate program. After a full Selective and PIA review there is no question as to the eligibility of any of the goods and services.
2. These funds have already been spent by the district and the denial of this SPIN change requests will result in the loss of over 1.4 million dollars that the district desperately needs.
3. We believe that the changes should be allowed base on the SLD guidelines that we are “not substituting the actual provider of your service, but instead correctly identifying that provider”.

USAC / SLD Appeal
Detroit Public School District BEN 130944

We respectfully request that SLD reconsider our requests and allow these SPIN changes.

Sincerely,

(filed electronically via SLD website)

Jon Brent, Infrastructure Engineer, Detroit Public Schools

3031 West Grand Blvd., Suite 450

Detroit, MI 48202

Ph: 313-873-8522

Fax: 313-873-3209

jon.brent@detroitk12.org

Included below:

Attachment A: USAC Denial Letter dated August 5, 2013

Attachment B: DPS SPIN Change Request dated June 24, 2013

Attachment C: DPS response to PIA dated 08-16-2011

Attachment D: Consultant LOA



Schools and Libraries Division

Administrator's Decision on SPIN Change Request

August 5, 2013

Re: Applicant Name: DETROIT PUBLIC SCHOOL DISTRICT
Billed Entity Number: 130944
FCC Form 471 Application Number: 802776
Funding Request Number(s): 2175567, 2175583, 2175600, 2175618, 2175635, 2175643, 2175670, 2175680
Your Correspondence Dated: June 24, 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 SPIN Change Request for the FRN(s) 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 USAC or the Federal Communications Commission (FCC). If your SPIN Change request included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request No. (FRN): 2175567
Original Service Provider: L.S. Brinker Motor City Electric,A Joint Venture
Original SPIN: 143028885
New Service Provider: Michigan Ed. Sch. Ser., Inc.
New SPIN: 143023091
Original Commitment Amount: \$41,032.90
Disbursement Amount: \$0.00
CAP Remaining: \$41,032.90
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Funding Request No. (FRN): 2175583
Original Service Provider: L.S. Brinker Motor City Electric,A Joint Venture
Original SPIN: 143028885
New Service Provider: Michigan Ed. Sch. Ser., Inc.
New SPIN: 143023091
Original Commitment Amount: \$ 40,757.63
Disbursement Amount: \$0.00
CAP Remaining: \$ 40,757.63
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Funding Request No. (FRN): 2175600
Original Service Provider: L.S. Brinker Motor City Electric,A Joint Venture
Original SPIN: 143028885
New Service Provider: Michigan Ed. Sch. Ser., Inc.
New SPIN: 143023091
Original Commitment Amount: \$ 40,377.93
Disbursement Amount: \$0.00
CAP Remaining: \$ 40,377.93
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Decision: Denied

Explanation: You requested a SPIN Change for FRNs 2175567, 2175583, 2175600 from SPIN 143028885 to 143023091. However, your request is denied because you did not have a legitimate reason for a SPIN change to SPIN 143023091.

Specifically, as part of your SPIN change request, a legitimate reason to change providers is required (e.g. data entry error, merger or acquisition, intra-company SPIN change, original SPIN not an E-Rate program participant, breach of contract between the applicant and its original service provider or the original service provider's inability to perform the requested service). Because the specified reason for a SPIN Change is not considered a legitimate reason, your SPIN Change request to SPIN 143023091 is denied.

Funding Request No. (FRN): 2175618
Original Service Provider: L.S. Brinker Motor City Electric,A Joint Venture
Original SPIN: 143028885
New Service Provider: Bailey LaBelle LLC, A Joint Venture
New SPIN: 143035038
Original Commitment Amount: \$ 264,035.09
Disbursement Amount: \$0.00
CAP Remaining: \$ 264,035.09
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Funding Request No. (FRN): 2175635
Original Service Provider: L.S. Brinker Motor City Electric,A Joint Venture
Original SPIN: 143028885
New Service Provider: Bailey LaBelle LLC, A Joint Venture
New SPIN: 143035038
Original Commitment Amount: \$ 264,035.09
Disbursement Amount: \$0.00
CAP Remaining: \$ 264,035.09
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Funding Request No. (FRN): 2175643

Original Service Provider: L.S. Brinker Motor City Electric,A Joint Venture
Original SPIN: 143028885
New Service Provider: Bailey LaBelle LLC, A Joint Venture
New SPIN: 143035038
Original Commitment Amount: \$294,822.52
Disbursement Amount: \$0.00
CAP Remaining: \$294,822.52
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Funding Request No. (FRN): 2175670
Original Service Provider: L.S. Brinker Motor City Electric,A Joint Venture
Original SPIN: 143028885
New Service Provider: Bailey LaBelle LLC, A Joint Venture
New SPIN: 143035038
Original Commitment Amount: \$275,310.52
Disbursement Amount: \$0.00
CAP Remaining: \$275,310.52
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Funding Request No. (FRN): 2175680
Original Service Provider: L.S. Brinker Motor City Electric,A Joint Venture
Original SPIN: 143028885
New Service Provider: Bailey LaBelle LLC, A Joint Venture
New SPIN: 143035038
Original Commitment Amount: \$372,643.00
Disbursement Amount: \$0.00
CAP Remaining: \$372,643.00
A FCC Form 486 has been filed for this FRN: No
This FRN includes Non-Recurring Services: Yes

Decision: Denied

Explanation: You requested a SPIN Change for FRNs 2175618, 2175635, 2175643, 2175670, 2175680 from SPIN 143028885 to 143035038. However, your request is denied because you did not have a legitimate reason for a SPIN change to SPIN 143035038.

Specifically, as part of your SPIN change request, a legitimate reason to change providers is required (e.g. data entry error, merger or acquisition, intra-company SPIN change, original SPIN not an E-Rate program participant, breach of contract between the applicant and its original service provider or the original service provider's inability to perform the requested service). Because the specified reason for a SPIN Change is not considered a legitimate reason, your SPIN Change request to SPIN 143035038 is denied.

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 a decision in this letter to USAC, your appeal must be received by USAC 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 for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the USAC decision letter (e.g., FCDL) and the decision you are appealing:
 - appellant name
 - applicant and service provider names, if different than appellant
 - applicant BEN and service provider SPIN
 - **<insert application or form number>** as assigned by USAC
 - Funding Request Number(s) (FRNs) you are appealing if provided in the letter
 - **<insert name of the letter and funding year - both are located at the top of the letter>** AND
 - the exact text or the decision that you are appealing.
3. 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 the applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are the 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.

We strongly recommend that you use one of the electronic filing options. To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org or submit your appeal electronically by using the "Submit a Question" feature on the USAC website. 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
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

For more information on submitting an appeal to USAC, please see "Appeals" in the "Schools and Libraries" section of the USAC 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 "Appeals" in the "Schools and Libraries" section of the USAC 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.

Thank you for your continued patience and cooperation during this process.

Schools and Libraries Division
Universal Service Administrative Company

CC:

CORRECTIVE SPIN CHANGE REQUEST

Date: June 24, 2013

To: Corrective SPIN Change
 Schools and Libraries Division
 Box 125 – Correspondence Unit
 80 S Jefferson Road
 Whippany, NJ 07981

Submitted Online**Case #: 22-511128**

To Whom It May Concern: Note that there are multiple requests contained here. All changes fall under one of the two requests shown below.

We feel that these SPIN changes are Corrective rather than Operational. The guidance on the SLD website says that *“You can request a corrective SPIN change not substituting the actual provider of your service, but instead correctly identifying that provider.”* In our case there is no change in the originally planned Service Provider that will be doing the actual work. We are merely removing the Construction Manager as the middle man. We explained all of this in our PIA review process and below. Please accept these SPIN changes for FY2011.

SPIN Change Request #1 of 2 – removes the Construction Manager and replaces with actual Service Provider of new cabling in five schools.

1.	Submitter of Request Detroit Public Schools
2.	Billed Entity Number (BEN) 130944
3.	Funding Request Number (FRN) 2175618, 2175635, 2175643, 2175670, 2175680
4.	FCC Form 471 Application Number 802776
5.	Applicant Name Detroit Public Schools
6.	Applicant Contact Jon Brent
7.	Applicant Phone (313) 873-8522
8.	Applicant Email Address jon.brent@detroitk12.org
9.	Original SPIN 143028885

CORRECTIVE SPIN CHANGE REQUEST

10.	Original Service Provider L.S. Brinker Motor City Electric, A Joint Venture
11.	Original Service Provider Contact Yaroslav Stakhiv
12.	Original Service Provider Phone 313-897-9130
13.	Original Service Provider Email Address N/A
14.	New SPIN 143035038
15.	New Service Provider Bailey LaBelle LLC, A Joint Venture
16.	New Service Provider Contact Christopher W LaBelle
17.	New Service Provider Phone 586-598-7360
18.	New Service Provider Email Address Not Available
19.	<p>Reason for change. If the change is for a reason other than a data entry error or a merger/acquisition, please give a brief explanation of the circumstances requiring the change.</p> <p>As we explained during PIA review – Detroit Public Schools originally planned to use a Construction Manager to oversee these projects in five new construction schools. Between the time of our 471 filing and approval, DPS decided to manage the projects in-house. The Service Providers that performed the actual work have never changed. Only the ‘payee’ has changed. We are merely removing the Construction Manager as the ‘middle man’. We explained this in PIA review and were advised that we could not request the SPIN change until post approval. During PIA we did remove the Construction Manager’s fee which reduced the original requested amount of each FRN.</p>
20.	<p>Has the original service provider supplied any services under this funding request? If yes, you must supply the following information. NO</p> <p>For recurring services: N/A</p> <p>For non-recurring services: N/A</p>

CORRECTIVE SPIN CHANGE REQUEST

SPIN Change Request #2 of 2 – removes the Construction Manager and replaces with actual Service Provider of new PBX systems cabling in three schools.

1.	Submitter of Request Detroit Public Schools
2.	Billed Entity Number (BEN) 130944
3.	Funding Request Number (FRN) 2175567, 2175583, 2175600
4.	FCC Form 471 Application Number 802776
5.	Applicant Name Detroit Public Schools
6.	Applicant Contact Jon Brent
7.	Applicant Phone (313) 873-8522
8.	Applicant Email Address jon.brent@detroitk12.org
9.	Original SPIN 143028885
10.	Original Service Provider L.S. Brinker Motor City Electric, A Joint Venture
11.	Original Service Provider Contact Yaroslav Stakhiv
12.	Original Service Provider Phone 313-897-9130
13.	Original Service Provider Email Address N/A
14.	New SPIN 143023091
15.	New Service Provider Michigan Ed. Sch. Ser., Inc.
16.	New Service Provider Contact Mike Pacioni
17.	New Service Provider Phone 313-717-1510
18.	New Service Provider Email Address mpacioni@sbcglobal.net

CORRECTIVE SPIN CHANGE REQUEST

19.	<p>Reason for change. If the change is for a reason other than a data entry error or a merger/acquisition, please give a brief explanation of the circumstances requiring the change.</p> <p>As we explained during PIA review – Detroit Public Schools originally planned to use a Construction Manager to oversee these projects in five new construction schools. Between the time of our 471 filing and approval, DPS decided to manage the projects in-house. The Service Providers that performed the actual work have never changed. Only the ‘payee’ has changed. We are merely removing the Construction Manager as the ‘middle man’. We explained this in PIA review and were advised that we could not request the SPIN change until post approval. During PIA we did remove the Construction Manager’s fee which reduced the original requested amount of each FRN.</p>
20.	<p>Has the original service provider supplied any services under this funding request? If yes, you must supply the following information. NO</p> <p>For recurring services: N/A</p> <p>For non-recurring services: N/A</p>

End of Request



DPS Response: Please see our responses below.

Date: August 8, 2011

JON BRENT (313) 8738522
 DON DIETRICH 314-378-1667
 DETROIT PUBLIC SCHOOL DISTRICT
 Application Number(s): **802776**

Response Due Date: August 23, 2011

As we discussed in our conversation, we are in the process of reviewing all Funding Year 2011 Form 471 applications to ensure that they are in compliance with the rules of the Universal Service program. I am currently in the process of reviewing your Funding Year 2011 Form 471 Application. To complete my review I need some additional information. The information needed to complete the PIA Review is listed below.

I. Construction Manager's Fee (All FRNS)

In your response of July 26, 2011 you stated the sample Clark PBX and Cabling quotes did not include the Construction Manager's Fee. This fee appears to be supplemental products/services:

Construction Manager's Fee

The documentation you provided does not identify the costs associated with these supplemental products/services. In order to determine the eligibility of the supplemental items, please provide vendor documentation identifying the costs associated with the supplemental items. The documentation should be specific and clearly describe the scope of the work effort and cost of the supplemental items. Please identify where to find this description in the documentation.

Please provide the complete contract 10-0224-2 in order to evaluate the funding request for all 5 schools including any maintenance requested.

The documentation provided should also clearly identify any ineligible charges that were cost allocated out of your request. If you are unable to verify the eligibility of the supplemental charges requested on your Form 471, the request may be reduced or denied.

DPS Response: The contract is quite large. A copy was provided to SLD during our Selective Review in February of this year. The copy was sent to Earl Baderschneider at SLD (ebaders@sl.universalservice.org). Also, when originally requested, these FRNs were to be handled through a single Construction Manager and the CM Fee was included in the FRN amounts. Since that time, it was determined that the CM would not be used and that DPS would manage the installations internally. This will require both a SPIN change and a reduction in the requested funding. Following your advice, we will wait until post-approval to request SPIN changes for these FRNs. Our revised FRN amounts after the removal of the CM Fee (and other ineligible components discussed in your following questions) are included in the table below:

FRN	Entity	Original 471 Pre-Disc Amount	Remove Ineligibles (per Pricing Sheet)	Remove Power Strips (PIA)	Remove 8x5NBD Maintenance	Remove CM Fee Cabling	Revised Pre-Disc Amount
2175618	Clark Park	\$ 301,980.82	\$ (21,248.83)	\$ (6,840.00)	\$ (4,361.08)	\$ (5,495.82)	\$ 264,035.09
2175635	Gompers	\$ 301,909.75	\$ (21,248.83)	\$ (6,840.00)	\$ (4,361.08)	\$ (5,424.75)	\$ 264,035.09
2175643	Mackenzie	\$ 338,507.97	\$ (19,686.40)	\$ (6,840.00)	\$ (4,086.08)	\$ (13,072.97)	\$ 294,822.52
2175670	Munger	\$ 320,206.22	\$ (19,535.40)	\$ (6,840.00)	\$ (4,249.08)	\$ (14,271.22)	\$ 275,310.52
2175680	MLK HS	\$ 419,365.63	\$ (892.00)	\$ (9,690.00)	\$ (4,361.00)	\$ (31,779.63)	\$ 372,643.00
FRN	Entity	Original 471 Pre-Disc Amount				Remove CM Fee and other ineligibles (see detail sheets)	Revised Pre-Disc Amount
2175567	Clark Park	\$ 58,038.00				\$ (13,497.05)	\$ 44,540.95
2175583	Gompers	\$ 58,872.00				\$ (14,606.32)	\$ 44,265.68
2175600	Munger	\$ 59,226.66				\$ (15,340.68)	\$ 43,885.98
2175605	ML King	\$ 66,873.00	Cancelled			N/A	

Please see the Eligible Services List (Miscellaneous section) at <http://www.usac.org/sl/tools/eligible-services-list.aspx> for additional information regarding supplemental products/services.

II. Clark PBX Quote FRN 2175567 (\$58,038 OTC)

The quote provided on July 26, 2011 identified ineligibles which were not included in the funding request. It is not clear if the line items #24 through #27 included costs for the ineligible items. These appear to be labor charges: the "unit" is not defined.

Are the associated charges in items #24-#27 for eligible items only? **Yes** No

DPS Response: The charges on lines #24-27 of the quote are for eligible items only (system configuration and installation).

If **yes**, proceed to the next section.

If **no**, please provide a cost allocation \$ _____ of charges to be remove from the funding request for the associated costs. Please confirm you agree to remove these charges _____

II.A PBX Project Management

The sample Clark quote includes charges for project management.

Does project management involve initial planning? Yes **No**

Is project management outside the scope of installation and initial operation? Yes **No**

If **no** to both questions, proceed to the next section.

~~If yes to either question, project management charge \$855.36 is ineligible. Please confirm that you agree the project management charge of \$855.36 OTC should be removed from the FRN _____~~

II.B PBX Data Gathering, Programming, Training Documentation

The sample PBX quote for Clark included \$106.92 and 34 units for Data Gathering, Programming, Training Documentation.

Please explain this item #25 and the "units".

DPS Response: \$106.92 is the burdened hourly rate – the units are hours of labor – Data Gathering, Programming and Training Documentation are the tasks of gathering information on which phones will be at which stations, programming the PBX to route calls accordingly, documenting the programming so that operators of the system can be trained in its basic operations.

II.C PBX Post Cut System Support (\$1,710.72 OTC)

The PBX Post Cut System Support appears to be maintenance. Are the unit costs and "units" cost per hour and number of hours? **X** **Yes – but this is not maintenance**

DPS Response: Post Cut System Support is not maintenance, it is for resolving any issues within the first few days of system cutover. It is part of the installation process.

~~If no, please explain this charge.~~

~~The Form 470 # 626590000795153 did not post for Basic Maintenance of Internal Connections. You may have more than one Form 470 for the same FRN. Is Form 470 # 626590000795153 the establishing Form 470? ___ Yes ___ No~~

~~If no, please provide the Form 470# for Internal Connections _____ and the Form 470# for Basic Maintenance of Internal Connections _____.~~

~~If yes, the Post Cut System Support charge of \$1,710.72 OTC must be removed from the funding request. Please confirm you agree to remove \$1,710.72 from FRN 2175567 _____~~

III. FRN 2175583(Gompers Elementary) and FRN 2175600 (Munger Middle)

Please provide the PBX quotes for FRN 2175583 and FRN 2175600. Any ineligibles and/or cost allocations identified in the FRN 2175567 Clark quote must also be removed from the Gompers and Munger funding request.

DPS Response: We have attached the detailed quotes. We have re-examined each of these detail sheets for correctness. The table in our response to Question 1 shows the revised FRN amounts after the removal of the CM Fees and corrections to other eligible/ineligible item allocations.

IV. FRN 2175618 (\$301,980.82 OTC) – Clark Park School

IV.A Ineligibles

Please explain the ineligible function/use for the CAT5E items identified in the quote and removed from the funding request _____.

DPS Response: These costs are for some cabling runs that will support surveillance equipment that is not eligible for funding.

The quote also included ineligible vertical power strips which must be removed from the funding request. Any associated cost, such as the Construction Manager's Fee must also be removed. **No installation charge was identified in the quote although stated in the online Item 21.**

Vertical Power Strips (item 19 on quote)	\$6,840.00
Construction Manager's Fee cost allocation **	\$ <u>0</u>

** If zero cost allocation, please explain your rationale.

Do you agree to remove the above charges from the funding request? **X Yes**

If **yes**, please confirm _____

DPS Response: We agree – these costs are identified and included in our answer to Q1 above.

~~If no, please explain.~~

IV.B NBD Svc Warranty for Catalyst 4506R Switches (\$4,361.08 OTC)

The Form 470 # 626590000795153 did not post for Basic Maintenance of Internal Connections (BMIC). You may have more than one Form 470 for the same FRN. Is Form 470 # 626590000795153 the establishing Form 470? **X Yes** ___No

DPS Response: We did not realize that maintenance was included but we did post a Form 470 for Basic Maintenance that would cover this FRN. However, given that the charges above are for 3 years and only one year would be eligible and the unclear SLD guidelines on the eligibility of Cisco Smartnet Maintenance, we are requesting that all of the charges be removed. These costs are identified and included in our answer to Q1 above.

~~If no, please provide the Form 470# for Internal Connections and the Form 470# for Basic Maintenance of Internal Connections.~~

If **yes**, the NBD Svc Warranty charge of \$4,361.08 OTC must be removed from the funding request. Please confirm you agree to remove \$4,361.08 from FRN 2175618 _____

DPS Response: We agree to the removal of these charges. These costs are identified and included in our answer to Q1 above.

Did you provide a Form 470 that post for BMIC? ___Yes ___No

~~If yes, please respond to the questions below.~~

Is the ~~Svc Warranty break/fix only; or break/fix plus software upgrades and patches, bug fixes, security patches, and online and telephone based technical assistance and tools?~~

~~_____ break/fix only~~

~~_____ break/fix plus software upgrades, patches, etc~~

If for ~~break/fix plus software upgrades and patches, bug fixes, security patches, and online and telephone based technical assistance and tools, please cost allocate the break/fix piece. \$ _____~~

- V. **FRN 2175635 – Gompers Elementary School**
 FRN 2175643 - MacKenzie Middle School
 FRN 2175670 - Munger Middle School
 FRN 2175680 - M. L. King High School

Please provide the quotes for the other Network and Cabling FRNS listed above. Any ineligibles and/or cost allocations identified in the FRN 2175618 Clark quote must also be removed from FRNS 2175635, 2175643, 2175670, and 2175600.

DPS Response: We have attached the requested quotes. All ineligible costs are identified and included in our answer to Q1 above.

Please fax or email the requested information to my attention. If you have any questions, or if you require a further explanation of this request, 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 respond may result in a reduction or denial of funding. If you need additional time to prepare your response, please let me know as soon as possible. If you are unable to provide the requested information because your school has closed or will shortly close for summer break, let me know when you will be available to respond to these questions.**

Please advise me if the Contact Person on the application(s) has changed from that on the original application. This change must include the Form 471 application number(s) and be signed by the original application's Contact Person, the original application's Authorized Person or a school official (with name and title provided).

Should you wish to cancel your Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any cancellation request the Form 471 application number(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Marilyn Brown
Program Integrity Assurance
USAC, Schools and Libraries Division
Solix Inc.
30 Lanidex Plaza West
Parsippany, NJ 07054-2717
Phone: 973-581-5079

FAX: 973-599-6513 Attn Marilyn Brown
mbrown@sl.universalservice.org



E-Rate LOA (Letter of Agency)

To Whom It May Concern:

We have retained BTU Consultants, LLC under contract as Independent Consultants to serve as our agent for working with E-Rate issues for **Funding Year 2013 – 2014 and all prior funding years**, in all areas of Telecommunications, Internet Services and Internal Connections. They will be assisting us in compliance issues and forms preparation. Their contact information is shown below:

BTU Consultants, LLC
4 Media Court
St. Louis, MO 63146
Phone: 314-983-0292
Fax: 314-983-0415

Lead Consultant: Donald J Dietrich
Additional Consultants: Lori Thompson, Carol Underriner

Please accept their comments, statements and signatures on our behalf. This LOA is in effect from signing through **December 31, 2013**. We trust you will cooperate with BTU Consultants, LLC in every way possible.

Thank you.

Signature of District Authority:

Date: 11-21-2012

Printed Name / Title:

Jon Brent
Executive Director OF Deployment and Technical Services

School District Name:

Detroit Public Schools – BEN 130944

cc: BTU Consultants, LLC

FCC Appeal Att F USAC Denial of Appeal
FY2011 DPS 12-12-13 = 3 pp

Don Dietrich
BTU Consultants
4 Media Court
St Louis, MO 63146

Billed Entity Number: 130944
Form 471 Application Number: 802776
Form 486 Application Number:



Administrator's Decision on Appeal – Funding Year 2011-2012

December 12, 2013

Jon Brent
Detroit Public School District
3031 West Grand Blvd, Suite 450-10
Detroit, MI 48202

Re: Applicant Name: DETROIT PUBLIC SCHOOL DISTRICT
Billed Entity Number: 130944
Form 471 Application Number: 802776
Funding Request Number(s): 2175567, 2175583, 2175600, 2175618, 2175635,
2175643, 2175670, 2175680
Your Correspondence Dated: September 05, 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 appeal of USAC's Funding Year 2011 Administrator's Decision on SPIN Change 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): 2175567, 2175583, 2175600, 2175618, 2175635,
2175643, 2175670, 2175680

Decision on Appeal: **Denied**

Explanation:

- According to our records, you submitted your Form 471 with the service provider listed as L.S. Brinker Motor City Electric, A Joint Venture. You requested an Operational SPIN change from L.S. Brinker Motor City Electric, A Joint Venture to Bailey LaBelle LLC, A Joint Venture for FRNs 2175618, 2175635, 2175643, 2175670 and 2175680 and to Michigan Ed. Sch. Ser., Inc. for FRNs 2175567, 2175583 and 2175600. You provided Work Orders listing L.S. Brinker Motor City Electric, A Joint Venture as contractor and Bailey LaBelle LLC, A Joint Venture or Michigan Ed. Sch. Ser., Inc. as subcontractors. Since you did not provide a legitimate reason for the SPIN change, such as a data entry error, merger or acquisition, intra-company SPIN change, original SPIN not an E-Rate

program participant, breach of contract between the applicant and its original service provider or the original service provider's inability to perform the requested service, your request was denied. On appeal, you were asked to provide source documentation to support your request. You provided contracts between Detroit Public School District and the Service Providers to support the SPIN change. However, the contracts were signed after the filing of the Form 471. Since you were not able to provide source documents to support the SPIN change request, your appeal is denied.

- In its Copan Order, the FCC determined that SPIN change requests would be granted when the applicant certifies that (1) the changes are allowed under state and local procurement rules and under the terms of the contract between the applicant and the service provider, and (2) the applicant has notified the original service provider of the intent to change. *See* Request for Review by Copan Public Schools, 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, 15 FCC Rcd 5498, FCC 00-100 (rel. Mar. 16, 2000). *See also* SPIN Change Guidance under Reference area at www.usac.org/sl. Once a contract for products or services is signed by the applicant and service provider, the applicant may not change to a different service provider unless (1) there is a legitimate reason to change providers (e.g., breach of contract or the service provider is unable to perform); and (2) the newly selected service provider received the next highest point value in the original bid evaluation, assuming there was more than one bidder. *See* In the Matter of Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan For Our Future, Sixth Report and Order, CC Docket No. 02-6; GN Docket No. 09-51, FCC 10-175 para. 91 (rel. September 28, 2010).

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. 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 under the Reference Area/"Appeals" 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