

02-6

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Educational Consortium for  
Telecommunications Savings

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APR 22 2014

FCC Mail Room

04/17/14

Request for Waiver  
Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

To Whom It May Concern:

Entity and BEN	Burlington School District - 120365
Contact Person	Tom Miller
Contact Information	Education Consortium
Mailing Address	790 Newtown-Yardley Rd. Suite 410
Phone Number	Newtown, PA 18940- 215-504-5043
Email	Tmiller@e-rate-ects.org
Service Providers	Merrimack Education Center
Funding Year	2013
Application Type & Application Number	Internet Access - Form 471 Application 900576
FRNs	2450429
Appeal Reason	Request waiver 60 day filing deadline

**Request for Waiver—Explanation**

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### FCC WAIVER OF 60 DAY RULE FOR APPEALS

To whom it may concern

On 11/27/13 the SLD issued a Funding Commitment Decision Letter to the Burlington School District covering 471 application number 900576 and including FRN number 2450429. This letter did not reference any reduction in or denial of requested funding, as is normally done if there is a reduction or denial of requested funding. Under FRN 2450429 the SLD did include an explanation that they had changed the submitted Annual Pre-discount Amount for Non-Recurring Charges of \$58,228.00 to recurring monthly charges of \$4852.33. The monthly charge multiplied by 12 months would result in an annual cost of \$58,227.98 to which the District's E-rate discount of 40% would be applied. There was no apparent problem since the change from an annual cost to monthly would result in the same E-rate funding award.

During the review process prior to the issuance of the Funding Commitment Decision Letter, the SLD did not contact the applicant for any further information nor was there any communication regarding any proposed reduction in requested funding. Whenever the SLD is considering a reduction in funding from the requested amount applicants are contacted to allow them to provide input prior to any reduction. Since this did not happen, the District had no reason to expect any problem or reduction in the requested E-rate funding. To the contrary, the District expected to receive the full requested funding award.

However, in late March 2014 when the BEAR Forms were being prepared to obtain reimbursements to the District through January 2014, it was discovered that the funding amount on the FRN was only \$2,171.18 (40% of an annual cost of \$5,427.96) and not the requested E-rate funding of \$23,291.20 based on the correct annual cost of \$58,228.00 for the District's Internet Access Service.

Upon in-depth analysis, we recently discovered that in converting the annual cost to a monthly cost the SLD appears to have inadvertently used \$452.33 as the monthly cost rather than the \$4,852.33 they had said they were going to use. It appears that the SLD dropped the digit "8" from the correct monthly cost, which resulted in the \$452.33 monthly figure rather than \$4,852.33 (and an annual cost of \$5,427.96 rather than the correct annual cost of \$58,228.00.) In turn, this error resulted in a greatly reduced funding award for this FRN/expense (\$2,171.18 versus the \$23,291.20 requested).

Since the SLD error was not discovered until recently, the District was not able to file an appeal of the reduced funding within 60 days of the Funding Commitment Decision Letter.

We are therefore requesting that the FCC grant a waiver of the 60 day requirement to allow the District to file an appeal with the SLD. This will also allow the SLD receive the appeal and correct the error.

Page 2

We have been advised by the USAC Office of Ombudsman that an FCC waiver of the 60 day appeal requirement would be required for the District to submit an appeal and for the SLD to reach a decision and take action.

The District has complied with all E-rate requirements. There is no fraud or misuse of funds. There is a need, in accordance with the objectives of the E-rate Program and fairness to all applicants, that an opportunity be allowed for the District and the SLD to correct the error. We are certain this should and can happen with appropriate action by the FCC.

We have attached documentation of the original 471 and attachments pertaining to the FRN in question.

As can now be readily seen, we are seeking to correct an SLD error which was beyond the control of the District. Other applicants have requested and received waivers of the 60 day requirement to correct ministerial or clerical errors made by the applicants themselves. It should be even more imperative that a waiver be granted to allow for the correction of a clerical error made by the SLD and not by the applicant. (We respectfully refer the FCC to the Ann Arbor Order DA 10-2354, CC Docket No. 02-6.)

The loss of over \$21,120.00 by the District in E-rate support for its important Internet Access Service has a significant impact on the Burlington School District and its students.

We also respectfully refer the FCC to the Adams County Order FCC 07-35, CC Docket No. 02-6. This Order refers to the Bishop Perry Middle School when the FCC found that "under certain circumstances rigid adherence to certain E-rate rules and requirements that are 'procedural' in nature does not promote the goals of section 254 of the Act -- ensuring access to discounted telecommunications and information services to schools and libraries -- and therefore does not serve the public interest." We agree with this statement and present our request in the same spirit. ( Paragraph 10)

Thank you for your kind consideration and anticipated granting of the requested waiver and/or other appropriate remedial action by the FCC.

Sincerely Yours,

Thomas Miller  
E-rate Consultant representing Burlington School District  
215 - 504-5043

[tmiller@e-rate-ects.org](mailto:tmiller@e-rate-ects.org)

Attachments: A -Letter of Agency - B -471 Application form - C -Item 21 Attachment

**Certified Mail Number - 7012 1010 0000 5426 5149    Return Receipt requested**

# Burlington Public Schools

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Attachment A

123 CAMBRIDGE STREET  
BURLINGTON, MA 01803  
(781) 270-1800

## LETTER OF AUTHORIZATION

October 15, 2012

To whom it may concern:

This is to advise you that we have secured the E-rate consulting services of The Education Consortium (ECTS) for the funding year 2013.

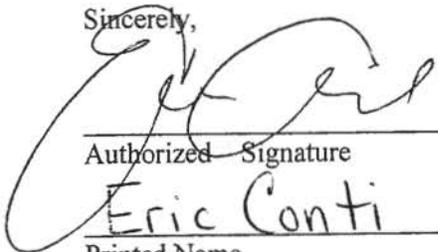
The Education Consortium and its staff members are authorized by us to be and act as the contact person on our E-rate applications and forms. They are authorized to represent us in all communications with the Schools and Libraries Division, our service providers, and others regarding all matters pertaining to our E-rate applications and flow of approved funds for the funding year.

The Education Consortium represents us in E-rate application and funding matters only and is not performing any function with regard to technology planning, selection of services and purchases, bid review and selection, or any other matters apart from the E-rate application process.

We request that our service providers provide full cooperation to The Education Consortium as our authorized representative in all steps of the E-rate application process including the BEAR and SPI process to assure the flow to us of approved E-rate funding. Please provide them with copies of invoices, billing records, customer service records, contracts and service agreements, and any other information needed for the E-rate process.

Your assistance is greatly appreciated.

Sincerely,

  
\_\_\_\_\_  
Authorized Signature

Eric Conti  
\_\_\_\_\_  
Printed Name

Superintendent  
\_\_\_\_\_  
Title

Entity Number: 120365		Applicant's Form Identifier: 16BURLINGTM																												
Contact Person: TOM MILLER		Contact Phone Number: (215) 504-5043																												
Block 5: Discount Funding Request(s) Instructions: Use one Block 5 page for EACH service (Funding Request Number) for which you are requesting discounts. Make as many copies of this page as needed, and number the completed pages to assure that they are all processed correctly.		Block 5, page 4 of 4 FRN 2450429 (to be assigned by administrator)																												
10 <input type="checkbox"/> If this is a duplicate Funding Request (e.g., of an FRN that is not yet approved, under appeal, etc.), check this box and enter the original FRN in the space provided:																														
11 Category of Service ( only ONE category should be checked)		23 Calculations																												
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">                     PRIORITY 1  <input type="checkbox"/> Telecommunications Service  <input checked="" type="checkbox"/> Internet Access                 </td> <td style="width:50%;">                     PRIORITY 2  <input type="checkbox"/> Internal Connections Other than Basic Maintenance  <input type="checkbox"/> Basic Maintenance of Internal Connections                 </td> </tr> </table>		PRIORITY 1 <input type="checkbox"/> Telecommunications Service <input checked="" type="checkbox"/> Internet Access	PRIORITY 2 <input type="checkbox"/> Internal Connections Other than Basic Maintenance <input type="checkbox"/> Basic Maintenance of Internal Connections	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="5" style="width:10%; vertical-align: middle;">Recurring Charges</td> <td>A. Monthly charges (total amount per month for service)</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>B. How much of the amount in A is ineligible?</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>C. Eligible monthly pre-discount amount (A minus B)</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>D. Number of months service provided in funding year</td> <td style="text-align: center;">12</td> </tr> <tr> <td>E. Annual pre-discount amount for eligible recurring charges (C x D)</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td rowspan="3" style="vertical-align: middle;">Non-Recurring Charges</td> <td>F. Annual non-recurring charges</td> <td style="text-align: right;">\$58,228.00</td> </tr> <tr> <td>G. How much of the amount in F is ineligible?</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>H. Annual eligible pre-discount amount for non-recurring charges (F minus G)</td> <td style="text-align: right;">\$58,228.00</td> </tr> <tr> <td rowspan="3" style="vertical-align: middle;">Total Charges</td> <td>I. Total funding year pre-discount amount (E + H)</td> <td style="text-align: right;">\$58,228.00</td> </tr> <tr> <td>J. Discount from Block 4 Worksheet</td> <td style="text-align: right;">40.00</td> </tr> <tr> <td>K. Funding Commitment Request (I x J)</td> <td style="text-align: right;">\$23,291.20</td> </tr> </table>		Recurring Charges	A. Monthly charges (total amount per month for service)	\$0.00	B. How much of the amount in A is ineligible?	\$0.00	C. Eligible monthly pre-discount amount (A minus B)	\$0.00	D. Number of months service provided in funding year	12	E. Annual pre-discount amount for eligible recurring charges (C x D)	\$0.00	Non-Recurring Charges	F. Annual non-recurring charges	\$58,228.00	G. How much of the amount in F is ineligible?	\$0.00	H. Annual eligible pre-discount amount for non-recurring charges (F minus G)	\$58,228.00	Total Charges	I. Total funding year pre-discount amount (E + H)	\$58,228.00	J. Discount from Block 4 Worksheet	40.00	K. Funding Commitment Request (I x J)	\$23,291.20
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12 Form 470 Application Number 895270001007940																														
13 SPIN - Service Provider Identification Number 143004624																														
14 Service Provider Name Merrimack Education Center																														
15a <input type="checkbox"/> Check this box if this Funding Request is for non-contracted tariffed or month-to-month services.																														
15b Contract Number N/A																														
15c <input type="checkbox"/> Check this box if this Funding Request is covered under a master contract (a contract negotiated by a third party, the terms and conditions of which are then made available to an eligible entity that purchases directly from the service provider).																														
15d <input checked="" type="checkbox"/> Check this box if this Funding Request is a continuation of an FRN from a previous funding year based on a multi-year contract. If so, provide that FRN here: 2328570																														
16a Billing Account Number (e.g., billed telephone number) N/A																														
16b <input type="checkbox"/> Check this box if there are multiple Billing Account Numbers and attach a complete list of those numbers to this page.																														
17 Allowable Vendor Selection/Contract Date (mm/dd/yyyy) (based on Form 470 filing) 02/23/2012																														
18 Contract Award Date (mm/dd/yyyy) 03/09/2012																														
19 Service Start Date (mm/dd/yyyy) 07/01/2013																														
20a Service End Date (mm/dd/yyyy)																														
Contract Expiration Date 20b (mm/dd/yyyy) 06/30/2014																														
21 Description of This Service: NOTE: All Item 21 Attachments must be filed before the close of the filing window. Attachment You MUST attach a description of the service, including a breakdown of components, costs, manufacturer name, make and model number. You must include any additional account or telephone numbers if the billed account has multiple numbers. Label the description with an Attachment Number, and note number in space provided. <span style="float: right;">1</span>																														
22 Entity/Entities Receiving This Service:		a. If the service is site-specific (provided to one site and not shared by others), list the Entity Number of the entity from Block 4 receiving this service:																												
		b. If the service is shared by all entities on a Block 4 worksheet, list the worksheet number (e.g., 1): <span style="float: right;">1539642</span>																												



Educational Consortium for  
Telecommunications Savings

Attachment - C

ITEM 21 - Attachment 1

School District: Burlington SD

471 Application Number: 900576

Entity Number: 120365

FRN: 2450429

Service Provider: Merrimack Education Center

Narrative Description: \_\_\_\_\_

INTERNET ACCESS

Quantity	Product or Service Description	Unit Cost	Extended Pre-discount Cost	
			Recurring	Non-Recurring
12	Monthly Internet Access Service			58,228.00
	Bandwidth: 400 megs			
				58,228.00
		TOTAL:		

"The Internet Access service for which I seek discounts will be strictly limited to providing services only at eligible locations and used only by eligible users. Access to the Internet will not be provided to homes or other non-school or non-library sites."

All ineligible services have been removed from this funding request

Thomas Miller E-rate Consultant