



PROFESSIONAL E-RATE COMPLIANCE SERVICES AGREEMENT

This Agreement is between Funds For Learning, LLC, an Oklahoma limited liability company with its principal place of business located at 2575 Kelley Pointe Parkway, Suite 200, Edmond, OK 73013 ("FFL") and Howard County Public School System, a public school system with its administrative offices located at 10910 Clarksville Pike (Route 108), Ellicott City, MD 21042 ("APPLICANT").

WHEREAS, the Universal Service Support Mechanism for Schools and Libraries, commonly referred to as the "E-rate Program," is a federal program that provides discounts of up to 90% on the cost of telecommunications services, Internet access and data/telecom connections to successful school and library applicants; and

WHEREAS, FFL is a federal regulatory compliance consulting and web services firm that specializes in the E-rate Program; and

WHEREAS, APPLICANT is eligible for E-rate discounts and desires to retain FFL to provide professional assistance and online services in connection with the E-rate program;

NOW, THEREFORE, in consideration of the mutual covenants included herein, the parties hereby agree as follows:

1. TERM OF THE AGREEMENT

This Agreement will be effective for a period of twelve (12) months, beginning on July 1, 2017 and ending on June 30, 2018.

APPLICANT may renew this Agreement for three (3) additional twelve-month terms. To renew this Agreement, APPLICANT must notify FFL, in writing, of its decision to renew at any time before the end of the then current term.

The APPLICANT may terminate this agreement without cause with 90 day written notification. The annual fee will be prorated based on the level of documented work as a percentage of the whole level of effort provided up to and including the 90 days.

2. DIRECT AND ONLINE E-RATE COMPLIANCE AND ADMINISTRATIVE SERVICES

During the term of the Agreement, FFL will prepare for APPLICANT's review and approval all of the E-rate applications, official forms, and supporting materials that APPLICANT must submit to receive E-rate funding. FFL will complete that work within a commercially reasonable period of time following receipt from APPLICANT of all information and data necessary to complete those forms and materials. In addition, FFL will consult with APPLICANT staff and provide proprietary online tools and electronic alerts to help keep APPLICANT compliant with E-rate program rules. More specifically, FFL agrees to provide the following E-rate compliance and administrative services:

- Review E-rate related language in RFPs and other formal solicitations
- Prepare Form 470s, the E-rate program's competitive bidding form. [Note: as discussed in more detail elsewhere in this Agreement, FFL will not suggest to APPLICANT what

goods and/or services to include in its procurement documents, have any involvement in reviewing bids or proposals received, or in any other manner involve itself in APPLICANT's procurement process.]

- Prepare Form 471s
- Review Receipt Acknowledgement Letters (RALs)
- Prepare Item 21 Description of Services
- Prepare response drafts to questions and information requests submitted to APPLICANT by the E-rate Program's application review (PIA) staff
- Review Funding Commitment Decision Letters (FCDL)
- Prepare post commitment funding paperwork including form preparation and submission (including FCC Form 486, invoice review, reimbursement preparation and submission of forms including FCC Form 472)
- Prepare service substitution requests, as needed
- Prepare SPIN change requests, as needed
- Prepare agreement end-date, service end-date and/or invoice deadline extension requests, as needed
- Provide online database of all of APPLICANT's E-rate forms, invoices, and payment paperwork
- Provide E-rate asset tracking database to comply with E-rate program's asset management requirement
- Annually assess APPLICANT's E-rate related programs, such as asset disposal, internal E-rate staffing plan, and procurement
- Provide news and analysis concerning E-rate program rules and procedures
- Alert APPLICANT staff electronically to important deadlines, such as Form 486 and reimbursement paperwork deadlines, the service payment deadline 90 days after receipt of service, appeal deadlines, RAL notification response deadlines, etc.
- Coordinate with APPLICANT's service providers regarding Item 21 submittals, invoice dates, invoice formats, invoice discount, correct SPINs and FRN references, etc.
- All notifications on behalf of the APPLICANT will be forwarded to the designated APPLICANT contact.
- Prepare and submit appeals on behalf of APPLICANT.

3. E-RATE MANAGER® ONLINE LICENSE

- a) FFL will allow designated APPLICANT staff to access and use FFL's E-rate Manager® online services for applicants ("ERM"), FFL's proprietary database for managing E-rate data.
- b) To make APPLICANT's use of ERM as easy as possible, FFL will:
 - i. Edit data for easier identification by APPLICANT staff.
 - ii. Monitor the status of all funding commitments for APPLICANT.
 - iii. Allow multiple APPLICANT staff members to use ERM to monitor funding commitments.
- c) APPLICANT agrees to the following terms and conditions for the use of ERM:
 - i. APPLICANT recognizes that FFL is granting APPLICANT a non-exclusive, nontransferable, non-assignable, and non-sublicensable, right under the FFL Software and FFL Database, to access, to use, and to display the FFL Database and to copy from the FFL Database, for its own use, selected application and information materials related to APPLICANT's E-rate activity only.
 - ii. FFL is the copyright owner of the FFL Software and the FFL Database. The FFL Software, including the processes, methods of operation, systems, and concepts that are embodied in the FFL Software, is trade secret information of and confidential information to FFL. Except as otherwise expressly provided for hereunder, APPLICANT agrees not to make any unauthorized copy of the FFL Software and/or FFL Database and not to disclose the same to third parties.

- iii. APPLICANT agrees not to reverse engineer, decompile, or disassemble, or otherwise attempt to directly or indirectly to discover, use, disclose or transfer any source code or other trade secret and confidential information contained in the FFL Software.
- iv. APPLICANT agrees that every APPLICANT user will agree to and comply with the E-rate Manager® Terms of Use located on FFL's website. The E-rate Manager® Terms of Use can be found at <https://www.fundsforlearning.com/viewua.php>.

4. ADDITIONAL/OPTIONAL SERVICES

- a) ON-SITE AUDIT SERVICES. In the event of an on-site E-rate audit by USAC, FCC, or another agency or organization, and if requested in writing by APPLICANT, an FFL representative will be on-site to assist in the audit process and, thereafter, to assist APPLICANT in the preparation of a response to the audit's findings. NOTE: on-site support is subject to FFL staff availability, and fees for onsite support are not included in the fixed-price, professional services fee below.
- b) WRITTEN AGREEMENT FOR ADDITIONAL/OPTIONAL SERVICES REQUIRED. FFL will not be required to provide any of the additional/optional services above or any other additional/optional services unless and until the parties agree, in writing, to all of the terms and conditions that will apply to the provision of those services.

5. FIXED PRICE FEE AND FEE SCHEDULE

- a) Fee: \$49,500.00.
- b) Fee Schedule: FFL will invoice this fee in full upon execution of the Agreement. All invoices shall be due and payable within 30 days of the invoice date. In the event an invoice is not paid within the 30-day period, APPLICANT will be in breach of the Agreement. FFL will not be required to perform according to the Agreement terms, until such time as the invoice is paid.

6. FEE AND FEE SCHEDULE FOR ADDITIONAL/OPTIONAL SERVICES

- a) Fee: \$1,950.00 per day, plus reasonable travel expenses, which FFL will bill at cost.
- b) Fee Schedule: This fee will be invoiced separately. All invoices shall be due and payable net 30 days from the invoice date. If an invoice is not paid within the 30-day period, APPLICANT will be in breach of the Agreement, and FFL will not be required to perform according to the Agreement terms, until such time as the invoice is paid. If the invoice goes beyond 90 days past due, FFL reserves the right to pursue any collection rights they may have against APPLICANT.

OTHER TERMS AND CONDITIONS AND IMPORTANT NOTICES

7. LETTER OF AGENCY

APPLICANT agrees to complete, sign, and date the attached Letter of Agency and to return it to FFL along with the signed copy of this Agreement. APPLICANT agrees to amend it or prepare a new one if necessary to satisfy FCC and/or USAC requirements.

APPLICANT also agrees to add FFL as an authorized user and its E-rate consultant in the E-rate Productivity Center ("EPC"), the account and application management portal for the Schools and Libraries (E-rate) Program. APPLICANT understands that FFL cannot perform its services effectively unless and until APPLICANT makes such designation.

8. SELECTING TECHNOLOGIES AND SERVICE PROVIDERS

The parties understand and agree that FFL will not consult with APPLICANT concerning or make any recommendations to APPLICANT regarding the selection of specific technologies, goods, services, or service providers.

APPLICANT understands that, in addition to providing E-rate compliance services to schools and libraries, FFL also provides E-rate-related compliance and online services to telecommunications and Internet service providers, manufacturers, and vendors. APPLICANT understands further that some of these companies may elect to compete to provide E-rate eligible services to APPLICANT. FFL warrants that its fees from its company clients are in no way tied to, or contingent upon, their doing business with APPLICANT or with any other school district or library client of FFL.

9. SERVICES PROVIDED TO SCHOOL SYSTEM OR SCHOOL DISTRICT ONLY

FFL will provide the services set forth and described in this Agreement to the school system or school district only, and not to any of APPLICANT's individual schools.

10. DATA AND INFORMATION

- a) Accuracy of Data. Unless otherwise agreed to in writing, any services FFL provides relating to the preparation of FCC Forms 470, 471, 472, 486 and any other forms under the E-rate program will be based solely on information APPLICANT furnishes to FFL. FFL will not audit or otherwise verify the accuracy of APPLICANT data, although FFL may ask APPLICANT to clarify some information in the course of FFL's work.
- b) For new services and products for which formal RFPs have not yet been prepared, APPLICANT will provide to FFL summary information that will enable FFL to prepare descriptions of the new services and products which are sufficient to satisfy program requirements.
- c) APPLICANT will timely provide to FFL all of the information FFL needs to fulfil its obligations under this Agreement. FFL cannot be held responsible for the accuracy of the information provided by APPLICANT. Nor can FFL be held responsible in the event APPLICANT misses an E-rate deadline due to the fact FFL had not received requested information from APPLICANT.
- d) APPLICANT will designate a primary and secondary contact person with whom FFL will communicate concerning all of the information it needs to fulfil its obligations under this Agreement.
- e) APPLICANT will make staff reasonably available to FFL to answer all inquiries necessary for FFL to timely complete its obligations under this Agreement.
- f) FFL will provide or return any and all data collected related to this agreement for services to the APPLICANT within thirty (30) days of the request.

11. NO LEGAL SERVICES

APPLICANT understands that FFL provides technical and administrative services only. FFL does NOT provide legal services. FFL's opinions are NOT legal opinions and APPLICANT should never construe them as such. Our opinions and advice are based on our years of E-rate-related experience. Regarding contract and contract-related matters, APPLICANT should always consult with an attorney. For review, analysis, and/or interpretation of any E-rate-related rule, regulation, and/or issue (e.g., **whether APPLICANT is a "school" eligible for E-rate discounts**) and to understand how the law applies to any specific set of facts (e.g., **consequences of a finding by USAC and/or the FCC, after APPLICANT has applied for and received E-rate discounts, that APPLICANT is not a "school," as E-rate program rules define that term**), APPLICANT should also seek the advice of counsel.

12. EXCLUSIVE COMPLIANCE CONSULTING AGREEMENT

APPLICANT understands that FFL cannot perform its services effectively under this Agreement, if APPLICANT works simultaneously with another individual or company to perform either the same services that FFL has agreed to provide or similar services. Therefore, APPLICANT agrees that it will not permit any other individual or company to file any E-rate-related form or document, email, speak to, or write to any USAC or FCC representative about an E-rate-related matter, or in any other manner officially represent APPLICANT in connection with an E-rate-related matter during the term of this Agreement.

If any other individual or a company has provided E-rate-related services to APPLICANT during the twelve-month period preceding the effective date of this Agreement, APPLICANT agrees that it will, on or before the effective date of this Agreement, identify that individual or company to FFL and notify that individual or company, in writing (with a copy to FFL) that it may no longer represent APPLICANT in connection with any E-rate-related matter, and, more specifically, that it may not engage in any of the activities described above.

13. PROGRAM UNCERTAINTIES

The E-rate program is constantly evolving. As a result, there are numerous unanswered questions and uncertainties about a wide variety of program-related issues including, but not limited to, the eligibility of specific products/services for E-rate support. FFL will work with APPLICANT to file forms in a manner that resolves E-rate ambiguities in its favor if there is a reasonable justification for doing so. However, FFL can provide no assurance that a particular service will qualify for E-rate support or that regulations will be interpreted ultimately in a manner consistent with APPLICANT's position.

14. PUBLICITY

APPLICANT authorizes FFL to include its name whenever FFL lists its clients' names for marketing and publicity purposes.

15. WARRANTY

FFL WARRANTS THAT ALL OF THE E-RATE-RELATED INFORMATION IT PROVIDES TO APPLICANT WILL BE BASED ON INFORMATION REASONABLY AVAILABLE TO IT AT THE TIME THE INFORMATION IS PROVIDED AND THAT IT WILL MAKE EVERY REASONABLE EFFORT TO PROVIDE ACCUARATE INFORMATION.

APPLICANT UNDERSTANDS HOWEVER THAT E-RATE RULE CHANGES OCCUR FREQUENTLY AND MAY RULES TEND TO BE VAGUE AND/OR AMBIGUOUS AND/OR ENFORCED UNEVENLY.

THUS FFL MAKES NO WARRANTY OR CLAIM AS TO THE ACCURACY, COMPLETENESS, OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO ANY OF THE INFORMATION, SERVICES, OR PRODUCTS THAT FFL PROVIDES APPLICANT.

16. LIMITATION OF LIABILITY

FFL WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING THE LOSS OF FUNDING, PROFITS, REVENUE, OR USE OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES AND/OR GOODS INCURRED BY APPLICANT EVEN IF FFL HAS BEEN ADVISED OR SHOULD HAVE FORESEEN THE POSSIBILITY OF SUCH DAMAGES. FFL'S LIABILITY FOR DAMAGES UNDER THIS AGREEMENT SHALL NOT UNDER ANY CIRCUMSTANCES EXCEED THE AMOUNTS ACTUALLY PAID BY APPLICANT TO FFL, NET OF REIMBURSABLE EXPENSES, IF ANY.

17. ENTIRE AGREEMENT

This Agreement supersedes any and all prior oral or written agreements or understandings regarding the subject matter herein. Any modification hereof shall be in writing and executed by both parties.

18. PURCHASE ORDERS

The terms and conditions stated in this Agreement shall govern all sales of products or services provided by FFL, regardless of the terms and conditions stated in any purchase order submitted by APPLICANT. FFL hereby disclaims and rejects any terms and conditions appearing in a purchase order appearing from APPLICANT that are in addition to, or inconsistent with, the terms and conditions stated in this Agreement. Any such additional or inconsistent terms and conditions shall not be a part of this Agreement and shall not be binding on FFL.

19. ELECTRONIC DOCUMENTS

FFL hereby gives notice of its right to convert this Agreement to electronic format and to retain it solely in that format. FFL may provide this Agreement in electronic form or may provide a reproduction of this Agreement from its electronic copy in the event of any dispute regarding the rights and obligations of the parties under this Agreement. The parties agree that any document in electronic format or any document reproduced from an electronic format shall not be denied legal effect, validity, or enforceability and shall meet any requirement to provide an original or hard copy.

IN WITNESS WHEREOF, the parties hereby approve, agree to and accept the above terms and conditions.

FUNDS FOR LEARNING, LLC



Signature

John D. Harrington

Print Name


Chief Executive Officer

Title

September 22, 2017

Date

HOWARD COUNTY PUBLIC SCHOOL SYSTEM



Signature

Douglas Pindell

Print Name

Director of Purchasing

Title

9/22/17

Date