

1 TERRY GODDARD  
Arizona Attorney General  
2 Firm State Bar No. 14000

3 NANCY M. BONNELL, #016382  
Antitrust Unit Chief  
4 SUSAN V. MYERS, #021949  
Assistant Attorney General  
5 Antitrust Unit, Civil Division  
1275 West Washington Street  
6 Phoenix, Arizona 85007-2997  
Telephone: (602) 542-7752  
7 Facsimile: (602) 542-9088

8 Attorneys for Plaintiff

9  
10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
11 **IN AND FOR THE COUNTY OF MARICOPA**

12 STATE OF ARIZONA, ex rel. TERRY  
13 GODDARD, Attorney General,

14 Plaintiff,

15 -vs-

16 TUCSON UNIFIED SCHOOL DISTRICT,  
an Arizona Political Subdivision; GUYTON  
17 CAMPBELL, an individual; RUDY  
FLORES, an individual; TRILLION  
18 PARTNERS, INC., a Delaware corporation;  
E-RATE CONSULTING SERVICES,  
19 L.L.C., a Georgia limited liability company;  
LOGICAL CHOICE TECHNOLOGIES,  
20 INC., a Georgia corporation; JOHN/JANE  
DOES 1-100; XYZ Corporations 1-100,

21 Defendants.  
22

Case No:

**CONSENT JUDGMENT WITH  
DEFENDANT TUCSON UNIFIED  
SCHOOL DISTRICT**

23  
24 The State of Arizona, through its Attorney General, filed its Complaint in this action  
25 on \_\_\_\_\_, acting on behalf of the general welfare and economy of the State. The  
26 Complaint alleges violations by the Tucson Unified School District, Guyton Campbell, Rudy

1 Flores, Trillion Partners, Inc., E-Rate Consulting Services, L.L.C., and Logical Choice  
2 Technologies, Inc., of the Arizona Antitrust Act, A.R.S. § 44-1401 *et seq.*, the Arizona  
3 Conflict of Interest statutes, A.R.S. § 38-501 *et seq.*, the Arizona Procurement Code, A.R.S.  
4 § 41-2616, the Arizona Education Act, A.R.S. § 15-213, and the school procurement rules  
5 found in the Arizona Administrative Code, A.A.C. R7-2-1001 *et seq.*

6 To resolve this matter, Defendant, Tucson Unified School District and the State have  
7 agreed to the entry of this Consent Judgment setting forth the following findings and ordering  
8 the following relief.

9 THEREFORE, the Court finds as follows:

10 DEFINITIONS

11 Throughout this Consent Judgment, the following terms have the meanings indicated  
12 below:

- 13 a. “Attorney General” or “AG” means the Arizona Attorney General and any duly  
14 authorized representative of the Office of the Attorney General, State of Arizona.
- 15 b. “Board” or “Governing Board” means the members of the District’s Governing  
16 Board.
- 17 c. “Competitive Purchasing” means the process, as determined by the Arizona  
18 Auditor General in the Uniform System of Financial Records, promulgated  
19 pursuant to A.R.S. § 15-271, of informally soliciting bids or quotes, usually on the  
20 basis of price, for goods, services, materials, construction, or any other tangible or  
21 intangible thing where the amount expended is below a threshold dollar amount  
22 set by applicable procurement law. Competitive Purchasing also includes all  
23 functions that pertain to informal solicitations, including but not limited to  
24 identifying potential contractors, describing requirements or specifications,  
25 selecting contractors, and preparing and awarding contracts, work orders, and all  
26

1 other activities related to contracts to provide goods, services, materials,  
2 construction and tangible or intangible things.

3 d. “Complaint” means the State’s Complaint in this action.

4 e. “Contract” means all types of agreements, including purchase orders, regardless of  
5 what they may be called, for the procurement of materials, services or  
6 construction, or the disposal of materials. “Contract” also means any agreement,  
7 understanding or meeting of the minds, irrespective of form, whether written,  
8 verbal or otherwise expressed or understood, and includes agreements implied in  
9 fact and in law.

10 f. “Contractor” or “vendor” is any person who provides, and is paid for, goods,  
11 services, materials, construction or any other tangible or intangible thing to any  
12 government entity or political subdivision, and includes, but is not limited to, any  
13 person who has a contract with a school district. *See* A.A.C. R7-2-1001(16).

14 g. “District” or “TUSD” means the Tucson Unified School District No. 1, a political  
15 subdivision of the State of Arizona.

16 h. “Education Procurement Code” or “School Procurement Code” means those rules  
17 adopted by the Arizona State Board of Education pursuant to A.R.S. § 15-213,  
18 codified at A.A.C. R7-2-1001 *et seq.*

19 i. “Ed. Tech.” means the District’s Educational Technology Department, part of the  
20 District’s Department of Curriculum and Innovation.

21 j. “Employee” means any person who is now or will become employed by the  
22 District in any capacity during the term of this Consent Judgment.

23 k. “E-Rate” means the Schools and Libraries Program of the Universal Services  
24 Fund, which provides funding for schools and libraries to obtain affordable  
25 telecommunications and internet access.

- 1 l. “FAR” means the Federal Acquisition Regulations, including those which apply  
2 to purchases made through GSA contracts.
- 3 m. “Goods” means personal property of any kind, other than services.
- 4 n. “GSA” means the United States General Services Administration, a branch of the  
5 federal government.
- 6 o. “Invitation for Bids” or “IFB” has that meaning set forth in A.A.C. R7-2-  
7 1001(46).
- 8 p. “Person” means any natural person and any corporation, partnership, joint  
9 venture, formal or informal association, and any other legal entity.
- 10 q. “Procurement” means the process of formally soliciting bids or quotes, such as by  
11 RFP, as set forth in the School Procurement Code, A.A.C. R7-2-1001 *et seq.*, for  
12 goods, services, materials, construction, or any other tangible or intangible thing  
13 where the amount expended is above a threshold dollar amount set by applicable  
14 procurement law. Procurement also includes all functions that pertain to formal  
15 solicitations, including but not limited to publishing notice, describing  
16 requirements or specifications, competitive sealed bidding, selecting contractors,  
17 and preparing and awarding contracts, work orders, all phases of contract  
18 administration, and all other activities related to contracts to provide goods,  
19 services, materials, construction and tangible or intangible things.
- 20 r. “Request for Proposals” or “RFP” has that meaning set forth in A.A.C. R7-2-  
21 1001(73).
- 22 s. “ROI” means Return on Investment and refers to the District’s 2005-2006 Return  
23 on Investment Analysis for Voice Over Internet Protocol.
- 24 t. “School District” means a political subdivision of this state with geographic  
25 boundaries organized for the purpose of the administration, support and  
26 maintenance of public schools or an accommodation school. A.R.S. § 15-101(21).

- 1 u. “Services” means the furnishing of labor, time or effort by a contractor which  
2 does not involve delivery of a specific end-product other than required reports and  
3 performance. *See* A.A.C. R7-2-1001(79).
- 4 v. “Solicitation” means a request for oral or written quotations as part of a  
5 competitive purchasing process.
- 6 w. “State” means the State of Arizona, acting through its Attorney General.
- 7 x. “TTS” means the District’s Technology and Telecommunications Services  
8 Department.
- 9 y. “USAC” means the Universal Services Administration Company, which  
10 administers the Universal Service Fund and provides E-Rate funding for schools  
11 and libraries.
- 12 z. “USFR” means the Uniform System of Financial Records promulgated by the  
13 Arizona Auditor General pursuant to A.R.S. § 15-271(C).
- 14 aa. “VoIP” and “VoIP Telephony” means voice over internet protocol, and refers to  
15 the transmission of voice over the internet, or more generally to using the internet  
16 to transmit telephone calls.
- 17 bb. “WAN” and “WAN Services” means wide area network, or a network linking  
18 computers across a defined area, such as a school district, and may include  
19 wireless internet services.

## 20 FINDINGS

- 21 1. The causes of action alleged in this Complaint arose within Arizona. Three of the  
22 Defendants are corporations or limited liability companies that are incorporated or  
23 registered in other states and have their primary places of business without the state of  
24 Arizona. The Plaintiff is the State of Arizona. Therefore, venue in Maricopa County  
25 is proper for all claims pursuant to A.R.S. § 12-401(1) and § 12-401(17).  
26

- 1 2. This Court has jurisdiction, pursuant to A.R.S. § 12-1801, § 44-1405 and A.R.S. § 15-  
2 213(G) over the subject matter of this action and over the parties stipulating to the  
3 entry of the Consent Judgment.
- 4 3. In late 2005, the Attorney General commenced an investigation of the purchasing and  
5 contracting activities of the District's TTS Department. In 2006, at the District's  
6 request, the Attorney General expanded that investigation to include the District's E-  
7 Rate related procurement activities. The investigation was further expanded in 2008 to  
8 include allegations of procurement violations and conflict of interest relating to the  
9 purchase of Promethean interactive whiteboards.
- 10 4. The Attorney General's investigation was conducted in accordance with and within  
11 the scope of its statutory authority.
- 12 5. From 2004 through 2008, the District, based on the findings of the AG's investigation,  
13 engaged in activities not in accordance with the Uniform State Antitrust Act, A.R.S. §  
14 44-1401 *et seq.*, A.R.S. Title 15, A.R.S. § 15-213, Arizona Conflict of Interest  
15 statutes, A.R.S. § 38-501 *et seq.*, the Arizona State Board of Education Rules and  
16 Regulations relating to educational procurement found at A.A.C. R7-2-1001 *et seq.*,  
17 the Arizona State Procurement Code, A.R.S. § 41-2616, the USFR requirements, or  
18 did not follow the District's own internal policies and procedures regarding vendor  
19 relations, procurement and contracting. Specifically, one or more District employees  
20 engaged in one or more of the following improper activities:
  - 21 a. had improper contact and communication with prospective vendors before and  
22 during competitive purchasing and procurement processes;
  - 23 b. provided access to personnel and information to selected prospective vendors  
24 resulting in unfair competition during competitive purchasing and procurement  
25 processes;
  - 26 c. accepted gifts and gratuities from current and prospective vendors; and

1 d. circumvented the requirements of competitive purchasing, the school  
2 procurement code and District policies by, without limitation, failing to obtain  
3 the requisite number of oral or written quotes, permitting work to begin before  
4 purchase orders were issued, and splitting purchases to avoid procurement  
5 requirements.

6 6. To avoid the further expenditure of public funds in prosecuting and defending this  
7 case, the State and the District desire to resolve without trial the civil liability of the  
8 District under A.R.S. § 15-213 and § 41-2616 relating to issues identified by the  
9 Attorney General in its report, dated January 13, 2009, and have consented to entry of  
10 this Consent Judgment.

11 7. Based on the foregoing, upon the Complaint, and upon the Stipulation to Entry of this  
12 Consent Judgment annexed below, the Court finds itself fully apprised.

13 NOW THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED AS  
14 FOLLOWS:

15 APPLICABILITY

16 8. The terms of this Consent Judgment shall apply to the District and its Board. So long  
17 as this Consent Judgment is in effect, the District shall be responsible to ensure that its  
18 Board and all Employees act in conformity with the terms of this Consent Judgment.

19 TERM OF CONSENT JUDGMENT

20 9. Unless otherwise indicated, this Consent Judgment shall be in full force and effect for  
21 thirty-six (36) months following its entry.

22 PROVISIONS

23 The following terms of the Consent Judgment will be effective immediately upon  
24 entry of the Judgment unless otherwise indicated:

25 10. The District, its Board, and Employees shall not engage in any conduct prohibited by  
26 the Uniform State Antitrust Act, A.R.S. § 44-1401 *et seq.*, the Arizona Procurement

Code, A.R.S. § 41-2616, the Arizona Education Act, A.R.S. § 15-213, the Education Procurement Code, A.A.C. R7-2-1001 *et seq.*, the Auditor General's Uniform System of Financial Records, or any other procurement rules or regulations adopted by the State for school districts.

11. The District and its employees shall refrain from accepting gifts and gratuities from vendors, including but not limited to meals, lodging and gift cards.
12. The District and its employees shall preserve all public records in accordance with A.R.S. § 39-121 *et seq.*
13. All future procurements of the District shall comply with applicable procurement laws and regulations and, at a minimum, shall meet the following requirements:
  - a. All procurements above the threshold amount, as set by applicable procurement law and District policies, shall be conducted by IFB or RFP and the procurement process shall strictly conform to the requirements set forth in the school procurement code, A.A.C. R7-2-1001 *et seq.*
  - b. All competitive purchasing below the threshold amount, as set by applicable procurement law and District policies, shall be conducted in strict accordance with the requirements of the USFR and District policies, and shall require a minimum of three oral or written price quotes before any contract is awarded.
  - c. No purchases shall be completed or work initiated until after a purchase order has been issued by the District's purchasing department.
  - d. Contact and communications, including but not limited to meetings, telephone calls, correspondence and e-mails, with vendors before the competitive purchasing or procurement process is initiated shall be kept to a minimum, meaning only such contact and communications as necessary for the routine course of business should occur. All contact and communications beyond said



1 minimum contacts shall be documented on the appropriate disclosure form in  
2 the District's records.

3 e. All contact and communications with vendors related to a new or ongoing  
4 procurements, including but not limited to meetings, telephone calls,  
5 correspondence and e-mails, during the procurement process shall be handled  
6 solely through the District's purchasing department and shall be documented in  
7 the relevant procurement file. Any such contact and communications with  
8 vendors during a new or ongoing procurement process by District employees  
9 other than those in the purchasing department shall be documented on the  
10 appropriate disclosure form in the District's records and in the relevant  
11 procurement file.

12 14. The District shall retrain its employees involved in vendor relations, public records,  
13 and competitive purchasing and procurement, including but not limited to any and all  
14 employees in the District's TTS and Ed. Tech. Departments who participate in  
15 competitive purchasing or procurements or who deal directly with vendors or  
16 prospective vendors, in compliance with conflict of interest, public records,  
17 procurement and antitrust laws, which training shall be completed no later than June  
18 30, 2009. The District's plan for retraining its employees shall be submitted to the  
19 Attorney General for approval no later than March 31, 2009.

20 15. For all current employees who have or will have any contact with vendors or who  
21 have participated or will participate in any purchasing or procurement process, the  
22 District shall conduct an orientation to educate such employees as to this the terms and  
23 provisions of this Consent Judgment. The District shall further conduct ongoing  
24 orientations to educate any new employees who meet the criteria of this paragraph as  
25 to the terms and provisions of this Consent Judgment.  
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- 1 16. Within ten days of the Court signing this Consent Judgment, the District shall pay to  
2 the Office of the Arizona Attorney General, Antitrust Revolving Fund, the sum of  
3 Seven Thousand Five Hundred Dollars (\$7,500.00). This amount is partial  
4 reimbursement to the State of its costs and attorneys' fees as provided in A.R.S. § 44-  
5 1408.
- 6 17. The District shall coordinate with the AG to competitively procure and hire, at the  
7 District's expense, an independent auditor for special audits of the District's vendor  
8 relations and procurement practices during the term of this Order. The scope of the  
9 special audits shall be approved by the AG and shall include, at a minimum, reviews  
10 of all competitive purchasing and procurement actions involving the District's TTS  
11 and Ed. Tech. Departments. Special audit reports verifying that the District's vendor  
12 relations, competitive purchasing and procurement practices, policies and procedures  
13 are properly administered and all findings and information gathered by the  
14 independent auditors shall be reported to the AG. The special audits will be  
15 conducted for six consecutive six-month periods beginning August 2009.
- 16 18. The District shall conduct yearly internal audits of its compliance with public records  
17 laws.
- 18 19. No later than January 1<sup>st</sup> of each year during the term of this Consent Judgment and at  
19 other times at the request of the Attorney General, the District shall submit to the AG  
20 evidence of compliance with the provisions of this Consent Judgment.
- 21 20. The District shall self-report any violation of Arizona procurement statutes or rules,  
22 conflict of interest statutes, antitrust statutes, this Consent Judgment, or the intentional  
23 destruction of public records to the AG within five (5) business days of discovery of  
24 any violation.
- 25 21. The District and its Board shall fully cooperate in the Attorney General's enforcement  
26 of the Consent Judgment and in any other investigation or civil or criminal action

concerning any matter that has or may arise from any investigation by the Attorney General into any acts or practices of the District, its Board, or its Employees.

22. The Attorney General, the Auditor General or any independent auditor, on reasonable notice to the District, shall be permitted, subject to the reasonable convenience of the District, and without the District's restraint or interference:

a. Access during office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the District, its Board, and Employees, relating to any matters raised or that could have been raised in the Complaint or in this Consent Judgment; and

b. Access to interview Employees and agents of the District.

The determination of whether a matter is relevant to this section shall be in the sole discretion of the Attorney General or Auditor General. The requirements set forth in this paragraph are in addition to any requirements of A.R.S. § 41-2642.

23. Upon request of the AG, the District shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Consent Judgment as may be identified in the request. This reporting requirement shall be in addition to the requirements set forth above in paragraphs 19 and 20.

24. Nothing contained herein shall limit the rights of the State pursuant to its civil investigative authority or the Attorney General's right to contest any claim of attorney-client or work-product privilege relating to any matter that has or may arise from any investigation by the Attorney General into any acts or practices of the District, its Board, or its Employees.

25. The Consent Judgment constitutes a full and complete release of the State and the Attorney General with respect to the claims set forth in the Complaint.

1                                    RELEASE AND SETTLEMENT OF CLAIMS

2    26.    The payment and performance as provided herein shall be, upon completion, in  
3           settlement of all claims the State may have against the District arising out of the  
4           conduct that is the basis for the State's Complaint in this action.

5    27.    Nothing in this Consent Judgment shall be construed to release or to confer any right  
6           whatsoever on any person other than the District.

7                                    REMEDY ON DEFAULT

8    28.    In the event the District violates any provision of this Consent Judgment, the State  
9           may move this Court for an order finding the District in default, upon affidavits  
10          stating the factual grounds therefore.

11   29.    Upon the Court's order finding the District in default, the Attorney General may  
12          exercise all remedies available at law or in equity for failure of the District to obey an  
13          order of the Court.

14                                  RETENTION OF JURISDICTION

15   30.    Jurisdiction is retained by this Court for the purpose of enabling the State and the  
16          District to apply to the Court at any time for such further orders and directions as may  
17          be necessary or appropriate for the construction or implementation of any of the  
18          provisions of this Consent Judgment, for the enforcement or compliance herewith, and  
19          for the punishment of any violations hereof. Nothing in this provision shall give  
20          standing to any person not a party to this Consent Judgment to seek relief related to it.

21                                  AGREEMENT OF THE PARTIES

22   31.    The State and the District have stipulated to entry of this Consent Judgment. All prior  
23          oral or written agreements, commitments or understandings with respect to the matters  
24          provided for herein are hereby set aside and no evidence of these shall be admissible  
25          in any proceeding for any purpose absent written consent of all parties to this Consent  
26          Judgment.

1 HEADINGS

2 32. Article headings contained in this Consent Judgment are inserted for convenience of  
3 reference only, and shall not be deemed to be part of this Consent Judgment for any  
4 purpose, and shall not in any way define or affect the meaning, construction or scope  
5 of any of the provisions of it.

6 PUBLIC INTEREST

7 33. The Attorney General has determined entry of this Consent Judgment to be in the  
8 public interest.

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11 DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2009.

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15 Judge, Maricopa County Superior Court  
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