

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Manhasset Union Free School District)	File No. SLD-136937
Westbury, New York)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: March 29, 2001

Released: March 30, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by the Manhasset Union Free School District (Manhasset), Westbury, New York.¹ Manhasset seeks review of a funding commitment decision issued by the Schools and Libraries Division (SLD) of the Universal Service Company (Administrator) pursuant to a funding request for discounts under the schools and libraries universal service support mechanism.² For the reasons set forth below, we deny Manhasset’s request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In order to receive discounts on eligible services, the Commission’s rules require that the applicant submit to

¹ Letter from Winston E. Himsworth, E-Rate Central, to the Federal Communications Commission, filed April 3, 2000 (Request for Review).

² See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Winston E. Himsworth, E-Rate Central, issued September 28, 1999 (Funding Commitment Decision Letter); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Winston E. Himsworth, E-Rate Central, issued March 20, 2000 (Administrator’s Decision on Appeal).

³ 47 C.F.R. §§ 54.502, 54.503.

the Administrator a completed FCC Form 470, in which the applicant sets forth the school's technological needs and the services for which it seeks discounts.⁴ Once the school has complied with the Commission's competitive bidding requirements, it may enter into an agreement for eligible services.

3. After entering into an agreement, an applicant must file an FCC Form 471 to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵ This information is generally provided in Block 5 of FCC Form 471. Among other information, Block 5 requires the applicant to indicate services requested, the name of the service provider, the type of service or product for which support is sought, and the estimated total annual pre-discount cost.

4. Using information provided by the applicant in its FCC Form 471, the Administrator determines the amount of discounts for which the school is eligible. As we noted in our *Ugly Community Schools Order*,⁶ the Commission's rules state that universal service funds support only eligible services and applicants may only seek support for eligible services.⁷ The instructions for the FCC Form 471 clearly state: "YOU MAY NOT SEEK SUPPORT ON THIS FORM FOR INELIGIBLE SERVICES."⁸ The instructions further clarify that "[w]hile you may contract with the same service provider for both eligible and ineligible services, your contract or purchase agreement must clearly break out costs for eligible services from those for ineligible services."⁹ SLD's web site contains a list of eligible services, and information tips on how to file an application.¹⁰ An applicant can avoid denial by subtracting out, at the time of its initial application, the cost of ineligible services.

6. In its FCC Form 471, Manhasset sought support in a single funding request, Funding Request Number (FRN) 206119, for telecommunications services for two elementary

⁴ 47 C.F.R. § 54.504 (b)(1), (b)(3).

⁵ 47 C.F.R. § 54.504(c).

⁶ See *Request for Review of the Decision of the Universal Service Administrative Company by Ugly Community Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD 113262, CC Docket Nos. 96-45 and 97-21, Order, DA 00-1517 (Com. Car. Bur. rel. July 10, 2000) (*Ugly Community Schools*).

⁷ 47 C.F.R. §54.504 et seq.

⁸ Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471) (December 1998) at 15 (Form 471 Instructions).

⁹ Form 471 Instructions at 16.

¹⁰ See SLD web site, <<http://www.sl.universalservice.org>>; see Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471 Instructions), OMB Approval No. 3060-0806 (December 1998) at pp. 5-6.

school buildings and one high school/middle school building in the amount of \$216,364.¹¹ In its request for funding, Manhasset included requests for the installation of all integrated telephone & public address switches, Dukane MCS 350 microprocessors, and telephone wiring for two buildings. On September 28, 1999, SLD denied the funding request, stating that FRN 206119 included a request for a public address system, which is an ineligible product or service, based on program rules. SLD denied Manhasset's entire funding request because a significant portion, 30 percent or more, of FRN 206119 included products and services ineligible for discounts.¹²

7. Manhasset filed an appeal with SLD on October 18, 1999, acknowledging that it had incorrectly classified the two Dukane MCS 350 microprocessor-based public address/intercom/clock systems as eligible.¹³ It also admitted that it should have excluded \$500 for each of two trunk cards.¹⁴ It claimed, however, that the remainder of its request for \$216,364 was for eligible services and the total of ineligible services in its initial request was less than 30 percent.¹⁵ SLD denied Manhasset's appeal on March 20, 2000, explaining that, "the majority of [the] funding request is for the wiring and components for a new Public Address System, ineligible under program rules."¹⁶

8. Manhasset filed the instant appeal with the Commission on April 3, 2000.¹⁷ In this appeal, Manhasset repeats its assertion that only a small percentage of its funding request was ineligible and that it should receive funding for the eligible services requested.¹⁸ Furthermore,

¹¹ FCC Form 471, Manhasset Union Free School District, filed March 29, 1999. In Exhibit I to that form, Manhasset included an attachment that identified additional expenditures of \$136,311 for ineligible items.

¹² See Funding Commitment Decision Letter at 4. The "30-percent policy" is not a Commission rule, but rather is an SLD operating procedure established pursuant to FCC policy. See *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Third Report and Order in CC Docket No. 97-21 and Fourth Order on Reconsideration in CC Docket No. 97-21 and Eighth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058 (1998). This operating procedure, used during SLD's application review process, enables SLD to efficiently process requests for funding for services that are eligible for discounts but that also include some ineligible components. If 30 percent or less of the request is for funding of ineligible services, SLD normally will consider the application and issue a funding commitment for the eligible services. If more than 30 percent of the request is for funding of ineligible services, SLD will deny the funding request in its entirety. The 30 percent policy allows SLD to efficiently process requests for funding that contain only a small amount of ineligible services without expending significant fund resources working with applicants that are requesting funding of ineligible services.

¹³ See Letter from Winston E. Himsworth, on behalf of Manhasset UFSD, to Schools and Libraries Division, Universal Service Administrative Company, filed October 21, 1999 (SLD Letter of Appeal).

¹⁴ See *id.*

¹⁵ See *id.*

¹⁶ See Administrator's Decision on Appeal at 1.

¹⁷ See Request for Review.

¹⁸ See *id.*

Manhasset speculates that SLD's denial of the funding request was due to SLD's misunderstanding of Manhasset's wiring costs. Manhasset states that "[t]he vast majority of the actual wiring costs relates to inter-room telephone wiring associated with the switch... [a]ll are eligible."¹⁹ Manhasset asks, in the alternative, that Manhasset's funding request be treated as three separate requests – one for each of its three separate school buildings.²⁰ Manhattan acknowledges that under this proposal the requests for both elementary schools would be denied, but asks that the high school/middle school funding request be recognized as qualifying for the discount.²¹

9. Upon review of the record, we affirm SLD's decision to deny Manhasset's funding request. Although Manhasset claims in the instant appeal that the wiring costs included in its funding request relate to eligible telephone wiring and not the public address system, it assigned a "\$0" amount to the "[i]nstallation of telephone wiring" identified in an attachment to its FCC Form 471. Manhasset's application supports SLD's determination that wiring costs included in Manhattan's FCC Form 471 are attributable to an ineligible product rather than to eligible telephone wiring.

10. We also decline to grant Manhasset's request to revise its FCC Form 471 by dividing FRN 206119 into three separate funding requests.²² SLD has established a policy that applicants are not permitted to amend completed FCC Forms 471 to remove ineligible service requests after the closure of the filing window deadline.²³ This policy imposes upon applicants the responsibility of preparing their applications carefully and obtaining appropriate assistance to avoid including ineligible expenses. If applicants were permitted to correct their applications after SLD has denied them, it would eliminate any incentive for them to avoid including ineligible expenses in their funding requests. This would significantly increase the administrative burden SLD would face while carrying out its obligation to guard against the occurrence of errors and fraud. In light of the thousands of applications that SLD reviews and processes each funding year, we find that, out of administrative necessity, we must hold the applicant responsible for clearly and accurately describing its funding requests. The applicant must act to ensure that its request satisfies program rules, which limit universal service mechanism funds to eligible services only. We therefore deny Manhasset's request to amend its FCC Form 471.

¹⁹ *See id.*

²⁰ *See id.*

²¹ *See id.*

²² *See id.*

²³ The Commission's rules require that applicants file a completed Form 471 by the filing window deadline to be considered pursuant to the funding priorities for "in-window" applicants. 47 C.F.R. §§ 54.504(c); 54.5079(c).

11. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed April 3, 2000, by Manhasset Union Free School District, Westbury, New York IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau