

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Review of the)	
Decisions of the)	
Universal Service Administrator by)	
)	
Albuquerque/Bernalillo County Library System)	File Nos. SLD-227342, 227366
Albuquerque, New Mexico)	
)	
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: January 14, 2003

Released: January 15, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration two requests filed by Albuquerque/Bernalillo County Library System (Albuquerque).¹ Albuquerque requests review of decisions by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company to deny Albuquerque's Funding Year 2001 applications for discounted services under the schools and libraries universal service support mechanism.² For the reasons set forth below, we deny the Requests for Review and affirm SLD's denials of Albuquerque's applications.

¹ Letter from John Godfrey, Albuquerque/Bernalillo Library System, to the Federal Communications Commission, filed December 20, 2001 (regarding SLD-227342); Letter from John Godfrey, Albuquerque/Bernalillo Library System, to the Federal Communications Commission, filed December 20, 2001 (regarding SLD-227366) (collectively, the Requests for Review).

² Letter from Schools and Libraries Division, Universal Service Administrative Company, to John Godfrey, Albuquerque/Bernalillo County Library System, dated October 3, 2001 (regarding SLD-227342); Letter from Schools and Libraries Division, Universal Service Administrative Company, to John Godfrey, Albuquerque/Bernalillo County Library System, dated October 3, 2001 (regarding SLD-227366) (collectively, Administrator's Decisions on Appeal). Previously, this funding period would be referred to as Funding Year 4. Funding periods are now described by the year in which the funding period starts. Thus the funding period which began on July 1, 2001 and ended on June 30, 2002 is now called Funding Year 2001. The funding period which began on July 1, 2002 and ends on June 30, 2003, previously described as Funding Year 5, is now called Funding Year 2002, and so on.

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 The Commission's rules provide that, with one limited exception for existing, binding contracts, an eligible school, library or consortium that includes eligible schools or libraries must seek competitive bids for all services eligible for support.⁴ This limited exception exempts from competitive bidding requirements: (1) contracts signed on or before July 10, 1997, for the life of the contract; and (2) in Funding Year 1998 only, contracts signed after July 10, 1997, and before the opening of the Administrator's website on January 30, 1998.⁵

3. Unless an applicant satisfies the above exception, in accordance with the Commission's rules, an applicant must file with SLD, for posting to its website, an FCC Form 470 requesting services.⁶ The applicant must then wait 28-days before entering into an agreement with a service provider for the requested services and submitting an FCC Form 471 requesting support for the services ordered by the applicant.⁷

4. Upon review of the record, we conclude that SLD correctly denied Albuquerque's request for support. Albuquerque's FCC Form 470 was posted on November 30, 2000.⁸ Under the program rules, Albuquerque was not permitted to enter into service agreements until after the end of the 28-day competitive bidding period, on December 28, 2000.⁹ However, Albuquerque entered into its service agreements prior to the posting of its FCC Form 470. Specifically, for Funding Request Number (FRN) 526282 from SLD-227342, Albuquerque entered into a service agreement on January 1, 2000; for FRN 526289 from SLD-227342, Albuquerque entered into a service on September 1, 1998; and for FRN 526418 from SLD-227366, Albuquerque entered into a service agreement on December 28, 2000.¹⁰ Moreover, none of these contracts were: (1) signed on or before July 10, 1997; nor (2) submitted to support a Funding Year 1998 application,

³ 47 C.F.R. §§ 54.502, 54.503.

⁴ 47 C.F.R. §§ 54.504, 54.511(c).

⁵ *See id.* The funding period which began on January 1, 1998 and ended on June 30, 1999 is now called Funding Year 1998.

⁶ *See* Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (FCC Form 470).

⁷ 47 C.F.R. § 54.504(c); *see* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (FCC Form 471).

⁸ *See* FCC Form 470, Albuquerque/Bernalillo County Library System, filed November 30, 2000 (regarding SLD-227342); FCC Form 470, Albuquerque/Bernalillo County Library System, filed November 30, 2000 (regarding SLD-227366).

⁹ *See id.*; 47 C.F.R. § 54.504(b)(4).

¹⁰ *See* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (Jan. 11, 2001) (Form 471); Administrator's Decisions on Appeal at 1.

Albuquerque has failed to satisfy the limited exception for the 28-day competitive bidding requirement.¹¹

5. Albuquerque contends that because this is the first time it has applied for discounts under the Commission's rules, its appeals should be granted despite its violation of the 28-day competitive bidding rule.¹² We disagree. Although it is unfortunate that Albuquerque erred in following the Commission's bidding rules, it is well settled that in light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.¹³ In particular, failure to comply with the competitive bidding requirements must result in a denial of support by SLD.¹⁴ We, therefore, deny Albuquerque's Requests for Review.

6. 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 Requests for Review filed by Albuquerque/Bernalillo County Library System, Albuquerque, New Mexico, on December 20, 2001, ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹¹ 47 C.F.R. § 54.511(c).

¹² See Request for Reviews at 1.

¹³ See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of National Exchange Carrier Association, Inc.*, File No. SLD-13364, CC Docket No. 96-45 and 97-21, Order, 15 FCC Rcd 181 (Com. Car. Bur. 2000), para. 8; see also SLD website, Form 471 Minimum Processing Standards and Filing Requirements for FY 4, <<http://www.sl.universalservice.org/reference/471mps.asp>>.

¹⁴ See, e.g., *Request for Review by Raytown Quality Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-113698, CC Dockets No. 96-45 and 97-21, Order, DA 01-147 (Com. Car. Bur. rel. January 23, 2001).