

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
Harrisonburg City Public Schools
Harrisonburg City, Virginia
Federal-State Joint Board on
Universal Service
Changes to the Board of Directors of the
National Exchange Carrier Association, Inc.
File No. SLD-217737
CC Docket No. 96-45
CC Docket No. 97-21

ORDER

Adopted: October 3, 2003

Released: October 6, 2003

By the Wireline Competition Bureau, Telecommunications Access Policy Division:

1. The Telecommunications Access Policy Division (Division) has under consideration an appeal by Harrisonburg City Public Schools (Harrisonburg), Harrisonburg City, Virginia, filed on January 16, 2002, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator).1 For the reasons set forth below, we deny the Request for Review and affirm SLD's denial of Harrisonburg's application.

2. By letter dated August 7, 2001, SLD rejected a funding request made by Harrisonburg for Funding Year 2001 of the schools and libraries program because Harrisonburg did not post a proper FCC Form 470 for the services which it requested funding in its FCC Form 471.2 Harrisonburg filed an appeal with SLD contending that it did not believe that it should have filed an FCC Form 470 for Funding Year 2001 because the services for which it sought support were covered by a long-term contract in which it had filed an FCC Form 470 in a

1 Request for Review from Denise Dawson, Harrisonburg City Schools, to Federal Communications Commission, filed Jan. 16, 2002 (Request for Review).

2 Letter from Universal Service Administrative Company, Schools and Libraries Division, to D. D. Dawson, Harrisonburg City School District, dated Aug. 7, 2001.

previous funding year.<sup>3</sup> By letter dated October 2, 2001, USAC denied Harrisonburg's appeal finding that Harrisonburg should have filed a new FCC Form 470 for its Year 2001 funding request.<sup>4</sup> In response, Harrisonburg filed the instant Letter of Appeal requesting a review of SLD's decision.<sup>5</sup> Harrisonburg contends that upon examination of its FCC Form 471, it discovered that, in fact, it did file an FCC Form 470 for its Year 2001 funding request.<sup>6</sup> However, Harrisonburg contends that it incorrectly referenced an FCC Form 470 for a previous funding year in its FCC Form 471 for its Year 2001 funding request.<sup>7</sup> Accordingly, Harrisonburg requests that the Commission recognize that a proper FCC Form 470 was filed for its Year 2001 funding request and grant its Request for Review.

3. Upon review of the record, and consistent with the Commission's rules and procedures, we conclude that SLD correctly denied Harrisonburg's request for support. Although we find that Harrisonburg did submit an FCC Form 470 for Funding Year 2001, Harrisonburg failed to satisfy the 28-day competitive bidding requirement. Specifically, Harrisonburg's FCC Form 470 for Funding Year 2001 was posted on November 30, 2000.<sup>8</sup> Under the program rules, Harrisonburg was not permitted to sign and submit its FCC Form 471 until after the end of the 28-day competitive bidding period, on December 28, 2000.<sup>9</sup> Harrisonburg's FCC Form 471, however, was filed on December 4, 2000.

4. Harrisonburg argues that its situation is similar to the Bureau's decision in the *Cochrane-Fountain City School District Order*.<sup>10</sup> We disagree. The applicant in that case (hereinafter Cochrane) had signed a multi-year contract between July 10, 1997 and January 30, 1998.<sup>11</sup> As a result, Cochrane's contract for service, which lasted through June 30, 2000, was exempt from competitive bidding requirements for Funding Year 1998.<sup>12</sup> In Funding Year 1999, Cochrane posted an FCC Form 470 presenting the service for competitive bidding, waited until the 28-day bidding period had passed, and then signed and submitted an FCC Form 471 seeking discounts on the existing contract.<sup>13</sup> The Bureau found that, by submitting its FCC Form 470 for posting on the SLD website, as well as waiting for 28 days before signing and submitting an FCC Form 471, Cochrane adhered to all applicable requirements with respect to the

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<sup>3</sup> Letter from Denise E. Dawson, Technical Supervisor, Harrisonburg City Schools, to Universal Service Administrative Company, Schools and Libraries Division, dated Aug. 10, 2001.

<sup>4</sup> Letter from Universal Service Administrative Company, Schools and Libraries Division, to Denise Dawson, Harrisonburg City Schools, dated Oct. 2, 2001.

<sup>5</sup> Request for Review at 2.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *See* FCC Form 470, Harrisonburg City School District, filed November 30, 2000.

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

<sup>10</sup> Request for Review by Cochrane-Fountain City School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No. SLD-140683, CC Dockets No. 96-45 and 97-21, Order, 15 FCC Rcd 16628 (Com. Car. Bur. 2000) (*Cochrane-Fountain City School District Order*).

<sup>11</sup> *Cochrane-Fountain City School District Order*, 15 FCC Rcd at 16631, para. 6.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 16631, paras. 6-7.

Commission's competitive bidding policy.<sup>14</sup> In particular, the Bureau concluded that Cochrane had carefully considered other proposals before choosing to continue service under its existing contract, as required under the Commission's rules.<sup>15</sup> In the instant case, Harrisonburg signed a multi-year contract between July 10, 1997 and January 30, 1998. Accordingly, when Harrisonburg sought support for service under that contract for Funding Year 2001, it was necessary under program rules to post an FCC Form 470 presenting the service for competitive bidding.<sup>16</sup> Harrisonburg posted an FCC Form 470, but did not wait 28-days prior to signing and submitting its FCC Form 471 from the date its FCC Form 470 was posted. Unlike in the *Cochrane-Fountain City School District Order*, we therefore find that Harrisonburg failed to adhere to applicable requirements with respect to the Commission's competitive bidding policy.

5. 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 by Harrisonburg City School District, Harrisonburg City, Virginia, on January 16, 2002, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

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<sup>14</sup> *Id.* at 16631, para. 7.

<sup>15</sup> *Id.* at 16631, n. 24.

<sup>16</sup> 47 C.F.R. § 54.511(c).