

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Requests for Review of Decision of the
Universal Service Administrator by
School Administrative District 67
Lincoln, Maine
Schools and Libraries Universal Service
Support Mechanism
File No. SLD-457458
CC Docket No. 02-6

ORDER

Adopted: August 18, 2006

Released: August 18, 2006

By the Deputy Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant a request by School Administrative District 67 (the District) for review of a decision by the Universal Service Administrative Company (USAC) reducing its funding from the schools and libraries universal service support mechanism (also known as the E-rate program) because USAC determined that its approved technology plan did not cover all of funding year (FY) 2005. For the reasons set forth below, we grant the District's Request for Review and remand the underlying application to USAC for further consideration consistent with this Order.

II. BACKGROUND

2. The E-rate program permits eligible schools, libraries, and consortia that include eligible schools and libraries to apply for funding in the form of discounts on eligible telecommunications services, Internet access, and internal connections. The Commission requires participating schools and libraries to base their requests for discounts on an approved technology plan, unless they are seeking discounts only on telecommunications services. Specifically, to ensure that applicants make appropriate

1See Letter from David Theoharides, Mattanawcook Junior High School, School Administrative District 67, CC Docket No. 02-6 (filed Jan. 1, 2006) (Request for Review). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c). Funding Year 2005 started on July 1, 2005 and ended on June 30, 2006.

247 C.F.R. §§ 54.501-54.503.

3Id. §§ 54.504(b)(2)(iii)-(iv), 54.508; Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9077, para. 572 (1997) (Universal Service Order) (subsequent history omitted).

447 C.F.R. § 54.504(b)(2)(iv); Universal Service Administrative Company, Eligible Services List, http://www.universalservice.org/_res/documents/sl/pdf/els_archive/2006-eligible-services-list.pdf (dated Nov. 18, 2005) (2006 Eligible Services List) ("If submitting [an] application ONLY for single line voice services (Local, Cellular/PCS, and/or long distance telephone service), applicants are not required to develop a Technology Plan. Applicants applying for other products or services, including PBX, key system, Centrex system, or similar technology are required to develop a Technology Plan."); see also Request for Review of the Decision of the

decisions regarding the services for which they seek discounts, applicants must develop a technology plan prior to requesting bids on services through FCC Form 470.⁵ In addition, to ensure that the plans are based on the reasonable needs and resources of the applicants and are consistent with the goals of the program, the technology plans must be independently approved by a state agency or other specified entity.⁶ Applicants whose technology plans have not been approved when they file FCC Form 470 must certify that they understand their technology plans must be approved prior to the commencement of service.⁷ They also must confirm, in FCC Form 486, that their plan was approved before they began receiving services.⁸

3. The District requests review of USAC's decision to reduce the District's funding from the E-rate program because USAC determined that the District's technology plan did not cover all of FY 2005 (July 1, 2005 through June 30, 2006). The District asserts that it had an approved technology plan in place through June 30, 2006.⁹ When USAC asked for a copy of its technology plan, however, the District provided a link to a website that contained a copy of its 2002-2005 technology plan (*i.e.*, the plan that was in effect at the time of USAC's request).¹⁰ According to the District, USAC agreed that the District could provide a copy of its "current" technology plan and, in subsequent requests for additional information, USAC never asked why the District provided a copy of its technology plan for 2002-2005 rather than its technology plan for 2005-2006.¹¹ The District claims that it "could have easily sent [USAC] the plan [USAC] wanted covering 2005-2006 which had been approved by the State of Maine had [USAC] asked."¹² The District provided a copy of its approved technology plan for FY 2005 with its appeal to USAC and with its appeal to the Commission.¹³

III. DISCUSSION

4. Based on the specific facts presented here, we grant the District's Request for Review. We find that the District satisfied our requirements in sections 54.504(b)(2)(iii) and 54.508(c) to develop and obtain approval of a technology plan for FY 2005.¹⁴ We note that USAC reduced the District's E-rate

Universal Service Administrator by United Talmudical Academy, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, CC Docket Nos. 96-45, 97-21, Order, 16 FCC Rcd 18812, 18816, para. 11 (2001).

⁵47 C.F.R. § 54.504(b)(2)(iii).

⁶*Id.* § 54.508(d); *Universal Service Order*, 12 FCC at 9078, para. 574. *See also* Universal Service Administrative Company, Technology Plans, <http://www.universalservice.org/sl/applicants/step02/> (last modified Jan. 6, 2006).

⁷47 C.F.R. §§ 54.504(b)(2)(iii)-(iv), 54.508(c); *see also Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Rcd 15808, 15826-30, para. 56 (2004) (*Fifth Report and Order*). Applicants whose technology plans have not been approved when they file FCC Form 471 once again certify that they understand their technology plans must be approved prior to the commencement of service. 47 C.F.R. §§ 54.504(c)(1)(iv)-(v).

⁸47 C.F.R. § 54.508(c).

⁹Request for Review at 1.

¹⁰*Id.*

¹¹*Id.*

¹²*Id.*

¹³*See generally* Request for Review.

¹⁴*See* 47 C.F.R. §§ 54.504(b)(2)(iii), 54.508(c).

funding not because the District failed to develop and obtain approval of a technology plan, but because the District provided USAC with a copy of the wrong technology plan. This error resulted from a miscommunication between USAC and the District. Although applicants must make every effort to ensure that the documentation they file with USAC complies with E-rate program requirements and requests by USAC for additional information, we remind USAC that it has an obligation to conduct a reasonable inquiry into the filings and materials that USAC itself has in its possession.¹⁵ Moreover, we find that the actions we take here to provide relief from these types of errors in the application process will promote the statutory requirements of section 254(h) of the Communications Act of 1934, as amended, by helping to ensure that eligible schools and libraries actually obtain access to discounted telecommunications and information services.¹⁶ We therefore conclude that a reduction in the District's E-rate funding is unwarranted and contrary to the public interest. We grant the District's Request for Review and remand its application to USAC for further consideration consistent with this Order.

5. To ensure that this Request for Review is resolved expeditiously, we direct USAC to complete its review of the District's application and issue an award or a denial based on a complete review and analysis no later than 60 calendar days from release of this Order. If, on remand, USAC determines that it needs additional information to process the application, USAC shall permit the District to provide the information within 15 calendar days of receiving notice in writing from USAC that additional information is required.¹⁷

IV. ORDERING CLAUSES

6. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in 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 School Administrative District 67 IS GRANTED.

7. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in 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 application associated with the Request for Review filed by School Administrative District 67 IS REMANDED to USAC for further consideration in accordance with the terms of this Order.

8. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291,

¹⁵*Requests for Review of the Decision of the Universal Service Administrator by Pasadena Unified School District, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-399355 *et al.*, CC Docket No. 02-6, Order, DA 06-486, para. 9 (Wireline Comp. Bur. rel. Feb. 28, 2006); *c.f.* *Requests for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170 *et al.*, CC Docket No. 02-6, Order, FCC 06-54 (rel. May 19, 2006) (directing USAC to identify and allow applicants to cure errors related to FCC Form 470 and FCC Form 471 filings and to enhance outreach to applicants in order to avoid clerical, ministerial, and procedural errors).

¹⁶47 U.S.C. § 254(h).

¹⁷The District will be presumed to have received notice five days after such notice is postmarked by USAC. USAC, however, shall continue to work beyond the 15 days with the District if the District attempts in good faith to provide correct information.

that USAC SHALL COMPLETE its review of the application associated with the Request for Review filed by School Administrative District 67 and ISSUE an award or a denial based on a complete review and analysis no later than 60 calendar days from release of this Order.

9. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach
Deputy Chief
Wireline Competition Bureau