

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Adopted: March 11, 2008
Released: March 11, 2008

Mel Blackwell
Vice President, Schools and Libraries Division
Universal Service Administrative Company
2000 L Street, N.W.
Suite 200
Washington, D.C. 20036

Dear Mel:

We have before us an appeal filed by Berrien County Intermediate School District (Berrien), Berrien Springs, Michigan, seeking review of a decision by USAC reducing its funding commitment in Funding Year 2007 for Funding Request Number (FRN) 1571125 under the E-rate program.¹ Based on the record before us, as set forth below, it appears that this matter can be resolved through further discussions between USAC staff and the applicant, Berrien. Therefore, we direct USAC to review this matter in light of the additional information provided by Berrien in its appeal to the Commission.

In Funding Year 2007, Berrien applied for \$121,445.00 in pre-discount E-rate funding for Internet access from Merit Network, Inc.² Berrien qualified for E-rate funding at the 62 percent level.³ After the 62 percent discount was applied, Berrien would receive \$75,295.90 in E-rate funds.⁴ On May 1, 2007, Berrien received a Program Integrity Assurance (PIA) request indicating that its request for funding included \$97.16 monthly in support for ineligible pre-kindergarten students.⁵ Therefore, USAC asked Berrien to either confirm that they agreed with this cost allocation, or provide an alternative cost allocation that did not include ineligible pre-kindergarten students.⁶

On May 7, 2007, Berrien responded to USAC's request for funding reallocation with a letter and spreadsheet that removed 24 pre-kindergarten students from the overall student count of 28,756 students.⁷ Berrien said that it was requesting \$75,295.90 minus \$60.24 that would have gone to the pre-kindergarten students, resulting in a funding commitment amount of \$75,235.66.⁸ Berrien, however, did not clarify

¹ Letter from Ronald M. Basso, counsel for Berrien County Intermediate School District, to Federal Communications Commission (filed Sept. 21, 2007) (Berrien Request for Review).

² See Berrien Request for Review, Attachment 2 (FCC Form 471, Berrien County Intermediate School District, SLD-569038 (filed Feb. 6, 2007) (regarding FRN 1571125)).

³ See *id.* at Block 5 (Discount Funding Request(s)).

⁴ *Id.*

⁵ See Berrien Request for Review, Attachment 3 (Letter from Marie C. Thomas, Universal Service Administrative Company, Schools and Libraries Division, to Dennis Lundgren, Berrien Intermediate School District (dated May 1, 2007)).

⁶ *Id.*

⁷ See Berrien Request for Review, Attachment 4 (Letter to Marie C. Thomas, Universal Service Administrative Company, Schools and Libraries Division, from Dennis Lundgren, Berrien Intermediate School District (dated May 7, 2007)).

⁸ *Id.*

whether this amount was pre- or post-discount.⁹ Thus, on July 26, 2007, USAC sent out a Funding Commitment Decision Letter (FCDL) notifying Berrien that it was approved to receive \$75,235.66 in pre-discount funding, or \$46,646.11 after application of the 62 percent discount.¹⁰

On September 20, 2007, Berrien appealed to the Commission, noting that its response to USAC was misconstrued and that the \$75,235.66 amount it requested for FRN 1571125 was a post-discount amount, rather than a pre-discount amount as indicated by USAC.¹¹ Berrien states that the pre-discount amount for which it intended to apply was the original \$121,445.00 minus \$97.16 for the pre-kindergarten students, resulting in a pre-discount amount of \$121,347.84. Application of the 62 percent discount to this adjusted amount results in a post-discount amount of \$75,235.66.¹² Berrien acknowledges that its response to USAC should have been clearer and that the misunderstanding concerning the funding amount was unintentional.¹³

As indicated above, based on the foregoing, it appears that this matter can be resolved through further discussions between USAC staff and the applicant to determine the appropriate post-discount funding commitment amount for FRN 1571125 as part of Berrien's Funding Year 2007 application. It appears that the misunderstanding concerning the funding commitment request was unintentional; that it was, in fact, a mistake, is obvious from the record. Additionally, correcting the misunderstanding regarding the requested amount would not, in and of itself, result in waste, fraud or abuse, or a failure to adhere to core program requirements. Therefore, we direct USAC to review this matter in light of the additional information provided to the Commission in Berrien's appeal. If USAC determines that the \$75,235.66 figure accurately represents the post-discount amount for FRN 1571125, then USAC shall issue a revised FCDL to Berrien within 30 days from the date of this letter. We dismiss without prejudice Berrien's appeal.

It is important to note that the guidance provided herein is limited to the issue of the requested funding amount for FRN 1571125 only. If there are other issues with this application that would result in a commitment adjustment or request for further information, we direct USAC to act accordingly.

Sincerely,

Dana R. Shaffer
Chief
Wireline Competition Bureau

cc: Scott Barash, Acting CEO, USAC

⁹ See *id.*; Berrien Request for Review at 3.

¹⁰ See Berrien Request for Review, Attachment 1 (Letter from Universal Service Administrative Company, Schools and Libraries Division, to Dennis Lundgren, Berrien Intermediate School District (dated July 26, 2007)).

¹¹ See Berrien Request for Review at 3.

¹² *Id.*

¹³ *Id.*