

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
Requests for Review of)
Decisions of the)
Universal Service Administrator by)
Business Technologies, Inc.) File No. SLD-530811, et al.
Greenville, South Carolina, et al.)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

ORDER

Adopted: December 6, 2010

Released: December 6, 2010

By the Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. In this order, we grant eight appeals of decisions by the Universal Service Administrative Company (USAC) denying requests for funding under the E-rate program (formally known as the schools and libraries universal service support program) for funding years 2005 or 2006.1 As an initial matter, we grant one petitioner a waiver of our filing deadline for appeals because we find that the petitioner failed to receive actual notice of its denial.2 Next, consistent with the Commission’s Aiken Order3 and based on our review of the record, we find that good cause exists to justify waivers of section 54.504(d) of the Commission’s rules to permit five petitioners to remove the ineligible services that triggered denials of their applications from their funding requests.4 In addition, consistent with the Commission’s Aiken

1 In this order, we use the term “appeals” to refer generally to requests for review of decisions issued by USAC. Section 54.719(c) of the Commission’s rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c). See appendix.

2 See Letter from Amie Petri, Computer Technician, Pioneer Central School, to USAC, Schools and Libraries Division at 1 (filed Jan. 8, 2008) (stating that it never received USAC’s February 15, 2007 decision on its appeal).

3 Request for Review of the Decisions of the Universal Service Administrator by Aiken County Public Schools, File Nos. SLD-397612, et al., CC Docket No. 02-6, Order, 22 FCC Rcd 8735, 8737-40, paras. 6, 9-10 (2007) (Aiken Order).

4 Id. at 8739-40, at para. 9; Letter from USAC, Schools and Libraries Division, to Jeffrey Bolin, Business Technologies, Inc. at 1-2 (dated Feb. 9, 2007) (finding that remote monitoring and management services represented 73 percent of South Carolina Department of Juvenile Justice’s funding request); Letter from Deborah Ellingwood, Lincoln International High School, to Office of the Secretary, Federal Communications Commission, CC Docket No. 02-6 at 1-2 (filed Mar. 29, 2007) (discussing NBX (IP-PBX) telephones); Letter from USAC (forwarding the letter it received from Amie Petri, Computer Technician, Pioneer Central School) to Marlene Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-6 (filed Mar. 13, 2008) (contending that the cell phones and air cards it requested should have been found eligible or it should have been given a chance to remove them); Letter from Sally Neumann, Wyandanch Union Free School District, to Marlene Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-6 at 2-3 (filed Mar. 26, 2007) (contending that the \$29,312 that

*Order*⁵ and based on our review of the record, we find that good cause exists to direct USAC to treat requests by three petitioners for telecommunications and Internet access (priority 1 services) and internal connections (priority two services) as filed separately, even though the petitioners failed to follow the recommendation in the application instructions to file such requests in separate FCC Form 471 applications.⁶ This will permit those petitioners to receive funding for their priority 1 services although their priority 2 services (and thus combined applications) were not able to be funded because their discount levels were below the funding threshold for priority 2 services. We note that there is nothing before us indicating more fundamental problems, such as misuse of funds or a failure to adhere to core program requirements. Accordingly, we grant these appeals and remand the underlying applications to USAC for further action consistent with this order. We specifically direct USAC to provide each petitioner with a 15-day opportunity to amend its funding requests to eliminate all ineligible services or provide additional documentation to USAC supporting the eligibility of the services in their funding requests.

2. 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 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 the petitioners as listed in the appendix ARE GRANTED and ARE REMANDED to USAC for further consideration in accordance with the terms of this order.

3. 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 sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that section 54.504(d) of the Commission's rules, 47 C.F.R. § 54.504(d), IS WAIVED as described herein.

4. 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 sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that USAC SHALL COMPLETE its review of each remanded application and ISSUE an award or a denial based on a complete review and analysis no later than 90 calendar days from the release date of this order.

5. IT IS FURTHER ORDERED, pursuant to section 1.102(b) of the Commission's rules, 47 C.F.R. § 1.102(b), that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Gina M. Spade
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

USAC calculated for ineligible video-on-demand server (VODS) software updates and installation was inaccurate and that only \$8,793 is attributable to the ineligible VODS); Letter from Larry McKenna, Phillipsburg School District, to Office of the Secretary, Federal Communications Commission, CC Docket No. 02-6 at 1 (filed Mar. 12, 2007) (discussing ineligible equipment and messaging).

⁵ *Aiken Order*, 22 FCC Rcd at 8737-40, paras. 6, 9-10.

⁶ Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 at 22 (Nov. 2004) (FCC Form 471 Instructions); *Aiken Order*, 22 FCC Rcd at 8737-39, para. 6; Fort Zumwalt, Maple Lake, and Sequoia.

APPENDIX

Requests for Review

Applicant	Application Number	Funding Year	Date Filed
Business Technologies, Inc. Greenville, SC	530811	2006	Feb. 21, 2007
Fort Zumwalt School District O'Fallon, MO	465188	2005	Nov. 13, 2006
Lincoln International High School Minneapolis, MN	519805	2006	Mar. 29, 2007
Maple Lake Public School Maple Lake, MN	495303	2006	Mar. 19, 2007
Phillipsburg School District Phillipsburg, NJ	507314	2006	Mar. 12, 2007
Pioneer Central School Yorkshire, NY	536280	2006	Mar. 13, 2008
Sequoia Elementary School Lemon Cove, CA	483263	2005	June 15, 2006
Wyandanch Union Free School District Wyandanch, NY	538721	2006	Mar. 26, 2007