

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Request for Review of a
Decision of the
Universal Service Administrator by
Special Education District of Lake County
Gages Lake, Illinois
Schools and Libraries Universal Service
Support Mechanism
File No. SLD-692382
CC Docket No. 02-6

ORDER

Adopted: July 30, 2012

Released: July 30, 2012

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

1. Consistent with precedent,1 we deny a request from the Special Education District of Lake County (Lake County) seeking review of a decision made by the Universal Service Administrative Company (USAC) under the E-rate program (more formally known as the schools and libraries universal service support program) for funding year 2009.2 In its decision, USAC found that four of Lake County's funding requests violated E-rate program rules.3 Specifically, USAC determined that Lake County violated sections 54.503 and 54.511 of the Commission's competitive bidding rules by failing to

1 See Request for Review of the Decision of the Universal Service Administrator by Central Islip Free Union School District, et al., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 26 FCC Rcd 8630, 8640 (Wireline Comp. Bur. 2011) (Central Islip Order) (finding that the petitioner violated the Commission's competitive bidding rules because it failed to demonstrate that price was the primary factor in its vendor selection process); Request for Review and or Request for Waiver of the Decisions of the Universal Service Administrator by Al Noor High School, et al., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, DA 12-1172, para. 2 (Wireline Comp. Bur. rel. July 26, 2012) (finding that the petitioners had some form of an agreement in place during the relevant funding year prior to the filing of their FCC Form 471 applications).

2 See Letter from Brad Waggoner, Technology Liason, Special Education District of Lake County, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-6 (filed Apr. 14, 2010) (regarding funding year (FY) 2009 FCC Form 471 application number 692382, funding request numbers (FRNs) 1902986, 1903181, 1903238, and 1903672) (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 USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

3 See Letter from Universal Service Administrative Company (USAC), Schools and Libraries Division, to Lea Ann Frost, Director of Instruction, Special Education District of Lake County (dated Nov. 19, 2009) (Nov. 19 Letter); Letter from USAC, Schools and Libraries Division, to Brad Waggoner, Technology Liason, Special Education District of Lake County (dated Feb. 9, 2010) (Feb. 9 Letter).

demonstrate that price was the primary factor in the vendor selection process for funding request number (FRN) 1902986.⁴ USAC also determined that Lake County violated section 54.504 of the Commission's rules because it did not have a signed contract or legally binding agreement in place for FRNs 1902986, 1903181, 1903238, and 1903672 when it submitted its FCC Form 471 application.⁵

2. Based on our review of the record, we agree with USAC's determinations. Specifically, we find that Lake County failed to provide documentation showing how the bids it received for FRN 1902986 were evaluated, scored, or ranked, or to otherwise demonstrate that price was the primary factor considered in its vendor selection process for FRN 1902986. Further, the record shows that although Lake County submitted its FCC Form 471 application on February 12, 2009, the final contracts for FRNs 1903181, 1903238, 1903672 and 1902986 were signed several months later.⁶ Although Lake County claims that the details of the contracts for FRNs 1903181, 1903238, and 1903672 had been agreed upon by each party before Lake County submitted its FCC Form 471 application, the record does not support this claim. With regard to FRN 1902986, Lake County concedes that it was still in contract negotiations with the service provider approximately three months after Lake County submitted its FCC Form 471 application.⁷ We therefore affirm USAC's decision and deny Lake County's request for review.

3. 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, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), the request for review filed by Special Education District of Lake County IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

⁴ See Feb. 9 Letter; 47 C.F.R. §§ 54.504, 54.511 (2005) *amended by* 47 C.F.R. §§ 54.503, 54.511 (2011).

⁵ See Nov. 19 Letter; Feb. 9 Letter; 47 C.F.R. § 54.504 (2005).

⁶ See FCC Form 471, Special District of Lake County (filed Feb. 12, 2009). See also Request for Review; 47 CFR § 54.504 (2005) (requiring applicants to submit an FCC Form 471 application after signing a contract for eligible services).

⁷ See Letter from Lee Ann Frost, Director of Instruction, Special Education District of Lake County, to Universal Service Administrative Company (dated May 14, 2009).