

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
Requests for Waiver and Review of)
Decisions of the)
Universal Service Administrator by)
Canon City School District Fremont RE-1) File Nos. SLD-483730, et al.
Canon City, Colorado, et al.)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

ORDER

Adopted: February 15, 2012

Released: February 15, 2012

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

1. Consistent with precedent,1 we grant 27 requests from petitioners2 seeking review of decisions 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).3 In each decision, USAC found violations of the Commission’s competitive bidding requirements. Based on our review of the record, we find that the petitioners complied with the Commission’s competitive bidding

1 See, e.g., Requests for Review of Decisions of the Universal Service Administrator by Dimmitt Independent School District, et al., Order, 26 FCC Rcd 15581 (Wireline Comp. Bur. 2011). See also Schools and Libraries Universal Service Support Mechanism, Third Report and Order and Second Further Notice of Proposed Rulemaking, CC Docket No. 02-6, 18 FCC Rcd 26912, 26939, para. 66 (stating that a fair and open competitive bidding process is critical to preventing waste, fraud, and abuse of program resources); Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket No. 96-45, Order, 16 FCC Rcd 4028 (2000) (Mastermind Order) (finding that the FCC Form 470 contact person influences an applicant’s competitive bidding process by controlling the dissemination of information regarding the services requested and, when an applicant delegates that power to an entity that also participates in the bidding process as a prospective service provider, the applicant impairs its ability to hold a fair competitive bidding process). All potential bidders and service providers must have access to the same information and must be treated in the same manner throughout the procurement process. Mastermind Order, 16 FCC Rcd at 4033, para. 10. See also Request for Review by Dickenson County Public Schools, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, 17 FCC Rcd 15747, 15748, para. 3 (2002); Request for Review by Approach Learning and Assessment Center, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, 22 FCC Rcd 5296, 5303, para. 19 (Wireline Comp. Bur. 2007) (finding that service provider participation may have suppressed fair and open competitive bidding). For Woodward Independent School District 1, we also grant its appeal because we find that the applicant sufficiently listed the services it sought on its FCC Form 470. See 47 C.F.R. § 54.503(c)(ii)(2011); see also Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, CC Docket Nos. 96-45, 97-21, Order, 18 FCC Rcd 26407, 26408-09, paras. 7, 25 (2003).

2 The requests for waiver and review are listed in the appendix.

3 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).

requirements, and therefore we grant their requests. On our own motion, we also waive section 54.507(d) of the Commission's rules and any USAC procedural deadlines, such as the invoicing deadline, that might be necessary to effectuate our ruling.⁴ We find good cause to waive section 54.507(d) because filing an appeal of a denial is likely to cause petitioners to miss the program's subsequent procedural deadlines in that funding year.⁵

2. We therefore remand the underlying applications listed in the appendix to USAC for further action consistent with this order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the appendix 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. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications. We direct USAC to discontinue recovery actions based on the denials reviewed in this order against the parties whose requests are addressed herein.

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 requests for review or requests for waiver filed by the petitioners listed in the appendix ARE GRANTED and their underlying applications ARE REMANDED to USAC for further consideration in accordance with the terms of this order.

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, 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), that section 54.507(d) of the Commission's rules, 47 C.F.R. § 54.507(d), IS WAIVED for the petitioners listed in the appendix to the limited extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

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

⁴ 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year).

⁵ Generally, the Commission's rules may be waived if good cause is shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

APPENDIX

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Canon City, School District Fremont RE-1 Canon City, CO	483730	2005	Oct. 13, 2010, June 21, 2010
	498243	2006	Oct. 13, 2010
	544204	2007	Oct. 13, 2010, June 21, 2010
	606907	2008	Oct. 13, 2010
	671908	2009	Oct. 13, 2010
	764414	2010	Oct. 13, 2010, June 21, 2010
Charlotte County School District Port Charlotte, FL	606829	2008	Nov. 1, 2010
Fountain Fort Carson School District 8 Fountain, CO	498944	2006	Jan. 24, 2011
	596832	2008	May 31, 2011
Lewis-Palmer School District 38 Monument, CO	441721	2005	Dec. 1, 2010
	507363	2006	Dec. 1, 2010
	622216	2008	Dec. 1, 2010
	674533	2009	Dec. 1, 2010
	733603	2010	Dec. 1, 2010
Nederland Independent School District Nederland, TX	604325	2008	Nov. 16, 2010
	604557	2008	Nov. 16, 2010
	604595	2008	Nov. 16, 2010
	604629	2008	Nov. 16, 2010
	604662	2008	Nov. 16, 2010
	661218	2009	Nov. 8, 2010
	660400	2009	Nov. 8, 2010
	660592	2009	Nov. 8, 2010
	660368	2009	Nov. 8, 2010
	661617	2009	Nov. 8, 2010
	724986	2010	Nov. 8, 2010
	724929	2010	Nov. 8, 2010
	724960	2010	Nov. 8, 2010
724887	2010	Nov. 8, 2010	
724947	2010	Nov. 8, 2010	
New Education for the Workplace (NewCorp) Oceanside, CA	537090	2006	Dec. 10, 2010
	537176	2006	Dec. 10, 2010
	537265	2006	Dec. 10, 2010
	536824	2006	Dec. 10, 2010
	694279	2009	Dec. 10, 2010
	694690	2009	Dec. 10, 2010
	728420	2010	Dec. 10, 2010
733636	2010	Dec. 10, 2010	
Northeast Texas Regional Education Telecommunications Network Mt. Pleasant, TX	669497	2009	Dec. 6, 2010
	756191	2010	Feb. 14, 2011
Palestine Independent School District Palestine, TX	689728	2009	Dec. 9, 2010
	759855	2010	Dec. 9, 2010
Region 6 & 8 Southwest/West Central	517167	2006	Feb. 18, 2011

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Service Cooperative Marshall, MN	557244	2007	Feb. 18, 2011
	604558	2008	Feb. 18, 2011
	611581	2008	Feb. 18, 2011
	663148	2009	Feb. 18, 2011
	663276	2009	Feb. 18, 2011
	684875	2009	Feb. 18, 2011
	717487	2010	Feb. 18, 2011
	717487	2010	Feb. 18, 2011
School for Integrated Academies and Technologies (SIATech) Oceanside, CA	536126	2006	Dec. 10, 2010
	584060	2007	Dec. 10, 2010
	635031	2008	Dec. 10, 2010
	635283	2008	Dec. 10, 2010
	695002	2009	Dec. 10, 2010
	686078	2009	Dec. 10, 2010
	728534	2010	Dec. 10, 2010
Sunnyside Unified School District 12 Tucson, AZ	507386	2006	Apr.4, 2011
	552301	2007	Nov. 24, 2010
	601984	2008	Nov. 24, 2010
	669222	2009	Jul.8, 2010
Woodward Independent School District 1 Woodward, OK	765953	2010	Dec. 6, 2010
Trillion Partners, Inc. Austin, TX (Bristol Borough School District Bristol, PA)	687656	2009	Nov. 18, 2010
	754050	2010	Nov.18, 2010
Trillion Partners, Inc. Austin, TX (Canon City, School District Fremont RE-1 Canon City, CO)	483730	2005	Nov. 3, 2010
	498243	2006	Nov. 3, 2010, Nov. 29, 2010
	544204	2007	Nov. 3, 2010, Nov. 29, 2010
	606907	2008	Nov. 3, 2010, Nov. 29, 2010
	671908	2009	Nov. 3, 2010, Nov. 11, 2010
	764414	2010	Nov. 3, 2010
Trillion Partners, Inc. Austin, TX (Charlotte County School District Port Charlotte, FL)	463795	2005	Mar. 9, 2011
	498259	2006	Mar. 9, 2011
	560949	2007	Mar. 9, 2011
	606829	2008	Nov. 9, 2010
Trillion Partners, Inc. Austin, TX (Fountain Fort Carson School District 8 Fountain, CO)	481508	2005	Jan. 10, 2011
	498944	2006	Jan. 10, 2011
	582253	2007	Jan. 10, 2011
	596832	2008	Jan. 10, 2011
	649848	2009	Jan. 10, 2011
	712326	2010	Jan. 10, 2011
Trillion Partners, Inc. Austin, TX (Lewis-Palmer School District 38 Monument, CO)	441721	2005	Nov. 11, 2010
	507363	2006	Nov. 11, 2010
	622216	2008	Nov. 11, 2010
	674533	2009	Nov. 11, 2010
	733603	2010	Nov. 11, 2010

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Trillion Partners, Inc. Austin, TX (Nederland Independent School District, Nederland, TX)	443709	2005	Apr. 29, 2011
	445012	2005	Apr. 29, 2011
	445556	2005	Nov. 15, 2010
	447549	2005	Nov. 15, 2010
	515596	2006	Nov. 15, 2010
	515547	2006	Nov. 15, 2010
	515442	2006	Nov. 15, 2010
	557454	2007	Nov. 15, 2010
	557425	2007	Nov. 15, 2010
	557384	2007	Nov. 15, 2010
	555276	2007	Nov. 15, 2010
	661617	2009	Nov. 12, 2010
	661218	2009	Nov. 12, 2010
	660592	2009	Nov. 12, 2010
	660400	2009	Nov. 12, 2010
	660368	2009	Nov. 12, 2010
	724947	2010	Nov. 12, 2010
724986	2010	Nov. 12, 2010	
724960	2010	Nov. 12, 2010	
724929	2010	Nov. 12, 2010	
724887	2010	Nov. 12, 2010	
Trillion Partners, Inc. Austin, TX (NewCorp, Oceanside, CA)	583858	2007	Dec. 13, 2010
	583950	2007	Dec. 13, 2010
	584000	2007	Dec. 13, 2010
	635394	2008	Dec. 13, 2010
	635691	2008	Dec. 13, 2010
	694279	2009	Dec. 13, 2010
	694690	2009	Dec. 13, 2010
	728420	2010	Dec. 13, 2010
733636	2010	Dec. 13, 2010	
Trillion Partners, Inc. Austin, TX (Newton County School District Decatur, MS)	685420	2009	Feb. 4, 2011
	764153	2010	Feb. 4, 2011
Trillion Partners, Inc. Austin, TX (Northeast Texas Regional Education Telecommunications Network Mt. Pleasant, TX)	669497	2009	Nov. 3, 2010, Nov. 12, 2010
	756191	2010	Nov. 3, 2010, Feb. 1, 2011
Trillion Partners, Inc. Austin, TX (Palestine Independent School District Palestine, TX)	689728	2009	Dec. 3, 2010
	759855	2010	Dec. 3, 2010
Trillion Partners, Inc. Austin, TX (Plaquemines Parish School Board Belle Chasse, LA)	631488	2008	Nov. 12, 2010
	689631	2009	Nov. 12, 2010
	759349	2010	Nov. 12, 2010
Trillion Partners, Inc.	517167	2006	Nov. 3, 2010, Mar. 11, 2011,

Petitioner	Application Number(s)	Funding Year	Date Request for Review/Waiver Filed
Austin, TX (Region 6 & 8 Southwest/West Central Service Cooperative Marshall, MN)	557244 604558 611581 663148 663276 684875 717487 717487	2007 2008 2008 2009 2009 2009 2010 2010	June 21, 2010 Nov. 3, 2010, Mar. 11, 2011 Nov. 3, 2010, Mar. 11, 2011, June 21, 2010 Nov. 3, 2010, Mar. 11, 2011 Nov. 3, 2010, Nov. 12, 2010 Nov. 3, 2010, Nov. 12, 2010, June 21, 2010 Nov. 3, 2010, Nov. 12, 2010, June 21, 2010 Nov. 3, 2010, Nov. 12, 2010 Nov. 3, 2010, Nov. 12, 2010, June 21, 2010
Trillion Partners, Inc. Austin, TX (SIATech, Oceanside, CA)	584060 635031 635283 686078 728534	2007 2008 2008 2009 2010	Dec. 13, 2010 Dec. 13, 2010 Dec. 13, 2010 Dec. 13, 2010 Dec. 13, 2010
Trillion Partners, Inc. Austin, TX (Sunnyside Unified School District 12 Tucson, AZ)	507386 552301 601984	2006 2007 2008	Mar. 11, 2011 Nov. 9, 2010 Nov. 9, 2010
Trillion Partners, Inc. Austin, TX (Walton County School District Defuniak Springs, FL)	648381 726967	2009 2010	Nov. 9, 2010 Nov. 9, 2010
Trillion Partners, Inc. Austin, TX (12 Applicants)			Oct. 1, 2010
Trillion Partners, Inc. (7 Applicants)			Oct. 10, 2010
Trillion Partners, Inc. (Master Appeal)			Nov. 3, 2010