

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
Request for Review of)
Decisions of the)
Universal Service Administrator by)
Northeast Arizona Technological Institute of)
Vocational Education) File Nos. SLD-532327, 536056
Kayenta, Arizona)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

ORDER

Adopted: March 6, 2012

Released: March 6, 2012

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

1. Consistent with precedent,1 we grant a request by the Northeast Arizona Technological Institute of Vocational Education (NATIVE)2 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 its decisions, USAC found that NATIVE violated the Commission’s competitive bidding requirements because it issued a request for bid proposal (RFP), despite having indicated on its FCC Form 470 that no RFP existed. Based on our review of the record, we find that, despite NATIVE’s failure to correctly indicate on its FCC Form 470 that it had issued an RFP, the FCC Form 470 contained enough detail for service providers to identify the desired services and to formulate bids. We therefore conclude that no violation of our competitive bidding rules occurred. Furthermore, we find no evidence of waste, fraud or abuse in the record at this time.

2. Additionally, on our own motion, we waive section 54.507(d) of the Commission’s rules and any USAC procedural deadline, 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

1 See Request for Review of the Decision of the Universal Service Administrator by Approach Learning and Assessment Center, et al., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 23 FCC Rcd 15510 (2008) (finding that despite the petitioners failure to indicate on their FCC Forms 470 whether they had issued an RFP, the FCC Forms 470 contained enough detail for service providers to identify the desired services and to formulate bids).

2 See Letter from Karen Leshner, Superintendent, Northeast Arizona Technological Institute of Vocational Education, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 06-2 (filed Feb. 18, 2011) (Request for Review) (regarding funding year 2006 FCC Form 471 application numbers 532327 and 536056).

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).

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).

to cause petitioners to miss the program's subsequent procedural deadlines in that funding year.

3. We therefore remand the underlying applications 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 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 NATIVE's applications.

4. 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 Northeast Arizona Technological Institute of Vocational Education IS GRANTED and the underlying applications ARE REMANDED to USAC for further consideration in accordance with the terms of this order.

5. 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 Northeast Arizona Technological Institute of Vocational Education to the limited extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

Gina M. Spade
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