

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)	
)	
Networks and More! Inc.)	SLD File Nos. 229937, <i>et al.</i>
Island Heights, NJ)	
)	
Long Branch Public Library)	SLD File No. 329836
Long Branch, NJ)	
)	
Freehold Township School District)	SLD File No. 429735
Freehold, NJ)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: March 14, 2012

Released: March 14, 2012

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

1. Consistent with precedent,¹ we deny 15 appeals filed by Networks and More! Inc. (Networks and More)² and an appeal filed by Long Branch Public Library (Long Branch) seeking review of decisions of 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 the record before us, we affirm USAC’s decisions and find improper vendor involvement in the competitive bidding process.⁴ Because we find improper service provider involvement in the competitive bidding process, we also

¹ See *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, 26434, para. 60 (2003) (stating “[w]e stress that direct involvement in an application process by a service provider would thwart the competitive bidding process.”) *Request for Review of the Decisions of the Universal Service Administrator by Caldwell Parish School District, et al.*, CC Docket No. 02-6, Order, 23 FCC Rcd 2784, 2791, para. 17 (2008) (finding that a service provider’s admission to assisting in filling out the FCC Form 470 is “a clear violation of the prohibition against service providers filling out forms that require an applicant’s certification, as well as a violation of the mandate that the FCC Form 470 be completed by the entity that will negotiate with prospective bidders.”).

² All of the appeals decided in this Order 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).

⁴ See appendix.

dismiss as moot an appeal filed by Freehold Township Schools (Freehold).⁵

2. We find that Networks and More assisted applicants with the preparation of their FCC Forms 470. We emphasize that any direct involvement by the service provider in the preparation and submission of the FCC Form 470, even clerical or data entry assistance, is a violation of the Commission's competitive bidding rules. Therefore, we find that Network and More's actions are "a clear violation of the prohibition against service providers filling out forms that require an applicant's certification, as well as a violation of the mandate that the FCC Form 470 be completed by the entity that will negotiate with prospective bidders."⁶ We thus direct USAC to continue recovery actions against the party or parties responsible for the rule violation.⁷

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 pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 54.722(a), that the appeals listed in the appendix ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

⁵ Both Freehold Township Schools and Networks and More filed appeals regarding application 429735. Freehold appealed USAC's decision to deny funding because Freehold had requested ineligible firewall services; however, we do not consider the merits of this appeal because of the competitive bidding violation.

⁶ See *supra* n.1.

⁷ Long Branch and Networks and More both filed appeals regarding application 329836. Long Branch requests that the Commission review USAC's decision to impose the recovery solely on the applicant, arguing that the service provider should be held responsible. Specifically, Long Branch argues that it will incur significant hardship if it is held responsible for the funds which USAC seeks to recover. We find that USAC must seek recovery because the type of service provider participation addressed here may suppress fair and open competitive bidding and ultimately damage the integrity of the program. We thus direct USAC to seek recovery consistent with the *Schools and Libraries Fourth Report and Order*, which allows USAC to pursue recovery actions against the party or parties responsible for the rule or statutory violation in question. See *Federal-State Joint Board on Universal Service, Changes to the Board of Directors for the National Exchange Carrier Association, Inc. Schools and Libraries Universal Service Support Mechanism*, CC Docket Nos. 96-45, 97-21, 02-6, Order on Reconsideration and Fourth Report and Order, 19 FCC Rcd 15808 (2004).

APPENDIX

Petitioners	Application Number(s)	Funding Year	Date Appeal Filed
Networks and More! Inc.	229937	2001	January 3, 2007
	251684	2001	
	319633	2002	
	297874	2002	
	298093	2002	
	296534	2002	
	296304	2002	
	298010	2002	
	329836	2002	
	379196	2003	
	355642	2003	
	363306	2003	
	375144	2003	
	370474	2003	
	429735	2004	
Freehold Township School District	429735	2004	April 5, 2006
Long Branch Public Library	329836	2002	June 29, 2009