In the Matter of

Requests for Review of
Decisions of the
Universal Service Administrator by

Kings Canyon Unified School District
Reedley, CA, et al.

Schools and Libraries Universal Service Support Mechanism

File Nos. SLD-482378, et al.

CC Docket No. 02-6

ORDER

Adopted: April 17, 2012 Released: April 17, 2012

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

1. Consistent with precedent,¹ we grant two requests from Kings Canyon Unified School District (“Kings Canyon”) and two from Trillion Partners, Inc. (“Trillion”) 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).² In each decision, USAC found violations of the Commission’s competitive bidding requirements. Specifically, USAC found that Kings Canyon accepted gifts, including meals, conference expenses, and site trip expenses³ in violation of


² 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).

the Commission’s rules.  

2. Based on our review of the record, we find that Kings Canyon conducted a fair and open competitive bidding process under Commission rules. The record demonstrates that Trillion offered the lowest price and presented a proposal that Kings Canyon believed accounted for the unique geography of its school district.  

Furthermore, we find that King’s Canyon complied with the E-rate procedures and rules that existed at the time it selected Trillion as its service provider.  

At this time, we do not find evidence of waste, fraud and abuse in the record. Therefore, we conclude that Kings Canyon’s receipt of the aforementioned gifts did not impede the competitive bidding process. We emphasize, however, that our analysis of this matter could be different under our current rules, because the Commission established clear guidelines on permissible gifts in the Schools and Libraries Sixth Report and Order, which became effective on January 3, 2011.

3. On our own motion, we also 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. 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 the relevant funding years.

4. 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 underlying applications. We direct USAC to discontinue recovery actions against those parties based on the denials that are addressed herein.

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

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4 See e.g., Letter from USAC, Schools and Libraries Division, to Emerson Tripoli, Kings Canyon Unified School District (dated Feb. 9, 2011) (regarding Kings Canyon Funding Year (FY) 2005 FCC Form 471 application number 482378); see also USAC June 4, 2010 Letter at 1-2.

5 See Request for Review at 2-4.

6 See 47 C.F.R. § 54.504 (2005); see also Dimmitt Order, 26 FCC Rcd at 15587-88, para 10.

7 See 47 C.F.R. §54.503(d) (2011); see also supra n.1. Consequently, we remind applicants that under our current rules, if they wish to participate in activities such as conferences and trips to view service provider offerings, they should consider doing so at their own expense.


9 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year).

10 USAC shall cease recovery actions against both the applicant and the service provider, unless otherwise provided in this order.
6. 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

Trent Harkrader
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau
### APPENDIX

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<tr>
<th>Petitioner</th>
<th>Application Number(s)</th>
<th>Funding Year</th>
<th>Date Request for Review Filed</th>
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