



Federal Communications Commission
Washington, D.C. 20554

Memo

To: Amanda Miguel, for
Billerica School District

From: Ryan B. Palmer, Chief
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission

Date: April 28, 2017

Re: DA No. 17-385, released April 28, 2017

Please find accompanying this memo the Bureau's decision on your appeal. The accompanying decision may be referenced in the future by its proceeding number and release date: DA No. 17-385, Released April 28, 2017.

If the Bureau has granted your appeal, please contact the Universal Service Administrative Company (USAC) at 1-888-203-8100 for more information regarding your application. Please submit any information to USAC that the order may require. Once USAC has reviewed your application related to the issues resolved in the attached letter, you will receive a revised funding commitment decision letter.

If the Bureau has denied your appeal and you choose to seek consideration of the Bureau's decision, you must file either a petition for reconsideration by the Bureau or an application for review by the full Commission with the Commission within 30 days from the released date of this decision. You may file your petition for reconsideration or application for review using the Internet by accessing the Commission's electronic comment filing system (ECFS) at <http://fjallfoss.fcc.gov/ecfs2/>. Please be sure to reference CC Docket No. 02-6 on your filing.



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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DA 17-385

Released: April 28, 2017

STREAMLINED RESOLUTION OF REQUESTS RELATED TO ACTIONS BY THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

CC Docket No. 02-6
CC Docket No. 96-45

Pursuant to our procedure for resolving requests for review, requests for waiver, and petitions for reconsideration of decisions related to actions taken by the Universal Service Administrative Company (USAC) that are consistent with precedent (collectively, Requests), the Wireline Competition Bureau (Bureau) grants, dismisses, or denies the following Requests.¹ The deadline for filing petitions for reconsideration or applications for review concerning the disposition of any of these Requests is 30 days from release of this Public Notice.²

Schools and Libraries (E-rate) **CC Docket No. 02-6**

Dismissed³

Arts Academy Charter School, PA, Application No. 971960, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2016)

Hampton School District 29, IL, Application No. 949570, Request for Review, CC Docket No. 02-6 (filed Mar. 28, 2016)

¹ See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45 and 02-6, WC Docket Nos. 02-60, 06-122, 08-71, 10-90, 11-42, and 14-58, Public Notice, 29 FCC Rcd 11094 (WCB 2014). Section 54.719(b) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC, after first seeking review at USAC, may seek review from the Commission. Section 54.719(c) of the Commission's rules provides that parties seeking waivers of the Commission's rules shall seek review directly from the Commission. 47 CFR § 54.719(b)-(c). In this Public Notice, we have reclassified as Requests for Waiver those appeals seeking review of a USAC decision that appropriately should have requested a waiver of the Commission's rules. Similarly, we have reclassified as Requests for Review those appeals seeking a waiver of the Commission's rules but are actually seeking review of a USAC decision.

² See 47 CFR §§ 1.106(f), 1.115(d); see also 47 CFR § 1.4(b)(2) (setting forth the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission).

³ See, e.g., *Request for Review of a Decision of the Universal Service Administrator by La Canada Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 30 FCC Rcd 4729, 4729, para. 2 (WCB 2015) (dismissing an appeal that properly belongs before USAC pursuant to Commission rules).

Shaker Heights City Schools, OH, Application No. 939165, Request for Review, CC Docket No. 02-6 (filed Apr. 8, 2016)

St. Mary's Central, OH, Application No. 1023865, Request for Review, CC Docket No. 02-6 (filed Mar. 7, 2017)

The Renaissance Charter High School for Innovation, NY, Application No. 989753, Request for Review, CC Docket No. 02-6 (filed June 28, 2016)

Dismissed⁴

Ludlow Public Schools, MA, Application No. 1046551, Request for Waiver, CC Docket No. 02-6 (filed Mar. 3, 2017)

Milwaukee County Federated Library, WI, Application No. 1009842, Request for Waiver, CC Docket No. 02-6 (filed Dec. 21, 2016)

St. Regis Falls Central Schools, NY, Application No. 1031857, Request for Waiver, CC Docket No. 02-6 (filed Feb. 24, 2017)

Westfield Academy and Central School District, NY, Application No. 1000458, Request for Waiver, CC Docket No. 02-6 (filed Mar. 13, 2017)

Winfield Public Library, AL, Application No. 1045043, Request for Waiver, CC Docket No. 02-6 (filed Nov. 1, 2016)

Dismissed as Moot⁵

Turlock Unified School District, CA, Application No. 937218, Request for Waiver, CC Docket No. 02-6 (filed Dec. 9, 2016)

Western Yell County School District, AR, Application No. 1051188, Request for Waiver, CC Docket No. 02-6 (filed Nov. 14, 2016)

Windham Central Supervisory Union Office, VT, Application Nos. 1039869, 1039522, Request for Waiver, CC Docket No. 02-6 (filed Nov. 14, 2016)

Dismissed on Reconsideration⁶

⁴ See *Request for Review and/or Waiver of Decisions of the Universal Service Administrator by Ada Public Library; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 32 FCC Rcd 1909 (WCB 2017) (*Ada Public Library Order*) (granting a waiver for these applicants that were unable to file their BEAR forms while waiting for USAC to provide an FCC Form 498 ID or personal identification number (PIN) at the time of the invoice filing deadline).

⁵ See, e.g., *Requests for Review of Decision of the Universal Service Administrator by Diversified Computer Solutions, Inc.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 5250, 5251, para. 3 (WCB 2012) (dismissing appeals as moot where invoicing records demonstrate that the entity was fully compensated for the funding it requested and all submitted invoices funded).

⁶ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Allan Shivers*

Amphitheater Public Schools, AZ, Application No. 1000262, Petition for Reconsideration, CC Docket No. 02-6 (filed Apr. 4, 2017)

Pribilof (Alaska) School District, AK, Application No. 161061517, Petition for Reconsideration, CC Docket No. 02-6 (filed Jan. 27, 2017)⁷

Seattle School District 1, WA, Application No. 937114, Petition for Reconsideration, CC Docket No. 02-6 (filed July 29, 2016)

Seven Hills Charter Public School, MA, Application No. 1036770, Petition for Reconsideration, CC Docket No. 02-6 (filed Jan. 27, 2017)

Granted⁸

*Considering Price of Eligible and Ineligible Items as Primary Factor in Vendor Selection Process*⁹

Shawnee Mission School District 512, MO, Application No. 161026051, Request for Waiver, CC Docket No. 02-6 (filed Feb. 14, 2017)

Shawnee Mission School District 512, MO, Application No. 161025981, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Feb. 14, 2017)

Library et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order and Order on Reconsideration, 29 FCC Rcd 10356, 10357, para. 2 (WCB 2014) (dismissing petitions for reconsideration that fail to identify any material error, omission, or reason warranting reconsideration, and rely on arguments that have been fully considered and rejected by the Bureau within the same proceeding).

⁷ Pribilof School District suggests that the notice it received on July 25, 2016 that its application was out-of-window may have led it to believe that it might still receive funding even without filing a waiver. However, the message USAC sent it on July 26, 2016, via the EPC news feed, clearly stated that because its application was received out-of-window, it would not be considered for funding, although it could file a waiver of the filing deadline. In any case, Pribilof concedes that it knew it “would need to file a waiver of the application deadline” based on the July 25, 2016 notice, and that it did not do so within 60 days of receiving notice of its out-of-window status.

⁸ We remand these applications to USAC and direct USAC to complete its review of the applications, and issue a funding commitment or a denial based on a complete review and analysis, no later than 90 calendar days from the release date of this Public Notice. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners’ applications. We also waive sections 54.507(d) and 54.514(a) of the Commission’s rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. See 47 CFR § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 CFR § 54.514(a) (codifying the invoice filing deadline).

⁹ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Coolidge Unified School District 21; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 16907 (WCB 2013) (waiving sections 54.504 and 54.511 of the Commission’s rules where the record demonstrated that the applicant would have selected the same vendor if it had excluded the price of ineligible items from the “cost” criterion). Alternatively, we also grant a waiver of the requirement that an applicant be able to demonstrate that it used price of eligible services as the primary factor in vendor selection when the applicant selected the lowest priced option and there was no evidence of waste, fraud, or abuse. See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Allendale County School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 6109, 6115-17, paras. 10-12 (WCB 2011) (*Allendale Order*). Furthermore, regarding USAC’s determination that the school district failed to consider all bids, we grant the appeal because the record demonstrated that the school district properly disqualified an incomplete bid. See, e.g., *id.* at 6117-18, para. 13 (granting appeal where the record shows that the applicant considered each bid it received and rejected a service provider’s bid only after determining that the bid was incomplete).

*Ministerial and/or Clerical Error*¹⁰

Billerica School District, MA, Application No. 996376, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2017)

Community School District 205, IL, Application No. 996930, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2017)

Riviera Hall Lutheran School, CA, Application No. 161024677, Request for Waiver, CC Docket No. 02-6 (filed Jan. 19, 2017)

*Unable to Timely Invoice Awaiting USAC Action*¹¹

Broome-Tioga BOCES et al., NY, Application Nos. 947317, 959326, 959372, 967368, 974631, Request for Waiver, CC Docket No. 02-6 (filed Feb. 2, 2017)

Falls City Independent School District, TX, Application No. 997755, Request for Waiver, CC Docket No. 02-6 (filed Jan. 17, 2017)

Hanna Independent School District 64, OK, Application No. 1019609, Request for Waiver, CC Docket No. 02-6 (filed Feb. 27, 2017)

Northwest New Jersey Community Action Program, NJ, Application No. 966724, Request for Waiver, CC Docket No. 02-6 (filed Dec. 1, 2016)

*Service Delivery Extension*¹²

Synergetics Diversified Computer Services, Inc. (Walker County School District), AL, Application No. 1042183, Request for Waiver, CC Docket No. 02-6 (filed Mar. 28, 2017)

Partially Denied

*Ineligible Services*¹³

¹⁰ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 17319, 17320, para. 2, n.21 (WCB 2010) (permitting applicants to correct typographical errors).

¹¹ See *Ada Public Library Order*, 32 FCC Rcd at 1911, para. 6 (granting a waiver for applicants who were unable to file a BEAR form because they were waiting for USAC to provide an FCC Form 498 ID or personal identification number (PIN) at the time of the deadline due to one-time influx of requests in the fall of 2016).

¹² See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Annette Islands School District et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 2209, 2209, para. 1 (WCB 2012) (allowing extensions of the deadline for service implementation when applicants demonstrated they were unable to complete implementation on time for reasons beyond the service providers' control or a clerical error and made significant efforts to secure the necessary extensions).

¹³ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by AllWays, Inc. (Prairie Hills School District 144)*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1968, 1969, para. 1 (WCB 2012) (upholding denials of funding requests for services that had not been designated as eligible for E-rate support). USAC also concluded that the applicant committed a competitive bidding violation by selecting different services than those that it competitively bid. We find no evidence that the applicant violated our competitive bidding requirements and grant the appeal with respect to

Thomasville City Public Schools, GA, Application No. 529557, Request for Review, CC Docket No. 02-6 (filed Dec. 28, 2009)

Denied

*Invoice Deadline Extension Requests*¹⁴

Bellwood School District 88, IL, Application No. 924711, Request for Waiver, CC Docket No. 02-6 (filed Mar. 14, 2016)

Caesar E Chavez Consortium, OH, Application No. 1046868, Request for Waiver, CC Docket No. 02-6 (filed Mar. 1, 2017)

Fauquier County Public Schools, VA, Application No. 774331, Request for Waiver, CC Docket No. 02-6 (filed Feb. 9, 2017)

Forest Grove School District, OR, Application No. 1009265, Request for Waiver, CC Docket No. 02-6 (filed Mar. 24, 2017)

Jeannette Public Library, PA, Application No. 1033152, Request for Waiver, CC Docket No. 02-6 (filed Mar. 27, 2017)

MIS Technology Group, LA, Application No. 1036361, Request for Waiver, CC Docket No. 02-6 (filed Feb. 22, 2017)

North Central Regional Library, WA, Application No. 1019764, Request for Waiver, CC Docket No. 02-6 (filed Dec. 7, 2016)

Oakland Unified School District, CA, Application Nos. 827060, 880351, Request for Waiver, CC Docket No. 02-6 (filed Dec. 16, 2016)

Oswego Unified School District 504, KS, Application Nos. 973734, 990681, Request for Waiver, CC Docket No. 02-6 (filed Aug. 8, 2016)

Questa Independent Schools, NM, Application No. 968690, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2016)

Salmon River Joint School District No. 243, ID, Application No. 1028177, Request for Waiver, CC Docket No. 02-6 (filed Dec. 12, 2016)

competitive bidding. *See, e.g., Allendale Order*, 26 FCC Rcd at 6114-15, para. 9 (granting appeal where the record demonstrated that the competitive bidding process did not violate program rules).

¹⁴ *See, e.g., Requests for Waiver of Decisions of the Universal Service Administrator by Ada School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 3834, 3836, para. 8 (WCB 2016) (denying requests for waiver of the Commission's invoice extension rule for petitioners that failed to demonstrate extraordinary circumstances justifying a waiver); *see also Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8966, para. 240 (2014) (establishing that it is generally not in the public interest to waive the Commission's invoicing rules absent extraordinary circumstances); 47 CFR § 54.514.

Spring Hill Independent School District, TX, Application No. 1045176, Request for Waiver, CC Docket No. 02-6 (filed Dec. 12, 2016)

St. Charles Parish Library, LA, Application Nos. 982015, 982312, 983220, 985903, Request for Waiver, CC Docket No. 02-6 (filed Mar. 10, 2016)

The King's Academy, SC, Application No. 988802, Request for Waiver, CC Docket No. 02-6 (filed Mar. 21, 2016)

Virgin Islands Department of Education, VI, Application No. 927508, Request for Review and Waiver, CC Docket No. 02-6 (filed May 25, 2016)¹⁵

Yeshiva Darchei Noam, NY, Application No. 1026280, Request for Waiver, CC Docket No. 02-6 (filed Dec. 15, 2016)

Yeshiva Darchei Torah School, MI, Application No. 971099, Request for Waiver, CC Docket No. 02-6 (filed Mar. 10, 2016)

Zion Lutheran School, MN, Application Nos. 964897, 986729, 986918, 988185, 988439, Request for Waiver, CC Docket No. 02-6 (filed Mar. 20, 2017)

*Untimely Filed Requests for Review*¹⁶

Chabad Hebrew Academy, CA, Application No. 1030002, Request for Waiver, CC Docket No. 02-6 (filed Jan. 24, 2017)

Ford Heights School District 169, IL, Application No. 1026380, Request for Review, CC Docket No. 02-6 (filed Apr. 10, 2017)

Las Vegas City School District, NM, Application No. 161058290, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2017)

Richard Wright Public Charter School for Journalism and Media Arts, DC, Application No. 161038221, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2017)

Sabinal Independent School District, TX, Application No. 947433, Request for Waiver, CC Docket No. 02-6 (filed Mar. 3, 2017)

Snake River School District, ID, Application No. 161058549, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2017)

¹⁵ We note that USAC included FRN 2532400 in an email sent October 27, 2015 stating that the request for an extension was granted, but only changed the invoice filing deadline to July 10, 2015. However, the applicant had already received its one-time extension for that FRN and was not eligible for an additional extension.

¹⁶ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134 et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684 (WCB 2010); *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Bound Brook School District et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 5823 (WCB 2014) (denying appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days, as required by the Commission's rules, and did not show special circumstances necessary for the Commission to waive the deadline).

Stonehill Christian Academy, TX, Application No. 161061986, Request for Waiver, CC Docket No. 02-6 (filed Jan. 18, 2017)

William M. Davies, Jr. Career & Technical High School, RI, Application No. 161030404, Request for Waiver, CC Docket No. 02-6 (filed Feb. 28, 2017)

Contribution Methodology
CC Docket No. 96-45

Dismissed as Moot

Request for Waiver of Form 499-Q Revision Deadline¹⁷

Geologic Solutions, Inc., Appeal of Decision of Universal Service Administrator and Request for Waiver, CC Docket 96-45 (filed Feb. 18, 2008)

1 Wire Communications, LLC, Appeal of Decision of Universal Service Administrator and Request for Waiver, CC Docket No. 96-45 (filed June 29, 2010)

For additional information concerning this Public Notice, please contact Kate Dumouchel in the Telecommunications Access Policy Division, Wireline Competition Bureau, at kate.dumouchel@fcc.gov or at (202) 418-7400.

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¹⁷ See, e.g., *Universal Service Contribution Methodology; Requests for Waiver of Decisions of the Universal Service Administrator by Ambess Enterprises, Inc., et al.*, WC Docket No. 06-122, Order, 25 FCC Rcd 3722 (WCB 2010); *Universal Service Contribution Methodology; Requests for Waiver of Decisions of the Universal Service Administrator by Achieve Telecom Network of Massachusetts, LLC, et al.*, WC Docket No. 06-122, Order, 23 FCC Rcd 17903 (WCB 2008); *Federal-State Joint Board on Universal Service; Request for Review of Decisions of the Universal Service Administrator by ABS-CBN Telecom North America, Inc., et al.*, CC Docket 96-45, Order, 22 FCC Rcd 4965 (WCB 2007) (all denying as moot several requests for waiver of filing deadlines associated with late-filed FCC Forms 499-Q because USAC's true up process had already reconciled petitioners' revenue information as well as their universal service contribution obligations).

