

August 9, 2018

To: Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Subject: Appeal of USAC Funding Decision - Docket 02-6

Request for Review

From: Educational Institute Oholei Torah
Sholom Rosenfeld
BEN: 11779

We are requesting that the FCC review the decision by USAC to deny the following:

471 Application #	FRN
171029487	1799063384
171029517	1799063450
171029536	1799063487
171029551	1799063563
171029551	1799063583
171029586	1799063608
171029617	1799063684
171029622	1799063711

Background

These FRNs were original denied by USAC on 7/14/2017. The reason provided by USAC was: DR1:The FRN is denied because the applicant failed to respond to the Administrator's Competitive Bidding Review Information Request. You did not provide any documentation to determine if the entity met program rules requirements for competitive bidding and the FRN is denied accordingly.

USAC Appeal & USAC Review During Appeal

We appealed this decision with USAC (at that time we also appealed other FRNs that was denied at that time but those were approved by USAC on Appeal [PC Wave 21]), because when we received the "Administrator's Competitive Bidding Review Information Request" we requested a

summer deferral and for some reason it was not granted. After we filed our appeal we again received the “Administrator's Competitive Bidding Review Information Request” when we were asked to submit all bids received for our form 470 filed for funding year 2017. At that time we submitted all of the winning bids, we also submitted emails from a company called “Cisco Cloud Networking Group”. Those emails were offering Cloud Solutions, which is a service that we never posted on our form 470 and we did not apply for this service. We also submitted an email we received from a company called “Natural Wireless”, which was a quote for Internet Access on a 36 Month Term, a potential quote for three of our FRNs (FRNs 171029551, 171029586 and 171029622). We explained to USAC that this quote was disqualified since we had tried to reach them numerous times to request a quote on a MTM or as an 12 Month Term (as our school prefers short term commitment). Since we didn’t hear back and we also searched their SPIN and found no history at all, we assumed this to be a non-legitimate quote.

Post Commitment Decision

On June 23, 2018 (PC Wave 21) we received a noticed from USAC notifying us that above listed FRNs was denied. The rationale provided was:

“You violated the competitive bidding requirements of the program by failing to consider all bids received in response to your FCC Form 470. Consequently, your funding request was denied. On appeal, you have not shown that USAC's determination was incorrect. Therefore, your appeal is denied. IFCC rules require that, except under limited circumstances, an eligible school, library and consortium that includes an eligible school or library shall seek competitive bids for all services eligible for support. See 47 C.F.R. sec. 54.503(b). Applicants are required to carefully consider all bids received, with price being the primary factor, before selecting a vendor, entering into a legally binding agreement or signing a contract, and signing and submitting an FCC Form 471 . See 47 C.F.R. secs. 54.511 (a), 54.503(c)(2)(ii)(B), 54.504(a)(1)(ix). The FCC also noted that several additional factors should be considered by the applicant in determining which service provider meets their needs most effectively and efficiently. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 97-157 para.481 (rel. May 8, 1997). These competitive bidding requirements help to ensure that applicants receive the lowest prediscount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Red 10095, FCC 97-246 para. 9 (rel. Jul. 10, 1997).”

Request for Review

We are appealing this decision based on a couple of factors;

Firstly, we believe that USAC is not correct with their statement that we violated the competitive bidding requirements of the program. As we believe that we had a very good reason to disregard the bid we received from “Natural Wireless”. As mentioned before since we had tried to reach them numerous times to revise the quote and we didn’t hear back and we also searched their SPIN and found no history at all, we had all the reason to assume that this to be a non-legitimate quote. We can’t imagine any responsible school official to select such a quote especially as a three year term.

Secondly, even if we would agree with USAC’s assessment that this was considered a viable quote, nevertheless this would only be reason to deny those three FRNs (FRNs 171029551, 171029586 and 171029622) which are services that was listed on that bid. However FRNs 171029487, 171029517, 171029536, 171029551 and 171029617 which are for services that was in no way included in any other bid (only the winning bid from Brooklyn mailing) there is no

reason why those FRNs were denied, just as USAC approved FRNs 1799063516, 1799063593, 1799063638 and 1799063721 on appeal. We believe that was definitely an oversight by USAC.

The following Table lists the detailed description and number of bids for each FRN.

471 Application #	FRN	Service Type	Detailed Type of Service	# Bids
171029487	1799063384	Data Transmission and/or Internet Access	Data Connection between three sites entirely within the school's's network	1
171029517	1799063450	Data Transmission and/or Internet Access	Digital Transmission/Distance Learning Services with no direct connection to the Internet Service Provider	1
171029536	1799063487	Data Transmission and/or Internet Access	Digital Transmission/Distance Learning Services with no direct connection to the Internet Service Provider	1
171029551	1799063563	Data Transmission and/or Internet Access	Internet access, a direct connection from school site to the Internet Service Provider	2
171029551	1799063583	Voice	POTS Lines	1
171029586	1799063608	Data Transmission and/or Internet Access	Internet access, a direct connection from school site to the Internet Service Provider	2
171029617	1799063684	Voice	Cell Phone Services	1
171029622	1799063711	Data Transmission and/or Internet Access	Internet access, a direct connection from school site to the Internet Service Provider	2

We greatly appreciate this opportunity.

Sholom Rosenfeld
Administrator