**Federal Communications Commission**

**Washington, DC 20554**

**In the Matter of:**

)

Request for Review of a decision )

by the Schools and Libraries Division ) Administrator Correspondence Dated

for Glynn County Public Schools, ) August 7, 2017

Georgia )

)

)

Schools and Libraries Universal Service ) CC Docket No. 02-6

Support Mechanism )

**Request for Review**

In accordance with Sections 54.719 through 54.721 of the Commission’s Rules, Glynn County Public Schools (Glynn) appeals a decision of the Schools and Libraries Division of the Universal Service Administrative Company (Administrator). This appeal comes timely submitted within 60 days of the Administrator decision.

Precedent in the Queen of Peace decision clearly shows Glynn was not in violation of any E-Rate regulations in place at the time of this application.[[1]](#footnote-1)

Requestor: Glynn County Public Schools

Billed Entity Number: 127476

FCC Registration Number 0011880978

Fundng Request Number: [2182160](http://e-ratecentral.com/us/reports/frnDetail_all.asp?v=&frn=2182160&fy=2011), [2182165](http://e-ratecentral.com/us/reports/frnDetail_all.asp?v=&frn=2182165&fy=2011), [2182170](http://e-ratecentral.com/us/reports/frnDetail_all.asp?v=&frn=2182170&fy=2011), [2182174](http://e-ratecentral.com/us/reports/frnDetail_all.asp?v=&frn=2182174&fy=2011), [2182184](http://e-ratecentral.com/us/reports/frnDetail_all.asp?v=&frn=2182184&fy=2011)

Form 471 Numbers: 804815

In correspondence dated August 7, 2017, the Administrator retroactively denied funding for FRN [2182160](http://e-ratecentral.com/us/reports/frnDetail_all.asp?v=&frn=2182160&fy=2011), [2182165](http://e-ratecentral.com/us/reports/frnDetail_all.asp?v=&frn=2182165&fy=2011), [2182170](http://e-ratecentral.com/us/reports/frnDetail_all.asp?v=&frn=2182170&fy=2011), [2182174](http://e-ratecentral.com/us/reports/frnDetail_all.asp?v=&frn=2182174&fy=2011) and 2182184 for the following stated reason: “It was determined that the District failed to comply with all FCC, state and local procurement/competitive bidding requirements. The District included the services requested and the specific name of the service provider in the RFP that was submitted which prevented fair and open competitive bidding.” The full Administrator Decision is attached here.

Glynn disputes this conclusion and asserts its right to appeal the Administrator’s demand that Glynn return disbursed funds to the Administrator. Glynn did not violate any local, state or federal procurement regulations in effect at the time. The auditor and Administrator overstepped their authority with this COMAD action citing precedent either not germane or not decided at the time of the alleged procurement violations.

The Commission set precedent for this exact situation in the Queen of Peace Order issued nearly a year ***after*** the FRN here under review were procured. Like Glynn, Queen of Peace named specific vendors in its procurement documents. The Commission granted the Queen of Peace appeal and added: “We decline to penalize Queen of Peace, or **other applicants who may have engaged in this practice before the release of this order**. We have reviewed the specific facts in this case and conclude that the competitive bidding process was not tainted.”[[2]](#footnote-2) (emphasis added). The Administrator ignored clear Commission directive in its decision.

Rather than cite the appropriate FCC precedent in Queen of Peace, the auditor cited later orders for Conestoga (DA-12-1678) and Last Mile (DA 14-372) when recommending to the Administrator that funds be returned. Neither of the precedents the auditor cited remotely resembles the facts of the Glynn procurement. In Last Mile the applicant outright stated in their Form 470 that they intended to secure service from a specific vendor. In Conestoga, the applicant indicated to prospective vendors that it would not consider their bids and discouraged them from bidding. Glynn did not specify on either the Form 470 or the RFP that it intended to choose a specific vendor. Similarly, Glynn did not inform prospective vendors that it intended to continue service with current vendors. Glynn simply included the names of current vendors on its RFP to inform potential vendors who the current vendors were. This is not an uncommon practice and is a very common question from prospective vendors. The Glynn Form 470 listed requested services and did not specify any vendor.

Glynn is at a loss to understand the conclusions of the auditor and Administrator in its actions regarding these FRN. Clear Commission regulation and precedent in place *at the time* of this procurement must supersede the Commission Orders cited in the audit findings. The Commission must overturn this improper audit finding and Administrator decision.

**Conclusion**

The auditor cited incorrect precedent when concluding Glynn violated procurement regulations citing brand names. The auditor should have cited Queen of Peace, which was issued after the procurement under audit. In Queen of Peace, the Commission declared brand names listed on procurement documents would take effect prospectively. This procurement occurred prior to the Queen of Peace order.

Glynn County reserves the right to supplement this appeal with new information.

Respectfully Submitted,

//ss//

Hugh Manning

Consultant to Glynn County Schools

K12 Consultants

5245 Williams Drive

Fort Myers Beach, FL 33931

School District Contact:

Bob Schwartz

Glynn County School District

1313 Egmont Street

Brunswick, GA 31520

1. Queen of Peace Order, DA 11-1991 rel. December 11, 2011, CC Docket No. 02-6. [↑](#footnote-ref-1)
2. Queen of Peace at 8. [↑](#footnote-ref-2)