2019

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LOS ANGELES PUBLIC LIBRARY – Petition for Reconsideration | 2019

November 11, 2019

Petition for Reconsideration
Federal Communication Commission
445 12th Street SW
Washington, DC 20554

CC Docket No. 02-6

Entity & BEN	**Los Angeles Public Library System (BEN 16020848)**
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Application Number	**Form 471- Application # 181037523** **USAC Appeal - 130691**
Petition for Reconsideration	**Funding Year 2018 – FCC Waiver Denial**
Funding Request No.	**1899079292**
CC Docket No. 02-6	

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LOS ANGELES PUBLIC LIBRARY – Petition for Reconsideration | 2019

I. SUMMARY

In this Petition for Reconsideration, the Los Angeles Public Library seeks reconsideration of the Bureau's Denial of its Request for Waiver of the USAC Appeal Deadline for its FY2018 FCC Form 471. The Bureau should reconsider and grant Los Angeles Public Library's Request for Waiver because the Library has demonstrated that the facts surrounding the late-filed USAC appeal for their Form 471 specifically falls within the special circumstance exception Circumstances Beyond Applicant's Control, namely, E-rate staff reorganization and problems with a third party as set forth in the Bureau's *Bishop Perry Order* and *Acorn Public Library Order*.

Los Angeles Public Library System, like other libraries as well as small school districts across the country with very limited budgets and lack of dedicated E-rate resources, utilized personnel from the City of Los Angeles' Information Technology Agency (ITA) to handle all steps of the E-rate process. ITA handles the E-rate process from start to finish, and the Library System is notified once a Funding Commitment Decision Letter is received. Los Angeles Public Library did not file a Form 470 in FY2018 for Category 1 Telecommunications Services because it was under a multi-year contract that was bid and awarded under the FY2013 Form 470 competitive bid process. During the FY2018 Program Integrity Assurance (PIA) Review process, the only two (2) ITA employees with E-rate filing knowledge announced their retirement from the City, one after the other, within the same Funding Year. ITA's long-time manager of the Library's E-rate filings furthermore reduced her schedule starting January 2018 to three days per week leaving the other employee responsible for the E-rate filing and multiple other tasks as the sole person to manage the E-rate process. These organizational issues with the City's ITA group did not allow ITA enough time to reorganize and adequately train additional staff to support the Library's FY2018 Form 471 process. As a result, the PIA review questions were not responded to within the standard 15 Day period. This resulted in a reduction of funding for FY2018 which was only discovered by ITA after the Los Angeles Public Library System staff inquired about status of the Funding

Commitment Decision Letter. ITA realized that an appeal needed to be filed, and immediately filed the appeal with USAC and notified the Library System of the oversight. Up to this point, the Library had no reason to believe that ITA would not complete its responsibilities in supporting the Form 471 E-rate application. The Library was, furthermore, not informed of the upcoming retirements and resulting organizational issues related to supporting their E-rate filings.

Both the Commission and the Bureau have on multiple occasions recognized and granted deadline waivers for similar special circumstances. Like subsequent Commission Orders following the *Bishop Perry Order* and *Acorn Public Library Order,* the factors here are in alignment with allowing circumstances beyond the applicant's control and speak in favor of granting a waiver for these funding requests.

PETITION FOR RECONSIDERATION

Los Angeles Public Library System ("LAPL" or "Library"), through its authorized agent, respectfully submits this Petition for Reconsideration ("Petition") of the Public Notice of the Wireline competition Bureau ("Bureau") released on September 30, 2019[1], which denied Los Angeles Public Library's Request for a Waiver[2] of its late-filed USAC Appeal due to organizational issues around the retirement of the Los Angeles City ITA staff member. The Appeal to USAC on the reduced funding commitment was filed as soon as the mistake was recognized by ITA staff.

The Bureau erred in the denial of Los Angeles Public Library's Request for Waiver. While the denial was based "on the grounds that the petitioners failed to 1) submit their appeals either to the Commission or to USAC within 60 days; or failed to submit their waiver requests to the Commission within 60 days as required by the Commission's rules; and 2) did not show special

[1] Streamlined Resolution Of Requests Related To Actions By The Universal Service Administrative Company, CC Docket No. 02-6, Public Notice, DA 19-942 (WCB Released September 30, 2019)
[2] FCC Waiver – LAPL Final Signed , at Exhibit A.

circumstances necessary for the Commission to waive the deadline,"[3] the Bureau in fact departed from a substantial body of precedent, under which the Commission has approved numerous previous requests for waiver of USAC deadlines based on similar special circumstances. This established precedent for granting such late-filed waivers, and because of the substantial and well-recognized public interest benefits of E-rate support. Libraries, like small school districts, are particularly challenged with limited resources and rely on help from agencies within the city or county for assistance with E-rate. Los Angeles Public Library respectfully requests that the Bureau reconsider and grant its request for waiver.

II. BACKGROUND

The Los Angeles Public Library System, through its 73 locations, serves over four million people - the largest population of any public library system in the United States and provides access to information, ideas, books and technology that enriches, educates and empowers individuals in the city's diverse communities. Most of the students at the school district associated with the main library qualify for free or reduced lunch, and the Library is eligible for a 90% discount on Category 1 services. Los Angeles Public Library System has been receiving E-rate discounts on Category 1 Services since 1998 and, having recently completed broadband upgrades at all locations, is in the process of planning for Wi-Fi upgrades at each branch. The citizens of Los Angeles rely on the connections through the Library's telecommunications circuits to access online learning courses, online High School Diploma programs, online resources to assist the homeless in finding food, jobs and shelters, online tutoring, online language learning, online practice exams, digital library books, online ESL, online literacy programs for Spanish speakers, Veteran resources, health workshops, and much more. Given the limited financial resources available to the Library, these services would have been unattainable and unaffordable without E-rate support.

[3] *Requests for Waiver and Review of Decisions of the Universal Service Administrator by* Agra Public Schools I-134 Agra, Oklahoma, *et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 10-929, File No. SLD-363747, *et al (WCB* **May 26, 2010)**

In previous years, Los Angeles Public Library has relied upon Los Angeles City's ITA group to assist with its E-rate filings. Los Angeles Public Library did not file a Form 470 in FY2018 because it was under a multi-year contract that was bid and awarded under the FY2013 Form 470 competitive bid process.

On April 24, 2018, USAC sent a Program Integrity Assurance (PIA) Review to Joe Quan, the ITA staff person listed as the contact on the Form 471[4]. This review was not responded to within the standard 15 Day period which ended on May 9, 2018. On May 10, 2018, the PIA review sent a notice to modify FRN 1899079292.001.001 to change the pre-commitment funding request amount from $89,496.00 per month to $41,910.40 per month and to add line FRN 1899079292.002 for $1000.00 per month to agree with the documentation[5].

Unknown to the Library staff, the PIA Review and Intent to Modify funding notices were not responded to due to the upcoming retirement of the two individuals who were ITA's E-rate experts. Anne Wu, the long-time manager for the City's Voice Communications, who directed Joe Quan in preparing the City's E-rate response and had ensured compliance with deadlines, reduced her work schedule to three days per week starting in January, 2018, and retired in June of 2018. Responsibility for much of Anne's administrative and contract work fell to Joe Quan, the only other individual in the City with E-rate knowledge. Joe was also preparing to retire in January, 2019. ITA did not have enough time to reassign and adequately train another staff person to support Los Angeles Public Library's FY2018 Form 471 process. As Joe absorbed more of Anne's work and concentrated on other high-priority projects, the deadlines for the PIA and appeal were unintentionally missed.

The FY2018 funding reduction was discovered by ITA after the Library System staff inquired to ITA on status of the Funding Commitment Decision Letter which was issued on May 18, 2018[6]

[4] PIA Review Letter for Id_ 182050 April 24 2018 (Exhibit B)
[5] Respond to Notifications for Form 471 ID #181037523 - May 19 2018 (Exhibit C)
[6] FCDL FCC Form 471: 181037523 May 18, 2018 (Exhibit D)

On December 6, 2018, ITA filed USAC Appeal requesting a reversal of the funding reduction. ITA then notified the Library System of the oversight[7]. Up to this point, the Library had no reason to believe that ITA would not complete its responsibilities in supporting the Form 471 E-rate application. LAPL was, furthermore, not informed of the upcoming retirements and resulting organizational issues related to supporting their E-rate filings.

On June 25, 2019, the Universal Services Administrative Company ("USAC") issued a Revised Funding Decision Commitment Letter denying the Library's appeal with the request to review the Schools and Libraries Universal Service funding commitment decision that reduced the requested funding amounts for FY2018[8]. USAC's denial was a result of Los Angeles Public Library System's appeal of the funding decision being filed more than sixty (60) days after the issuance of the original FCDL.

Los Angeles Public Library System respectfully requests a review of USAC's decision. As a result of USAC's decision, Los Angeles Public Library System, an urban library system which primarily services impoverished communities, faces the reduction of more than **$571,000** in E-rate reimbursement for services it purchased for upgrading its 73 library sites to 1 Gbps broadband speeds through Charter Communications Services.

On August 13, 2019, after learning of the denial of the USAC appeal, ITA was able to get special approval from the City of Los Angeles to hire a consultant to file a Deadline Waiver request with the Bureau and to guide them in resolving this situation. On August 23, 2019, the Consultant, on behalf of the Library, filed a USAC Appeal Deadline Waiver Request with the Bureau, citing circumstances beyond the Library's control[9]. In that Request for Waiver, LAPL relied upon the *Bishop Perry Order,* wherein the Bureau granted a waiver because the late filed appeal was not the fault of the applicant as a result of problems with a third party.

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[7] USAC Appeal #130691December 6 2018 (Exhibit E)
[8] USAC's June 25, 2019 appeal decision issued through a revised Funding Commitment Decision Letter to Los Angeles Public Library System is (Exhibit F).
[9] FCC Waiver – LAPL Final Signed , at Exhibit A.

On September 30, 2019, the Bureau issued a Public Notice denying the Library's Waiver Request.[10] While the *Public Notice* stated that the denial was "consistent with precedent," it referenced the Bishop Perry Order in which the Bureau in fact *granted* similar waiver requests and noted that "many E-rate program beneficiaries, particularly small entities, contend that the application process is complicated". Like small entities, library beneficiaries lack resources to efficiently manage the process and rely on third party agencies such as the City or County in which their library resides.[11]

III. ARGUMENT

Los Angeles Public Library respectfully requests that the Commission reconsider its decision to deny this Waiver Request. This is not a case where the Library System ignored, disregarded, or otherwise shirked its responsibility to comply with the E-rate filing requirements. Rather, its filing was late because the individuals on whom it relied to make the filing were unable to meet the requirement in a timely manner due to a clerical error in which the email indicating there was a Program Integrity Assurance Review was never seen. Immediately upon learning of the issue, the third party acted promptly to file an appeal and notified the Library System of the error.

The Commission has often waived its rules for such ministerial, clerical, and procedural errors and may do so on a motion for good cause.[12] A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.[13] In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall

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[10] *Streamlined Resolution Of Requests Related To Actions By The Universal Service Administrative Company. Cc Docket No. 02-6. Da 19-942. (WCB September 30, 2019)*

[11] *Requests for Waiver and Review of Decisions of the Universal Service Administrator by* Agra Public Schools I-134 Agra, Oklahoma, *et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 10-929, File No. SLD-363747, *et al (WCB* May 26, 2010)

[12] 47 C.F.R. § 1.3.

[13] *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

policy on an individual basis.[14] In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.[15]

Ample precedent exists for a waiver in this case, in which the Commission has found similar (and less compelling) facts to constitute special circumstances justifying a waiver. Furthermore, given the limited resources and financial challenges of the Library System and its local community, together with the vital role of E-rate in creating and enhancing educational opportunities, a waiver would clearly serve the public interest. As the Bureau has repeatedly done in the past, it should grant a waiver here, and direct USAC to process the Los Angeles Public Library FY 2018 USAC appeal, as if it had been filed within the 60-day deadline.

A. Los Angeles Public Library Meets the Commission's Special Circumstances Test

Consistent with the Commission's *Bishop Perry Order*[16] and *Academy for Academic Excellence Order,* [17]the Commission in the *Acorn Public Library Order* established four special circumstances and permissible reasons justifying the grant of all 78 late-filed FCC Form 471waiver requests at issue in that case. [18] The four categories are (1) FCC Forms 471 Filed

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[14] *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972).

[15] *Northeast Cellular*, 897 F.2d at 1166.

[16] *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism,* File Nos. SLD-487170, *et al.*, CC Docket No. 02-6, Order, 21 FCC Rcd 5316 (2006) (*Bishop Perry Order*) (granting waivers of the FCC Form 471 filing window deadline).

[17] *Request for Review of the Decision of the Universal Service Administrator by Academy for Academic Excellence, et al., Schools and Libraries Universal Service Support Mechanism,* File Nos. SLD-539076, 539722, *et al.*, CC Docket No. 02-6, Order, 22 FCC Rcd 4747 (Wireline Comp. Bur. 2007) (*Academy for Academic Excellence Order*) (granting waivers of the FCC Form 471 filing window deadline similar to those granted in the *Bishop Perry Order*).

[18] *Requests for Waiver and Review of the Decisions of the Universal Service Administrator by Acorn Public Library, et al., Schools and Libraries Universal Service Support Mechanism,* File Nos. SLD-637819, *et al.*, CC Docket No.

Within 14 Days of Filing Window Deadline, (2) Illness or Death of E-rate Staff or Death in Family, (3) Circumstances Beyond Applicant's Control, and (4) FCC Forms 471 Timely Filed Without Certification. [19] Further, in the *Acorn Public Library Order,* the Commission found that "it would be an undue hardship to expect…applicants to train multiple staff members to handle E-rate filings in anticipation of unexpected absences…unless such absences should have been foreseeable."[20] The Commission went on to find that these types of special circumstances warranted a waiver of the FCC Form 471 filing window, because the violation at issue was procedural, not substantive.[21] Los Angeles Public Library's request for waiver falls squarely within the third special circumstance, namely that (1) one of the two employees responsible for the filing of the Form 471 retired leaving only one employee as the sole person responsible for the E-rate application, (2) E-rate was not the sole responsibility of that employee making it difficult to keep up with his assigned responsibilities and the E-rate emails/deadlines, and (3) the Library System staff have no knowledge of the rules/procedures of the E-rate program and entrusted the employee of a third party agency that did not keep the Library System staff in the loop regarding their Form 471, and (4) the Library System was unaware of any issues within ITA which presents circumstances beyond their control.

B. The Commission Has Granted Waivers for Late-Filed 471s for Reasons Similar or Lesser Than Those Put Forward by Los Angeles Public Library

The Bureau's decision to deny Los Angeles Public Library's waiver request is not supported by the great weight of Commission precedent. The *Bishop Perry Order* correctly recognizes that "the primary jobs of most of the people filling out these forms include school administrators,

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02-6, Order, 23 FCC Rcd 15474, 15478, para. 7 (Wireline Comp. Bur.2008) (*Acorn Public Library Order*) (finding special circumstances exist to justify granting waiver requests where petitioners filed their FCC Forms 471 late due to circumstances beyond their control).

[19] *Id.* at ¶¶ 5-8.

[20] *Id.* at ¶ 8.

[21] *Id*. at ¶ 9.

technology coordinators, and teachers, and the majority of their time is not dedicated to pursuing federal support, especially in school districts. Even when one of these administrators has learned how to correctly navigate the E-rate application process, unexpected events may cause unanticipated delays for the staff member assigned responsibility for E-rate applications and effectively halt the application process". For example, the retirement of one of only two staff members with E-rate knowledge leaving sole responsibility on the remaining staff member who has multiple other priority projects assigned to them at the same time. Furthermore, the "people filling out these forms" for Los Angeles Public Library are employees of a third party agency, the City of Los Angeles. The Library System did not have any staff or the resources to hire staff in the past with E-rate knowledge to file the application themselves. They had no other option but to use the City as a resource to file on their behalf. The Library System was not made aware of the retirement leaving one person responsible for E-rate while having multiple other major projects taking up the majority of their workload. The Library was never given the opportunity to act in good faith and seek help elsewhere when this issue arose. They only found out there was an issue with their funding when they questioned ITA why they had not heard about their funding commitment at that point. ITA was unaware a PIA review had been sent to them due to a clerical/procedural error in never seeing the email from the E-rate Productivity Center. ITA discovered they missed the review and the time to file an appeal had expired after the Library System inquired about a funding commitment.

In the *Alpaugh Order*[22], the FCC granted 21 appeals where it found that "the petitioners' requests for funding were denied or reduced because the applicants failed to respond to USAC's requests for information within the specified time frame. The petitioners generally argue that they did not receive USAC's request for additional information, they submitted the information

[22] *Requests for Review of the Decision of the Universal Service Administrator by Alpaugh Unified School District, Alpaugh, CA, et al., and Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Requests for Review or Waiver of the Decision of the Universal Service Administrator by Brownsville Independent School District, Brownsville, TX, et al., and Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6*

USAC requested in a timely manner, USAC never answered requests about what specific documentation was sought, or they lacked sufficient staff to permit them to submit the information on time." Los Angeles Public Library has demonstrated that ITA had lacked sufficient staff to permit them to submit the information on time and as a result of this, they encountered a clerical error where they did not receive USAC's request for information to complete review of the Form 471. To deny this appeal, is to be inconsistent with precedent in FCC Orders used consistently to grant appeals with the exact same situation.

In other precedent, the Commission has found good cause exists to waive a deadline. As the Bureau found in *Alaska Gateway School District*, "complete rejection of these applications is not warranted, given that the applicants missed a USAC procedural deadline and did not violate a Commission rule". [23]As the Commission noted in *Bishop Perry Middle School,* a departure from required filing deadlines may be warranted upon careful review of the Petitioner's case and when doing so will serve the public interest. Generally, these applicants claim that staff mistakes or confusion, or circumstances beyond their control resulted in missing the deadline. In *Alcona County Library*, [24]the FCC quotes *Bishop Perry* again, "We note that the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to staff dedicated to pursuing federal grants, especially in school districts. Even when a school official becomes adept at the application process, unforeseen events or emergencies may delay filings in the event there is no other person proficient enough to complete the forms." They continue on to say that, "Furthermore, some of the errors were caused by third parties or unforeseen events and therefore were not the fault of the applicants. Given that the applicants missed a USAC procedural deadline and did not violate a Commission rule, we find that the complete rejection of each of these applications is not warranted." Los Angeles Public Library has demonstrated just that. A third-party organization committed an error due to

[23] *Alaska Gateway School District*, 21 FCC Rcd at 10185-86, para. 7.

[24] Requests for Waiver of Decisions of the Universal Service Administrator by Alcona County Library File Nos. SLD-425479, *et al*. Harrisville, Michigan, *et al*. CC Docket No. 02-6

unforeseen events causing a reduction of funding that is not the fault of the applicant. It would be unfair and inconsistent to precedent to deny Los Angeles Public Library the opportunity to submit the requested PIA documentation in order to obtain the full amount of funding requested.

C. A Waiver Is In the Public Interest

The public interest benefits of E-rate are well recognized by Congress, the Commission, and throughout the greater educational community. As the Commission has stated:

> High-speed broadband, to and within schools, connects students to cutting-edge learning tools in the areas of science, technology, engineering and math (STEM) education, necessary for preparing them to compete in the global economy. Highspeed broadband also creates opportunities for customized learning, by giving our students and their teachers access to interactive content, and to assessments and analytics that provide students, their teachers, and their parents real-time information about student performance while allowing for seamless engagement between home and school. Finally, high-speed broadband expands the reach of our schools and creates opportunities for collaborative distance learning, providing all students access to expert instruction, no matter how small the school they attend or how far they live from experts in their field of study.41For that reason, it is the Commission's overarching E-rate policy goal "to ensure our nation's schools and libraries have affordable access to high-speed broadband."[25]

As an urban library that services many impoverished areas, Los Angeles Public Library's limited resources are further constrained by the financial straits of its community. The Poverty Level in Los Angeles is 20.4% whereas the rate across the state of California itself is 15.1%. This means

[25] *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, FCC 14-99, 29 FCC Rcd 8870, ¶ 4 (2014).

Los Angeles has a significantly higher percentage of residents under the poverty line compared to the rest of the state. These factors, along with compliance with core requirements; zero evidence of waste, fraud, and abuse; and alignment with the Commission's goals to "promote the statutory requirements of section 254(h) of the Communications Act of 1934, as amended (the Act), by helping to ensure that eligible schools and libraries actually obtain access to discounted telecommunications and information services,[26] are in alignment with the progeny of Commission Orders following the *Bishop Perry Order* and *Acorn Public Library Order* allowing procedural errors [27] and speak in favor of granting a waiver for these funding requests; and in alignment with *Alcona County Library* allowing an extension of deadline for errors that were caused by third parties or unforeseen events and therefore were not the fault of the applicant.

IV. CONCLUSION

For the foregoing reasons, Los Angeles Public Library respectfully requests that the Bureau reconsider its denial of their request for a waiver of the USAC appeal deadline for the FCC Form 471 and direct USAC to process the appeal as if it had been timely filed before the 60-day deadline.

Respectfully,

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[26] 47 U.S.C. § 254(h).

[27] *Bishop Perry* at ¶ 9.

EXHIBIT A
Los Angeles Public Library's Request for Waiver

2019

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August 23, 2019

Request for Review and/or Waiver
Federal Communication Commission
445 12th Street SW
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Application Number	**Form 471- Application # 181037523** **Appeal - 130691**
Reason for Review and/or Waiver Request	**Funding Year 2018 – USAC Appeal Denial**
Funding Request No.	**1899079292**
CC Docket No. 02-6	

I. SUMMARY:

On June 25, 2019, the Universal Services Administrative Company ("USAC") issued a decision denying Los Angeles Public Library System's request to review the Schools and Libraries Universal Service funding commitment decision that reduced the requested funding amounts for FY2018[1]. USAC's denial was a result of Los Angeles Public Library System's appeal, filed on December 6, 2018[2], of the funding decision being filed

[1] USAC's June 25, 2019 appeal decision issued through a revised Funding Commitment Decision Letter to Los Angeles Public Library System is attached as Exhibit 1. Los Angeles Public Library Systems' Request for Review and/or Waiver is timely, as it is filed within sixty (60) days of USAC issuing its decision to deny the review of the application.

[2] Los Angeles Public Library System's December 6, 2018 appeal for USAC to review the reduced funding commitment attached as Exhibit 2.

more than sixty (60) days after the issuance of the May 18, 2018 funding commitment decision letter[3] due to circumstances beyond their control. Los Angeles Public Library System respectfully requests a review of USAC's decision. As a result of USAC's decision, Los Angeles Public Library System, an urban library system which primarily services impoverished communities, faces the reduction of more than **$571,000** in E-rate reimbursement for services it purchased for upgrading its 73 library sites to 1 Gbps broadband speeds through Charter Communications Services.

For reasons set forth below, the Commission should grant any waivers necessary or warranted, and remand the relevant application to USAC for immediate review of the application for the original funding request.

II. BACKGROUND:

The Los Angeles Public Library System provides free and easy access to information, ideas, books and technology that enriches, educates and empowers every individual in the city's diverse communities. This includes being the only source of internet access for citizens located in impoverished areas including the homeless. They receive a 90% discount rate for the Category 1 telecommunication circuits filed with the E-rate Program. Los Angeles Public Library System relies on the connections to the internet through the telecommunication circuits discounted by the E-rate program to help serve the community by offering online learning courses, online High School Diploma programs, online resources to assist the homeless in finding food, jobs and shelters, online tutoring, online language learning, online practice exams, digital library books, online ESL, online Literacy programs for Spanish speakers, Veteran resources, Health workshops, and much more. Los Angeles Public Library System has been receiving E-rate discounts on Category 1 Services since 1998. A decrease in the amount of funding received by E-rate would significantly impact the services being provided to over 4 million residents.

[3] The Funding Commitment Decision Letter at issue in attached as Exhibit 3.

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III. WAIVER REQUEST EXPLANATION:

Los Angeles Public Library System is requesting a review and/or waiver of USAC's decision to deny an appeal for filing outside of the sixty (60) day appeal deadline due to an issue with a third party circumstance that was beyond their control which resulted in the late filing of their Appeal.

Los Angeles Public Library is seeking review of the decision as set forth in the Bureau's *Bishop Perry Order,* which granted waiver to applicants because the violation at issue was procedural, not substantive, and a denial of appeal review was not warranted, especially given that the error in this case was not the fault of the applicant[4].

Since 1998, Los Angeles Public Library System has filed for Category 1 Services through the City of Los Angeles' Information Technology Agency (ITA) which is a third party, not the Library System itself. In January 2018, one of the two ITA employees with E-rate knowledge, Anne Wu, announced retirement and condensed her schedule to three calendar days per week, leaving the only other employee capable of handling E-rate, Joe Quan, the city's E-rate case load as well as all of his other responsibilities at ITA. Between the two employees, Ms. Wu was responsible for guiding Mr. Quan in responding to USAC questions and keeping track of deadlines. With Ms. Wu being in the office less frequently and now solely focused on her other responsibilities with ITA, Mr. Quan was now the sole person responsible for E-rate on top of doing all his other responsibilities including high-priority projects for the city.

Mr. Quan's responsibilities were much more far reaching than just E-rate. After the time the Form 471 was filed, he was the lead on a major City initiative to migrate all City employees from desk phones to mobile phones as POTS lines were found to be obsolete. To that end, he was the City's representative with all the Mobile carriers, and for the project led all the implementations (the provisioning of the phones to City employees and the training in setting up security codes and installing City email), and oversaw the porting of

[4] *Requests for Review of Decisions of the Universal Service Administrator by Bishop Perry Middle School New Orleans, LA, et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6

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phone numbers to the mobile devices. As Mr. Quan was the most knowledgeable and articulate about mobile device capabilities, he was also the liaison to elected offices providing support for their mobile device issues. He also managed the City's conversion to an improved call center tool. He did this for approximately a dozen departments, leading them through the phone tree configuration process, working with the vendor on the programming, and handling the staff training.

Mr. Quan's number one priority was completing these projects. There was no time to train a new employee in E-rate until after these projects were completed. He had an influx of emails coming into his account for the projects he was working, and he did not see any email indicating a USAC Program Integrity Assurance (PIA) review was sent on April 24, 2018[5]. This led to the 15-day deadline expiring without a response from ITA, and the PIA reviewer reducing the funding request to the amount found on an outdated contract loaded in EPC. The reduction led to a significant decrease in the funding awarded to Los Angeles Public Library System for FY2018. A Funding Commitment Decision Letter (FCDL) was issued on May 18, 2018 for **$502,924.80** which is less than half of the **$1,073,952.00** funding requested on the original Form 471.

The PIA review and the FCDL went unnoticed until the ITA's Management inquired at the end of November 2018 why there had not been any invoices submitted for E-rate funding for FY2018 thus far. At that time, Mr. Quan went into EPC to see the status of the application and saw the funding had been reduced, but he was unaware why. He then filed an appeal on December 6, 2018 immediately after discovering what happened. The appeal was not even reviewed by USAC and denied on June 25, 2019 for being filed after the sixty (60) day deadline. Mr. Quan, the only person with E-rate knowledge left at ITA, retired with his last day at work being January 25, 2019. Once the Revised Funding Commitment Decision Letter was received on June 25, 2019, consulting services were sought out by ITA to review why the appeal was denied, and why the original funding request was reduced.

[5] USAC's April 24, 2018 Program Integrity Assurance (PIA) Review questions attached as Exhibit 4.

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Phone: (626)296-6284 Fax: (323) 908-9622
Email: bsutherland@edtechnologyfunds.com

IV. RELIEF SOUGHT THROUGH THIS WAIVER REQUEST:

Los Angeles Public Library System was not aware of any of the issues and should not receive a reduction in their funding due to circumstances beyond their own control. It is Commission policy to waive the deadline in cases where the application is late filed due to procedural errors. The FCC has granted such appeals in *Alpaugh Unified School District* and *Brownsville Independent School District*[6]. These are two cases where relief was granted involving a procedural error on the part of the Petitioners, "not a failure to adhere to a core program requirement or a misuse of funds. As the Commission has noted previously, given that any violations that occurred were procedural, not substantive, the Commission found that rejection of these applications was not warranted. These appeals involved a processing deadline, not a program rule. Although deadlines are necessary for the efficient administration of the program, in these cases, the applicants have demonstrated that rigid adherence to such procedures does not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest".[7]

More similarly, *Ben Gamla Palm Beach*[8], granted a request for review that had been denied for not responding within the 60-day window due to a clerical error in not getting the letter into the mail on time. Findings in *Ben Gamla Palm Beach* are consistent with the FCC ruling in *ABC Unified School District*[9], where the FCC ruled that good cause exists to waive sections 54.720(a) and (b) of the Commission's rules, which require that

[6] *Requests for Review of the Decision of the Universal Service Administrator by Alpaugh Unified School District, Alpaugh, CA, et al., and Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Requests for Review or Waiver of the Decision of the Universal Service Administrator by Brownsville Independent School District, Brownsville, TX, et al., and Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6*

[7] *Requests for Review of the Decision of the Universal Service Administrator by Alpaugh Unified School District, Alpaugh, CA, et al., and Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Requests for Review or Waiver of the Decision of the Universal Service Administrator by Brownsville Independent School District, Brownsville, TX, et al., and Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6*

[8] *Requests for Review of Decisions of the Universal Service Administrator by Ben Gamla Palm Beach et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6

[9] *ABC Unified School District Order, et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 11019, para. 2 (WCB 2011)

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petitioners file their appeals within 60 days of an adverse USAC decision. Per *Bishop Perry*[10], the E-rate Process is complicated and results in applications being denied on clerical and procedural errors. The ruling in *Bishop Perry* states that the actions taken "here to provide relief from these types of errors in the application process will promote the statutory requirements of section 254(h) of the Communications Act of 1934, as amended (the Act), by helping to ensure that eligible schools and libraries actually obtain access to discounted telecommunications and information services. In particular, we believe that by directing USAC to modify certain application processing procedures and granting a limited waiver of our application filing rules, we will provide for a more effective application processing system that will ensure eligible schools and libraries will be able to realize the intended benefits of the E-rate program as we consider additional steps to reform and improve the E-rate program. Requiring USAC to take these additional steps will not reduce or eliminate any application review procedures or lessen the program requirements that applicants must comply with to receive funding. Indeed, we retain our commitment to detecting and deterring potential instances of waste, fraud, and abuse by ensuring that USAC continues to scrutinize applications and takes steps to educate applicants in a manner that fosters program participation."

Bishop Perry [11]in paragraph 6 also states "The Commission may waive any provision of its rules on its own motion and for good cause shown[12]. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest[13]. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.[14] In sum, waiver is

[10] *Requests for Review of Decisions of the Universal Service Administrator by Bishop Perry Middle School New Orleans, LA, et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6

[11] *Requests for Review of Decisions of the Universal Service Administrator by Bishop Perry Middle School New Orleans, LA, et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6

[12]47 C.F.R. §1.3.

[13]*Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

[14] *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972).

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appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.[15]"

V. CONCLUSION:

I believe that special circumstances have been demonstrated, as the library relies on the City of Los Angeles' ITA to file for E-rate services and to see the process through from beginning to end. Like other library systems throughout the country Los Angeles Public Library does not have the internal resources to manage their E-rate program. At no time was the Library System notified that there was a problem with their FY2018 E-rate funding requests where ITA did not see an email from the PIA reviewer and did not see the reduced FCDL until several months after it was issued. Los Angeles Public Library System should not be penalized for unforeseen procedural issues when the library system had no control over the situation or knowledge as to what happened with the funding it was seeking. Since 1998 Los Angeles Public Library System's E-rate Category 1 services have been filed and managed by the Information Technology Agency of the City of Los Angeles, enabling the library's staff to focus on delivering services to the patrons in the communities served. Deviation from the general rule is warranted in this case as the assistance that Los Angeles Public Library System receives from the E-Rate Program is vital to the Library System's operations and community outreach. Hence, I respectfully request that Los Angeles Public Library System is granted a waiver to the FY2018 sixty (60) day appeal deadline for the application listed above so that the appeal may be reviewed and documentation to support the original funding request can be submitted.

I am attaching my Letter of Agency for Los Angeles Public Library System as Exhibit 5 below.

[15] *Northeast Cellular*, 897 F.2d at 1166.

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VI. SUPPORTING DOCUMENTATION:

These documents are provided in support of the review of USAC's decision request for FY2018:

Exhibit 1: Revised Funding Commitment Decision Letter

Exhibit 2: USAC Appeal

Exhibit 3: Funding Commitment Decision Letter

Exhibit 4: Program Integrity Assurance Review

Exhibit 5: Letter of Agency

Respectfully,

Beverly Sutherland, CEMP*
President – EdTechnologyFunds, Inc. (a division of the Sutherland Consulting Group)
*Certified E-rate Management Professionals

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EXHIBITS

.
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Email: bsutherland@edtechnologyfunds.com

Universal Service Administrative Co.

June 25, 2019

Revised Funding Commitment Decision Letter

Funding Year 2018

Contact Information:
Dan Tinajero
LOS ANGELES PUBLIC LIBRARY SYSTEM
630 WEST 5TH ST
LOS ANGELES, CA 90071
joe.quan@lacity.org

BEN: 16020848
Post Commitment Wave: 31

Totals

Original Commitment Amount	$452,632.32
Revised Commitment Amount	**$452,632.32**

What is in this letter?

Thank you for submitting your post-commitment request for Funding Year 2018 Schools and Libraries Program (E-rate) funding. Attached to this letter, you will find the revised funding statuses and/or post commitment changes to the original Funding Commitment Decision Letter (FCDL) you received. Below are the changes that were made:

- Appeals

The Universal Service Administrative Company (USAC) is providing this information to both the applicant(s) and the service provider(s) so that all parties are aware of the post-commitment changes related to their funding requests and can work together to complete the funding process for these requests.

Next Steps

1. **File the FCC Form 486,** Service Confirmation and Children's Internet Protection Act (CIPA) Certification Form, for any FRNs included in this RFCDL, if you have not already done so. Please review the CIPA requirements and file the form(s).

- **If USAC approved funding on an FRN in your original FCDL,** the deadline to submit the FCC Form 486 is 120 days from the date of the original FCDL or from the service start date (whichever is later).
- **If a new FRN was created for this RFCDL or funding was not approved on an FRN in your original FCDL but is approved in this RFCDL,** the deadline to submit the FCC Form 486 is 120 days from the date of this RFCDL or from the service start date (whichever is later).

2. **Invoice USAC,** if you or your service provider have not already done so. Work with your service provider(s) to determine if your bills will be discounted or if you will request reimbursement from USAC after paying your bills in full.
   - **If you (the applicant) are invoicing USAC:** You must pay your service provider(s) the full cost for the services you receive and file the FCC Form 472, the Billed Entity Applicant Reimbursement (BEAR) Form, to invoice USAC for reimbursement of the discounted amount.
   - **If your service provider(s) is invoicing USAC:** The service provider(s) must provide services, bill the applicant for the non-discounted share, and file the FCC Form 474, the Service Provider Invoice (SPI) form, to invoice USAC for reimbursement for the discounted portion of costs. Every funding year, service providers must file an FCC Form 473, the Service Provider Annual Certification Form, to be able to submit invoices and to receive disbursements.
   - **To receive an invoice deadline extension, the applicant or service provider** must request an extension on or before the last date to invoice. **If you anticipate, for any reason, that invoices cannot be filed on time,** USAC will grant a one-time, 120-day invoice deadline extension if timely requested.

How to Appeal or Request a Waiver of a Decision

You can appeal or request a waiver of a decision in this letter **within 60 calendar days** of the date of this letter. Failure to meet this deadline will result in an automatic dismissal of your appeal or waiver request.

Note: The Federal Communications Commission (FCC) will not accept appeals of USAC decisions that have not first been appealed to USAC. However, if you are seeking a waiver of E-rate program rules, you must submit your request to the FCC and not to USAC. USAC is not able to waive the E-rate program rules.

- **To submit your appeal to USAC,** visit the Appeals section in the E-rate Productivity Center (EPC) and provide the required information. USAC will reply to your appeal submissions to confirm receipt. Visit USAC's website for additional information on submitting an appeal to USAC, including step-by-step instructions.

- **To request a waiver of the FCC's rules or appeal USAC's appeal decision,** please submit it to the FCC in proceeding number CC Docket No. 02-6 using the Electronic Comment Filing System (ECFS). Include your contact information, a statement that your filing is a waiver request,

identifying information, the FCC rule(s) for which you are seeking a waiver, a full description of the relevant facts that you believe support your waiver request and any related relief, and any supporting documentation.

For appeals to USAC or to the FCC, be sure to keep a copy of your entire appeal, including any correspondence and documentation, and provide a copy to the affected service provider(s).

Obligation to Pay Non-Discount Portion

Applicants are required to pay the non-discount portion of the cost of the eligible products and/or services to their service providers. Service providers are required to bill applicants for the non-discount portion of costs for the eligible products and/or services. The FCC stated that requiring applicants to pay the non-discounted share of costs ensures efficiency and accountability in the program. If using the BEAR invoicing method, the applicant must pay the service provider in full (the non-discount plus discount portion) **before** seeking reimbursement from USAC. If using the SPI invoicing method, the service provider must first bill the applicant **before** invoicing USAC.

Notice on Rules and Funds Availability

The applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program and the FCC's rules. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds.

BEN Name: LOS ANGELES PUBLIC LIBRARY SYSTEM
BEN: 16020848
Post Commitment Wave: 31

Revised Funding Commitment Decision Overview

Funding Year 2018

Funding Request Number (FRN)	Service Provider Name	Request Type	Revised Committed	Review Status
1899079292	Charter Communications Operating, LLC	Appeals	$452,632.32	**Denied**

BEN Name: LOS ANGELES PUBLIC LIBRARY SYSTEM
BEN: 16020848
Post Commitment Wave: 31

Post Commitment Request Number:	Post Commitment Request Type:	Post Commitment Decision:
130691	Appeals	Denied

FRN:	Service Type:	Original Status:	Revised Status:
1899079292	Data Transmission and/or Internet Access	Funded	Funded
FCC Form 471: 181037523			

Dollars Committed			
Monthly Cost		**One-Time Cost**	
Months of Service	**12**		
Total Eligible Recurring Charges	**$502,924.80**	Total Eligible One Time Charges	**$0.00**
Total Pre-Discount Charges		$502,924.80	
Discount Rate		**90.00%**	
Revised Committed Amount		**$452,632.32**	

Dates	
Service Start Date	**7/1/2018**
Contract Expiration Date	**6/30/2021**
Contract Award Date	**3/7/2013**
Service Delivery Deadline	**6/30/2019**
Expiration Date (All Extensions)	**6/30/2023**

Service Provider and Contract Information	
Service Provider	**Charter Communications Operating, LLC**
SPIN (498ID)	**143050436**
Contract Number	**C-121850**
Account Number	
Establishing FCC Form 470	**720390001069323**

Consultant Information	
Consultant Name	
Consultant's Employer	
CRN	

Revised Funding Commitment Decision Comments:

Post Commitment Rationale:

Our records show that your appeal was filed more than 60 days after the date your decision letter was issued. Your appeal was filed on 12-6-2018. The Funding Commitment Decision Letter was issued on 5-18-2018. Federal Communications Commission (FCC) rules require appeals to be filed within 60 days of the date on the decision letter being appealed. FCC rules do not permit the Universal Service Administrative Company (USAC) to consider your appeal.

Records / Appeals

FY 2018-19 Appeal - #130691

Summary Associated FRNs News Related Actions

In-Review Outreach Wave Ready Committed

Appeal Information

View Status (-)

Status USAC issued a revised funding decision on 06/25/2019. Check your Newsfeed for the decision.

Funding Year 2018

Submitting Organization LOS ANGELES PUBLIC LIBRARY SYSTEM (BEN: 16020848)

Created By Joe Quan

Created On 12/6/2018 8:18 PM EST

Main Contact

Name Dan Tinajero

Phone Number 213-978-4038

Email joe.quan@lacity.org

Narrative

In speaking with the USAC call center it appears our funding amount was not fully funded as requested. We were unclear when we received the FCDL that this was the case and continued to process the 486. We are asking why we did not receive the full funding as we had in the prior year, 2017-2018. We wish to receive the full funding requested.

Appeal Details

Decision appealed by applicant Funding Commitment Decision Letter

If you wish to modify or cancel your appeal, or, if you have any questions about your appeal, please contact the E-rate Program's Client Service Bureau (CSB) at (888) 203-8100.

View Supporting Documentation (-)

Supporting Documentation

Document ID	Document	Description	Upload Stage	Uploaded By	Uploaded On
No Supporting Documents have been uploaded					

Universal Service Administrative Co.

May 18, 2018

Funding Commitment Decision Letter

Funding Year 2018

Contact Information:
Joe Quan
LOS ANGELES PUBLIC LIBRARY SYSTEM
630 WEST 5TH ST
LOS ANGELES, CA 90071
joe.quan@lacity.org

FCC Form 471: 181037523

BEN: 16020848
Wave: 6
Application Nickname: FY 2018-19 471

Totals

Total Committed	**$452,632.32**

What is in this letter?

Thank you for submitting your application for Funding Year 2018 Schools and Libraries Program (E-rate) funding. Attached to this letter, you will find the funding statuses for the FCC Form(s) 471, Services Ordered and Certification Form, that you submitted and referenced above.

The Universal Service Administrative Company (USAC) is providing this information to both the applicant(s) and the service provider(s) so that all parties are aware of the post-commitment changes related to their funding requests and can work together to complete the funding process for these requests.

Next Steps

1. Work with your service provider(s) to determine if your bills will be discounted or if you will request reimbursement from USAC after paying the full cost for the services you receive.

2. Review the Children's Internet Protection Act (CIPA) requirements and file the FCC Form 486 (Service Confirmation and CIPA Certification Form). **The deadline to submit this form is 120 days from the date of this letter or from the service start date (whichever is later).**

3. Invoice USAC
    - **If you (the applicant) are invoicing USAC:** You must pay your service provider(s) the full cost for the services you receive and file the FCC Form 472, the Billed Entity Applicant Reimbursement (BEAR) Form, to invoice USAC for reimbursement of the discounted amount.

    - **If your service provider(s) is invoicing USAC:** The service provider(s) must provide services, bill the applicant for the non-discounted share, and file the FCC Form 474, the Service Provider Invoice (SPI) form, to invoice USAC for reimbursement for the discounted portion of costs. Every funding year, service providers must file an FCC Form 473, the Service Provider Annual Certification Form, to be able to submit invoices and to receive disbursements.

    - **To receive an invoice deadline extension, the applicant or service** provider must request an extension on or before the last date to invoice. **If you anticipate, for any reason, that invoices cannot be filed on time,** USAC will grant a one-time, 120-day invoice deadline extension if timely requested.

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Note: The Federal Communications Commission (FCC) will not accept appeals of USAC decisions that have not first been appealed to USAC. However, if you are seeking a waiver of E-rate program rules, you must submit your request to the FCC and not to USAC. USAC is not able to waive the E-rate program rules.

- **To submit your appeal to USAC,** visit the Appeals section in the E-rate Productivity Center (EPC) and provide the required information. USAC will reply to your appeal submissions to confirm receipt. Visit USAC's website for additional information on submitting an appeal to USAC, including step-by-step instructions.

- **To request a waiver of the FCC's rules,** please submit it to the FCC in proceeding number CC Docket No. 02-6 using the Electronic Comment Filing System (ECFS). Include your contact information, a statement that your filing is a waiver request, identifying information, the FCC rule(s) for which you are seeking a waiver, a full description of the relevant facts that you believe support your waiver request and any related relief, and any supporting documentation.

For appeals to USAC or to the FCC, be sure to keep a copy of your entire appeal, including any correspondence and documentation, and provide a copy to the affected service provider(s).

Obligation to Pay Non-Discount Portion

Applicants are required to pay the non-discount portion of the cost of the eligible products and/or services to their service providers. Service providers are required to bill applicants for the non-discount portion of costs for the eligible products and/or services. The FCC stated that requiring applicants to pay the non-discounted share of costs ensures efficiency and accountability in the program. If using the BEAR invoicing method, the applicant must pay the service provider in full (the non-discount plus discount portion) **before** seeking reimbursement from USAC. If using the SPI invoicing method, the service provider must first bill the applicant **before** invoicing USAC.

Notice on Rules and Funds Availability

The applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program and the FCC's rules. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake to assure that committed funds are being used in accordance with such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction of USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds.

Funding Commitment Decision Overview

Funding Year 2018

Application Comments for FCC Form 471: #181037523

The applicant did not submit any RAL corrections.

Funding Commitment Decision Overview

Funding Request Number (FRN)	Service Provider Name	Amount Requested	Amount Committed	Status
1899079292	Charter Communications Operating, LLC	$966,556.80	$452,632.32	Funded

FRN	Service Type	Status
1899079292	Data Transmission and/or Internet Access	Funded

Dollars Committed			
Monthly Cost		**One-time Cost**	
Months of Service	12		
Total Eligible Recurring Charges	$502,924.80	Total Eligible One Time Charges	$0.00
Total Pre-discount Charges		$502,924.80	
Discount Rate		**90.00%**	
Committed Amount		**$452,632.32**	

Dates	
Service Start Date	**7/1/2018**
Contract Expiration Date	**6/30/2021**
Contract Award Date	3/7/2013
Service Delivery Deadline	6/30/2019
Expiration Date (All Extensions)	6/30/2023

Service Provider and Contract Information	
Service Provider	Charter Communications Operating, LLC
SPIN (498ID)	143050436
Contract Number	C-121850
Account Number	
Establishing FCC Form 470	720390001069323

Consultant Information	
Consultant Name	
Consultant's Employer	
CRN	

Funding Commitment Decision Comments

MR1: The FRN was modified from one line item at $89,496.00 per month to two line items at $41,910.40 per month and $1000.00 per month to agree with the applicant documentation.

SAVE DRAFT

FY 2018-19 471 - 181037523

Eligibility of Products and Services

Issue

USAC's Program Integrity Assurance (PIA) team is currently reviewing your FCC Form 471 application, and we have identified an issue that we need you to help us resolve.

What is the issue?
On your form, your FRN Product and Service detail was not sufficient to determine if the requested amount for FRN 1899079292 can be supported. This is an issue because before we can proceed with processing your form, we must validate the eligibility of your request.

Please read all of the questions, descriptions, and requests below. Please give enough detail, insight, and clarity to help the reviewers fully understand your specific situation.

Check the boxes for statements that apply, and where applicable, type the information requested into the text boxes. If your information is too detailed for the text box, or if you need to provide additional documentation, click "Browse" to upload relevant files or documentation.

Question(s)

This page will timeout after an extended period of inactivity. Please periodically save your work using the 'Save & Close' button below. You may then use your browser's 'Back' button to return to your work.

Your response to PIA's questions:

#	Question	Response
1	Please provide vendor documentation which supports the funding request amount of $$89,496.00 Amount Requested Recurring Charges . Note: Any vendor documentation (e.g. contracts, vendor quotes, vendor bills, invoices, etc.) provided should clearly identify any ineligible charges that were cost allocated out of your request. Also, please be sure to explain any discrepancies between the amount requested and amount supported.	UPLOAD *Drop file here*
2	If you are requesting additional dollars to accommodate expected growth or increased usage, please provide any relevant documentation that you used when determining the estimate for expected growth or increased usage.	UPLOAD *Drop file here*
3	If you would like to provide any additional information about these issues that have not been addressed above: Use the text box to type information, or upload additional documentation using the "Browse" button.	
R1	Please provide all pages of bill	

+Add Document

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(TOLL FREE NO.)

JOHN F. SZABO
CITY LIBRARIAN

LETTER OF AGENCY

This Letter of Agency (LOA) entered into on this 19 day of August 2019 by and between EdTechnologyFunds, Inc (E-Rate Consultant Registration # - 16060507), a California Corporation ("Consultant") and Los Angeles Public Library System (Billed Entity # 16020848 and all associated entities), a not-for-profit Library ("Library").

Consultant and Library determined it is necessary to prepare documentation, forms and applications regarding the Federal Communications Commission ("FCC") E-Rate program. Library grants to Consultant the authority to investigate and communication, in any form, with any service provider or the Schools and Libraries Division with regard to the E-Rate Program on Library's behalf for Category 1 (data transmission/internet access) and Category 2 (network equipment and related items) Services. Consultant shall provide the Library copies of all written communications between Consultant and any service provider or Schools and Libraries Division with regard to the E-Rate Program relating to the Library. Consultant acknowledges that nothing contained herein shall constitute a principal and agent relationship or be construed to evidence the intention of the Library to constitute such. Consultant shall not hold itself out to the public as the Library's agent or authorized representative in a manner that exceeds the specific authorization set forth above. Each party to the Agreement represents and warrants that the officer executing the Agreement has been duly authorized.

The term of this agreement is from the date of final execution (above) until all issues with filings for Funding Years 2018-2021 are resolved but under no circumstances should this assignment extend beyond June 30, 2022 unless extended in writing. When executed, this agreement is authorization for all employees of Consultant (listed below) to communicate on behalf of the Library in performance of duties outlined herein. The following is a list of EdTechnologyFunds, Inc. (ETF) employees who are authorized to speak on behalf of the aforementioned client:

Beverly Sutherland Ingrid Goodman Cindy Perez Karla Jenkins Diana Zarillo

LOS ANGELES PUBLIC LIBRARY SYSTEM
Signature: _____
Print Name: Susan Broman
Title: Assistant City Librarian

EDTECHNOLOGYFUNDS, INC.
Signature: _____
Print Name: Beverly Sutherland
Title: President

EXHIBIT B
PIA Review Letter for Id_ 182050 April 24 2018

SAVE DRAFT

FY 2018-19 471 - 181037523

Eligibility of Products and Services

Issue

USAC's Program Integrity Assurance (PIA) team is currently reviewing your FCC Form 471 application, and we have identified an issue that we need you to help us resolve.

What is the issue?
On your form, your FRN Product and Service detail was not sufficient to determine if the requested amount for FRN 1899079292 can be supported. This is an issue because before we can proceed with processing your form, we must validate the eligibility of your request.

Please read all of the questions, descriptions, and requests below. Please give enough detail, insight, and clarity to help the reviewers fully understand your specific situation.

Check the boxes for statements that apply, and where applicable, type the information requested into the text boxes. If your information is too detailed for the text box, or if you need to provide additional documentation, click "Browse" to upload relevant files or documentation.

Question(s)

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Your response to PIA's questions:

#	Question	Response
1	Please provide vendor documentation which supports the funding request amount of $$89,496.00 Amount Requested Recurring Charges . Note: Any vendor documentation (e.g. contracts, vendor quotes, vendor bills, invoices, etc.) provided should clearly identify any ineligible charges that were cost allocated out of your request. Also, please be sure to explain any discrepancies between the amount requested and amount supported.	UPLOAD *Drop file here*
2	If you are requesting additional dollars to accommodate expected growth or increased usage, please provide any relevant documentation that you used when determining the estimate for expected growth or increased usage.	UPLOAD *Drop file here*
3	If you would like to provide any additional information about these issues that have not been addressed above: Use the text box to type information, or upload additional documentation using the "Browse" button.	
R1	Please provide all pages of bill	

+Add Document

DELETE UPLOADED FILES

SAVE & CLOSE SUBMIT

EXHIBIT C
Respond to Notifications for Form 471 ID #181037523 - May 19 2018

SAVE DRAFT

FY 2018-19 471 - 181037523

Eligibility of Products and Services

Issue

We intend to modify FRN 1899079292.001.001 to change the pre-commitment funding request amount from $89,496.00 per month to $41,910.40 per month and to add line FRN 1899079292.002 for $1000.00 per month to agree with your documentation.

If you disagree with our determination and you have alternative information, please provide third party documentation to support your position (e.g. vendor bill, contract, service agreement, etc.). If you would like to provide any additional explanation to support your position, type your explanation and attach the explanation and/or documentation into your response by using the Add Document button. If you agree with the proposed action, click the “Submit” button to clear this item from your Pending Inquiries.

File Upload

Document	
No items available	
Add Document	

DELETE UPLOADED FILES

SAVE & CLOSE SUBMIT

EXHIBIT D
FCDL FCC Form 471: 181037523 May 18, 2018

Universal Service Administrative Co.

May 18, 2018

Funding Commitment Decision Letter

Funding Year 2018

Contact Information:
Joe Quan
LOS ANGELES PUBLIC LIBRARY SYSTEM
630 WEST 5TH ST
LOS ANGELES, CA 90071
joe.quan@lacity.org

FCC Form 471: 181037523

BEN: 16020848
Wave: 6
Application Nickname: FY 2018-19 471

Totals

Total Committed	**$452,632.32**

What is in this letter?

Thank you for submitting your application for Funding Year 2018 Schools and Libraries Program (E-rate) funding. Attached to this letter, you will find the funding statuses for the FCC Form(s) 471, Services Ordered and Certification Form, that you submitted and referenced above.

The Universal Service Administrative Company (USAC) is providing this information to both the applicant(s) and the service provider(s) so that all parties are aware of the post-commitment changes related to their funding requests and can work together to complete the funding process for these requests.

Next Steps

1. Work with your service provider(s) to determine if your bills will be discounted or if you will request reimbursement from USAC after paying the full cost for the services you receive.

2. Review the Children's Internet Protection Act (CIPA) requirements and file the FCC Form 486 (Service Confirmation and CIPA Certification Form). **The deadline to submit this form is 120 days from the date of this letter or from the service start date (whichever is later).**

3. Invoice USAC
    - **If you (the applicant) are invoicing USAC:** You must pay your service provider(s) the full cost for the services you receive and file the FCC Form 472, the Billed Entity Applicant Reimbursement (BEAR) Form, to invoice USAC for reimbursement of the discounted amount.

    - **If your service provider(s) is invoicing USAC:** The service provider(s) must provide services, bill the applicant for the non-discounted share, and file the FCC Form 474, the Service Provider Invoice (SPI) form, to invoice USAC for reimbursement for the discounted portion of costs. Every funding year, service providers must file an FCC Form 473, the Service Provider Annual Certification Form, to be able to submit invoices and to receive disbursements.

    - **To receive an invoice deadline extension, the applicant or service** provider must request an extension on or before the last date to invoice. **If you anticipate, for any reason, that invoices cannot be filed on time,** USAC will grant a one-time, 120-day invoice deadline extension if timely requested.

How to Appeal or Request a Waiver of a Decision

You can appeal or request a waiver of a decision in this letter **within 60 calendar days** of the date of this letter. Failure to meet this deadline will result in an automatic dismissal of your appeal or waiver request.

Note: The Federal Communications Commission (FCC) will not accept appeals of USAC decisions that have not first been appealed to USAC. However, if you are seeking a waiver of E-rate program rules, you must submit your request to the FCC and not to USAC. USAC is not able to waive the E-rate program rules.

- **To submit your appeal to USAC,** visit the Appeals section in the E-rate Productivity Center (EPC) and provide the required information. USAC will reply to your appeal submissions to confirm receipt. Visit USAC's website for additional information on submitting an appeal to USAC, including step-by-step instructions.

- **To request a waiver of the FCC's rules,** please submit it to the FCC in proceeding number CC Docket No. 02-6 using the Electronic Comment Filing System (ECFS). Include your contact information, a statement that your filing is a waiver request, identifying information, the FCC rule(s) for which you are seeking a waiver, a full description of the relevant facts that you believe support your waiver request and any related relief, and any supporting documentation.

For appeals to USAC or to the FCC, be sure to keep a copy of your entire appeal, including any correspondence and documentation, and provide a copy to the affected service provider(s).

Obligation to Pay Non-Discount Portion

Applicants are required to pay the non-discount portion of the cost of the eligible products and/or services to their service providers. Service providers are required to bill applicants for the non-discount portion of costs for the eligible products and/or services. The FCC stated that requiring applicants to pay the non-discounted share of costs ensures efficiency and accountability in the program. If using the BEAR invoicing method, the applicant must pay the service provider in full (the non-discount plus discount portion) **before** seeking reimbursement from USAC. If using the SPI invoicing method, the service provider must first bill the applicant **before** invoicing USAC.

Notice on Rules and Funds Availability

The applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program and the FCC's rules. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake to assure that committed funds are being used in accordance with such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction of USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds.

Funding Commitment Decision Overview

Funding Year 2018

Application Comments for FCC Form 471: #181037523

The applicant did not submit any RAL corrections.

Funding Commitment Decision Overview

Funding Request Number (FRN)	Service Provider Name	Amount Requested	Amount Committed	Status
1899079292	Charter Communications Operating, LLC	$966,556.80	$452,632.32	Funded

FRN	Service Type	Status
1899079292	Data Transmission and/or Internet Access	Funded

Dollars Committed			
Monthly Cost		**One-time Cost**	
Months of Service	12		
Total Eligible Recurring Charges	$502,924.80	Total Eligible One Time Charges	$0.00
Total Pre-discount Charges		$502,924.80	
Discount Rate		**90.00%**	
Committed Amount		**$452,632.32**	

Dates	
Service Start Date	**7/1/2018**
Contract Expiration Date	**6/30/2021**
Contract Award Date	3/7/2013
Service Delivery Deadline	6/30/2019
Expiration Date (All Extensions)	6/30/2023

Service Provider and Contract Information	
Service Provider	Charter Communications Operating, LLC
SPIN (498ID)	143050436
Contract Number	C-121850
Account Number	
Establishing FCC Form 470	720390001069323

Consultant Information	
Consultant Name	
Consultant's Employer	
CRN	

Funding Commitment Decision Comments

MR1: The FRN was modified from one line item at $89,496.00 per month to two line items at $41,910.40 per month and $1000.00 per month to agree with the applicant documentation.

EXHIBIT E
USAC Appeal #130691December 6 2018

Records / Appeals

FY 2018-19 Appeal - #130691

Summary Associated FRNs News Related Actions

In-Review Outreach Wave Ready **Committed**

Appeal Information

View Status (-)

Status USAC issued a revised funding decision on 06/25/2019. Check your Newsfeed for the decision.

Funding Year 2018

Submitting Organization LOS ANGELES PUBLIC LIBRARY SYSTEM (BEN: 16020848)

Created By Joe Quan

Created On 12/6/2018 8:18 PM EST

Main Contact

Name Dan Tinajero

Phone Number 213-978-4038

Email joe.quan@lacity.org

Narrative

In speaking with the USAC call center it appears our funding amount was not fully funded as requested. We were unclear when we received the FCDL that this was the case and continued to process the 486. We are asking why we did not receive the full funding as we had in the prior year, 2017-2018. We wish to receive the full funding requested.

Appeal Details

Decision appealed by applicant Funding Commitment Decision Letter

If you wish to modify or cancel your appeal, or, if you have any questions about your appeal, please contact the E-rate Program's Client Service Bureau (CSB) at (888) 203-8100.

View Supporting Documentation (-)

Supporting Documentation

Document ID	Document	Description	Upload Stage	Uploaded By	Uploaded On
No Supporting Documents have been uploaded					

EXHIBIT F
USAC's June 25, 2019 appeal decision issued through a revised Funding Commitment Decision Letter

Universal Service Administrative Co.

June 25, 2019

Revised Funding Commitment Decision Letter

Funding Year 2018

Contact Information:
Dan Tinajero
LOS ANGELES PUBLIC LIBRARY SYSTEM
630 WEST 5TH ST
LOS ANGELES, CA 90071
joe.quan@lacity.org

BEN: 16020848
Post Commitment Wave: 31

Totals

Original Commitment Amount	$452,632.32
Revised Commitment Amount	**$452,632.32**

What is in this letter?

Thank you for submitting your post-commitment request for Funding Year 2018 Schools and Libraries Program (E-rate) funding. Attached to this letter, you will find the revised funding statuses and/or post commitment changes to the original Funding Commitment Decision Letter (FCDL) you received. Below are the changes that were made:

- Appeals

The Universal Service Administrative Company (USAC) is providing this information to both the applicant(s) and the service provider(s) so that all parties are aware of the post-commitment changes related to their funding requests and can work together to complete the funding process for these requests.

Next Steps

1. **File the FCC Form 486,** Service Confirmation and Children's Internet Protection Act (CIPA) Certification Form, for any FRNs included in this RFCDL, if you have not already done so. Please review the CIPA requirements and file the form(s).

- **If USAC approved funding on an FRN in your original FCDL,** the deadline to submit the FCC Form 486 is 120 days from the date of the original FCDL or from the service start date (whichever is later).
- **If a new FRN was created for this RFCDL or funding was not approved on an FRN in your original FCDL but is approved in this RFCDL,** the deadline to submit the FCC Form 486 is 120 days from the date of this RFCDL or from the service start date (whichever is later).

2. **Invoice USAC,** if you or your service provider have not already done so. Work with your service provider(s) to determine if your bills will be discounted or if you will request reimbursement from USAC after paying your bills in full.
   - **If you (the applicant) are invoicing USAC:** You must pay your service provider(s) the full cost for the services you receive and file the FCC Form 472, the Billed Entity Applicant Reimbursement (BEAR) Form, to invoice USAC for reimbursement of the discounted amount.
   - **If your service provider(s) is invoicing USAC:** The service provider(s) must provide services, bill the applicant for the non-discounted share, and file the FCC Form 474, the Service Provider Invoice (SPI) form, to invoice USAC for reimbursement for the discounted portion of costs. Every funding year, service providers must file an FCC Form 473, the Service Provider Annual Certification Form, to be able to submit invoices and to receive disbursements.
   - **To receive an invoice deadline extension, the applicant or service provider** must request an extension on or before the last date to invoice. **If you anticipate, for any reason, that invoices cannot be filed on time,** USAC will grant a one-time, 120-day invoice deadline extension if timely requested.

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Note: The Federal Communications Commission (FCC) will not accept appeals of USAC decisions that have not first been appealed to USAC. However, if you are seeking a waiver of E-rate program rules, you must submit your request to the FCC and not to USAC. USAC is not able to waive the E-rate program rules.

- **To submit your appeal to USAC,** visit the Appeals section in the E-rate Productivity Center (EPC) and provide the required information. USAC will reply to your appeal submissions to confirm receipt. Visit USAC's website for additional information on submitting an appeal to USAC, including step-by-step instructions.

- **To request a waiver of the FCC's rules or appeal USAC's appeal decision,** please submit it to the FCC in proceeding number CC Docket No. 02-6 using the Electronic Comment Filing System (ECFS). Include your contact information, a statement that your filing is a waiver request,

identifying information, the FCC rule(s) for which you are seeking a waiver, a full description of the relevant facts that you believe support your waiver request and any related relief, and any supporting documentation.

For appeals to USAC or to the FCC, be sure to keep a copy of your entire appeal, including any correspondence and documentation, and provide a copy to the affected service provider(s).

Obligation to Pay Non-Discount Portion

Applicants are required to pay the non-discount portion of the cost of the eligible products and/or services to their service providers. Service providers are required to bill applicants for the non-discount portion of costs for the eligible products and/or services. The FCC stated that requiring applicants to pay the non-discounted share of costs ensures efficiency and accountability in the program. If using the BEAR invoicing method, the applicant must pay the service provider in full (the non-discount plus discount portion) **before** seeking reimbursement from USAC. If using the SPI invoicing method, the service provider must first bill the applicant **before** invoicing USAC.

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The applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program and the FCC's rules. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds.

BEN Name: LOS ANGELES PUBLIC LIBRARY SYSTEM
BEN: 16020848
Post Commitment Wave: 31

Revised Funding Commitment Decision Overview

Funding Year 2018

Funding Request Number (FRN)	Service Provider Name	Request Type	Revised Committed	Review Status
1899079292	Charter Communications Operating, LLC	Appeals	$452,632.32	**Denied**

BEN Name: LOS ANGELES PUBLIC LIBRARY SYSTEM
BEN: 16020848
Post Commitment Wave: 31

Post Commitment Request Number:	Post Commitment Request Type:	Post Commitment Decision:
130691	Appeals	Denied

FRN:	Service Type:	Original Status:	Revised Status:
1899079292	Data Transmission and/or Internet Access	Funded	Funded
FCC Form 471: 181037523			

Dollars Committed			
Monthly Cost		**One-Time Cost**	
Months of Service	**12**		
Total Eligible Recurring Charges	**$502,924.80**	Total Eligible One Time Charges	**$0.00**
Total Pre-Discount Charges		$502,924.80	
Discount Rate		**90.00%**	
Revised Committed Amount		**$452,632.32**	

Dates	
Service Start Date	**7/1/2018**
Contract Expiration Date	**6/30/2021**
Contract Award Date	**3/7/2013**
Service Delivery Deadline	**6/30/2019**
Expiration Date (All Extensions)	**6/30/2023**

Service Provider and Contract Information	
Service Provider	**Charter Communications Operating, LLC**
SPIN (498ID)	**143050436**
Contract Number	**C-121850**
Account Number	
Establishing FCC Form 470	**720390001069323**

Consultant Information	
Consultant Name	
Consultant's Employer	
CRN	

Revised Funding Commitment Decision Comments:

Post Commitment Rationale:

Our records show that your appeal was filed more than 60 days after the date your decision letter was issued. Your appeal was filed on 12-6-2018. The Funding Commitment Decision Letter was issued on 5-18-2018. Federal Communications Commission (FCC) rules require appeals to be filed within 60 days of the date on the decision letter being appealed. FCC rules do not permit the Universal Service Administrative Company (USAC) to consider your appeal.