



1629 K STREET, N.W. SUITE 300
WASHINGTON, DC 20006

December 12, 2017

SUBMITTED ELECTRONICALLY VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **MEETING SUMMARY PER SECTION 1.1208 OF THE FCC'S RULES**
Schools and Libraries Universal Service Support Mechanism,
Docket No. 02-6

Dear Ms. Dortch:

On behalf of the Lawrence Unified School District #497 (Lawrence USD) this *ex parte* memorializes meetings between representatives of Lawrence USD and Commission staff. On December 8, 2017, Lawrence USD Superintendent Anna Stubblefield; Jerri Kemble, assistant superintendent, Leading, Learning and Technology; David Cunningham, executive director, HR, and legal counsel; Erin Tarnowicz, senior administrative assistant, Leading, Learning and Technology; and the undersigned met with Ryan Palmer, Elizabeth Drogula, James Bachtell, and Kate Dumouchel of the Wireline Competition Bureau (WCB) regarding Request for Review and/or Waiver filed on behalf of Lawrence USD.¹

Lawrence USD discussed its work as a leader on digital equity issues and the technology that its E-rate funding had allowed it to provide its students. On the merits of the appeal, we explained that the handful of residential accounts that were included in Lawrence USD's contract with its service provider were not prohibited "gifts" under E-rate rules, but were simply ineligible services bundled with E-rate eligible services. As such, Lawrence USD respectfully requested that the Bureau grant the request for review in a public notice as soon as possible, given that the appeal was filed a year ago.

¹ Request for Review and/or Waiver, *In the Matter of Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Lawrence Unified School District #497 FCC Form 471 Application Numbers 775595, 828451, and 922269 *et al.* (filed December 14, 2016).

The attached handout summarizing the arguments presented in the appeal was distributed.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, an electronic copy of this letter is being filed for inclusion in the above-referenced docket and courtesy copies are being sent to the attendees. Please direct any questions regarding this filing to the undersigned.

Respectfully submitted,

/s/ Gina Spade

Gina Spade
Counsel for Lawrence USD

cc: Ryan Palmer (via email)
Elizabeth Drogula (via email)
James Bachtell (via email)
Kate Dumouchel (via email)
Anna Stubblefield (via email)
Jerri Kemble (via email)
David Cunningham (via email)
Erin Tarnowicz (via email)

Lawrence Public Schools Request for Review December 8, 2017

Issue: USAC alleges that Lawrence Public Schools (LPS or the District) did not conduct a fair and open competitive bidding process because a few monthly residential Internet packages were bundled in its E-rate contract for Internet access services.

Background

- 2011 – the District sought bids for Internet access and telecom. Only Knology responded.
 - The District/Knology signed a five-year contract, covering FYs 2011–2015.
 - The contract, consistent with other Knology enterprise-level (business level) contracts, contained a provision that the District could receive up to 15 complimentary residential accounts.
- 2013 – District sought bids for an additional 200 Mbps connection.
 - It received two bids: Knology and KanRen (Kansas Board of Regents).
 - Knology’s bid was lower by \$10,000. The District’s consultant reviewed the bids and made the recommendation.
- 2014 – District sought bids for an additional circuit. It received four bids.
 - KanRen was the lowest bidder with a bid of \$10 Mbps (\$63,400). The District selected KanRen.
- August 2016 – USAC notified the District that it believed the District had violated the program’s gift rule.
 - USAC sought recovery of funds from 2011, 2012 and 2013.
 - USAC denied funding requests for 2014 and 2015.

LPS Conducted a Fair and Open Competitive Bidding Process

- The District properly sought bids for E-rate services.
- The District selected the most cost-effective – and lowest-priced – bidder in each funding year.

The Residential Accounts Were Not Prohibited Gifts

- The Commission’s gift rule specifically prohibits gifts intended to have “undue or improper influence on a procurement decision.” The rules do not prohibit *all* gifts or free services.
 - The residential accounts did not influence any procurements decisions. If the District had been influenced by the accounts, it would have selected Knology each time.
 - The District’s consultant used price to select the winning bidder.
- Free services are allowed. The donation of products and services are allowed as long as they are not provided as a sales inducement. If the donation is “tied to a bid for services,” the value of the donated products is deducted from the funding request.

At Most, LPS Should Have Cost-Allocated the Ineligible Services Out of Its Requests

- For funding years 2011-2014, the Commission explicitly allowed schools to receive ineligible services bundled with E-rate eligible services, as long as the bundled service was offered to at least a segment of the service provider's customers.
 - Here, Knology routinely offered additional residential accounts to its business customers. So the bundled residential accounts would be allowed under Commission rules at that time.
 - In FY 2015, LPS removed the residential accounts from its contract, so those amounts are not included in its FY2015 request.
- The free services were allowed by both the gift rules and the bundling rules. But if the Commission does not agree that the bundling rule applies here, at most there is a cost-allocation error, and USAC should only recover \$17,000.

Denial of the Petition Would Undermine Program and Commission Goals

Amount at issue:

Funding Year	Denial Amount	Recovery Amount	Total
2011, 2012 and 2013		\$507,559.10	\$507,559.10
2014 and 2015	\$335,735.07		\$335,735.07
Totals	\$335,735.07	\$507,559.10	\$843,294.17

- Harm to LPS would be significant.

In the Alternative, a Waiver Is Appropriate

- In other competitive bidding appeals, the Commission has waived its rules when the applicant has chosen the lowest bidder. No waste, fraud or abuse here.