

# PUBLIC NOTICE

**Federal Communications Commission**  
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**DA 16-1448**

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

### **CC Docket No. 02-6 WC Docket Nos. 02-60 and 13-184**

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

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#### **Schools and Libraries (E-rate)**

**CC Docket No. 02-6**  
**WC Docket No. 13-184**

#### **Dismissed<sup>3</sup>**

Islamic Elementary School C, NY, Application No. 1048767, Request for Review, CC Docket No. 02-6 (filed Nov. 29, 2016)

Nay Ah Shing School, MN, Application No. 1017050, Request for Review, CC Docket No. 02-6 (filed Nov. 15, 2016)

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

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

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

#### Dismissed as Moot<sup>4</sup>

St. Ann School, NY, Application No. 1050274, Request for Waiver, CC Docket 02-6 (filed Sept. 22, 2016)

Shiras Chaim, NJ, Application Nos. 1045476, 1048171, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Mar. 3, 2016)

#### Dismissed on Reconsideration<sup>5</sup>

Assumption-All Saints School, Blessed Sacrament School, Holy Trinity Elementary School, Mother Seton Parochial School, Our Lady Help of Christians School, Our Lady of Good Counsel Elementary School, Our Lady of Good Counsel High School, St. Lucy's School, St. Mary's High School, St. Patrick School, and Future Generation, Inc., NJ, Application Nos. 357472, 358234, 357557, 357662, 357752, 359187, 358346, 359178, 359171, 358142, Petition for Reconsideration, CC Docket No. 02-6 (filed Sept. 7, 2012)<sup>6</sup>

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<sup>4</sup> See, e.g., *Request for Review and/or Request for Waiver of the Decisions of the Universal Service Administrator by Al Noor High School et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 8223, 8224, para. 2 (WCB 2012) (*Al Noor High School Order*) (dismissing as moot requests for review where USAC approved the underlying funding request).

<sup>5</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Allan Shivers Library et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 29 FCC Rcd 10356, 10357, para. 2 (WCB 2014) (*Allan Shivers Library Order*) (dismissing petitions for reconsideration that fail to identify any material error, omission, or reason warranting reconsideration, and rely on arguments that have been fully considered and rejected by the Bureau within the same proceeding).

<sup>6</sup> In addition to relying on arguments already rejected by the Bureau, petitioners also argue that reconsideration is justified based on the decision in *Request for Review of A Decision of the Universal Service Administrator by Queen of Peace High School*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 16466 (WCB 2011) (*Queen of Peace Order*). We disagree. In the *Queen of Peace Order*, we found that the applicant's competitive bidding process was not compromised by its inclusion of a particular service provider's name on its FCC Form 470 because the applicant also indicated more generally that it was seeking bids for the requested services. However, the violation in the present case does not involve the applicants including a particular service provider name in its list of requested services. Rather, the applicants violated competitive bidding rules when they listed the winning service provider's e-mail address under the "Contact Information" section of their FCC Forms 470. The Commission has previously held that "that a violation of the Commission's competitive bidding requirements has occurred where a service provider that is listed as the contact person on the Form 470 also participates in the competitive bidding process as a bidder," which is the exact circumstance that occurred here. See *Request for Review of the Decisions of the Universal Service Administrator by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 16 FCC Rcd 4028, 4033, para. 10 (2000) (*Mastermind Internet Services Order*). Accordingly, the decision in the *Queen of Peace Order* does not control the facts of the present appeal and we deny petitioners' new argument on the merits. See, e.g., *Petitions for Reconsideration by Bloomfield Public School District*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 28 FCC Rcd 9973, 9975, para. 5 (WCB 2013) (denying petition for reconsideration on the merits because the denial was fully supported by cited precedent that clearly prohibited the actions taken by the petitioner).

Dismissed for Failure to Comply with the Commission's Basic Filing Requirements<sup>7</sup>

Miracle City Academy, OH, Application Nos. 161056816, 161056841, CC Docket No. 02-6 (filed Dec. 7, 2016)

The Village Academy, MD, No Application Number Given, CC Docket No. 02-6 (filed Dec. 13, 2016)

Hancock County Library System, MS, Application Nos. 354032, 393974, 479566, 483775, 534582, 581931, 635497, Petition for Reconsideration, CC Docket No. 02-6 (filed June 9, 2015)

Leland Community Unit School District No. 1, IL, Application No. 1004381, Petition for Reconsideration, CC Docket No. 02-6 (filed Dec. 8, 2016)

Plano Community Unit School District No. 88, IL, Application Nos. 161055957, 161056010, Petition for Reconsideration, CC Docket No. 02-6 (filed Oct. 27, 2016)

Skyline R-II School District, MO, Application No. 161061801, Petition for Reconsideration, CC Docket No. 02-6 (filed Nov. 7, 2016)

Torah Institute of Baltimore, Application Nos. 813281, 869063, Petition for Reconsideration, CC Docket No. 02-6 (filed Aug. 14, 2015)

Tse ii'Ahi Community School, NM, Application No. 812604, Petition for Reconsideration, CC Docket No. 02-6 (filed June 29, 2016)

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<sup>7</sup> 47 CFR § 54.721 (setting forth general filing requirements for requests for review of decisions issued by USAC, including the requirement that the request for review include supporting documentation); *see also Wireline Competition Bureau Reminds Parties of Requirements for Request for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45, 02-6, WC Docket Nos. 02-60, 06-122, 10-90, 11-42, 13-184, 14-58, Public Notice, 29 FCC Rcd 13874 (WCB 2014) (reminding parties submitting appeals to the Bureau of the general filing requirements contained in the Commission's rules which, along with a proper caption and reference to the applicable docket number, require (1) a statement setting forth the party's interest in the matter presented for review; (2) a full statement of relevant, material facts with supporting affidavits and documentation; (3) the question presented for review, with reference, where appropriate, to the relevant Commission rule, order or statutory provision; and (4) a statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought); *Universal Service Contribution Methodology; Request for Review by Alternative Phone, Inc. and Request for Waiver*, WC Docket No. 06-122, Order, 26 FCC Rcd 6079 (WCB 2011) (dismissing without prejudice a request for review that failed to meet the requirements of section 54.721 of the Commission's rules).

Granted<sup>8</sup>

*Discount Calculation*<sup>9</sup>

Seneca Family of Agencies, NJ, Application No. 1043202, Request for Review, CC Docket 02-6 (filed Mar. 20, 2016)

VERNET, Inc. (Academia Regional Adventista de Caguas), PR, Application Nos. 1044429, 1044358, 1044389, Request for Waiver, CC Docket 02-6 (filed Sept. 20, 2016)

VERNET, Inc. (The Kingdom Christian Academy), PR, Application No. 1044975, Request for Waiver, CC Docket 02-6 (filed May 20, 2016)

VERNET, Inc. (Southeastern Victory College), PR, Application No. 1043252, Request for Waiver, CC Docket 02-6 (filed Sept. 20, 2016)

*Certification of FCC Form 470*<sup>10</sup>

Shiras Chaim, NJ, Application No. 1051302, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Mar. 4, 2016)<sup>11</sup>

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

<sup>9</sup> See, e.g., *Requests for Review of the Decision of the Universal Service Administrator by Academia Claret et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 10703, 10709, para. 14 (Wireline Comp. Bur. 2006) (*Academia Claret Order*); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Bright Star Schools Consortium et al.; Schools and Libraries Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 11204, 11204, para. 1 (WCB 2013) (*Bright Star Schools Consortium Order*) (granting applicants a limited 15-day opportunity to file additional documentation to support their calculation of the correct discount rate). Consistent with precedent, we also find good cause exists to waive section 54.720(a) and (b) of the Commission's rules, which requires that petitioners file their appeals within 60 days of an adverse USAC decision. See, e.g., *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by ABC Unified School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 11019, 11019, para. 2 (WCB 2011) (*ABC Unified School District Order*) (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late).

<sup>10</sup> See, e.g., *Request for Waiver of the Decision of the Universal Service Administrator by Barberton City School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15526, 15532, para. 10 (WCB 2008) (*Barberton City School District Order*) (granting appeal on the merits where the applicant submitted evidence to the Commission demonstrating compliance with the Commission's rules).

<sup>11</sup> Also, we find good cause exists to waive section 54.720 of the Commission's rules for Application Number 1051302 because we find that the petitioner submitted its appeal to the Commission within a reasonable period of time after actual notice of a clerical error. See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Assabet Valley Regional Vocational District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1924-25, para. 1 (WCB 2012) (waiving section 54.720 of the Commission's rules where the applicant submitted its appeal to the Commission within a reasonable period of time after actual notice of a clerical error).

*FCC Form 486 – Late Filed*<sup>12</sup>

Cardinal Mooney High School, OH, Application No. 1033757, Request for Waiver, CC Docket No. 02-6 (filed Sept. 23, 2016)

Plato Academy Charter School, FL, Application No. 1049753, Request for Waiver, CC Docket No. 02-6 (filed Dec. 14, 2016)

Plato Academy Charter School, FL, Application No. 1049050, Request for Waiver, CC Docket No. 02-6 (filed Dec. 14, 2016)

*Granting Additional Time to Respond to USAC's Request for Information*<sup>13</sup>

Abraham Joshua Heschel School, NJ, Application Nos. 161038489, 161042264, 161044793, 161051507, Request for Waiver, CC Docket No. 02-6 (filed Oct. 21, 2016)

Bergen Catholic School, NJ, Application Nos. 161042619, 161044925, Request for Waiver, CC Docket No. 02-6 (filed Oct. 22, 2016)

Center For Family Resources, NJ, Application No. 161039163, Request for Waiver, CC Docket No. 02-6 (filed Oct. 22, 2016)

Center For Family Resources, NJ, Application No. 161041179, Request for Waiver, CC Docket No. 02-6 (filed Oct. 22, 2016)

*Grant on Reconsideration – Appeal Filing Deadline*<sup>14</sup>

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<sup>12</sup> See, e.g., *Requests for Review and Waiver of the Decision of the Universal Service Administrator by Alaska Gateway School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 10182, 10185, para. 6 (WCB 2006) (*Alaska Gateway Order*) (granting appeals where applicants filed their FCC Forms 486 late as the result of immaterial clerical, ministerial or procedural errors, or filed late due to circumstances beyond their control); *Requests for Waiver of Decisions of the Universal Service Administrator by Archdiocese of New Orleans, Louisiana et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 11747, 11751, para. 11 (WCB 2016) (establishing a more rigid standard for late-filed FCC Forms 486 but continuing to apply the current *Alaska Gateway Order*-based standard to appeals filed with USAC or the Commission before January 30, 2017).

<sup>13</sup> See, e.g., *Requests for Review of the Decision of the Universal Service Administrator by Alpaugh Unified School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 6035 (2007); *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, Order, 29 FCC Rcd 1876 (Wireline Comp. Bur. 2014) (granting requests for review of applicants that had been denied funding because they failed to respond to USAC's request for information within the USAC-specified time frame). Consistent with precedent, we also find good cause exists to waive section 54.720(a) and (b) of the Commission's rules for these petitioners, which requires that petitioners file their appeals within 60 days of an adverse USAC decision. See, e.g., *ABC Unified School District Order*, 26 FCC Rcd at 11019, para. 2 (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late).

McDowell County Schools, WV, Application No. 854118, Petition for Reconsideration, CC Docket No. 02-6 (filed Jan. 13, 2016)

*Improper Service Provider Involvement*<sup>15</sup>

Batavia Local School District, OH, Application Nos. 517837, 574113, 621721, 679041, 739873, 808433, Request for Review, CC Docket No. 02-6 (filed Mar. 20, 2012)

Boys and Girls Village, Inc. (formerly known as Boy's Village Youth and Family Services, Inc.), CT, Application No. 346207, Request for Review, CC Docket No. 02-6 (filed Nov. 30, 2006)

West Texas Telecommunications Consortium, TX, Application No. 569482, Request for Review, CC Docket No. 02-6 (filed Jan. 11, 2011)

*Late-Filed FCC Form 471 Certifications*<sup>16</sup>

Saint Philip School, RI, Application No. 1042389, Request for Waiver, CC Docket 02-6 (filed Aug. 3, 2016)

*Late-Filed FCC Form 471 Application*<sup>17</sup>

Thompson Public Library, IA, Application No. 161061682, Request for Waiver, CC Docket 02-6 (filed Sept. 19, 2016)

*Ministerial and/or Clerical Error – FCC Form 471*<sup>18</sup>

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<sup>14</sup> See, e.g., *Petitions for Reconsideration by Callisburg Independent School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 28 FCC Rcd 9459, 9461, para. 5 (WCB 2013) (granting petition for reconsideration where, upon reconsideration of the record, we do not find that the evidence supports our previous determination); *ABC Unified School District Order*, 26 FCC Rcd at 11019, para. 2 (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC within a reasonable period of time after receiving actual notice of USAC's adverse decision).

<sup>15</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Caldwell Parish School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 2784, 2789, para. 13 (WCB 2008) (granting appeal and finding that applicant provided evidence that there was no improper service provider involvement where applicant asserted by sworn statement and under penalty of perjury that the service provider did not participate in the competitive bidding process).

<sup>16</sup> See, e.g., *Allan Shivers Library Order*, 29 FCC Rcd at 10357, para. 1 & n.7 (granting waivers to petitioners failing to certify an FCC Form 471 where the form itself was filed within 14 days of the close of the filing window).

<sup>17</sup> See, e.g., *Request for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order 25 FCC Rcd 9256, 9259-60, paras. 8-9 (2010) (*Academy of Math and Science Order*) (granting waiver requests where petitioners filed their applications within 30 days of the close of the FCC Form 471 filing window deadline despite unexpected medical issues).



Bevove Tomer Dvorah, NY, Application No. 910307, Request for Waiver, CC Docket No. 02-6 (filed Aug. 27, 2014)

Edgewood Independent School District, OK, Application No. 1000541, Request for Waiver, CC Docket 02-6 (filed May 6, 2016)

United Systems (Graham Independent School District 32), OK, Application No. 675022, Request for Review and/or Waiver, CC Docket 02-6 (filed July 22, 2013)

*Payment of Applicant's Share of Pre-discount Price*<sup>19</sup>

FiberLight, LLC (Ballinger Independent School District), TX, Application No. 904079, Request for Waiver, CC Docket 02-6 (filed May 26, 2015)

*Service Implementation Delay*<sup>20</sup>

Greyhills Academy High School, AZ, Application No. 729399, Request for Waiver, CC Docket No. 02-6 (filed May 10, 2016)<sup>21</sup>

*Signed Contract Requirement*<sup>22</sup>

Cherry Valley Public Library District, IL, Application No. 948945, Request for Waiver, CC Docket No. 02-6 (filed Nov. 14, 2014)<sup>23</sup>

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<sup>18</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 17319, 17319-20, para. 2, n.5, n.19, n.20 (WCB 2010) (permitting applicants to correct clerical errors like indicating the wrong service category on FCC Form 471, mischaracterizing a non-recurring charge as a recurring charge, or failing to enter an item from the source list onto an application).

<sup>19</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Al-Ihsan Academy, et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1927 (WCB 2012) (granting an appeal from a petitioner that demonstrated it paid the required portion of the E-rate purchase price).

<sup>20</sup> See, e.g., *Request for Review/Waiver of the Decision of the Universal Service Administrator by Accelerated Charter et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 13652, 13652-53, para. 2 (WCB 2014) (*Accelerated Charter Order*) (allowing extensions of the deadline for service implementation when applicants demonstrated they were unable to complete implementation on time for reasons beyond the service providers' control and made significant efforts to secure the necessary extensions).

<sup>21</sup> Because we grant Greyhills Academy High School's appeal and give the school additional time for completion of its project, we dismiss as moot its subsequent request for waiver, filed September 2, 2016, seeking an invoice deadline extension for the funding request at issue in this appeal. See *supra* note 8 (waiving any deadlines that might be necessary to effectuate our ruling).

<sup>22</sup> See, e.g., *Barberton City School Order*, 23 FCC Rcd at 15529-30, para. 7; *Requests for Review and/or Waiver of the Decisions of the Universal Service Administrator by Amphitheater Unified School District 10 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 7536, 7536-37, para. 2 (WCB 2013) (granting waivers of the signed contract requirement in instances where applicants misunderstood the program rules and submitted their FCC Form 471 applications before signing a contract).

<sup>23</sup> We also dismiss as moot a related filing made January 29, 2014 on behalf of the Cherry Valley Public Library District for application number 893913 for funding year 2013.

*State Master Contract*<sup>24</sup>

Dublin City School District, GA, Application No. 865085, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Oct. 15, 2012)

*Waiver of Price as Primary Factor Requirement: Applicant Selected Lowest-Price Solution*<sup>25</sup>

Atlanta Public Schools, GA, Application No. 765738, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Mar. 2, 2012)

Partially Granted

*Basic Maintenance of Internal Connections*<sup>26</sup>

Schenectady City School District, NY, Application Nos. 519873, 672419, 672438, 675305, Requests for Review, CC Docket No. 02-6 (Apr. 20, 2007 and Dec. 8, 2009)

*Reclassifying Funding Requests*<sup>27</sup>

Cleveland Heights School District, OH, Application Nos. 367760, 367865, 368133, 368291, 368361, 368415, 368485, 368539, Requests for Review, CC Docket No. 02-6 (Apr. 22, 2004)

*Waiver of Price as Primary Factor Requirement: Applicant Selected Lowest-Price Solution*<sup>28</sup>

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<sup>24</sup> See, e.g., *Request for Review of a Decision of the Universal Service Administrator by Paterson School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 13101, 13104, para. 7 (WCB 2006) (finding that a state master contract was continuously in effect throughout the funding year and therefore USAC's policy on expiring state master contracts was not applicable).

<sup>25</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Allendale County School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 6109, 6115-17, paras. 10-12 (WCB 2011) (*Allendale County School District Order*) (waiving the requirement that an applicant be able to demonstrate that it used price as the primary factor in vendor selection when the applicant selected the lowest priced option and there was no evidence of waste, fraud or abuse).

<sup>26</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Chicago Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 4114, 4118, para. 9 (2011) (waiving section 54.504(d) of the Commission's rules to permit petitioners to remove services from their funding requests so that they can receive funding for eligible basic maintenance services). See also *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912, 26921-22, para. 23 (2003) (defining eligible and ineligible basic maintenance). First, we direct USAC to give the petitioner an opportunity to remove the costs of the PBX Edge License maintenance from the funding year 2006 funding request so that USAC may switch the category of the service for the request back to basic maintenance as originally requested by the petitioner. Then, we direct USAC to reexamine the 2-in-5 rule implications for the petitioner's funding year 2009 application and seek additional information from the petitioner as appropriate so that USAC can process and make a final determination on the application.

<sup>27</sup> See, e.g., *Requests for Review of the Decisions of the Universal Service Administrator by Aiken County Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 8735, 8737-40, paras. 6, 9-10 (2007) (deciding that the applicants' entire funding requests should not have been treated as Priority Two services simply because more than 30 percent of their funding requests were for Priority Two services and directing USAC to reassess funding requests after allowing applicants the opportunity to remove services).



Wheeling School District 21, IL, Application Nos. 853285, 853298, 854902, 854925, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Oct. 18, 2013)<sup>29</sup>

## Denied

### *Failure to Adhere to Evaluation Criteria During Vendor Selection Process*<sup>30</sup>

Atlanta Public Schools, GA, Application No. 762323, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Mar. 2, 2012)

Atlanta Public Schools, GA, Application No. 819508, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Apr. 5, 2012)

### *Failure to Produce Documentation Regarding Vendor Selection Process*<sup>31</sup>

Orange County Library System, FL, Application No. 808172, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Oct. 28, 2016)

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<sup>28</sup> See, e.g., *Allendale County School District Order*, 26 FCC Rcd at 6115-17, paras. 10-12 (waiving the requirement that an applicant be able to demonstrate that it used price as the primary factor in vendor selection when the applicant selected the lowest priced option and there was no evidence of waste, fraud or abuse).

<sup>29</sup> We grant a waiver with respect to FRNs 2320185, 2320206, 2320214, but deny the request for waiver for FRN 2320919. See *Requests for Review of Decisions of the Universal Service Administrator by Net56, Inc., Wheeling School District 21; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 13122, 13126-27, paras. 8-10 (WCB 2013) (granting a waiver of requirement that the applicant demonstrate that it used price as the primary factor where Wheeling demonstrated that they selected the lowest price vendor for Internet access, Wide Area Network, and web hosting services, but denying a waiver with respect to email hosting service). We also grant a waiver for FRNs 2325672, 2325678, and 2325737, where the applicant demonstrated that it selected the lowest priced option. See, e.g., *Allendale County School District Order*, 26 FCC Rcd at 6115-17, paras. 10-12. Finally, with respect to FRN 2319939, 2325726, and each of the aforementioned FRNs, we grant the applicant 15 days to submit supporting discount calculation documentation to USAC for funding year 2012. See, e.g., *Academia Claret Order*, 21 FCC Rcd at 10709, para. 14; *Bright Star Schools Consortium Order*, 28 FCC Rcd at 11204, para. 1 (granting applicants a limited 15-day opportunity to file additional documentation to support their calculation of the correct discount rate).

<sup>30</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Central Islip Free Union School District et al; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 8630, 8638, para. 17 (WCB 2011) (*Central Islip Free Union School District*) (denying funding requests where the evidence demonstrated that applicant “failed to adhere to its own evaluation criteria in the vendor selection process”). In addition, we deny the appeal for Application Number 762323 on the basis that Atlanta Public Schools (APS) provided an unfair advantage to the winning bidder by involving them in the competitive bidding process. As a result, APS compromised a fair and open competitive bidding process because all potential bidders did not have access to the same information. See, e.g., *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9076, para. 480 (1997) (subsequent history omitted) (requiring competitive bidding processes to be fair and open such that no bidders receive an unfair advantage); *Mastermind Internet Services Order*, 16 FCC Rcd at 4033, para. 10 (stating that a service provider participating in the competitive bidding process cannot be involved in the preparation of the entity’s technology plan, FCC Form 470 or RFP).

<sup>31</sup> See, e.g., *Central Islip Free Union School District Order*, 26 FCC Rcd at 8635-36, paras. 11-12 (denying appeal where the applicant failed to produce documentation regarding its vendor selection process and, thus, could not demonstrate compliance with the E-rate program’s competitive bidding rules).

*Reclassifying Funding Requests*<sup>32</sup>

School District of Marinette, WI, Application No. 584184, Request for Review, CC Docket No. 02-6 (filed Apr. 24, 2008)

*Invoice Deadline Extension Requests*<sup>33</sup>

Big Horn County School District 1, WY, Application Nos. 1014191, 1029895, Request for Waiver, CC Docket No. 02-6 (filed Nov. 28, 2016)

Centennial Board of Cooperative Educational Services, CO, Application No. 1043031, Request for Waiver, CC Docket No. 02-6 (filed Nov. 16, 2016)

Chambersburg District Public Libraries, PA, Application No. 1042681, Request for Waiver, CC Docket No. 02-6 (filed Nov. 30, 2016)

Community Action of South Eastern West Virginia Head Start, WV, Application No. 1029133, Request for Waiver, CC Docket No. 02-6 (filed Dec. 7, 2016)

Madison County Telephone Company, Inc. (County of Madison, Huntsville School, Jasper School District), AR, Application Nos. 998034, 1006133, 1011601, 1043103, 1042541, Request for Waiver, CC Docket No. 02-6 (filed Nov. 29, 2016)

Malverne Public Library, NY, Application No. 966927, Request for Waiver, WC Docket No. 13-184 (filed Aug. 26, 2016)

Narragansett School System, RI, Application Nos. 1035662, 1039020, Request for Waiver, CC Docket No. 02-6 (filed Dec. 7, 2016)

New America School, CO, Application Nos. 950676, 1016941, 1039150, Request for Waiver, CC Docket No. 02-6 (filed Nov. 10, 2016)

Oskaloosa Christian School, IA, Application No. 161034412, Request for Waiver, CC Docket No. 02-6 (filed Nov. 27, 2016)

Plumas Lake Elementary School District, CA, Application No. 941993, Request for Waiver, CC Docket No. 02-6 (filed Nov. 14, 2016)

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<sup>32</sup> See, e.g., *Request for Review of the Decision of the Universal Service Administrator by Des Moines Municipal School District No.22; Federal-State Joint Board on Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 23926, 23927-23928, para. 4 (WCB 2003) (concluding that USAC made the correct decision to reclassify a component requested in the Priority One telecommunications service category to the Priority Two internal connections category when that component was listed in the Eligible Services List as Priority Two internal connections).

<sup>33</sup> See, e.g., *Requests for Waiver of Decisions of the Universal Service Administrator by Ada School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 3834, 3836, para. 8 (WCB 2016) (denying requests for waiver of the Commission's invoice extension rule for petitioners that failed to demonstrate extraordinary circumstances justifying a waiver); see also *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8966, para. 240 (2014) (establishing that it is generally not in the public interest to waive the Commission's invoicing rules absent extraordinary circumstances); 47 CFR § 54.514.

Ravenna School District, OH, Application No. 984345, Request for Waiver, CC Docket No. 02-6 (filed Nov. 30, 2016)

Seven Hills Charter Public School, MA, Application No. 1036770, Request for Waiver, CC Docket No. 02-6 (filed Nov. 7, 2016)

St. Rose School, OH, Application No. 1036310, Request for Waiver, CC Docket No. 02-6 (filed Nov. 15, 2016)

Thousand Islands Central School, NY, Application No. 1003530, Request for Waiver, CC Docket No. 02-6 (filed Nov. 28, 2016)

Village Leadership Academy, IL, Application No. 1022581 (FRN 2775243), Request for Waiver, CC Docket No. 02-6 (filed Nov. 29, 2016)

Village Leadership Academy, IL, Application No. 1022581 (FRN 2775250), Request for Waiver, CC Docket No. 02-6 (filed Nov. 29, 2016)

*Late-Filed FCC Form 471 Applications*<sup>34</sup>

Brady Public Schools, NE, Application No. 161062149, Request for Waiver, CC Docket 02-6 (Nov. 18, 2016)

Chaminade High School, NY, Application No. 161061839, Request for Waiver, CC Docket 02-6 (Nov. 17, 2016)

Duluth Public Library, MN, Application No. 161010125, Request for Waiver, WT Docket No. 13-59 (filed July 29, 2016)

Hawley Public Library, PA, Application No. 161008927, Request for Waiver, CC Docket 02-6 (filed Nov. 16, 2016)

St. Michael School, OH, Application No. 161061994, Request for Waiver, CC Docket 02-6 (filed Oct. 21, 2016)

Sterling Community School, CT, Application No. 161061814, Request for Waiver, CC Docket 02-6 (filed Oct. 18, 2016)

*Ministerial and/or Clerical Errors – FCC Form 471*<sup>35</sup>

Whiteside School District 115, IL, Application No. 1027621, Request for Waiver, CC Docket 02-6 (filed Oct. 13, 2016, supplemented Dec. 6, 2016)

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<sup>34</sup> See, e.g., *Academy of Math and Science Order*, 25 FCC Rcd at 9259, para. 8 (denying requests for waiver of the FCC Form 471 filing window deadline where petitioners failed to present special circumstances justifying waiver of our rules).

<sup>35</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Assabet Valley Regional Vocational District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1924, 1925, para. 1 (WCB 2012) (finding petitioners had not demonstrated good cause to justify waivers permitting changes to the applicants' E-rate applications).

*Unjustified Service Implementation Delay*<sup>36</sup>

El Monte Union High School District, CA, Application No. 819756, Request for Waiver, CC Docket No. 02-6 (filed Oct. 31, 2016)

Shiprock Alternative High School, NM, Application Nos. 857469, 857657, Request for Review, CC Docket No. 02-6 (filed June 8, 2015)

Ukiah Unified School District, CA, Application No. 1008909, Request for Waiver, CC Docket No. 02-6 (filed Nov. 14, 2016)

*Untimely Filed Requests for Review*<sup>37</sup>

Calvert Catholic School, OH, Application Nos. 161058294, 161058288, Request for Waiver, CC Docket No. 02-6 (filed Nov. 15, 2016)

Charter Fiberlink – Illinois, LLC (East St. Louis School District 189), IL, Application No. 974199 (FRN 2694960), Request for Waiver, CC Docket No. 02-6 (filed Dec. 9, 2016)

Cristo Rey Jesuit High School – Chicago, IL, Application No. 161057793, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Cristo Rey Jesuit High School – Chicago, IL, Application No. 161058333 (FRNs 1699135804, 1699135806), Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Cristo Rey Jesuit High School – Chicago, IL, Application No. 161058333 (FRN 1699135805), Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Edenton-Chowan Public Schools, NC, Application No. 953922, Request for Waiver, CC Docket No. 02-6 (filed Dec. 8, 2016)

Grace Christian Academy, WI, Application No. 161024322, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Higbee R-III School District, MO, Application No. 161057826, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Holmen School District, WI, Application No. 161054211, Request for Waiver, CC Docket 02-6 (filed Nov. 16, 2016)

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<sup>36</sup> See, e.g., *Accelerated Charter Order*, 29 FCC Rcd at 13653, para. 3 (denying late-filed extensions of the deadline for service implementation when applicants failed to demonstrate they were unable to complete implementation on time for reasons beyond the service providers' control and failed to make significant efforts to secure the necessary extensions in a timely manner).

<sup>37</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134 et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684 (WCB 2010); *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Bound Brook School District et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 5823 (WCB 2014) (denying appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days, as required by the Commission's rules, and did not show special circumstances necessary for the Commission to waive the deadline).

Maranatha Academy, KS, Application No. 161058176, Request for Waiver, CC Docket 02-6 (filed Sept. 6, 2016)

McKinney Christian Academy, TX, Application No. 161058334, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Meridian Community Unit School District 15, IL, Application No. 1034219, Request for Review, CC Docket No. 02-6 (filed Dec. 6, 2016)

Potters House Christian Academy, FL, Application No. 161058326, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Pribilof School District, AK, Application No. 161061517, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Solid Rock Community School, FL, Application No. 161058336, Request for Waiver, CC Docket 02-6 (filed Nov. 18, 2016)

Statesville Christian School, Inc. NC, Application No. 161058324, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

The Cambridge School, CA, Application No. 161057833, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Valley Christian School (Youngstown), OH, Application No. 161058332, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Waterside School, CT, Application No. 1026489, Request for Review, CC Docket No. 02-6 (filed Mar. 20, 2016)

Whitebead School District C 16, OK, Application No. 1010186, Request for Review, CC Docket No. 02-6 (filed May 5, 2016)

**Rural Health Care (RHC)**  
**WC Docket No. 02-60**

**Dismissed as Moot**<sup>38</sup>

Ilanka Community Health Center, HCP No. 11932, Petition for Reconsideration and Waiver, WC Docket No. 02-60 (filed Nov. 30, 2015)

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<sup>38</sup> See, e.g., *Al Noor High School Order*, 27 FCC Rcd at 8224, para. 2 (dismissing appeals as moot where USAC approved the underlying funding request).



Denied

*Ineligible Entity*<sup>39</sup>

Tuolumne MeWuk Indian Health Center, Request for Waiver, HCP No. 17521, WC Docket No. 02-60 (filed Aug. 2, 2016)

For additional information concerning this Public Notice, please contact James Bachtell in the Telecommunications Access Policy Division, Wireline Competition Bureau, at [james.bachtell@fcc.gov](mailto:james.bachtell@fcc.gov) or at (202) 418-7400.

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<sup>39</sup> To be eligible for support under the Rural Health Care (RHC) Program, a health care provider (HCP) must meet one of the qualification criteria set forth in the Commissions' rules and be located in a "rural area." See 47 CFR § 54.600. A "rural area" is defined as an area that is entirely outside of a Core Based Statistical Area (CBSA); is within a CBSA that does not have an urban area with a population of 25,000 or greater; or is in a CBSA that contains an urban area with a population of 25,000 or greater, but is within a specific census tract that itself does not contain any part of a place or urban area with a population of greater than 25,000. See 47 CFR § 54.600(b). In the instant matter, Tuolumne MeWuk Indian Health Center (TMIHC), located in Tuolumne County, seeks a waiver of section 54.600(b) of the Commission's rules. TMIHC states that Tuolumne County has been re-classified as "non-rural" by the 2010 Census and, consequently, TMIHC is no longer eligible for RHC program support. TMIHC argues that Tuolumne County should continue to be classified as "rural" for purposes of RHC eligibility because (1) TMIHC will not be able to afford its current levels of broadband without support, resulting in reduced health care access for residents of Tuolumne County; and (2) the population of Tuolumne County is now less than it was in 2000 when the entire area was classified as rural. As acknowledged in TMIHC's petition, the 2010 Census enlarged and renamed the CBSA in which Tuolumne County is located. The CBSA is now considered to be a large CBSA with a total population of over 25,000. See 2010 Census, [http://www2.census.gov/geo/maps/dc10map/UAUC\\_RefMap/uc/uc83073\\_sonora--jamestown--phoenix\\_lake\\_ca/DC10UC83073.pdf](http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/uc/uc83073_sonora--jamestown--phoenix_lake_ca/DC10UC83073.pdf) (last viewed Oct. 18, 2016). Because TMIHC is not located in a "rural area" as defined in the Commission's rules, it is not eligible for RHC program support. Further, the underlying record in this instance does not reveal the existence of special circumstances warranting a waiver of RHC program rules. See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (stating that 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). We therefore deny TMIHC's request for waiver.