

Request For Review

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC20554

Re: Name: **Jewish Institute of Queens**
Funding Year: **2015**
Applications: **Form 1029596**
Admin Decision: **04/01/2016**

May 30, 2016

Dear Sirs.

This is a letter for a request of a REVIEW regarding the above captioned USAC Notification regarding the captioned Form 471 and its FN's.

FRN 2797587- APPEAL DENIED - "You are using the cost of teacher's salaries at \$90,000 per teacher per year to compare to the cost of the distance learning circuits. Teacher salaries cannot be used as a comparison to E-rate supported service."

The decision further states FCC rules state " must select the most cost-effective service or equipment offering, with price being the primary factor, which will result in being the most cost-effective **means of meeting educational needs.....**

We submit that the underlying premise that one cannot consider Teacher's salaries in terms of cost effectiveness, is incorrect.

We submit that there is a special circumstance in that this is a **self-funded** non-public school. As such it is responsible for the support of its budget without the aid of public funding. Staffing represents over 80% of our school budget needed to support our **educational needs** and technological goals. Securing tri-lingual teachers is both difficult and costly, far beyond the costs of Distance Learning services. Utilizing this service is in fact the **most cost effective** solution to provide educational curriculums to tri-lingual students. The requests were not beyond the scope

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of reasonable needs. In the absence of funding we have attempted to utilize other similar technologies using SKYPE and other similar services with little success. Teachers and students were unable to interact in a reasonable and meaningful manner.

We further submit, that Video conferencing distance learning is an eligible service as per program rules and that the cost of the service is well **within the market parameters** of similar services that provide the same quality, reliability and efficiency. Other providers such as Tandberg Cisco charge significantly more for this service. We also submit that there is an **additional extenuating circumstance** in that this school services immigrant children whose primary familiar language is not English. As such they require certified teachers that are bi and tri lingual. The availability of such teachers fluent in various Russian dialects is very limited. Therefore, the service clearly supports our educational program goals and uses a well-tested technology that is the most cost efficient solution to our school. The basis upon which this program was mandated clearly indicates that one of its purposes is to have schools utilize the latest technology to support their educational programs. The FCC has continued to make allowances for smaller schools to receive the same type of services that larger schools enjoy. The E-rate Modernization program clearly reflects this. The school can access the Chabad Lubavitch Broadcasting Network a leading proponent of educational services to the Russian population. This organization produces and Broadcasts hundreds of course work offerings provided by master teachers in all subject areas from pre-k through high school in multiple languages including Russian. The cost of an average licensed tri- lingual teacher in the New York Metropolitan area with salary and benefits exceeds \$90,000. Just **TWO** offerings out of mandated curriculum is in fact the “most cost effective means of meeting educational needs”.

1. The FCC has commented in its new order that:

Federal Communications Commission DA 14-1556
Before the
Federal Communications Commission
Washington, D.C. 20554
In the Matter of
Schools and Libraries Universal Service
Support Mechanism
A National Broadband Plan for Our Future
Modernizing the E-rate Program for
Schools and Libraries

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CC Docket No. 02-6

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GN Docket No. 09-51
WC Docket No. 13-184

ORDER

Adopted: October 28, 2014 Released: October 28, 2014

b. Telecommunications and Internet Access Used for Distance Learning

13. We removed the language pertaining to distance learning and video conferencing from the draft ESL because we view this as language that provides an example of an eligible educational purpose – i.e., for accessing distance learning, rather than identifying an eligible service itself. **Distance learning is important for education**, especially in remote areas where there may be a **lack of qualified teachers and educational resources**.

In general it is the small schools that have limited educational resources that benefit the most from this type of service. Using cost per student ratios is therefore counter intuitive and contradicts the FCC’s rationalization for funding this type of service.

As for 47 C.F.R. sec 54.511(b). The vendor did not charge the applicant “ a price above the lowest corresponding price.”

In terms of YALTA para. 54. The cost of these services are well within and in fact below similar offerings by other vendors in the applicants marketplace such as Tandberg & Cisco.

In addition failure to fund this FRN will result in an extreme hardship for the school.

And in

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
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Bishop Perry Middle School)	File Nos. SLD-487170, <i>et al.</i>
New Orleans, LA, <i>et al.</i>)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: May 2, 2006

Released: May 19, 2006

By the Commission: Commissioner Copps issuing a separate statement.

While the Bureau has enforced existing filing deadlines for the E-rate program,¹ we find that good cause exists to waive the procedural deadline in these cases. We find that given that the violation at issue is procedural, not **substantive**, we find that a complete rejection of each of these applications is not warranted, especially given that the error in these cases is not the fault of the applicants. **Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds or a failure to adhere to core program requirements revealed by the record in these matters. Furthermore, we find that denial of funding in these cases would inflict undue hardship on the applicants. In these cases, the applicants have demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.**² We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

We therefore submit that this FRN should be funded as submitted. Failure to approve the FRN's will generate considerable hardship on the school.

Sincerely,



Richard I Bernstein
Consultant 16062128
LOA Attached

¹ See, e.g., *North Dakota Order*, 17 FCC Rcd at 7389, para. 13; *Wilmington Public Schools Order*, 17 FCC Rcd at 12071, paras. 7-8; *South Barber Order*, 16 FCC Rcd at 18437-38, para. 7.

² See 47 U.S.C. § 254(h).