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Before the  
Federal Communications Commission  
Washington, DC 20554

DISPATCHED

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Currituck County Schools	)	File No. SLD-111040
Currituck, North Carolina	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45 ✓
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.	)	

**ORDER**

**Adopted: March 22, 2000**

**Released: March 23, 2000**

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration an appeal filed by Currituck County Schools, Currituck, North Carolina (Currituck) on July 2, 1999, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator).<sup>1</sup> Currituck seeks review of the SLD's denial of its application for discounted services under the schools and libraries universal service support mechanism. For the reasons set forth below, we deny the Letter of Appeal and affirm the SLD's denial of Currituck's application.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>2</sup> The Commission's rules provide that, with one limited exception for existing, binding contracts, an eligible school, library or consortium must seek competitive bids for all services eligible for support.<sup>3</sup> An applicant fulfills the competitive bidding requirement by filing with the Administrator a completed FCC Form 470, setting forth the applicant's technological needs and

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<sup>1</sup> Letter from Jesse Stallings, Currituck County Schools, to Federal Communications Commission, filed July 2, 1999 (Letter of Appeal).

<sup>2</sup> 47 C.F.R. §§ 54.502, 54.503.

<sup>3</sup> 47 C.F.R. §§ 54.504, 54.511(c).

the services for which it seeks discounts.<sup>4</sup> The SLD posts an applicant's FCC Form 470 specifying requested services on its web page for 28 days.<sup>5</sup> The applicant must wait until the close of the 28-day period<sup>6</sup> and "carefully consider all bids submitted"<sup>7</sup> prior to signing a contract for eligible services. Once the school or library has contracted for eligible services, it is required to file an FCC Form 471 application to apprise the Administrator of the services that have been ordered, the service provider with whom the school has signed the contract, and an estimate of the funds necessary to cover the discounts to be given for eligible services.<sup>8</sup> Using information provided by the applicant in its FCC Form 471, the Administrator determines the amount of discounts for which the school is eligible.

3. The Commission has repeatedly emphasized the importance of the competitive bidding requirement, stating that it helps to ensure that schools and libraries will receive the lowest possible pre-discount price.<sup>9</sup> The Commission concluded that competitive bidding is the most efficient means for ensuring both that eligible schools and libraries are informed about the choices available to them and that prices are not unnecessarily high, thereby minimizing the amount of support needed.<sup>10</sup> In adopting this requirement, the Commission established a minimally burdensome means for schools and libraries to inform the public of services they seek and for providers to review and submit bids in response to requests for services.<sup>11</sup> In order to permit all interested parties sufficient time to respond to requests for services posted on the SLD web page, the Commission requires all schools and libraries, and consortia including such entities, to wait the requisite 28-day waiting period prior to signing a contract for discounted services.<sup>12</sup>

4. In processing Currituck's application, the SLD determined that Currituck's contracts for telecommunications services and dedicated services were signed prior to the 28-day waiting period following the date of the posting of its FCC Form 470 on the SLD web page. Accordingly, SLD denied Currituck's request for discounts on the ground that contracts for these services were signed prior to Currituck's allowable contract date. In response, Currituck filed

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<sup>4</sup> 47 C.F.R. §§ 54.504(b)(1), (b)(3).

<sup>5</sup> 47 C.F.R. § 54.504(c).

<sup>6</sup> 47 C.F.R. § 54.504(b)(4).

<sup>7</sup> 47 C.F.R. § 54.511(a).

<sup>8</sup> 47 C.F.R. § 54.504(c).

<sup>9</sup> See *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098, para. 9 (1997).

<sup>10</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9029, para. 480 (1997), as corrected by *Federal-State Joint Board on Universal Service*, Errata, CC Docket No. 96-45, FCC 97-157 (rel. June 4, 1997), *affirmed in part, reversed in part and remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC and USA*, 183 F.3d 393 (5th Cir. 1999) (*Universal Service Order*).

<sup>11</sup> *Id.* at 9078, para. 575.

<sup>12</sup> *Universal Service Order*, 12 FCC Rcd at 9080, para. 579.

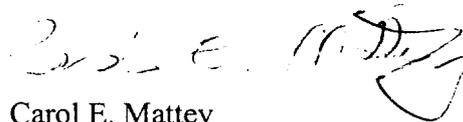
the instant Letter of Appeal with the Commission, requesting review of the SLD's decision to deny Currituck's request for discounts. In its Letter of Appeal, Currituck acknowledges that the contracts with its service provider were signed on the 27th day after the posting of its FCC Form 470 on the SLD website, but asserts that the requested services did not start and billing did not occur until months after that date.

5. We have reviewed Currituck's Form 471 and other related materials. The record reveals that SLD posted Currituck's Form 470 on the SLD Web Site on March 13, 1998. SLD sent a letter to Currituck acknowledging receipt and posting of Currituck's Form 470 on the web site. The letter also stated that "FCC rules require that request for new services be posted on the SLD Web Site for a period of 28 days before you enter into and sign any contracts with service providers."<sup>13</sup> The letter further stated that Currituck's application was posted on March 13, 1998 and, accordingly, a contract or contracts may be signed on or after April 10, 1998. Currituck's Form 471 lists contract dates of April 9, 1998 for its requested services. In addition, in its appeal letter, Currituck states that its "request with its provider was posted on the 27th day," thereby confirming that Currituck did not wait the 28 days required by the Commission's rules before signing its contracts listed in its Form 471. For that reason, we must affirm SLD's denial of Currituck's application for funding for non-compliance with the 28-day waiting period requirement.

6. To the extent that Currituck is requesting that we waive the 28-day posting rule because no services were provided or payments made prior to the allowable contract date of April 10, 1998, we decline to do so. The 28-day posting rule is intended to provide a fair and uniform period applicable to all schools and libraries seeking discounts for eligible services to permit competitive bidding by all potential bidders for those services. Currituck has not presented any arguments or unique circumstances that would warrant granting a waiver of this rule.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Letter of Appeal filed on July 2, 1999, by Currituck County Schools, Currituck, North Carolina, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

  
Carol E. Matthey  
Deputy Chief, Common Carrier Bureau

<sup>13</sup> Letter from Schools and Libraries Division to Timothy A. Ladd, Sr., Currituck County School District, dated March 16, 1998.