

ROOM 2001

Before the  
Federal Communications Commission  
Washington, DC 20554

2001 JUN 29 5:26

In the Matter of )  
)  
Request for Review of the )  
Decision of the )  
Universal Service Administrator by )  
)  
Evesham Township Public Schools )  
Marlton, New Jersey )  
)  
Federal-State Joint Board on )  
Universal Service )  
)  
Changes to the Board of Directors of )  
the National Exchange Carriers Association, Inc. )

File No. SLD-149003

CC Docket No. 96-45

CC Docket No. 97-21 ✓

**ORDER**

**Adopted: June 26, 2001**

**Released: June 27, 2001**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by Evesham Township Public Schools (Evesham), Marlton, New Jersey, 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> Evesham seeks review of SLD's denial of requests for discounted services under the schools and libraries universal service support mechanism and requests a waiver of the Commission's competitive bidding requirements.<sup>2</sup> For the reasons set forth below, we deny the Request for Review and affirm the SLD's denial of Evesham's requests.

2. For an applicant to receive support for discounted services, the Commission's rules provide that, with limited exceptions for existing, binding contracts, an applicant must comply with the Commission's competitive bidding requirements, including the posting of a

<sup>1</sup> Letter from Frank Summers, Evesham Township Public Schools, to Federal Communications Commission, filed August 31, 2000 (Request for Review).

<sup>2</sup> Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

request for services (FCC Form 470) on SLD's website for 28 days.<sup>3</sup> Evesham submitted its Funding Year 2 FCC Form 470 to SLD on January 29, 1999, creating an allowable contract date of February 26, 1999.<sup>4</sup> Because Evesham checked Item 10, in Block 3 of its FCC Form 470, indicating that it sought support only for services provided pursuant to existing, binding contracts, SLD did not post Evesham's request for services to SLD's website.<sup>5</sup>

3. In its FCC Form 471, Evesham indicated that the contracts for internet access and telecommunications services for which it sought discounts, Funding Request Numbers (FRNs) 275729 and 275759, were awarded on January 1, 1999.<sup>6</sup> Because that date is earlier than the allowable contract date of February 26, 1999, as determined from the date of Evesham's filing of its FCC Form 470, SLD determined that Evesham had violated our competitive bidding rules.<sup>7</sup> On December 22, 1999, Evesham appealed to SLD the denial of several FRNs.<sup>8</sup> On August 18, 2000, SLD granted Evesham's appeal for FRN 275760, but denied in full FRNs 275729 and 275759.<sup>9</sup>

4. In its Request for Review to the Commission, Evesham concedes that the information it submitted to SLD in its FCC Form 471 was incorrect, and asks that we remand to SLD based on the revised information it has submitted to us. Evesham now argues for the first time that its contract for Internet access with Garden State Cable, FRN 275729, was in fact dated July 10, 1997, and therefore was a pre-existing contract under our rules that is exempt from the competitive bidding process. However, we find that because Evesham's original FCC Form 471 submitted to SLD clearly indicated an award date of January 1, 1999, and because Evesham provided no other information in its original application suggesting the existence of a contract exempt from competitive bidding, SLD correctly denied Evesham's requests for support.

5. In light of the thousands of applications that SLD must review and process each year, we find that it is administratively necessary to require an applicant to be responsible for providing complete and accurate information in its FCC Form 471, upon which its ultimate funding is dependent. The applicant must act to ensure that its request for discounts satisfies the

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<sup>3</sup> 47 C.F.R. §§ 54.504, 54.511(c)(1) (exempting from competitive bidding requirements (1) contracts signed on or before July 10, 1997, for the life of the contract; and (2) in Funding Year 1 only, contracts signed after July 10, 1997, and before the opening of the Administrator's website on January 30, 1998); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 15 FCC Rcd 6732, 6736, para. 10 (Com. Car. Bur. 1999) (permitting support for contracts signed in a prior funding year pursuant to the Commission's competitive bidding requirements).

<sup>4</sup> See FCC Form 470, Evesham, filed January 29, 1999.

<sup>5</sup> See *id.*

<sup>6</sup> FCC Form 471, Evesham, filed April 6, 1999.

<sup>7</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Frank Summers, Evesham Township Public Schools, dated August 18, 2000 (Administrator's Decision on Appeal).

<sup>8</sup> Letter from Frank Summers, Evesham Township Public Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed January 3, 2000 (SLD Appeal).

<sup>9</sup> Request for Review. Because Evesham addresses only FRN 275759 in the instant Request for Review, we do not address FRN 275729 for telecommunications services.

Commission's policies as well as program rules.<sup>10</sup> Under the circumstances in this case, we find no basis for deviating from the Commission's policy of placing on the applicant the responsibility for complying with program rules and procedures.

6. 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 August 31, 2000, Request for Review filed by Evesham Township Public Schools, Marlton, New Jersey, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in cursive script that reads "Mark G. Seifert for".

Mark G. Seifert  
Deputy Chief, Accounting Policy Division  
Common Carrier Bureau

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<sup>10</sup> 47 C.F.R. § 54.504 *et seq.*