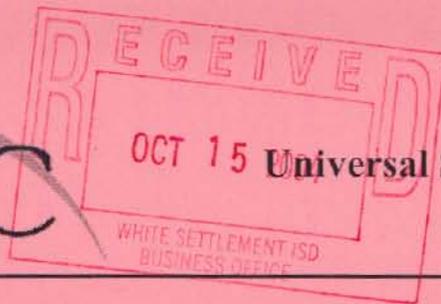


USAC



*Appeal
AL*

Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal
Funding Year 2004-2005

October 12, 2004

Julie Spears
White Settlement Independent School District
401 South Cherry Lane
White Settlement, TX 76108

Re: Applicant Name: White Settlement Independent School District
 Billed Entity Number: 140890
 Form 471 Application Number: 423543
 Funding Request Number(s): 1169376
 Your Correspondence Dated: July 14, 2004

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2004 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number: 1169376
Decision on Appeal: **Denied in full**
Explanation:

- On appeal, you seek reversal of the SLD's decision to deny the funding request on the basis that the category of service was changed from Telecommunications Service to Internet Access in accordance with program rules. The Form 470 cited did not include service of this type; therefore it does not meet the 28 day competitive bidding requirement. In support of your request, you state that the category of service was incorrectly changed by the Program Integrity Assurance (PIA) reviewer. You state that the Form 470 cited is a request for a wireless WAN which is qualified as either a Telecommunications Service or Internet Access. You request the SLD to change the category of service back to Telecommunications Service, and reinstate the requested funding. If the SLD cannot change the category of service, then you suggest SLD to use last year's Form 470 application number 124670000450555. You state that this Form 470 is for a multi-year contract with the same vendor, and were approved for funding

under Internet Access. Based on either of these two scenarios, you request the SLD to reinstate the requested funding.

- After thorough review of the appeal letter and all relevant documentation, it has been determined that the category of service for this request is for Internet Access. According to information originally submitted as Item 21 attachment, this request is for "Internet access services," but the cited Form 470 (Application number 106390000480924) was only posted for Telecommunications Service. According to program rules, services ordered on the Form 471 must have been posted on an establishing Form 470 in order to comply with the competitive bidding requirement. You were contacted by a PIA initial reviewer via e-mail on April 1, 2004, and were informed that the cited Form 470 did not post for Internet Access as supported on your Item 21 attachment, which is a violation of the competitive bidding requirements of this support mechanism. You were asked to provide the establishing Form 470 for the services requested. You replied in an e-mail dated April 6 and April 8, 2004, that the original Form 470 for the services requested was Form 470 application number 106390000480924. Since Form 470 Application number 106390000480924 did not include Internet Access, White Settlement Independent School District is not in compliance with the program regulations that in order to qualify for discount, the services should have been posted on the SLD web site for 28-days.
- On appeal, you provide an alternative Form 470 Application number to reverse the denial if the SLD did not change the category of service to Telecommunications Service. However, program rules do not permit SLD to accept new information on appeal except where an applicant was not given an opportunity to provide information during the initial review, or when an error was made by SLD. During the PIA review, you confirmed that the cited Form 470 was the establishing Form 470. You have failed to provide evidence that SLD has erred in its decision. It is ultimately the applicant's responsibility to ensure their application be in compliance with the FCC rules. Consequently, the appeal is denied.
- Your Form 470, 106390000480924, did not post for the Internet Access category of service on the SLD website. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the website for 28 days, and that applicants carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting a Form 471. See 47 C.F.R. §§ 54.504; 54.511(a), (c). These competitive bidding requirements help ensure that applicants receive the lowest pre-discount price from vendors. See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098 ¶ 9 (1997). The only exceptions to the posting requirement are for: (1) contracts signed on or before July 10, 1997 for the life of the contract; (2) contracts signed between July 10, 1997 and before January 30, 1998 (the date on which the website became operational) for services provided through June 30, 1999. See 47 C.F.R. § 54.511(c); *Fifth Reconsideration Order*, 13 FCC Rcd at 14916 *Fifth Reconsideration Order*, 13 FCC Rcd at 14916 ¶ 2, and 14920 ¶ 8 (extending Year 1998 funding period through June 30, 1999). Consequently, SLD denies your appeal because your application did not comply with the

competitive bidding requirement that your Form 470 be posted to the website for 28 days for this category of service.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the Federal Communications Commission (FCC). For appeals that have been denied in full, partially approved, dismissed, or cancelled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company