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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matter of)
)
Request for Review of the Decision of the) CC Docket No. 02-6
Universal Service Administrator by Goose)
Creek Consolidated Independent School)
District)
)
)
)

**REQUEST FOR REVIEW OF THE DECISION OF THE
UNIVERSAL SERVICE ADMINISTRATOR BY THE
GOOSE CREEK CONSOLIDATED INDEPENDENT SCHOOL DISTRICT**

INTRODUCTION

Pursuant to section 54.719(c) of the rules of the Federal Communications Commission ("FCC" or "Commission"),¹ Goose Creek Consolidated Independent School District ("GCCISD") hereby seeks the Commission's review of two decisions of the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC" or "Administrator").

Administrator's Decision on Appeal – Funding Year 2004-2005 as pertains to the following:

<u>Form 471 #</u>	<u>FRN #</u>
410801	1126825
411530	1129147, 1137326
414988	1140590
415200	1141146
415431	1141706

Reason for Administrator's Decision for Denial: Price was not the primary factor in the vendor selection process.

¹ 47 C.F.R. § 54.719(c).

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List A B C D E

GCCISD is appealing the Administrator's Decision for Denial on the basis that SLD incorrectly applied the FCC rule of price as the primary factor in selection of a service provider for the above listed FRN. Previous GCCISD appeal to USAC is attached as Attachment 1.

BASIS FOR APPEAL

In RFP #121103-2, GCCISD indicated that there were eight factors against which responses would be measured. (Attachment 2) GCCISD therefore split the cost of the service into two separate lines: 1) Purchase price and 2) The total long-term cost to GCCISD to acquire the vendor's goods and services. Together, these price components totaled 30 of 100 points; therefore price was the most heavily weighted factor.

Item 1) above represented the cost of the equipment itself. Item 2) above represented the eligible services (labor) costs; installation, configuration, project management, etc. Only eligible labor costs would have been included in this category. GCCISD viewed this as a potential multi-year contract because of the magnitude of the work and the technical interdependencies in all the FRN noted.

This distinction is important when dealing with multi-year contracts, other wise any applicant risks making a bad business decision if a vendor provides an artificially low equipment acquisition cost and inflated costs for installation services (labor) in the first and subsequent years of the contract. GCCISD does not believe that price as the primary factor was intended by the Commission to be narrowly applied to only the first year or only to equipment acquisition cost.

Please note that the phrase, "total long-term cost" included only "hard" cost – actual price to purchase. It did not include costs that would have been incurred by GCCISD for use and support of the equipment purchased. GCCISD remains aware that the FCC has upheld funding denials when "soft" costs, relative to Total Cost of Ownership (TCO), are factored into the cost evaluation. Item 2) above was not a TCO evaluation in that it did not include any ineligible equipment or services. GCCISD would only have evaluated the actual hard costs of the eligible equipment and services.

One of the goals of the E-rate Program, as articulated on numerous occasions by the Commission, is that acquisitions by E-rate Program participants be cost effective. To narrowly define "price" as only inclusive of first year equipment acquisition costs would permit both applicants and service providers to "game" the system with inflated costs in the services component or any cost occurring in subsequent years of a contract thereby making the purchase as a whole cost ineffective.

In the case of this procurement action, that could have been the case. Only one prospective service provider supplied installation (labor) pricing. The other vendor provided only a representative sample of equipment pricing – an unqualified response in

the view of GCCISD. This was precisely the reason that GCCISD did not actually award points to each respondent. There was no basis to judge installation services (labor) costs of vendor number 2 since they were not provided by the vendor.

GCCIDS should not be held responsible for a prospective service provider not meeting the terms of the RFP, which GCCISD believe is occurring through this denial.

CONCLUSION

These rules are in place to ensure a fair and open selection of a cost effective service provider. GCCISD believes it has fully complied with all local, state, and program rules in this regard. The process was fair and open and a cost effective set of services were selected. GCCISD respectfully requests the Commission to overturn the Administrator's decision and direct the Administrator to fund the applications cited above.

Respectfully Submitted,

Goose Creek Consolidated Independent School District



Ms. Frankie Jackson
Director, TMS
607 W. Baker
Baytown, TX 77521
Telephone: 281-420-4934
Fax: 281-420-4637
Email: FJJackson@gccisd.net



Mr. Pete Cote
Executive Director of Business Services
E-Rate Authorized Person of Goose Creek
4544 Interstate 10 East
Baytown, TX 77522
Telephone: 281-420-4819, email: RPCote@gccisd.net

November 18, 2005

Ms. Frankie Jackson
Goose Creek Consolidated Independent School
District
607 West Baker
Baytown, TX 77521

Attachment 1

Billed Entity Number: 141322
Form 471 Application Number: 410391
Form 486 Application Number:



Administrator's Decision on Appeal – Funding Year 2004-2005

September 21, 2005

Ms. Frankie Jackson
Goose Creek Consolidated Independent School District
607 West Baker
Baytown, TX 77521

Re: Applicant Name: GOOSE CREEK CONS IND SCH DIST
Billed Entity Number: 141322
Form 471 Application Number: 410391
Funding Request Number(s): 1125967
Your Correspondence Dated: June 20, 2005

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(s): 1125967
Decision on Appeal: **Denied**
Explanation:

- On appeal you contend that SLD made an error in reaching the conclusion that Goose Creek CISD did not use price as the primary factor in the vendor selection process. You state that you were never asked about evaluation criteria, the application of the criteria, nor the rationale for vendor selection. You explain there were two responses to the RFP, however, one vendor was unqualified and non-responsive by failing to complete the required forms in the RFP. You provide information about the application of the evaluation criteria for each vendor to reduce follow-up questions. You assert that because there was only one qualified respondent, no detailed evaluation could be conducted, nor is such an evaluation required by E-rate rules if there is only one qualified vendor. In closing, you request the SLD to grant this appeal and provide an FCDL as expeditiously as possible.

- After thorough review of the appeal, the relevant facts, and documentation, it was determined that SLD's decision to deny the application was correct. During the Selective Review process, you provided a Request for Proposal that contained an Award Criteria section. Within this section, eight factors were listed, of which purchase price, quality of the vendor's goods or services, the extent to which the goods or services meet the district's needs, and the total long-term cost to GCCISD to acquire the vendor's goods or services were all equally weighted at 15 out of 100. Program rules do allow for factors such as long-term costs, vendor reputation and future growth, however, the weight given to the price must be the dominant factor in the vendor selection process when multiple bids are received for the requested service. Program rules also 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. You have failed to provide evidence that SLD has erred in its decision on appeal.
- SLD's review of your Form 471 application determined that price was not the primary factor when you selected your service provider. Since you did not demonstrate in your appeal that price was the primary factor when you selected your service provider, SLD denies your appeal.
- FCC rules require that applicants select the most cost-effective services offering with price being the primary factor. 47 C.F.R. § 54.511(a). Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. 47 C.F.R. § 54.511(a); *Request for Review by Ysleta Independent School District, et. al., 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, 97-21, Order, FCC 03-313 ¶ 50 (rel. Dec. 8, 2003). Ineligible products and services may not be factored into the cost-effective evaluation. *See Common Carrier Bureau Reiterates Services Eligible for Discounts to Schools and Libraries*, CC Docket No. 96-45, *Public Notice*, 13 FCC Rcd. 16,570, DA 98-1110 (rel. Jun. 11, 1998).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, 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

Ms. Frankie Jackson
Goose Creek Consolidated Independent School
District
607 West Baker
Baytown, TX 77521

Billed Entity Number: 141322
Form 471 Application Number: 415200
Form 486 Application Number:



Administrator's Decision on Appeal – Funding Year 2004-2005

September 21, 2005

Ms. Frankie Jackson
Goose Creek Consolidated Independent School District
607 West Baker
Baytown, TX 77521

Re: Applicant Name: GOOSE CREEK CONS IND SCH DIST
Billed Entity Number: 141322
Form 471 Application Number: 415200
Funding Request Number(s): 1141146
Your Correspondence Dated: June 20, 2005

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(s): 1141146
Decision on Appeal: **Denied**
Explanation:

- On appeal you contend that SLD made an error in reaching the conclusion that Goose Creek CISD did not use price as the primary factor in the vendor selection process. You state that you were never asked about evaluation criteria, the application of the criteria, nor the rationale for vendor selection. You also state that IBM was the sole respondent for Distance Learning and that although Goose Creek CISD would prefer multiple qualified responses to an RFP, it has little control over whether a vendor chooses to respond. You provide information about the application of the evaluation criteria to reduce follow-up questions. In closing, you request the SLD to grant this appeal and provide an FCDL as expeditiously as possible.

- After thorough review of the appeal, the relevant facts, and documentation, it was determined that SLD's decision to deny the application was correct. During the Selective Review process, you provided a Request for Proposal that contained an Award Criteria section. Within this section, eight factors were listed, of which purchase price, quality of the vendor's goods or services, the extent to which the goods or services meet the district's needs, and the total long-term cost to GCCISD to acquire the vendor's goods or services were all equally weighted at 15 out of 100. Program rules do allow for factors such as long-term costs, vendor reputation and future growth, however, the weight given to the price must be the dominant factor in the vendor selection process when multiple bids are received for the requested service. Program rules also 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. You have failed to provide evidence that SLD has erred in its decision on appeal.
- SLD's review of your Form 471 application determined that price was not the primary factor when you selected your service provider. Since you did not demonstrate in your appeal that price was the primary factor when you selected your service provider, SLD denies your appeal.
- FCC rules require that applicants select the most cost-effective services offering with price being the primary factor. 47 C.F.R. § 54.511(a). Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. 47 C.F.R. § 54.511(a); *Request for Review by Ysleta Independent School District, et. al., 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, 97-21, Order, FCC 03-313 ¶ 50 (rel. Dec. 8, 2003). Ineligible products and services may not be factored into the cost-effective evaluation. *See Common Carrier Bureau Reiterates Services Eligible for Discounts to Schools and Libraries*, CC Docket No. 96-45, *Public Notice*, 13 FCC Rcd. 16,570, DA 98-1110 (rel. Jun. 11, 1998).

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

Schools and Libraries Division
 Universal Service Administrative Company

Ms. Frankie Jackson
Goose Creek Consolidated Independent School
District
607 West Baker
Baytown, TX 77521

Billed Entity Number: 141322
Form 471 Application Number: 415431
Form 486 Application Number:



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2004-2005

September 21, 2005

Ms. Frankie Jackson
Goose Creek Consolidated Independent School District
607 West Baker
Baytown, TX 77521

Re: Applicant Name: GOOSE CREEK CONS IND SCH DIST
Billed Entity Number: 141322
Form 471 Application Number: 415431
Funding Request Number(s): 1141706
Your Correspondence Dated: June 20, 2005

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(s): 1141706
Decision on Appeal: **Denied**
Explanation:

- On appeal you contend that SLD made an error in reaching the conclusion that Goose Creek CISD did not use price as the primary factor in the vendor selection process. You state that you were never asked about evaluation criteria, the application of the criteria, nor the rationale for vendor selection. You explain there were three responses to the RFP, however, only one response met the Goose Creek CISD and E-rate requirements. You provide information about the application of the evaluation criteria for each vendor to reduce follow-up questions. You assert there was only one qualified respondent, and that should not be held against an applicant during selective review. In closing, you request the SLD to grant this appeal and provide an FCDL as expeditiously as possible.

- After thorough review of the appeal, the relevant facts, and documentation, it was determined that SLD's decision to deny the application was correct. During the Selective Review process, you provided a Request for Proposal that contained an Award Criteria section. Within this section, eight factors were listed, of which purchase price, quality of the vendor's goods or services, the extent to which the goods or services meet the district's needs, and the total long-term cost to GCCISD to acquire the vendor's goods or services were all equally weighted at 15 out of 100. Program rules do allow for factors such as long-term costs, vendor reputation and future growth, however, the weight given to the price must be the dominant factor in the vendor selection process when multiple bids are received for the requested service. Program rules also 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. You have failed to provide evidence that SLD has erred in its decision on appeal.
- SLD's review of your Form 471 application determined that price was not the primary factor when you selected your service provider. Since you did not demonstrate in your appeal that price was the primary factor when you selected your service provider, SLD denies your appeal.
- FCC rules require that applicants select the most cost-effective services offering with price being the primary factor. 47 C.F.R. § 54.511(a). Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. 47 C.F.R. § 54.511(a); *Request for Review by Ysleta Independent School District, et. al., 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, 97-21, Order, FCC 03-313 ¶ 50 (rel. Dec. 8, 2003). Ineligible products and services may not be factored into the cost-effective evaluation. *See Common Carrier Bureau Reiterates Services Eligible for Discounts to Schools and Libraries*, CC Docket No. 96-45, *Public Notice*, 13 FCC Rcd. 16,570, DA 98-1110 (rel. Jun. 11, 1998).

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

Schools and Libraries Division
 Universal Service Administrative Company

Ms. Frankie Jackson
Goose Creek Consolidated Independent School
District
607 West Baker
Baytown, TX 77521

Billed Entity Number: 141322
Form 471 Application Number: 410801
Form 486 Application Number:



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2004-2005

September 21, 2005

Ms. Frankie Jackson
Goose Creek Consolidated Independent School District
607 West Baker
Baytown, TX 77521

Re: Applicant Name: GOOSE CREEK CONS IND SCH DIST
Billed Entity Number: 141322
Form 471 Application Number: 410801
Funding Request Number(s): 1126825
Your Correspondence Dated: June 20, 2005

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(s): 1126825
Decision on Appeal: **Denied**
Explanation:

- On appeal you contend that SLD made an error in reaching the conclusion that Goose Creek CISD did not use price as the primary factor in the vendor selection process. You state that you were never asked about evaluation criteria, the application of the criteria, nor the rationale for vendor selection. You explain there were two responses to the RFP, however, one vendor was unqualified and non-responsive by failing to complete the required forms in the RFP. You provide information about the application of the evaluation criteria for each vendor to reduce follow-up questions. You assert that because there was only one qualified respondent, no detailed evaluation could be conducted, nor is such an evaluation required by E-rate rules if there is only one qualified vendor. In closing, you request the SLD to grant this appeal and provide an FCDL as expeditiously as possible.

- After thorough review of the appeal, the relevant facts, and documentation, it was determined that SLD's decision to deny the application was correct. During the Selective Review process, you provided a Request for Proposal that contained an Award Criteria section. Within this section, eight factors were listed, of which purchase price, quality of the vendor's goods or services, the extent to which the goods or services meet the district's needs, and the total long-term cost to GCCISD to acquire the vendor's goods or services were all equally weighted at 15 out of 100. Program rules do allow for factors such as long-term costs, vendor reputation and future growth, however, the weight given to the price must be the dominant factor in the vendor selection process when multiple bids are received for the requested service. Program rules also 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. You have failed to provide evidence that SLD has erred in its decision on appeal.
- SLD's review of your Form 471 application determined that price was not the primary factor when you selected your service provider. Since you did not demonstrate in your appeal that price was the primary factor when you selected your service provider, SLD denies your appeal.
- FCC rules require that applicants select the most cost-effective services offering with price being the primary factor. 47 C.F.R. § 54.511(a). Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. 47 C.F.R. § 54.511(a); *Request for Review by Ysleta Independent School District, et. al., 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, 97-21, Order, FCC 03-313 ¶ 50 (rel. Dec. 8, 2003). Ineligible products and services may not be factored into the cost-effective evaluation. *See Common Carrier Bureau Reiterates Services Eligible for Discounts to Schools and Libraries*, CC Docket No. 96-45, *Public Notice*, 13 FCC Rcd. 16,570, DA 98-1110 (rel. Jun. 11, 1998).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, 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

Box 125 – Correspondence Unit, 80 South Jefferson Road, Whippany, New Jersey 07981
Visit us online at: www.st.universalservice.org

Ms. Frankie Jackson
Goose Creek Consolidated Independent School
District
607 West Baker
Baytown, TX 77521

Billed Entity Number: 141322
Form 471 Application Number: 414988
Form 486 Application Number:



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2004-2005

September 21, 2005

Ms. Frankie Jackson
Goose Creek Consolidated Independent School District
607 West Baker
Baytown, TX 77521

Re: Applicant Name: GOOSE CREEK CONS IND SCH DIST
Billed Entity Number: 141322
Form 471 Application Number: 414988
Funding Request Number(s): 1140590
Your Correspondence Dated: June 20, 2005

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(s): 1140590
Decision on Appeal: **Denied**
Explanation:

- On appeal you contend that SLD made an error in reaching the conclusion that Goose Creek CISD did not use price as the primary factor in the vendor selection process. You state that you were never asked about evaluation criteria, the application of the criteria, nor the rationale for vendor selection. You state that IBM was the sole respondent for Distance Learning and that although Goose Creek CISD would prefer multiple qualified responses to an RFP, it has little control over whether a vendor chooses to respond. You provide information about the application of the evaluation criteria to reduce follow-up questions. In closing, you request the SLD to grant this appeal and provide an FCDL as expeditiously as possible.

- After thorough review of the appeal, the relevant facts, and documentation, it was determined that SLD's decision to deny the application was correct. During the Selective Review process, you provided a Request for Proposal that contained an Award Criteria section. Within this section, eight factors were listed, of which purchase price, quality of the vendor's goods or services, the extent to which the goods or services meet the district's needs, and the total long-term cost to GCCISD to acquire the vendor's goods or services were all equally weighted at 15 out of 100. Program rules do allow for factors such as long-term costs, vendor reputation and future growth, however, the weight given to the price must be the dominant factor in the vendor selection process when multiple bids are received for the requested service. Program rules also 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. You have failed to provide evidence that SLD has erred in its decision on appeal.
- SLD's review of your Form 471 application determined that price was not the primary factor when you selected your service provider. Since you did not demonstrate in your appeal that price was the primary factor when you selected your service provider, SLD denies your appeal.
- FCC rules require that applicants select the most cost-effective services offering with price being the primary factor. 47 C.F.R. § 54.511(a). Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. 47 C.F.R. § 54.511(a); *Request for Review by Ysleta Independent School District, et. al., 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, 97-21, Order, FCC 03-313 ¶ 50 (rel. Dec. 8, 2003). Ineligible products and services may not be factored into the cost-effective evaluation. *See Common Carrier Bureau Reiterates Services Eligible for Discounts to Schools and Libraries*, CC Docket No. 96-45, *Public Notice*, 13 FCC Rcd. 16,570, DA 98-1110 (rel. Jun. 11, 1998).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, 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

Ms. Frankie Jackson
Goose Creek Consolidated Independent School
District
607 West Baker
Baytown, TX 77521

Billed Entity Number: 141322
Form 471 Application Number: 411530
Form 486 Application Number:



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2004-2005

September 19, 2005

Ms. Frankie Jackson
Goose Creek Consolidated Independent School District
607 West Baker
Baytown, TX 77521

Re: Applicant Name: GOOSE CREEK CONS IND SCH DIST
Billed Entity Number: 141322
Form 471 Application Number: 411530
Funding Request Number(s): 1129147, 1137326
Your Correspondence Dated: June 16, 2005

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(s): 1129147, 1137326
Decision on Appeal: **Denied**
Explanation:

- On appeal you contend that SLD made an error in reaching the conclusion that Goose Creek CISD did not use price as the primary factor in the vendor selection process. You state that the denial did not consider your selection process for the two funding requests, the pricing structure and the extent to which the goods or services met the district's needs, which is understandable due to the level of complexity of the configurations and multiple options. You also state that the RFP listed eight evaluation criteria, which very clearly shows that price was a major consideration as well as the extent to which the goods or services met the needs of the district. Other factors of consideration were long-term costs, manpower support, and future growth.

- After thorough review of the appeal, the relevant facts, and documentation, it was determined that SLD's decision to deny the application was correct. During the Selective Review process, you provided a Request for Proposal that contained an Award Criteria section. Within this section, eight factors were listed, of which purchase price, quality of the vendor's goods or services, the extent to which the goods or services meet the district's needs, and the total long-term cost to GCCISD to acquire the vendor's goods or services were all equally weighted at 15 out of 100. Program rules do allow for factors such as long-term costs, vendor reputation and future growth, however, the weight given to the price must be the dominant factor in the vendor selection process when multiple bids are received for the requested service. Program rules also 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. You have failed to provide evidence that SLD has erred in its decision on appeal.
- SLD's review of your Form 471 application determined that price was not the primary factor when you selected your service provider. Since you did not demonstrate in your appeal that price was the primary factor when you selected your service provider, SLD denies your appeal.
- FCC rules require that applicants select the most cost-effective services offering with price being the primary factor. 47 C.F.R. § 54.511(a). Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. 47 C.F.R. § 54.511(a); *Request for Review by Ysleta Independent School District, et. al., 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, 97-21, Order, FCC 03-313 ¶ 50 (rel. Dec. 8, 2003). Ineligible products and services may not be factored into the cost-effective evaluation. See Common Carrier Bureau Reiterates Services Eligible for Discounts to Schools and Libraries, CC Docket No. 96-45, *Public Notice*, 13 FCC Rcd. 16,570, DA 98-1110 (rel. Jun. 11, 1998).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, 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



GOOSE CREEK CONSOLIDATED INDEPENDENT SCHOOL DISTRICT

FRANKIE JACKSON
DIRECTOR OF TMS

Making the Technology Connection

June 20, 2005

Letter of Appeal
Schools and Libraries Division
Box 125 - Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

Subject: Letter of Appeal for FY2004 Form 471# 410391, FRN# 112967 and Form 471# 410801, FRN 112825

The denial reason appealed in this matter is that Goose Creek CISD (GCCISD) did not use price as the primary factor in selecting a service provider. GCCISD contends that the SLD made an error of fact in reaching this conclusion.

GCCISD released an RFP on 11/13/2003. The RFP covered a number of services sought by GCCISD, including the Internal Connections requested in the above FRN. The RFP listed eight evaluation criteria, although weighting of each criterion was not included in the RFP. (GCCISD provided a paper copy of the RFP during Selective Review.) GCCISD used a fully compliant evaluation criteria where price was 30% of the evaluation, two criteria 15% each, and four criteria 10% each.

The reviewer asked about the process, which we provided in May 2004, but we were not asked about evaluation criteria nor the application of the criteria. It is clear in our review of the questions that the SLD never asked GCCISD to provide the rationale for vendor selection for this service. The question posed concerned the evaluation process not the criteria and rationale for selection. If we had been asked, GCCISD was fully prepared to provide this information. Apparently either our answers did not provide sufficient information or we misunderstood the nature of the questions, otherwise it would have been clear that GCCISD was compliant with E-rate rules.

Since a better, more detailed, explanation of the evaluation was sought, we believe it appropriate to provide information about application of the evaluation criteria in this appeal to reduce follow-on questions.

In considering Option 1, there were two responses submitted, one by Verizon and one by IBM. The Verizon response was unqualified and non-responsive for several reasons. They are listed by RFP evaluation criteria.

#1 Purchase Price:

- It was impossible to determine the implementation costs for Verizon's response because the total quantities needed were absent.
- Verizon equipment list was incomplete and did not meet school district requirements
- Verizon's price only included unboxing and installing the hardware. It did not include system configuration, system integration, or the actual design and engineering for the installation. In addition, the Verizon response said they would provide Project Management, but no cost for Project Management was included in the response.
- The only pricing comparison possible was the percent discounts on specific Cisco equipment items. IBM offered 44% discounts where as Verizon offered 36.5% discounts which made IBM the lowest cost provider for the equipment.

#4 Extent to which the goods or services meet the district's needs

- GCCISD RFP set forth eleven general specifications. IBM met all eleven specifications. The Verizon response failed to address more than 50% of the general specifications, and was deemed "non-responsive". The specifications that Verizon did not respond to are listed as follows:
 - (4) Proposed integrated infrastructure with sufficient capability to handle needs for the foreseeable future (5 years +). These needs must include cost containment and low maintenance for hardware, software, and manpower.**
 - (7) Vendors must consider long-term costs in the proposed solution such as licensing, annual support, manpower support, and future growth considerations.**
 - (8) Vendors must present a solution for which the overall monitoring of the Wide Area Network is possible from a single location (single-point-of-administration).**
 - (9) Vendors must present a project plan with detailed activities of the work to be performed including scheduled start/stop dates and manpower estimates.**
 - (10) Vendors should provide a list of quantifiable reasons for selecting their proposal solution.**
 - (11) Vendors should recommend training strategies and related costs for technical staff."**

#8 Any other relevant factor specifically listed in the request for bids or proposals

- Verizon was non-responsive by failing to complete the required forms in the RFP, specifically tailored for E-rate funding request (information necessary to complete the 471 process). In addition, Verizon failed to meet a requirement in the RFP to "provide infrastructure and components necessary to connect classrooms, campuses, and libraries" by virtue of the fact that they provided pricing for individual equipment pricing and gave no indication for the total quantities to perform the work.

In order to ensure as fair an environment as possible, GCCISD invited both potential vendors to make a verbal presentation to the evaluation team. No additional information was provided in the oral presentations by Verizon that would have brought them into compliance with all RFP requirements.

The Verizon response was deemed not to be a qualified response because of the lack of pricing information and failure to meet a large number of RFP response requirements. The final result was only IBM provided a response for Internal Connections (Option 1) that could be actually evaluated. The Verizon and IBM responses that showed discount from list were presented to the GCCISD School Board because it was the only comparison that could be made due to the lack of data from Verizon. (Verizon discount was 36.5% while the IBM discount was 44%, so clearly IBM was had the lowest equipment pricing.)

In summary, GCCISD had an E-rate compliant evaluation criteria where price was 30% of the evaluation and the other six factors were 15% or 10% each. Because there was only one qualified respondent to this option no detailed evaluation could be conducted, nor is such an evaluation required by E-rate rules if there is only one qualified vendor. GCCISD would have applied the criteria fairly had circumstances permitted.