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MODESTO CITY SCHOOLS

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November 13, 2006

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Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Re: CC Docket No. 02-6
CC Docket No. 96-45
Request for Review

To Whom It May Concern:

We are appealing the USAC's decision denying the following E-Rate Funding Request:

1. Billed Entity Number - 144393
2. Applicant Name - Modesto City School District
3. Funding Request Number (FRN) - 1262554
4. Form 471 Application Number - 447375
5. Applicant Contact - David M. Louis
6. Applicant Phone - (209) 576-4090
7. Applicant E-mail address - louis.d@monet.k12.ca.us

Our request was denied because we cited the incorrect Form 470 in Block 5, Item 12 of the FCC Form 471. During its initial review, Program Integrity contacted me and gave me the opportunity to cite an alternate 470. In an e-mail dated December 20, 2005, I mistakenly gave the incorrect 470 number again. During this time, all clerical support staff was off for Christmas break. I looked at the Form 470, and verified the number. What I did not realize, is that this was the Form 470 for the State Replacement contract. The reason stated for the denial is "28 day Waiting Period Violated". The waiting period was not violated, but an incorrect 470 number was repeatedly given. This FRN is for our basic Telecommunications Service. We had an existing, binding, written contract for these services for the first half of the year, which is the timeframe covered by this FRN. **The correct Form 470 is 132920000155936.** Please contact me if you need any additional information. Thank you for your consideration of our appeal.

Sincerely,

A handwritten signature in cursive script that reads "David M. Louis". The signature is written in dark ink and is positioned above the printed name and title.

David M. Louis, C.P.M.
Director of Purchasing

DML:pjt



Administrator's Decision on Appeal – Funding Year 2005-2006

(year 8)

September 15, 2006

David M. Louis
Modesto City Schools
426 Locust Street
Modesto, CA 95351-2699

Re: Applicant Name: MODESTO CITY SCHOOL DISTRICT
Billed Entity Number: 144393
Form 471 Application Number: 447375
Funding Request Number(s): 1262554
Your Correspondence Dated: June 27, 2006

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 USAC's Funding Year 2005 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC'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): 1262554
Decision on Appeal: **Denied**
Explanation:

- During the Appeal Review, USAC thoroughly assessed the facts presented in the appeal letter, the relevant documentation on file, and the FCC Rules and Procedures before making its determination on your appeal. USAC agrees that PIA correctly determined that the 28 day waiting period was violated. According to our records, the applicant cited FCC Form 470 application number 174880000525599 on Block 5, Item 12 of the FCC Form 471. During the initial review of the Form 471, Program Integrity (PIA) contacted and informed the applicant that, for this funding request, the Contract Award Date of March 8, 1999 for the services requested is before the Allowable Contract Date of January 18, 2005 on the cited Form 470. PIA also informed the applicant that the rules of this support mechanism require that the contract award date be after the allowable contract award date. In addition, the applicant was asked to submit a contract and

was given the opportunity to cite an alternate Form 470 establishing the bidding for the services requested on their Form 471 in order to correct the program violation. In an e-mail dated December 20, 2005, the applicant referenced the State of California Master Contract number CNT-001. The applicant also stated that the Form 470 establishing the bidding requirement for the requested services is Form 470 application number 17488000525599. As this information was the same as the original input, the program violation was not corrected. USAC will not accept new information on appeal that is inconsistent with information in the file used during review. Program procedures do not permit USAC to accept new information on appeal except where an applicant was not given an opportunity to provide information during the initial review or an error was made by PIA. Consequently, USAC denies the appeal because the applicant did not comply with the competitive bidding requirement that their Form 470 be posted on USAC's website for 28 days prior to signing a contract or entering into an agreement for new services.

- You selected your vendor for new products prior to the expiration of the 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site 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. 47 C.F.R. §§ 54.504; 54.511(a) and (c). FCC rules further require that the Administrator send the applicant a confirmation when the Form 470 has been posted, and inform the applicant of the earliest date upon which they may sign a contract with the vendor it selects. 47 C.F.R. § 54.504(b)(4). These competitive bidding requirements help to 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, p. 10098; FCC 97-246 ¶ 9 (rel. Jul. 10, 1997). New products include tariff telecommunications services that are NOT subject to an existing, binding, written contract.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC 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 section of the USAC website 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