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Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of	)	
	)	
Requests for Review of Decisions of the Universal Service Administrator by	)	
	)	
Academy of Excellence Phoenix, AZ, *et al.*	)	File No. SLD-261209, *et al.*
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6

ORDER

Adopted: April 18, 2007 **Released: May 8, 2007**

By the Commission:

I. INTRODUCTION

1. In this Order, we grant 56 Requests for Review of decisions by the Universal Service Administrative Company (USAC) denying the petitioners' requests for funding under the schools and libraries universal service support mechanism (also known as the E-rate program).[1] USAC denied the requests because it found that the applicants failed to demonstrate access to the resources required to effectively use the requested eligible services or to pay their non-discounted share for the services.[2] Specifically, we find that the petitioners either provided sufficient evidence to demonstrate they had the resources to make effective use of the requested eligible services or they should have an additional opportunity to provide the documentation to USAC. For 20 of the 56 petitioners, we find good cause exists to waive section 54.504(c)(1)(iii) of the Commission's rules. Accordingly, we grant all the appeals and remand the underlying applications to USAC for further action consistent with this Order.[3]

2. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendix and issue an award or a denial based on a

[1] In this Order, we use the term "appeals" to generically refer to requests for review or waivers related to decisions issued by USAC. A list of these appeals is attached as the Appendix. Section 54.719(c) of our rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

[2] *See* 47 C.F.R. § 54.504(b)(2)(vi), (c)(1)(iii).

[3] The relief granted in this Order is not intended to authorize or require payment of any claim (including claims under SLD Application No. 323133, FRNs 863913, 863988, 864235, 864325, 864431, 864833, 864945, 865053, 865185, 865271, and 865344) to the extent that such claim was released by the service provider or applicant, in a civil settlement or criminal plea agreement with the United States or otherwise.

complete review and analysis no later than 120 days from release of this Order.[4] In addition, we direct USAC to provide all applicants, beginning with Funding Year 2007, with a 15-day opportunity to provide any documentation requested by USAC consistent with Commission precedent.[5] We also direct USAC to develop targeted outreach procedures designed to better inform applicants of the documentation required to demonstrate access to the resources necessary to effectively use the requested eligible services. For the applications addressed in this Order, we make no finding as to the ultimate eligibility of the requested services.[6]

II. BACKGROUND

3. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.[7] To ensure that applicants are able to use the discounted services effectively, and thereby minimize waste, our rules require applicants to certify that they will have access to the necessary resources to finance both the non-discounted portion of the price of eligible services and the facilities or services their technology plans indicate are required to effectively use the discounted services.[8] That is, applicants must ascertain the costs of the additional products and services they need to support effective usage of E-rate funding and then certify that they have identified funding sources that will enable them to purchase those products and services.[9] Support for eligible services is conditional upon the applicant securing access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to effectively use the services purchased.[10]

4. USAC selects some applicants for a Selective Review to ensure that they are following certain E-rate program rules.[11] When USAC identifies problems with the budget or other initial

[4] *See* Appendix.

[5] *Cf. Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, et al., CC Docket 02-6, Order, 21 FCC Rcd 5316, 5319-20, 5326-27 paras. 9, 23 (2006) (*Bishop Perry Order*).

[6] Nothing in this order is intended to authorize or require payment of any claim that has previously been released by a service provider or applicant, including in a civil settlement or criminal plea agreement with the United States.

[7] *See* 47 C.F.R. §§ 54.501-503.

[8] *See* 47 C.F.R. § 54.504 (b)(2)(vi), (c)(1)(iii); *see also* 47 C.F.R. § 54.508(a).

[9] *See* 47 C.F.R. § 54.504 (b)(2)(vi), (c)(1)(iii); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (FCC Form 471), Item 25; *Federal-State Joint Board on Universal Service*, CC Docket No. 96- 45, Report and Order, 12 FCC Rcd 8776, 9079, para. 577 (1997), as corrected by *Federal-State Joint Board on Universal Service*, Errata, CC Docket No. 96-45, FCC 97-157 (rel. June 4, 1997), 13 FCC Rcd 24493 (1997), *affirmed in part, reversed in part, remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999), *cert. denied*, 530 U.S. 1210 (2000), *cert. dismissed*, 531 U.S. 975 (2000) (*1997 Universal Service Order*).

[10] *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Rcd 15808, 15830-31, paras. 65-66 (2004) (*Fifth Report and Order*).

[11] *See* Undergo Application Review, http://www.universalservice.org/sl/applicants/step08/ (retrieved Mar. 7, 2007). Specifically, during Selective Review, applicants must be able to demonstrate that they have secured access to all of the resources necessary to make effective use of the products and services for which they receive discounts.

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documentation submitted by the applicant to meet the necessary resources requirement, USAC uses its discretion in determining whether to give an applicant an additional opportunity to show that it has met the requirement.[12] For applicants who do not have an approved budget available, USAC requires them to submit a signed letter from a school or library official explaining (1) what phase of the approval process it is in; (2) whether its share of funding is contingent on any outside action (*e.g.*, voter approval); and (3) whether, in the absence of such outside approval, it anticipates being able to pay its share of funds required. In addition, the applicant must submit either a draft budget or a resolution of a governing board authorizing the filing of the FCC Form 471 for a given amount and indicating the relevant timeframe.[13] If the budget depends on donations, USAC further requires that applicants provide a signed commitment letter from a donor with specific information regarding the donation and its use for the schools and libraries universal service support program.[14] USAC will not consider grants that applicants have sought unless and until the grants are approved.[15] USAC will reject a funding request if the applicant does not provide USAC with sufficient documentation to demonstrate that the applicant will have the necessary resources to pay both the non-discounted portion of the price of eligible services and the associated expenditures necessary to effectively use those eligible services.

III. DISCUSSION

5. In this Order, we grant the petitioners' Requests for Review.[16] First, we address two requests for which USAC determined that the applicants did not provide sufficient documentation to demonstrate access to the necessary resources to effectively use the requested eligible services.[17] Second, we address 13 requests by applicants who received funding or reasonably expected to receive funds by the time they would need to pay their non-discount share or to purchase other equipment to make use of the E-rate funds.[18] Third, we address 21 requests by applicants who simply did not provide documentation to

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Undergo Selective Review, http://www.universalservice.org/sl/applicants/step08/ undergo-selective-review/default.aspx (retrieved Mar. 7, 2007).

[12] *See Request for Review by Beginning With Children Charter School and Yeshiva Karlin-Stolin, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, File Nos. SLD-256153 and 265665, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 936, 940, para. 11 (Com. Car. Bur. 2003) (*Beginning With Children Order*).

[13] *See* Instructions for responding to Selective Review request. http://www.universalservice.org/sl/applicants/step08/undergo-selective-review/selective-review-info-request-instructions.aspx#part26 (retrieved Mar. 7, 2007).

[14] *See* E-rate Selective Review Information Request at 5-7, 14, http://www.sl.universalservice.org/data/pdf/MegaFax.pdf (retrieved Mar. 7, 2007).

[15] *Id.* at 6-7.

[16] We further note that granting these requests should have minimal effect on the Fund as a whole. We estimate that the appeals granted in this Order involve applications for approximately $46 million in funding for Funding Years 1999-2005. We note that USAC has already reserved sufficient funds to address outstanding appeals. *See, e.g.*, Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2007, dated Jan. 31, 2007.

[17] *See* Request for Review of Sweetser; Request for Review of Congregation Beth Mikroh, Inc.

[18] *See* Request for Review of Fall River Public Schools; Request for Review of Las Cruces Public Schools; Request
(continued...)

USAC by USAC's given deadline.[19] Fourth, we address 20 requests by applicants for which the record may be incomplete regarding whether the applicants had the necessary funding.[20]

6. First, USAC denied the applications of Sweetser and Congregation Beth Mikroh, Inc. because USAC determined that they did not provide sufficient documentation to demonstrate access to the necessary resources to effectively use the requested eligible services.[21] We disagree. We find that in these two cases, the petitioners provided sufficient evidence to demonstrate that they had access to the necessary resources.[22] Specifically, in the case of Sweetser, we find that the Petitioner, during Selective Review, responded to USAC's concerns and sufficiently documented its ability to finance the discounted portion of the price of the requested eligible services.[23] Similarly, we find that record shows that

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for Review of Muhammad University of Islam; Request for Review of Muskogee Public Schools; Request for Review of Spirit Lake School Consortium; Request for Review of Starkville School District; Request for Review of Central Islip Union Free School District; Request for Review of El Monte City School District; Request for Review of Preparatory Charter School; Request for Review of San Diego Independent School District; Request for Review of Turner Unified School District 202; Request for Review of ePlus Technology a/k/a Vineland School District; Request for Review of Norfolk Public Schools.

[19] *See* Requests for Review of Eckerd Youth Alternatives, Inc. (Funding Years 2004 and 2005); Request for Review of El Paso Independent School District; Request for Review of Hmong Academy; Request for Review of Kids Peace National Center; Request for Review of Maple School District; Request for Review of Mesa Vista Consolidated School District; Request for Review of Mescalero Apache School; Request for Review of The Mesorah School; Request for Review of Newark Public Library; Request for Review of Oroville City Elementary School District; Request for Review of Poughkeepsie City School District; Request for Review of Riverside Unified School District; Request for Review of St. Vincent's Home School; Request for Review of Socorro Independent School District; Request for Review of Talmudical High School; Request for Review of Glen Mills School; Request for Review of Parker School District No. 60-4; Request for Review of Regina School, Inc.; Request for Review of United Talmudica; Request for Review of Yeshiva U'Mesivta Kavunas Halev.

[20] *See* Request for Review of Academy of Excellence; Request for Review of Aurora Weier Bilingual High School; Request for Review of Beaumont Unified School District; Request for Review of Bridgeton Public Schools; Request for Review of Buffalo Diocese; Request for Review of Colegion Nuestra Senora de Rosario; Request for Review of Colegion San Juan Bautista; Request for Review of Duarte Unified School District; Request for Review of Halifax County School District; Request for Review of Huntington School, Inc.; Request for Review of Inglewood Unified School District; Request for Review of Lake Elsinore Unified School District; Request for Review of Mason County Central School District; Request for Review of Meor Yitzchok Inc.; Request for Review of New School for Enterprise and Development Public Charter School; Request for Review of Ohr Haemet Institute; Request for Review of Scott County Schools; Request for Review of United Talmudical Academy of Boro Park; Request for Review of Walton County School District; Request for Review of Wilson Independent School District 7.

[21] *See* Letter from Schools and Libraries Division, Universal Service Administrative Company, to Paul Diou, Sweetser, dated Sept. 1, 2005 (*USAC Appeal Decision on Sweetser*); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Rabbi Horowitz, Congregation Beth Mikroh Inc., dated Jun. 25, 2004.

[22] *See* Request for Review of Sweetser; Request for Review of Congregation Beth Mikroh, Inc.

[23] *See USAC Appeal Decision on Sweetser.* Sweetser included the total expenses of $186,058 for the eligible services within three separate entries in its budget and also showed that the combination of its other revenues and E-rate contribution would cover its total expenses, leaving a surplus of approximately $18,000. *See* Facsimile from Paul Diou, Sweetser, to Joe Moryl, Schools and Libraries Division, Universal Service Administrative Company, dated May 7, 2004, at 7-10.

Congregation Beth Mikroh, Inc. provided USAC with timely and complete documentation to support the full amount of those funding requests.[24] Thus, we grant these appeals and remand the underlying applications to USAC for action consistent with our findings here.[25]

7. Second, we address 13 appeals by applicants who received funding or reasonably expected to receive funds by the time they would need to pay for the services provided under the E-rate program.[26] Some of the applicants had a specific, reasonable expectation that they would receive grants or donations, even if they did not have a formal written commitment of such funds when they filed their FCC Form 471.[27] Some of the applicants had the expectation that they would secure the funds by increasing revenues, *i.e.*, raising taxes or issuing bonds.[28] Finally, some of these applicants either had the funding in reserve or demonstrated that they had the funding by actually paying for and using the services prior to USAC's review.[29] We find that these applicants did not violate the Commission's rules on necessary resources because they had a specific, reasonable expectation that they would have the funding. Even the most responsible schools may not have final, written commitments concerning pending grants, donations, and other funding sources six months or more before funds are formally granted for the forthcoming school year. On balance, we conclude that it is not necessary to serving our goals of avoiding waste, fraud, and abuse to require schools to have final, written commitments of funding so far in advance of the time that it is needed. As we have previously acknowledged, real world experience in the context of the E-rate program dictates that some flexibility be given to schools and libraries when budgeting funds for eligible services.[30] Specifically, the necessary resources requirements are satisfied as long as: (i) when filing their FCC Form 471 applications, applicants have specific, reasonable expectations of obtaining the funding needed to ensure availability of the necessary resources; (ii) applicants do not authorize USAC to pay support to the service provider for the eligible services until the applicant has received the funding and thus has the necessary resources to pay the applicants' share of the costs; and (iii) applicants provide sufficient documentation to USAC of such funding and resources availability, as USAC may request. Thus, we grant these appeals and remand the underlying applications to USAC for action consistent with our findings here.[31]

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[24] *See* Handwritten Letter from Rabbi Horowitz, received by Universal Service Administrative Company, undated (providing invoices to USAC in response to an Oct. 8, 2003, Selective Review request supporting a request for $260 per month for one funding request and $150.25 per month for the other).

[25] In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services.

[26] *See supra* n.18.

[27] *See* Request for Review of Fall River Public Schools; Request for Review of Las Cruces Public Schools; Request for Review of Muhammad University of Islam; Request for Review of Muskogee Public Schools; Request for Review of Spirit Lake School Consortium; Request for Review of Starkville School District.

[28] *See* Request for Review of Central Islip Union Free School District; Request for Review of El Monte City School District; Request for Review of Preparatory Charter School; Request for Review of San Diego Independent School District; Request for Review of Turner Unified School District 202.

[29] *See* Request for Review of ePlus Technology a/k/a Vineland School District; Request for Review of Norfolk Public Schools.

[30] *See Fifth Report and Order*, 19 FCC Rcd at 15830-31, paras. 64-66.

[31] In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services.

8. Third, we address 21 requests by applicants who simply did not provide documentation to USAC by USAC's given deadline.[32] We find that good cause exists to grant these appeals and remand them back to USAC for further processing. Some Petitioners appear to have submitted the required documentation to USAC but in an untimely manner.[33] In the other cases here, we believe that the petitioners made good faith efforts to provide USAC with the requested documentation and that such documentation may have been provided if the petitioners had been given additional time and opportunity.[34] These appeals involved an administrative deadline, not a substantive rule. Any error in the specific circumstances here was procedural, rather than a failure to adhere to a core program requirement or a misuse of funds. Consistent with Commission precedent, we therefore find that the complete rejection of these applications is not warranted.[35] Although deadlines are necessary for the efficient administration of the program, in these cases, the applicants have demonstrated that rigid adherence to USAC's procedures does not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.[36] We find that these applicants should have an additional opportunity to provide information regarding their ability to pay for their non-discount share and for any other resources necessary to use E-rate funds effectively, consistent with the clarifications detailed in this order. Thus, we grant these appeals and remand the underlying applications to USAC for action consistent with our findings here.[37]

9. Fourth, we address 20 requests by applicants who did not appear to have the necessary funding at the time they certified that they did.[38] Section 54.504(c)(1)(iii) requires that applicants certify that they "have secured access to all of the resources . . . necessary to make effective use of the services purchased, as well as to pay the discounted charges for eligible services."[39] This certification, however, must be signed when the applicant files its FCC Form 471 by the filing window deadline. For Funding Year 2006, for example, the deadline for filing the FCC Form 471 within the filing window was February

[32] *See supra* n.19.

[33] *See* Request for Review of Glen Mills School; Request for Review of Parker School District No. 60-4; Request for Review of Regina School, Inc.; Request for Review of United Talmudica; Request for Review of Yeshiva U'Mesivta Kavunas Halev.

[34] *See* Requests for Review of Eckerd Youth Alternatives, Inc. (SLD-423732, *et al.* and SLD-454095, *et al.*); Request for Review of El Paso Independent School District; Request for Review of Hmong Academy; Request for Review of Kids Peace National Center; Request for Review of Maple School District; Request for Review of Mesa Vista Consolidated School District; Request for Review of Mescalero Apache School; Request for Review of The Mesorah School; Request for Review of Newark Public Library; Request for Review of Oroville City Elementary School District; Request for Review of Poughkeepsie City School District; Request for Review of Riverside Unified School District; Request for Review of St. Vincent's Home School; Request for Review of Socorro Independent School District; Request for Review of Talmudical High School.

[35] *See generally Bishop Perry Order,* 21 FCC Rcd at 5319-20, para. 9 (finding that the overall goal of section 254 – providing funds to legitimate E-rate beneficiaries – should not be undermined by minor procedural errors).

[36] *See* 47 U.S.C. § 254(h).

[37] In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services.

[38] *See supra* n.20.

[39] 47 C.F.R. § 54.504(c)(1)(iii).

16, 2006.[40] As a result, applicants are often filing an FCC Form 471 months before their budgets are finalized and months before the E-rate funding year begins. In addition, we understand that financial circumstances can sometimes change. In these cases before us, we note that the record may be incomplete regarding whether or not petitioners made good faith efforts to limit their funding requests to services for which they expected to have sufficient funds to use the services effectively. We now grant them the chance to modify those funding requests and to demonstrate that they have the necessary resources to effectively use the services requested. We note that those tasked with working on E-rate applications are school administrators, technology coordinators, teachers and librarians who may have little experience pursuing federal grants. This may be particularly true of staff at small school districts or libraries.[41] Moreover, we find that denying the petitioners' requests would create undue hardship and prevent these otherwise eligible schools and libraries from receiving funding that they need to bring advanced telecommunications and information services to their students and patrons. By contrast, waiving section 54.504(c)(1)(iii) of our rules to the limited extent necessary to provide petitioners with the opportunity to modify their funding requests, as specified above, will further the goal of section 254 of the Act – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore serve the public interest.[42] Importantly, there is no evidence at this time in the record that the petitioners engaged in activity to defraud or abuse the E-rate program. Therefore, we remand the appeals to USAC for further consideration consistent with this Order.[43]

10. To ensure these issues are resolved expeditiously, we direct USAC to complete its review of all of the applications listed in the Appendix and issue an award or a denial based on a complete review and analysis no later than 120 calendar days from release of this Order. USAC shall permit the petitioners to provide any supporting documentation or remove any services which are not supported by sufficient funding within 15 calendar days of receiving notice in writing from USAC that additional documentation is required.[44]

11. *Additional Processing Directives for USAC.* As of the effective date of this Order, when USAC has reason to believe that an applicant lacks the necessary resources for its funding request or that the documentation provided by the applicant is deficient, USAC shall: (1) inform the applicant promptly in writing of any and all deficiencies, along with a clear and specific explanation of how the applicant can remedy those deficiencies; and (2) permit the applicant to submit additional documentation, if any, within 15 calendar days from the date of receipt of notice in writing by USAC.[45] In determining whether the applicant has demonstrated access to the necessary resources to use the requested eligible services, we direct USAC to permit applicants to consider the likelihood of the receipt of donations or specific grants

[40] *See* Schools and Libraries Deadlines, at Form 471, http://www.universalservice.org/sl/tools/deadlines/default.aspx (retrieved Mar. 12, 2007). The deadlines for filing within the window for the other years of the appeals in this Order were: Feb. 18, 2005 (2005); Feb. 4, 2004 (2004); Feb. 6, 2003 (2003); Jan. 17, 2002 (2002); Jan. 18, 2001 (2001); Jan. 19, 2000 (2000). In addition, deadlines for applications affected by Hurricane Katrina were extended to Dec. 13, 2005 (2005) and Oct. 2, 2006 (2006).

[41] *See Bishop Perry Order,* 21 FCC Rcd at 5323, para. 14.

[42] 47 U.S.C. § 254(h).

[43] In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services.

[44] Applicants will be presumed to have received notice five days after such notice is postmarked by USAC. USAC, however, shall continue to work beyond the 15 days with applicants attempting in good faith to ensure that they only purchase eligible services for which they have the resources to effectively use.

[45] *See supra* n.45; *cf. Bishop Perry Order,* 21 FCC Rcd at 5326-27, para. 23.

for which the applicants have applied. As noted above, the necessary resources requirements are satisfied as long as (i) when filing their FCC Form 471 applications, applicants have specific, reasonable expectations of obtaining the funding needed to ensure availability of the necessary resources; (ii) applicants do not authorize USAC to pay support to the service provider for the eligible services until the applicant has received the funding and thus has the necessary resources to pay the applicants' share of the costs; and (iii) applicants provide sufficient documentation to USAC of such funding and resources availability, as USAC may request.

12. If an applicant is unable to provide documentation of sufficient resources to use all the E-rate services it seeks within the 15-day period, USAC shall work with the applicant to establish which eligible services the applicant's resources will permit it to use effectively and reduce the applicant's funding request to that level for those eligible services. That is, applicants can have the opportunity to remove funding requests so that they are receiving funds only for the services and equipment for which they can pay the non-discount portion and for which they can pay for the other resources necessary to use those E-rate services effectively.[46] We emphasize that this option should be used sparingly, and primarily for those situations in which applicants' financial circumstances truly change from when they file their funding requests. An applicant cannot use this opportunity to request more services than it can effectively use or to request services for which it cannot pay its non-discount share. We emphasize that the ultimate burden of proof remains on the applicant.[47] Thus, we expect USAC to deny funds or seek a reimbursement of funds already allocated if it discovers that an applicant has purchased approved, discounted eligible services that it is unable to use effectively due to a lack of necessary resources. For example, an applicant should not have equipment purchased with E-rate funds sitting in storage unused because it did not properly plan for its use of the equipment.[48]

13. USAC shall apply this directive to applications beginning in Funding Year 2007 and to all appeals pending as of the effective date of this Order. The 15-day period provides sufficient time for applicants to address any deficiencies in their supporting documentation.[49] Further, if USAC assists applicants in providing complete and accurate documentation initially, USAC should be able to reduce administrative costs that it would otherwise spend on appeals of the denied funding requests. Therefore, we believe this additional opportunity to address any deficiencies in the necessary resources documentation submitted will improve the administration of the Fund and the efficiency of the E-rate program.

14. We emphasize the limited nature of this decision. Although we grant the requests for review addressed here, this Order does not alter the obligation of participants in the E-rate program to comply with the Commission's rules requiring applicants to demonstrate to USAC that they have access to the necessary resources to use the requested eligible services.[50] We continue to require E-rate applicants to submit complete and accurate information to USAC as part of the application review process. The

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[46] *See Request for Review by United Talmudical Academy, Federal-State Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-105791, CC Docket Nos. 96-45 and 97-21, 15 FCC Rcd 423, 430-31 (2000) (denying funding, other than that for basic voice telephone, to applicants who do not have the resources necessary to use all the services sought in their funding requests).

[47] *See Beginning With Children Order*, 18 FCC Rcd at 940, para. 11.

[48] *Id.*

[49] We note that applicants will retain the ability to appeal decisions denying funding requests on other grounds.

[50] *See* 47 C.F.R. §§ 54.508 (a)(3) and (4); 54.504 (b)(2)(vi) and (c)(1)(iii).

direction we provide USAC will not lessen or preclude any application review procedures of USAC. Indeed, we retain our commitment to detecting and deterring potential instances of waste, fraud, and abuse by ensuring that USAC continues to scrutinize applications and takes steps to educate applicants in a manner that fosters program participation. All existing E-rate program rules and requirements will continue to apply, including the existing forms and documentation, USAC's Program Integrity Assurance review procedures, and other processes designed to ensure applicants meet the applicable program requirements.

15. USAC shall also continue its outreach program and educational efforts to inform applicants about the necessary resources requirements in an attempt to reduce the number of incomplete applications. We expect that the additional outreach and educational efforts will better assist E-rate applicants in meeting the program's requirements. Further, we believe such an outreach program will increase awareness of the filing rules and procedures and will improve the overall efficacy of the E-rate program. In addition, we note that, in the *Comprehensive Review NPRM*, we started a proceeding to address the concerns raised herein by, among other things, improving the application and disbursement process for the E-rate program.[51]

16. Finally, we emphasize that the Commission is committed to guarding against waste, fraud, and abuse and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeals addressed here, we reserve the right to conduct audits and investigations to determine compliance with the E-rate program rules and requirements. Because audits and investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or Commission rules, such proceedings can reveal instances in which universal service funds were improperly disbursed or in a manner inconsistent with the statute or our rules. To the extent we find that funds were not used properly, we will require USAC to recover such funds through its normal processes. We emphasize that the Commission retains the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. The Commission remains committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under our procedures and in cooperation with law enforcement agencies.

IV. ORDERING CLAUSES

17. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that the Requests for Review filed by the petitioners as listed in the Appendix ARE GRANTED and REMANDED to USAC for further consideration to the extent provided herein.

18. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, that section 54.504(c)(1)(iii) of the Commission's rules, 47 C.F.R. §§ 54.504(c)(1)(iii), IS WAIVED to the extent provided herein.

19. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and USAC SHALL

[51] *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308, 11324-25, paras. 37-40 (2005) (*Comprehensive Review NPRM*).

COMPLETE its review of each remanded application listed in the Appendix and ISSUE an award or a denial based on a complete review and analysis no later than 120 calendar days from release of this Order.

20. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release, in accordance with section 1.103 of the Commission's rules, 47 C.F.R. § 1.103.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX

Requests for Review

Applicant	Application Number/s	Funding Year
Academy of Excellence Phoenix, AZ	261209	2003
Auror Weier Bilingual High School Milwaukee, WI	258364	2001
Beaumont Unified School District Beaumont, CA	350459, 351602, 351603, 351606, 351607, 351608, 351610, 351612, 351613, 352292, 352301, 352305, 352310	2003
Bridgeton Public Schools Bridgeton, NJ	474457, 475025, 475265, 475338, 475669, 475730, 476750, 478744	2005
Buffalo Diocese Buffalo, NY	232983, 233013, 237062, 237215, 323974	2001
Central Islip Union Free School District Central Islip, NY	341725	2003
Colegion Nuestra Senora Del Rosario Vega Baja, PR	410225, 410242	2004
Colegion San Juan Bautista Arecibo, PR	411835, 423696	2004
Congregation Beth Mikroh, Inc. Monsey, NY	304540	2002
Duarte Unified School District Duarte, CA	419103, 419149, 419184, 424642, 424825, 425113, 425501, 426249, 428900, 430080, 432559, 432957, 433063	2004
Eckerd Youth Alternatives, Inc. Clearwater, FL	423732, 427648, 428595, 428649, 428766, 429581, 429656	2004
Eckerd Youth Alternatives, Inc. Clearwater, FL	454095, 454349, 454362, 454367, 454387, 454391, 454397, 475069, 478642, 478708, 478750, 481066, 481441, 481546	2005
El Monte City Schools El Monte, CA	434480, 434485, 434492, 434495, 434502, 434508, 434510, 434518	2004
El Paso Independent School District El Paso, TX	374802, 376873, 376953, 377101, 377156, 377214, 377297	2003
ePlus Technology a/k/a Vineland School District Vineland, NJ	314883	2003
Fall River Public Schools Fall River, MA	412158, 418403, 423400	2004
Glen Mills School Concordville, PA	312227	2002
Halifax County School District Halifax, NC	371091	2003

Applicant	Application Number/s	Funding Year
Hmong Academy Minneapolis, MN	400502, 400503	2004
Huntington School, Inc. Ferriday, LA	300464	2002
Inglewood Unified School District Inglewood, CA	374094	2003
Kids Peace National Center Orefield, PA	378330, 378357, 378372, 380392	2003
Lake Elsinore Unified School District Lake Elsinore, CA	358374, 358949, 358960	2003
Las Cruces Public Schools Las Cruces, NM	291848	2002
Maple School District Tulsa, OK	243409	2001
Mason County Central School District Scottville, MI	322230	2002
Meor Yitachok, Inc. Monsey, NY	478420	2005
Mesa Vista Consolidated School District El Rito, NM	360441	2003
Mescalero Apache School Mescalero, NM	309864, 318353, 320534	2002
The Mesorah School Brooklyn, NY	262939	2001
Muhammad University of Islam Detroit, MI	316342, 316437, 316479	2002
Muskogee Public Schools Muskogee, OK	349609, 352300, 372768, 373302, 373473	2003
New School for Enterprise and Development Public Charter School Washington, DC	378195, 379856	2003
Newark Public Library Newark, NJ	369094, 369413, 371540, 372006, 372448, 374744, 375091, 376017, 376300	2003
Norfolk Public Schools Norfolk, VA	160951, 161342, 164087, 164154, 164284, 165013, 165388, 167137, 200277, 200284, 200292, 200506, 203603	2000
Ohr Haemet Institute Los Angeles, CA	227901	2001
Oroville City Elementary School District Oroville, CA	397822, 403418, 403454, 403493, 404097, 407371, 407803	2004
Parker School District 60-4 Parker, SD	391792, 396534	2004
Poughkeepsie City School District Poughkeepsie, NY	434624, 434629, 434655	2004
Preparatory Charter School Philadelphia, PA	227426	2001

Applicant	Application Number/s	Funding Year
Regina School, Inc. Tucson, AZ	378639	2003
Riverside Unified School District Riverside, CA	358076, 373521, 376945, 377642	2003
St. Vincent's Home School Fall River, MA	250150	2001
San Diego Independent School District San Diego, CA	310892	2002
Scott County Schools Huntsville, TN	317430, 328913	2002
Socorro Independent School District El Paso, TX	388485, 388555, 388633, 388675, 388699, 388711, 398490, 399249, 401868, 407257, 407491, 407689, 497782, 407856, 407927, 408046, 408976, 409560	2004
Spirit Lake School Consortium Fort Totten, ND	323133[52]	2002
Starkville School District Starksville, MS	305788, 306276, 314970	2002
Sweetser Saco, ME	396098	2004
Talmudical High School Adelphia, NJ	408635	2004
Turner Unified School District 202 Kansas City, KS	254190	2001
United Talmudical Academy Brooklyn, NY	288237, 288238, 318413	2002
United Talmudical Academy of Boro Park Brooklyn, NY	407712	2004
Walton County School District DeFuniak Springs, FL	420785, 419947	2004
Wilson Independent School District 7 Henryetta, OK	263059	2001
Yeshiva U'Mesivta Kavunas Halev Brooklyn, NY	347535, 347539	2003

[52] The relief granted in this Order is not intended to authorize or require payment of any claim (including claims under SLD Application No. 323133, FRNs 863913, 863988, 864235, 864325, 864431, 864833, 864945, 865053, 865185, 865271, and 865344) to the extent that such claim was released by the service provider or applicant, in a civil settlement or criminal plea agreement with the United States or otherwise.