

**Before the  
Federal Communications Commission  
Washington DC 20554**

**In the Matter of:**

Request for Review or Waiver of a Decision of the Schools and Libraries Division from Matanuska-Susitna Borough Schools	) ) ) ) ) )	Administrator Decision Dated September 20, 2010
Schools and Libraries Universal Service Support Mechanism	) )	CC Docket No. 02-6 CC Docket No. 96-45

**Request for Review or Waiver**

In accordance with Sections 54.719 through 54.721 of the Commission's Rules, now comes Matanuska-Susitna Borough Schools, Alaska (Mat-Su) before the Federal Communications Commission (Commission) requesting review or waiver of a Funding Denial by the Universal Service Administrative Company (Administrator). This request comes before the Commission in a timely manner from the Administrator decision dated September 20, 2010.

Applicant Name: Matanuska-Susitna Borough Schools  
Billed Entity Number: 145598  
FCC RN: 0001567486  
Service Provider: Matanuska Telephone Association, Inc.  
SPIN: 143002697  
Form 471 Application Number: 710275  
Funding Request Numbers: 2012983, 2013156

**Reason for Funding Denial:**

According to our records, On March 3, 2010 Program Integrity Assurance contacted the applicant's authorized contact person and requested that documentation be sent to confirm whether the referenced Form 470 (Application Number: 500550000502181 is the establishing form for services requested within Form 471: 710275. The applicant (via email) confirmed that the Form 470 referenced (500550000502181) was in fact the establishing form for the above funding requests. The applicant also provided a copy of the contract extension that was signed on February 5, 2010. During the course of the appeal review the applicant has reconfirmed that the Form 470 that was originally cited is in fact the establishing form for the services requested on the Form 471 and the contract was signed on February 5, 2010. As this information was the same as the original input, the original competitive bidding violation is not cured.

## Administrator's Decision on Appeal:

The funding requests submitted cites February 5, 2010 as the date the applicant entered into a contract with the service provider. The Allowable Contract Date associated with the referenced FCC form 470 (for the above funding requests) was November 01, 2004. Due to the time lapse between the Allowable Contract Date and the Contract Award Date, and that the type of services you requested must be competitively bid in each funding year, you have failed to comply with the FCC's competitive bidding requirements. Consequently, USAC denies your appeal.

Your explanation of the time lapse between the allowable contract date of the referenced FCC form 470 and the contract award date failed to assure USAC that you conducted a fair and competitive bidding process and chose the most cost-effective offering with a price being the primary factor. FCC rules require that except under limited circumstances, all FCC Forms 470 received be posted on the USAC 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 an FCC Form 471. See 47 C.F.R. secs. 54.504(a)-(c), 54.511(a) and (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, FCC 97-246 para. 9 (rel. Jul. 10, 1997). This posting requirement applies to requests for discounts for month-to-month or tariff services as well as contracted services. See 47 C.F.R. sec. 54.504(b). Pursuant to the Commission's rules, voluntary contract extensions are not exempt from the competitive bidding requirement. See 47 C.F.R. sec. 54.511 (d)(1).

Mat-Su believes the Administrator's decision is based on the contract date that was supplied by the applicant's authorized contact person. The applicant's authorized contact person at the time was a Wide Area Network Specialist not well versed in E-Rate/USAC rules. His area of expertise was managing routers not filing e-rate forms or adeptly answering PIA investigator questions. The applicant's authorized contact person inadvertently supplied the contract extension date of February 5, 2010 rather than the original contract date of January 19, 2005.

Unfortunately the applicant's authorized contact person was not savvy enough to realize his mistake and made the same mistake again during the PIA review. This is a clerical error not an attempt at waste, fraud, or abuse. In addition, the applicant's authorized contact person was not well supervised in this matter by the IT Director who was in the process of retiring at the time of the PIA review. This left the IT administration in a state of flux. Unfortunate clerical miscommunications resulted in new contract numbers being issued by the provider and a new contract award date cited on the Form 471 by the applicant.

It was the intent of the applicant to extend the existing contracts and retain the original contract award date. Since the original Form 470 was cited and the Form 471 Block 5 indicated this was a continuation of previous FRNs (1858898, 1858984), it is clear a clerical error was made. The error was finally realized by the applicant's new authorized contact person after the administrator's appeal decision of September 20, 2010. The applicant appeals to the FCC for

leniency under the Bishop Perry Order, FCC 06-54, which allows for the correction of ministerial errors.

Alternatively, the applicant appeals to the FCC's understanding of the rural, isolated nature of Alaska's communities. We ask the Commission to waive any relevant regulations in this case. The only telecommunications carrier that offers full telephone and data transmission services across the entire 25,260 square miles of the School District is the local cooperative Matanuska Telephone, Inc. This is the carrier with which the applicant signed contract extensions for telephone and data transmission services.

The previous IT Administration believed the contracts had provisions for extensions and the carrier supported this assumption in its March 10, 2010 letter. This letter was offered by the carrier during the PIA review to establish that the contract extensions were in fact extensions of existing contracts and that the extensions provided the applicant with faster speeds at lower monthly costs. The applicant believed that it was acting in the best interest of the taxpayer by negotiating lower rates as part of the contract extension. Prices paid are lower than most Alaska communities. No attempt was made to defraud the e-rate program or waste program resources. Mat-Su has some very poor communities where it is common for families to live without running water and indoor toilet facilities. Even with the relatively low cost by Alaska standards, the cost of telecommunications service to these extremely rural communities is very high and E-Rate discounts are crucial to continue service for students and teachers.

## **Conclusion**

The applicant requests that the Commission reverse the administrator's funding denial and grant funding for FRNs 2012983, 2013156. These FRNs cover all school district telephone and data transmission services. These services are necessary for all mission critical communications and digital learning services throughout the school district including student and teacher access to the Internet.

Respectfully submitted this 19th day of November, 2010,

//s//

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