



Aberdeen
School District

*Our Children,
Our Schools,
Our Future*

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*This District is an Equal
Opportunity Employer*

November 28, 2010

Letter of Appeal
Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

Reference: CC Docket No. 96-45 and CC Docket No. 02-6

Request for Review in reference Funding Request Number 1606511

In their final report to the Federal Communications Commission dated May 6, 2009, Moss Adams, Independent Accountants included the following:

Condition: *The Beneficiary did not follow its policies (pertaining to FR1606511) Requiring that they advertise in local papers for the purpose of securing Bids for equipment exceeding \$75,000 and obtain Board approval for Purchases greater than \$50,000.*

Criteria: *Per review of the Beneficiary’s Procurement Policy, Moss Adams noted That Policy No. 6220, Bid Requirements states, “Whenever in the opinion of the board the cost of any furniture, supplies (except books), equipment or work shall equal or exceed \$75,000, formal bids shall be called for by issuing public notice placed in at least one newspaper of general circulation within the district once each week for two consecutive weeks”. Additionally, per review of the Beneficiary’s Procurement Policy Moss Adams noted that Policy No. 6210, Bid Requirements, states, “Board Approval for purchase of capital outlay items is required when the aggregate total of a requisition exceed \$50,000”.*

Cause: *The Beneficiary is aware of the policy requirements however, the Beneficiary elected not to run the newspaper listing as there were a number o circumstances that made publishing an ad in the local newspaper appear to add redundancy and additional expense to the process and be unnecessary. The Beneficiary not requesting approval from the Board appeared to be an oversight.*

Effect: *This is a violation of the Beneficiary’s procurement policy. There is a potential that service providers may not be aware of the bid opportunity and approval is not properly obtained, however, there is not monetary effect.*

Recommendation: *Moss Adams recommends the Beneficiary follow all*

The FCC statement within the notification letter is as follows:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. On your FY 29007 FCC Form470 you certified that you reviewed and complied with all FCC, state and local procurement/competitive bidding requirements. During the course of an audit it was determined that you failed to comply with all FCC, state and local procurement/competitive bidding requirements by failing to advertise in your local papers for the purpose of securing bids for equipment exceeding \$75,000.00 and you did not obtain board approval for the purchases greater than \$50,000.00. The FCC rules require that the applicant submit a bona fide request for services by conducting internal assessments of the components necessary to use effectively the discounted services they order, submitting a complete description of services they seek so that it may be posted for competing providers to evaluate and certify to certain criteria under penalty of perjury. Since you failed to comply with local and state procurement laws you violated the competitive bidding process. Accordingly, our funding commitment will be rescinded in full and USAC will seek recovery of any disbursed funds from the applicant.

The Aberdeen School District considered the audit performed as an educational opportunity and are following the recommendations of the Independent Auditors regarding program regulations. The FCC findings in this case do not follow the "Effect" or "Recommendation" statements of the Auditors. It is our position that Aberdeen School District complied with local and state procurement laws, as evidenced by the following:

1. In addition to filing the required Form 470 for the equipment being requested, the District created and distributed a Request For Proposal. Both items were available for the required length of time.
2. The intent of publishing advertisements in the local newspaper is to assure that interested local vendors are able to read and respond to them. This is designed to provide extra opportunity for local companies to provide the goods and/or services desired by the school district. Because there are no local entities that would be able to respond to a local advertisement for the equipment specified in this case, a decision was made to create and distribute a formal RFP, one that was publically available to all interested parties, rather than publish in the local newspaper. Distribution of the RFP allowed us to provide the information to vendors who were capable of providing the equipment specified. This allowed the District to avoid spending money on advertising that would not reasonably result in the desired outcome.
3. The anticipated costs of the equipment covered under FRN 1606511, for which the RFP was created, were well below the \$75,000 threshold established by District policy. There was no failure to comply with local policy in this instance.
4. Although formal Board approval was not recorded in the meeting minutes, the Board had officially approved the District Technology Plan, which specified technology requirements, including upgrading network switching, for which FRN 1606511 provided funding. The District Superintendent, who serves as secretary to the Board, was well aware of the intended purchases and kept the Board informed. Finally, Board members review the District's financial books at least once monthly and approve all warrants prior to payment for goods and services. The equipment purchase was approved by the Board during the month in question.

Aberdeen School District was in compliance with all State and Erate Program procurement requirements. The competitive bidding process was never compromised during the course of completing the bidding, form filing, evaluation, purchase, and reimbursement requirements. Although we could have been covered in this case under a Statewide Form 470 and resultant contract for the goods being requested, Aberdeen School District performed more than its required due diligence by developing its own RFP and requesting bids from vendors for the goods desired. The bids received were evaluated and the winning eligible service provider was determined in a fair and reasonable manner. The winning vendor was determined with pricing below even the statewide contract pricing. This, we believe, is in concert with USAC and FCC goals. We urge you to reconsider the decision made in this case.

Sincerely,

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