



Houston County Schools

404 West Washington St.
P.O. Drawer 1688
Dothan, AL 36302
(334) 792-8331

Tim Pitchford, Superintendent

March 9, 2011

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

CC Docket No. 96-45 and **CC Docket No. 02-6**

Subject: **Request for Review/Appeal** of the Universal Service Administrative Company (USAC) Decisions

References (USAC Documents/Decision Being Appealed):

1. Notification of Commitment Adjustment Letter, Funding Year 2008, dated February 09, 2011, Application Number 594485, FRN 1641399 (Attachment 1) to Houston County Board of Education
2. Notification of Commitment Adjustment Letter, Funding Year 2008, dated February 09, 2011, Application Number 594485, FRN 1641402 (Attachment 2) to Houston County Board of Education
3. Notification of Commitment Adjustment Letter, Funding Year 2008, dated February 09, 2011, Application Number 594485, FRN 1641399 (Attachment 3) to Trillion Partners, Inc.
4. Notification of Commitment Adjustment Letter, Funding Year 2008, dated February 09, 2011, Application Number 594485, FRN 1641402 (Attachment 4) to Trillion Partners, Inc.

To Whom It May Concern;

Houston County School District (HCSD) respectfully appeals and requests the FCC review the Commitment Adjustments Decisions made by the Universal Service Administrative Company (USAC) to HCSD's Funding Year 2008 applications for services provided by Trillion Partners, Inc. (see referenced documents, Attachments 1 – 4). We request the FCC assess the basis of USAC's Commitment Adjustment Decisions referenced above, consider the information provided here and attached, and reverse USAC's commitment adjustment decisions that rescinded the referenced funding commitments in full. Request the FCC reinstate the funding to the following Houston County School District 2008 applications:

Applicant Name: Houston County School District
Billed Entity Number: 128110

FCC Registration Number Referenced
on Commitment Adjustments: 0012235339

Funding Year 2008:

Form 471 Application Number: 594485
Funding Request Numbers: 1641399 and 1641402

Contact Information:

Name: Robert A. (Bob) Blalock
Address: Houston County School District
404 W. Washington St.
Dothan, Alabama 36301
Phone: (334) 792-8331
Fax: (334) 792-1016
Email: bblalock@hcboe.us

Introduction

Houston County School District disagrees with the USAC's Commitment Adjustment Decisions to rescind in full the Funding Year 2008 applications for Wide Area Network (WAN) and Internet services provided by Trillion Partners, Inc (Attachments 1 - 4) and referenced above. This appeal is filed in conjunction with Houston County School District's appeal filed previously in the FCC's Electronic Filing System (ECFS) on 11/16/2010 (Confirmation Number 20101116772028), appealing USAC's funding denial decisions on our Funding Year 2009 and 2010 WAN and Internet services applications which were based on the same contract and competitive bid activity as the 2008 FRNs referenced in this appeal and for which USAC issued the referenced Commitment Adjustment Decisions (Note: Previous appeal referenced: FY2009 471 Application 650947, FRNs 1786824 and 1786841 & FY2010 471 Application 722005, FRNs 1957944 and 1957954).

According to USAC's Notification of Commitment Adjustment Letters, FY2008 471 Application 594485, FRNs 1641399 and 1641402 (Attachments 1 – 4), commitment adjustments were made for the following reason:

"After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of a review, documentation provided by you and/or your vendor indicated that there was not a fair and open competitive bid process free from conflicts of interest. The documents provided by you and/or your service provider indicated that, prior to/throughout your contractual relationship with the service provider listed on the FRN, you were offered and accepted gifts, meals, gratuities, or entertainment from the service provider, which resulted in a competitive process that was no longer fair and open. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and service provider."

This is the same reason USAC gave for the funding commitment denial decisions previously received for our FY2009 and 2010 WAN and Internet applications and for which Houston County School District has a pending appeal with the FCC (see Attachment 5).

The basis of the commitment adjustments and denials is that USAC has alleged HCSD did not conduct a fair and open competitive bid process free from conflicts of interest. However, USAC failed to demonstrate this in their review. The sole basis of USAC's allegations was that Houston County School District employees accepted meals from the vendor: meals that complied with the gift restrictions outlined in the Code of Alabama (see Attachment 5-4 & 5-5), the only clear guidance available at that time. However, as stated in our previous appeal, Houston County School District personnel complied with the State of Alabama's Code for receiving meals which was the only clear guidance available at that time and we did not engage in any activity that prevented a fair and open competitive bidding process. USAC's did *not* identify or cite any other inappropriate conversations, exchange of information, inappropriate relationships, or anything else used in their determination that a fair and open competitive bidding process did not occur. In fact, USAC was presumptive in its interpretation of the FCC's gift policy as illustrated by ambiguous guidance that was available to applicants at the time the purported violations occurred. Furthermore, USAC was unable to cite in any FCC Code, Orders, or other regulations that were in place at the time that would cause any reasonable person to conclude that our compliance with the applicable state laws for receiving meals did not apply in this case. We assert that Houston County School District personnel complied with the State of Alabama's Code for receiving meals which was the only legitimate guidance available on the issue at the time of the proposed violations and we did *not* engage in any other activity that prevented a fair and open competitive bid process. Therefore, we request the FCC reverse USAC's Commitment Adjustment Decisions and reinstate all funding to HCSD's 2008 applications for WAN and Internet services cited in this appeal. Also, request the FCC reverse USAC's 2009 and 2010 funding denials cited in our 11/12/10 appeal previously submitted to the FCC on 11/16/10.

Additional Supporting Information

Please see the FY2009 and 2010 appeal in Attachment 5 (with attachments) for detailed chronology and supporting information for this appeal of USAC's commitment adjustments to FRNs 1641399 and 1641402. The supporting information contained in Attachment 5 and its attachments for the previous appeal of the FY2009 and 2010 denials also applies to this appeal since the 2008, 2009, and 2010 applications cited here and in the attachments are all based on the same contract and competitive bidding activity.

Summary:

The information we've provided here and in the attached documents demonstrate that Houston County School District conducted a fair and open competitive bid process free of conflicts of interest and district personnel complied with the state's policy for accepting meals which was the prevailing policy available at that time. Furthermore, as defined by the Code of Alabama, the district employees received nothing of value that would constitute a violation of the competitive bidding process. Since the meals were the

basis of the denials and Houston County School District did not engage in and USAC did **not** identify any inappropriate conversations, exchange of information, inappropriate relationships, or anything else from their *extensive review* that was used in their determination that a fair and open competitive bidding process did not occur, we request the FCC reverse USAC's Commitment Adjustment Decisions that rescinded the FY2008 funding commitments for FRN 1641399 and 1641402 and reinstate the funding in full. Additionally, in conjunction with this reversal, request the FCC reverse USAC's denial decisions and fund HCSD's Funding Year 2009 and 2010 applications (FRNs 1786824, 1786841, 1957944, and 1957954) related to the same contract and competitive bid activity which were addressed in our previous appeal submitted in the FCC's ECFS on 11/16/2010.

Thank you for your consideration. We greatly appreciate the opportunity to participate in the E-rate program. If you have any questions please contact Bob Blalock at (334) 792-8331.

Sincerely,



Robert A. (Bob) Blalock
District Technology Coordinator
Voice: (334) 792-8331
Fax: (334) 792-1016
bblalock@hcboe.us

Attachments (25):

1. Notification of Commitment Adjustment Letter, Funding Year 2008, dated February 09, 2011, Application Number 594485, FRN 1641399 to Houston County Board of Education
2. Notification of Commitment Adjustment Letter, Funding Year 2008, dated February 09, 2011, Application Number 594485, FRN 1641402 to Houston County Board of Education
3. Notification of Commitment Adjustment Letter, Funding Year 2008, dated February 09, 2011, Application Number 594485, FRN 1641399 to Trillion Partners, Inc.
4. Notification of Commitment Adjustment Letter, Funding Year 2008, dated February 09, 2011, Application Number 594485, FRN 1641402 to Trillion Partners, Inc.
5. Houston County Schools Letter, Subject: Request for Review/Appeal of the Universal Service Administrative Company (USAC) Decisions (Ref: FY2009 471 650947, FRNs 1786824 & 1786841 & FY2010 471 722005, FRNs 1957944 & 1957954), Dated 11/12/10 (Posted on ECFS 11/16/10)
 - 5-1. USAC Schools and Libraries Division, Funding Commitment Letter (Funding Year 2009: 07/01/2009 – 6/30/2010), Form 471 Application Number 650947, Dated 9/15/10
 - 5-2. USAC Schools and Libraries Division, Administrator's Decision on Appeal – Funding Year 2009-2010, Form 471 Application Number 650947, Dated 10/28/10
 - 5-3. USAC Schools and Libraries Division, Funding Commitment Letter (Funding Year 2010: 07/01/2010 – 6/30/2011), Form 471 Application Number 722005, Dated 10/6/10
 - 5-4. Code of Alabama, Section 36-25-7, Offering, soliciting, or receiving things of value for

purpose of influencing official action; money solicited or received in addition to that received in official capacity.

- 5-5.** Code of Alabama, Section 36-25-1, Definitions
- 5-6.** USAC Schools and Libraries Division Request Letter, Subject: Application Number(s): FY2009 Form 471# 650947, FRNs 1786841, 1786824, and 471# 662664, FRN 1809620, Dated 6/3/10
- 5-7.** Houston County Schools Letter, Re: Information Regarding Meal Purchased by Trillion Partners, Inc. (with 1 Attachment), Dated 6/6/10
- 5-8.** USAC Schools and Libraries Division Request Letter (Revised), Subject: Application Number(s): FY2009 Form 471# 650947, FRNs 1786841, 1786824, and 471# 662664, FRN 1809620, Dated 6/18/10
- 5-9.** USAC Schools and Libraries Division, 2010 Fall Training Presentation Extract, Program Compliance (Slide 12)
- 5-10.** Houston County Schools Letter, Re: Response to Denial Letter dated June 18, 2010 (with 4 Attachments), Dated 7/5/10
- 5-11.** Hardwick, Hause, Segrest & Walding Letter, Re: Houston County Board of Education, Dothan, Alabama, Application Numbers FY2009 Form 471# 650947, FRNs 1786841, 1786824 and 471# 662664, FRN 1809620
- 5-12.** USAC Schools and Libraries Division Request Letter (Revised), Subject: Application Number(s): FY2010 Form 471# 722005, FRNs 1957944 and 1957954, Dated 9/13/10
- 5-13.** Houston County Schools Letter, Re: Response to Denial Letter dated 9/13/10, Subject: FY2010 Form 471# 722005, FRNs 1957944 and 1957954 (with 5 Attachments), Dated 9/24/10
- 5-14.** Houston County Board of Education Policy, 6.14.1 – Gifts
- 5-15.** USAC Schools and Libraries Division Email, Subject: Initial Contact, case# 22-078241, Dated 6/21/10
- 5-16.** USAC Schools and Libraries Division Website, Step 6: Free Services Advisory Guidance
- 5-17.** USAC Schools and Libraries Division Email, Subject: (FCC Reg guidance concerning meals, gifts, etc.) Initial Contact, case# 22-109410, Dated 9/17/10
- 5-18.** USAC Schools and Libraries Division Website, Step 3: Run an Open and Fair Competitive Bidding Process
- 5-19.** USAC Schools and Libraries Division Website, Step 3: Open a Competitive Bidding Process
- 5-20.** USAC Schools and Libraries Division, 2009 Fall Training Presentation Extract, Issues in Competitive Bidding (Slides 17 & 18)