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January 4, 2012

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

Request for Appeal – CC Docket Nos. 96-45 and 02-6

USAC Appeal Decision Date: November 8, 2011

Form 471 Number: 449052

Funding Year: 2005 (7/1/2005 – 6/30/2006)

Billed Entity Name: KANED PROJECT

BEN: 226927

FRNs: 1234887, 1308146, 1308148, 1308150, 1308151, 1308153, 1308155, 1308156, 1308158, 1308160, 1308161, 1308162, 1308164, 1308166, 1311483

Service Providers: SBC Advanced Solutions, Inc.; SBC Long Distance; SBC Capital Services, Inc.; Cox Kansas Telcom, LLC; S&A Telephone Company, Inc.; S&T Telephone Cooperative Association, Inc.; Craw-Kan Telephone Cooperative, Inc.; The Pioneer Telephone Association, Inc.; Rural Telephone Service Co., Inc.; Blue Valley Tele-Communications, Inc.; Haviland Telephone Company, Inc.; Sprint Communications Co., L.P.; The Golden Belt Telephone Association, Inc.; Cox Kansas Telcom, LLC; TelCove Investment, LLC

SPINs: 143022137, 143008823, 143008661, 143006715, 143002308, 143002307, 143002304, 143002303, 143002306, 143002286, 143002293, 143005695, 143002291, 143006715, 143022855

Contact Person: Jerry Huff, Director of Operations, Kan-ed
Phone: 785-296-7034
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Decision being Appealed: Kan-ed is appealing USAC's Denial of our Appeal. Specifically we are appealing a component of USAC's calculation of the cost-allocation that should be applied to our Funding Requests. The specific language from the Denial Letter is excerpted below:

“According to our records, USAC allowed the Consortium to amend the Block 4 of the FCC Form 471 and during the remand review process ninety-two (92) additional entities were added. The record also shows that USAC determined that the funding requests should be reduced by 5.5% (due to ineligible recipients of services; hospital and twenty-three higher education entities). USAC also removed ninety-six (96) entities from Block 4 because the Consortium leader did not provide Letters of Agency (LOA) for these entities. As a result, USAC determined that the funding requests should be further reduced by (96/407) 23.59%. On the Consortium's correspondence (e-mail) submitted on February 14, 2007, the Consortium agreed to these cost allocations.

During review of the appeal, the determination by Program Compliance concurred that the entities; Bonner Springs City Library, Kinsley Public Library and Jordaan Memorial Library were the only ones that did not comply with technology plan requirement. This resulted in a change in the ineligible cost allocation from 23.59% (96/407) to **24.32% (99/407)** in addition to the 5.5% (ineligible recipients of service; hospital and twenty-three higher education entities).”

This appeal is requesting a recalculation **only** of the 24.32% (99/407). We are requesting that the 24.32% be reduced to 2.22% (7/315). We agree and will comply with all other appeal decisions for cost-allocation.

We have attached copies of our appeal dated August 22, 2011 and USAC's “Administrators Decision on Appeal”, dated November 8, 2011.

Background

This Form 471 Application has already been the subject of an FCC Appeal that was ‘approved’ per FCC Order (File No. SLD-449052, adopted November 21, 2006, attached below). Since that time, we have received two additional, revised FCDL's and completed an SLD Audit of the year in question. Kan-ed is a statewide consortium and is authorized by state statute to represent its members. For the Funding Year in question, Kan-ed's network costs were largely independent of the specific number of entities participating. This broadband, low latency network is primarily designed to accommodate the needs of video for distance learning capabilities.

KANED originally applied for E-Rate funding for FY2005. Our application was denied and we appealed to the FCC. That appeal was granted in November, 2006. After a lengthy review KANED received an RFCDL in May of 2007 approving our FRNs “approved as submitted” for a total awarded amount of approximately \$2 million. During the fall of 2007 and the early part of 2008, KANED filed and received BEAR payments on most FRNs in amount of approximately \$1.7 million. SLD conducted a full audit of the funding year in 2008 and 2009, after which we received a series of COMAD letters in January of 2011, requesting the return of virtually all funds. KANED appealed these COMAD letters to SLD and received a response of “Approved – Funding Reduced”. We subsequently received a second RFCDL that reduced our funding by \$437k. KANED appealed that RFCDL and on November 8, 2011 USAC issued a “Decision on Appeal” in which they denied our arguments. KANED has now received Demand Repayment Letters for the \$437k.

Summary of Appeal

USAC is correct that in the remand review process 92 entities were added and 96 (now 99) were removed from Block 4 of our application. However, this was not a typical Form 471 application, where any reductions to Block 4 result in a straight-line cost allocation. We argue that when we submitted our original Form 471, the Block 4 contained 315 entries. After the FCC Order and the remand review process, our Block 4 contains 308 entities. The SLD calculated the cost-allocation as: 24.32% (99/407) and we submit that a fair and reasonable calculation would be 2.22% (7/315) because this would more accurately represent the difference between the original and the current number of 'entities.

SLD's calculations reflect the false assumption that our network funding was based originally on serving 407 entities. Our original request was based on serving 315 entities. Since the result of the remand review process shows Kan-ed serving 308 entities, we believe that our original funding requests should only be reduced by the difference between the original and final number of entities.

The reduction that the SLD references as being "agreed to by the Consortium" in our correspondence of February 14, 2007 were never implemented by SLD. In fact, throughout at least two subsequent reviews, (PIA and Invoice Review), the SLD did not incorporate these changes. Hence Kan-ed assumed upon receipt of their FCDL that these changes had been reconsidered and discarded. In addition, the specific percentages used for cost allocation have changed several times since our correspondence, including the values in current denial letter.

Request

We ask the Commission to grant Kan-ed's request that the cost-allocation formula for FY2005 be revised to reduced funding by 2.22% instead of the current 24.32% on the FRNs in question.

The current RFCDL amounts (07-12-2011) and the estimated effect of the changes that we are requesting in this appeal are shown below. The financial impact of these changes would benefit KANED by approximately \$341k, reducing USAC's Demand Repayment amounts from approximately \$439k to approximately \$98k.

These amounts are from our original Form 471 Application and were "Approved as Submitted" per FCDL dated May 7, 2007				These amounts are from USAC's Revised FCDL dated July 12, 2011 and revised per USAC's Denial of our SLD Appeal dated November 8, 2011.			These amounts are from this Kan-ed Appeal to the FCC and represent what we consider a fair and reasonable solution.		
2005 FRN	Total Annual Pre-Discount Amount as Filed on Form 471	% Disc	Total FRN Amount Requested 2-14-05	Revised Pre-Discount Annual Amount per RFCDL 07-12-2011	Revised Discounted Annual Amount per RFCDL 07-12-2011	% Reduction per RFCDL 07-12-2011	Revised Pre-Discount Annual Amount per FCC Appeal (using 2.22%)	Revised Discounted Annual Amount per FCC Appeal (using 2.22%)	% Reduction per FCC Appeal
1234887	\$ 867,168	65%	\$563,659.20	\$ 610,230.48	\$ 396,650	29.63%	\$ 788,429.39	\$ 512,479.10	9.08%
1308146	\$ 72,000	65%	\$46,800.00	\$ 72,000.00	\$ 46,800	0.00%	\$ 72,000.00	\$ 46,800.00	0.00%
1308148	\$ 347,721	65%	\$226,018.96	\$ 248,667.85	\$ 161,634	28.49%	\$ 321,283.59	\$ 208,834.33	7.60%
1308150	\$ 676,818	65%	\$439,931.83	\$ 483,480.12	\$ 314,262	28.57%	\$ 624,665.52	\$ 406,032.59	7.71%
1308151	\$ 27,456	65%	\$17,846.40	\$ 19,634.75	\$ 12,763	28.49%	\$ 25,368.48	\$ 16,489.51	7.60%
1308153	\$ 36,100	65%	\$23,465.00	\$ 36,100.00	\$ 23,465	0.00%	\$ 36,100.00	\$ 23,465.00	0.00%
1308155	\$ 65,931	65%	\$42,854.92	\$ 47,149.32	\$ 30,647	28.49%	\$ 60,917.82	\$ 39,596.58	7.60%
1308156	\$ 222,237	65%	\$144,453.74	\$ 158,929.20	\$ 103,304	28.49%	\$ 205,339.55	\$ 133,470.71	7.60%
1308158	\$ 198,793	65%	\$129,215.45	\$ 142,163.88	\$ 92,407	28.49%	\$ 183,678.43	\$ 119,390.98	7.60%
1308160	\$ 117,052	65%	\$76,083.62	\$ 83,707.80	\$ 54,410	28.49%	\$ 108,152.07	\$ 70,298.85	7.60%
1308161	\$ 116,843	65%	\$75,947.85	\$ 83,558.40	\$ 54,313	28.49%	\$ 107,959.04	\$ 70,173.38	7.60%
1308162	\$ 259,829	65%	\$168,889.01	\$ 185,813.05	\$ 120,778	28.49%	\$ 240,073.99	\$ 156,048.09	7.60%
1308164	\$ 29,800	65%	\$19,370.00	\$ 29,800.00	\$ 19,370	0.00%	\$ 29,800.00	\$ 19,370.00	0.00%
1311483	\$ 26,416	65%	\$17,170.40	\$ 18,891.00	\$ 12,279	28.49%	\$ 24,407.53	\$ 15,864.90	7.60%
1308166	\$ 9,500	65%	\$6,175.00	\$ 9,500.00	\$ 6,175	0.00%	\$ 9,500.00	\$ 6,175.00	0.00%
	\$ 3,073,664		\$1,997,881.37	\$ 2,229,625.85	\$ 1,449,257		\$ 2,837,675.41	\$ 1,844,489.02	

Kan-ed has already paid in full for all of the services in question and we have filed BEAR forms to recoup only the amounts that were awarded in accordance with SLD rules and reviews over the last five years. USAC has never questioned the fact that all of these funds were used for eligible telecommunications services. The only substantive questions have been with regard to the number of k-12 and library entities served by our network as demonstrated by LOA's. We appreciate the FCC's support in our original appeal and we ask for their support again in this instance.

Sincerely,

(submitted electronically via ECFS)

Jerry Huff
 Director of Kan-ed
 Phone: 785-296-7034
 E-mail: jhuff@ksbor.org

The following attachments included in this document below:

- 1 – Timeline of Kan-ed’s 2005 Form 471 Application 449052
- 2 - USAC Decision on Appeal FY2005 Kaned 11-08-2011
- 3 - KANED Appeal to SLD RFCDL FY2005-06 08-22-2011
- 4 – FCC Order FCC 06-170 File No. SLD-449052 Rel 11-22-2006

Timeline of Kan-ed FY2005 Application 449052

- 02/16/05 – Kan-ed Submits FCC Form 471 #449052
- 01/25/06 – USAC Denial of FCC Form 471 – 30% Rule
- 03/23/06 – Kan-ed files FCC Request for Waiver
- 11/22/06 – FCC Order FCC 06-170 granting KANED’s Request for Waiver (attached)
- 12/28/06 – USAC Consortium Review requests new LOA’s
- 12/28/06 – 01/22/07 Kan-ed gathers and transmits 300+ LOAs to SLD
- 01/22/07 – 02/14/07 Consortium review progresses, USAC and Kan-ed disagree over cost-allocation methodology and amounts
- 02/14/07 – Kan-ed accepts Consortium Review cost-allocation. Review is completed.
- 03/29/07 – 04/20/07 USAC PIA Review – no mention of cost-allocation.
- 05/07/07 – RFCDL#1 received ‘approved as submitted’ (without any of the reductions to funding that were agreed to in Consortium Review)
- Sep-Oct 2007 – Kan-ed files BEARs (FCC Form 472) requesting reimbursements
- Summer 2008 – SLD Audit of FY2005 and FY2006
- 01/28/11 – Kan-ed receives COMAD letters requesting the return of approximately \$2M (all funds for FY2005) – main reason is ‘lack of Technology Plan’.
- 03/15/11 – Kaned Appeals the COMAD letters - main argument is ‘we are a consortium and no tech plan is required’
- 06/30/11 - USAC Decision on Appeal “Approved – Funding Reduced” (this is the first time that USAC mentions 24% cost-allocation since Feb 14, 2007)
- 07/12/11 - RFCDL #2 rec’d for FY2005 w/approximately 24% cost-allocation
- 07/25/11 - USAC/HATS visit. Kan-ed raises the issue of RFCDL, USAC advises appeal.
- 08/24/11 – Kan-ed Appeals to SLD re: the latest RFCDL (copy attached)
- 11/08/11 - USAC Decision on Appeal FY2005 – ‘Denied’ (copy attached)



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

November 08, 2011

Jerry Huff
KANED PROJECT
1000 SW Jackson St., Suite 520
Topeka, KS 66612-1368

Re: Applicant Name: KANED PROJECT
Billed Entity Number: 226927
Form 471 Application Number: 449052
Funding Request Number(s): 1234887, 1308150, 1308148, 1308151, 1308155,
1308156, 1308158, 1308160, 1308161, 1308162,
1311483
Your Correspondence Dated: August 22, 2011

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 Revised 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): 1234887
Decision on Appeal: **Denied**
Explanation:

- According to our records, USAC allowed the Consortium to amend the Block 4 of the FCC Form 471, and during the remand review process ninety-two (92) additional entities were added. The record also shows that USAC determined that the funding requests should be reduced by 5.5% (due to ineligible recipients of services; hospital and twenty-three higher education entities). USAC also removed ninety-six (96) entities from Block 4 because the Consortium leader did not provide Letters of Agency (LOA) for these entities. As a result, USAC determined that the funding requests should be further reduced by (96/407) 23.59%. On the Consortium's correspondence (e-mail) submitted on February 14, 2007, the Consortium agreed to these cost allocations.

During the audit process, it was further determined that for the above FRN the amount of the funding commitment did not agree with the amount in the contracts for which funding was requested. Additionally, the findings also determined that there was not a technology plan in place for entities; Bonner Springs City Library, Kinsley Public Library and Washington Co. and Jordaan Memorial Library.

It was determined by Program Compliance that the amount subject to recovery was determined to be \$9,009.00 post-discount. The entities Bonner Springs City Library, Kinsley Public Library and Jordaan Memorial Library were the only ones that did not comply with technology plan requirement. Therefore, there was a change in the ineligible cost allocation from (96/407) 23.59% to 24.32% (99/407) in addition to the 5.5% mentioned above to arrive at the annual eligible amount of \$610,230.53 (recurring amount of \$50,852.54).

USAC has deemed these entities are ineligible to receive discounts for the services approved on your FCC Form 471. These entities have been removed from Block 4, Worksheet C No: 638105 of the Form 471 application. Accordingly, the funding requests have been adjusted to remove the cost associated with these entities. As per the revised calculations explained above, it does not appear that USAC has erred in its initial determination. Therefore, the appeal is denied.

Funding Request Number(s): 1308150
Decision on Appeal: **Denied**
Explanation:

- According to our records, USAC allowed the Consortium to amend the Block 4 of the FCC Form 471, and during the remand review process ninety-two (92) additional entities were added. The record also shows that USAC determined that the funding requests should be reduced by 5.5% (due to ineligible recipients of services; hospital and twenty-three higher education entities). USAC also removed ninety-six (96) entities from Block 4 because the Consortium leader did not provide Letters of Agency (LOA) for these entities. As a result, USAC determined that the funding requests should be further reduced by (96/407) 23.59%. On the Consortium's correspondence (e-mail) submitted on February 14, 2007, the Consortium agreed to these cost allocations.

The Consortium requested funding for Contract 08058 (Cox Communications Kansas LLC). The FCC Form 471 had a posting date of February 16, 2005 while the contract was executed on March 1, 2005. FCC rules require applicants to have a valid contract as defined by the applicant's state procurement laws and regulations at the time they submit the Form 471. Therefore, this funding request has been modified to remove the pre-discount annual amount of \$9,000.00 associated with contract #08058. Except for services to be delivered under non-contracted tariff or month-to-month arrangements, FCC rules require that applicants submit a completed FCC Form 471 "upon signing a contract for eligible services." See 47 C.F.R. sec. 54.504(c).

During the audit process, it was also determined that there was not a technology plan in place for entities; Bonner Springs City Library, Kinsley Public Library and Washington Co. and Jordaan Memorial Library.

During the review of the appeal, the determination by Program Compliance concurred that the entities; Bonner Springs City Library, Kinsley Public Library and Jordaan Memorial Library were the only ones that did not comply with the technology plan requirement.

The ineligible cost allocation of 23.59% (96/407) was changed to reflect 24.32%(99/407) in addition to the 5.5% and was applied to the above FRN to arrive at the annual eligible amount of \$483,480.12 (recurring amount of \$40,290.01).

USAC has deemed these entities ineligible to receive discounts for the services approved on your FCC Form 471. These entities have been removed from Block 4, Worksheet C No: 638105 of the Form 471 application. Accordingly, the funding requests have been adjusted to remove the cost associated with these entities.

As per the revised calculation explained above, it appears that USAC reduced the funding request appropriately per the support documentation submitted. Therefore, the appeal is denied.

- SLD has determined that, at the time you submitted your Form 471 application, you did not have a signed contract for services in place with your service provider(s) for services other than tariffed or month-to-month services. FCC rules require that applicants submit a completed FCC Form 471 "upon signing a contract for eligible services." 47 C.F.R. § 54.504(c). The FCC has consistently upheld SLD's denial of Funding Request Number(s) when there is no contract in place for the funding requested.¹ The FCC Form 471 instructions under Block 5 clearly state that you MUST sign a contract for all services that you order on your Form 471 except tariffed services and month-to-month services.² You did not provide evidence with your appeal that, at the time you signed your Form 471, you had signed a contract for eligible services. Consequently, SLD denies your appeal.

Funding Request Number(s): 1308148, 1308151, 1308155, 1308156, 1308158,
1308160, 1308161, 1308162, 1311483

Decision on Appeal: **Denied**

Explanation:

- According to our records, USAC allowed the Consortium to amend the Block 4 of the FCC Form 471, and during the remand review process ninety-two (92) additional entities were added. The record also shows that USAC determined that the funding requests should be reduced by 5.5% (due to ineligible recipients of services; hospital and twenty-three higher education entities). USAC also removed ninety-six (96) entities from Block 4 because the Consortium leader did not provide Letters of Agency (LOA) for these entities. As a result, USAC determined that the funding requests should be further

¹ Request for Review by Waldwick School District, Schools and Libraries Universal Service Support Mechanism, File No. SLD-256981, CC Docket Nos. 02-6, Order, 18 FCC Rcd. 22,994, DA 03-3526 (2003).

² See Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2004) at page 20.

reduced by (96/407) 23.59%. On the Consortium's correspondence (e-mail) submitted on February 14, 2007, the Consortium agreed to these cost allocations.

During the audit process, it was determined that there was not a technology plan in place for entities; Bonner Springs City Library, Kinsley Public Library and Washington Co. and Jordaan Memorial Library.

During review of the appeal, the determination by Program Compliance concurred that the entities; Bonner Springs City Library, Kinsley Public Library and Jordaan Memorial Library were the only ones that did not comply with technology plan requirement. This resulted in a change in the ineligible cost allocation from 23.59% (96/407) to 24.32% (99/407) in addition to the 5.5% (ineligible recipients of service; hospital and twenty-three higher education entities).

The change is as follows:

FRN 1308148 the original annual amount of \$347,721.48 is reduced to reflect the annual amount of \$248,667.85 (\$20,722.32 per month).

FRN 1308151 the original annual amount of \$27,456.00 is reduced to reflect the annual amount of \$19,634.75 (\$1,636.23 per month).

FRN 1308155 the original annual amount of \$65,930.64 is reduced to reflect the annual amount of \$47,149.32 (\$3,929.11 per month).

FRN 1308156 the original annual amount of \$222,236.52 is reduced to reflect the annual amount of \$158,929.14 (\$13,244.10) per month.

FRN 1308158 the original annual amount of \$198,792.96 is reduced to reflect the annual amount of \$142,163.83 (\$11,846.99 per month).

FRN 1308160 the original annual amount of \$117,051.72 is reduced to reflect the annual amount of \$83,707.80 (\$6,975.65 per month).

FRN 1308161 the original annual amount of \$116,842.80 is reduced to reflect the annual amount of \$83,558.39 (\$6,963.20 per month).

FRN 1308162 the original annual amount of \$259,829.28 is reduced to reflect the annual amount of \$185,813.05 (\$15,484.42 per month).

FRN 1311483 the original annual amount of \$26,415.96 is reduced to reflect the annual amount of \$18,890.98 (\$1,574.25 per month).

USAC has deemed some entities are ineligible to receive discounts for the services approved on your FCC Form 471. These entities have been removed from Block 4, Worksheet C No: 638105 of the Form 471 application. Accordingly, the funding requests have been adjusted to remove the cost associated with the ineligible entities.

As per the revised calculations explained above, it does not appear that USAC has erred in its initial determination. The funding requests were reduced accordingly. Therefore, the appeal is denied.

- Your Form 471 requested funding for services other than basic local and long distance telephone service. FCC rules require applicants to certify that the entities receiving products and/or services other than basic telephone service are covered by an individual and/or higher-level technology plan that has been, or is in the process of being approved. 47 C.F.R. § 54.504(b)(2)(vii); *See* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 Block 6, item 26, 27 (*FCC Form 471*)

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
Universal Service Administrative Company

SLD Appeal re: KANED Project BEN 226927

August 22, 2011

Letter of Appeal - Case # 22-261984 (*filed electronically*)

Schools and Libraries Division
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

Contact Information:

Contact Person Name:	Jerry Huff
Contact Person Phone:	785-296-7034
Contact Person Fax:	785-296-0983
Contact Person E-Mail:	jhuff@ksbor.org

Other Required Information:

Funding Years:	2005 & 2006
Applicant Name:	KANED PROJECT
Billed Entity # :	226927
Form 471 Application#:	515831 & 449052
FRN / Service Provider:	See Tables below

SLD action being appealed:

We are appealing two Revised Funding Commitment Decision Letters (RFCDLs) dated July 12, 2011. KANED received these RFCDLs in response to our previous appeal of twenty-four (24) COMAD letters. The SLD's response to our original appeal was "Approved – Funding Reduced". This appeal and our original appeal both address thirteen (13) FRNs from FY2005 and eleven (11) FRNs in FY2006. Most of the funding reductions seem to be based mainly on problems with Technology Plans of some of our members. It appears that most of the FY2006 funding reductions were calculated on a straight-line cost allocation basis and result in a reduction of about 1%. However, the FY2005 cost reductions are much larger (30%) and we cannot tell how they were calculated. We suspect that there is an error in their development as described below and we are requesting SLD to re-consider the amount of reductions to the FY2005 FRNs.

SLD Appeal re: KANED Project BEN 226927

Specific USAC LANGUAGE: The language from the RFCDL for FY2005, FRN1234887 is shown below and is typical of all FRNs on these applications...

“MRI: The consortium leader has failed to provide evidence of authorization to file Forms 471 on behalf of, or evidence of the membership of 96 members included in this consortium. These entities have been removed from Block 4 of the Form 471 in consultation with the applicant. <><><> MR2, 92 additional entities have been added to Block 4 of the Form 471 application at the request of the applicant <><><><><> MR3 A technology plan covering the current funding year was not provided for Bonner Springs City Library, BEN 137549; Kinsley Public Library, BEN 138039 and Jordaan Memorial Library, BEN 138042. Technology plans are required when applicants apply for more than basic wireline and wireless telecommunications services <> <><> <> MR4 Bonner Springs City Library, BEN 137549; Kinsley Public Library BEN 138039 and Jordaan Memorial Library, BEN 138042 have been removed from Block 4, Worksheet No, 638105 of the Form 471 application. MR5 The dollars requested were changed to agree to the dollars supported by the contract. <> (><> <> (> MR6: The FRN was further modified to \$50,852.54 per month pre-discount.”

Summary of our Appeal

For simplicity, we are addressing both RFCDLs and all of the FRNs concerned in this single appeal. Kan-ed also discussed this matter with SLD staff during a HATS visit on July 25, 2011. During that visit we were informed that the SLD is considering our arguments and would be issuing a new set of COMAD letters. Kan-ed is compelled to file this appeal as we do not agree with the revised amounts. The letters containing the revised amounts provided no explanation for the basis of these new amounts. We have attempted to reconstruct how these new amounts were determined and have been unsuccessful to date.

The specific reduction amounts for both FY2005 and FY2006 are shown in the tables below. Note the differences in the reduced amounts between these two years.

SLD Appeal re: KANED Project BEN 226927

FY2005 Reductions

Item 21#	2005 FRN	Vendor	Total Awarded Per FCDL 5-7-07	Revised Total Awarded Per RFCDL 07-12-2011	% Reduction per RFCDL
1.1	1234887	SBC Advanced Solutions	\$ 563,659	\$ 396,650	29.63%
1.2	1308146	SW Bell Comm Services	\$ 46,800	\$ 46,800	0.00%
1.3	1308148	SBC Capital Services	\$ 226,019	\$ 161,634	28.49%
1.4	1308150	Cox Kansas Telcom LLC	\$ 439,932	\$ 314,262	28.57%
1.5	1308151	S&A Tel Co	\$ 17,846	\$ 12,763	28.49%
1.6	1308153	S&T Tel Coop	\$ 23,465	\$ 23,465	0.00%
1.7	1308155	Craw -Kan Tel Coop	\$ 42,855	\$ 30,647	28.49%
1.8	1308156	The Pioneer Tel Assn	\$ 144,454	\$ 103,304	28.49%
1.9	1308158	Rural Tel Service Co	\$ 129,215	\$ 92,407	28.49%
1.10	1308160	Blue Valley TeleCom	\$ 76,084	\$ 54,410	28.49%
1.11	1308161	Haviland Tel Co	\$ 75,948	\$ 54,313	28.49%
1.12	1308162	Sprint Long Distance	\$ 168,889	\$ 120,778	28.49%
1.13	1308164	Golden Belt Tel Assn	\$ 19,370	\$ 19,370	0.00%
1.14	1311483	Telcove	\$ 17,170	\$ 12,279	28.49%
1.15	1308166	Cox Kansas Telcom LLC	\$ 6,175	\$ 6,175	0.00%
			\$ 1,997,881	\$ 1,449,257	

SLD Appeal re: KANED Project BEN 226927

FY2006 Reductions

Item 21#	2006 FRN	Vendor	Total Awarded per FCDL 02-21-2007	Total Awarded Per RFCDL 07-12-2011	% Reduction per RFCDL
1.1	1454396	SBC Advanced Solutions	\$ 483,660	\$ 479,187	0.92%
1.2	1454403	SW Bell Comm Services	\$ 40,081	\$ 39,711	0.92%
1.3	1454411	SBC Capital Services	\$ 113,327	\$ 84,788	25.18%
1.4	1454417	Cox Kansas Telcom LLC (M)	\$ 368,837	\$ 365,426	0.92%
1.5	1454423	S&A Tel Co	\$ 19,136	\$ 18,959	0.92%
1.6	1454432	S&T Tel Coop	\$ 34,949	\$ 34,626	0.92%
1.7	1454440	Craw -Kan Tel Coop	\$ 34,552	\$ 34,232	0.92%
1.8	1454449	The Pioneer Tel Assn	\$ 152,263	\$ 109,271	28.24%
1.9	1454462	Rural Tel Service Co	\$ 101,854	\$ 100,912	0.92%
1.10	1454471	Blue Valley TeleCom	\$ 64,147	\$ 53,421	16.72%
1.11	1454484	Haviland Tel Co	\$ 61,937	\$ 61,364	0.92%
1.12	1454508	Sprint Long Distance	\$ 72,497	\$ 71,827	0.92%
1.13	1454525	Golden Belt Tel Assn	\$ 15,267	\$ 15,125	0.92%
1.14	1454533	Telcove	\$ 28,695	\$ 28,429	0.92%
1.15	1454538	Tw in Valley Tel	\$ 42,445	\$ 42,052	0.92%
1.16	1454549	Sunflower	\$ 90,327	\$ 89,492	0.92%
			\$ 1,723,974	\$ 1,628,822	

SLD Appeal re: KANED Project BEN 226927

KANED basis for this appeal:

The overall funding reduction on most of the FY2005 FRNs, as shown in the table above is approximately 30%. According to the reasons given in the RFCDL and consistent with our understanding of the situation, the number of entities removed from the Block 4 should be the net of the additions and removals $(-96+92-3=7)$ removals). We believe that the SLD calculated a straight-line cost allocation basis for reduction of funding based on the removals only $(-96-3=99)$ removals). Our application for FY2005 contained approximately 311 eligible entities. We believe that the reduction in FRN amounts due to tech plan issues should reflect a factor of $(7/311) = 2\%$ instead of the apparent $(96/311) = 30\%$.

Requested Action:

We request that the SLD recalculate the FRN reductions based on straight-line cost allocation that reflects the net entity changes on our application (i.e. reduced by 2% instead of 30%).

We can only estimate these figures because we were not provided with any specific cost allocation data or formulas on which to appeal. We therefore request that the SLD inform us as to the exact calculation of the reduced amount on this and all FRNs in question.

Sincerely,
(filed electronically via SLD website)
Jerry Huff
jhuff@ksbor.org



Revised Funding Commitment Decision Letter
Funding Year 2005: (07/01/2005 - 06/30/2006)

July 12, 2011

BRADLEY S. WILLIAMS
KANED PROJECT
1000 SW JACKSON ST, SUITE 520
TOPEKA, KS 66612-1368

RE: Form 471 Application Number: 449052
Billed Entity Number: 226927
Applicant's Form Identifier: KANED47101.2005

This letter is your notification that the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has completed its review of your request.

The Report that follows this Revised Funding Commitment Decision Letter (RFCDL) provides you with the dollar value and other details of the funding commitments made for the Form 471 identified above. This Report may have been updated to reflect the new total amount of discount for a funding request. A decision in this Revised Funding Commitment Decision Letter (RFCDL) supersedes a decision in the FCDL you may have received for the Funding Request Number(s) (FRN) in the Funding Commitment Report (Report) that follows this letter. An explanation of the items in the Report is in the "Guide to USAC Letter Reports" posted in the Reference Area of our website.

If FCC Form 486, Receipt of Service Confirmation Form, has not already been submitted, applicants should use THIS updated information when completing the Form 486.

We are also sending this information to the service provider(s) identified in the Report.

NEXT STEPS

- Work with your service provider(s) to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA requirements
- File and certify Form(s) 486 if not already submitted
- Invoice USAC using the Form 474 (service provider) or Form 472 (Billed Entity applicant) - as products and services are being delivered and billed

IMPLEMENTATION TIMEFRAME

Remember the deadlines for delivery and installation of non-recurring service. Non-recurring service for which funds are committed in this letter may be delivered and installed on or before September 30, 2012. Support for recurring services, however, is available only for services provided during the period July 01, 2005 through June 30, 2006.

Review any Contract Expiration Dates in the attached Report. Program rules allow contracts for non-recurring services to be extended in certain circumstances. If your contract will expire before non-recurring products/services are delivered or

installed, you must extend the contract and report the new contract expiration date using an FCC Form 500, Adjustment to Funding Commitment and Modification of Receipt of Service Confirmation Form, before invoicing USAC.

Keep the Form 486 deadline in mind. If some funding was approved on an FRN in your original FCDL, use the date of the original FCDL to determine your Form 486 deadline. If a new FRN was created for this Report or no funding was approved on an FRN in your original FCDL but funding has been approved in this letter, use the date in this RECDL to determine your Form 486 deadline. Form 486 must be received or postmarked no later than 120 days after the Service Start Date reported in the Form 486, or 120 days after the date of the FCDL that approves funding, whichever is later, to receive discounts retroactively to the Service Start Date.

TO APPEAL THIS DECISION:

You have the option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC).

If you wish to appeal a decision in this letter to USAC, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the decision letter and the decision you are appealing:
 - appellant name
 - applicant and service provider names, if different than appellant
 - applicant BEN and Service Provider Identification Number (SPIN)
 - Form 471 Application Number 449052 as assigned by USAC
 - Funding Request Number(s) (FRNs) you are appealing if provided in the letter
 - Funding Year 2005 Revised FCDL AND
 - the exact text or the decision that you are appealing.
3. Please keep your letter to the point and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
100 S. Jefferson Rd.
P.O. Box 902
Whippany, NJ 07981

If you wish to appeal a decision in this letter to 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 by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. 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.

For more information on submitting an appeal to USAC or to the FCC, please see the

"Appeals Procedure" posted on our website.

OBLIGATION TO PAY NON-DISCOUNT PORTION

Applicants are required to pay the non-discount portion of the cost of the products and/or services to their service provider(s). Service providers are required to bill applicants for the non-discount portion. The FCC stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If USAC is being billed via the FCC Form 474, the service provider must bill the applicant at the same time it bills USAC. If USAC is being billed via the FCC Form 472, the applicant pays the service provider in full (the non-discount plus discount portion) and then seeks reimbursement from USAC. If you are using a trade-in as part of your non-discount portion, please refer to our website for more information.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Universal Service Support Mechanism. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect erroneously disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2005



Form 471 Application Number: 449052
Funding Request Number: 1308148
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 159310000456352
SPIN: 143022137
Service Provider Name: AT&T Corp.
Contract Number: SBCEQUIP
Billing Account Number: N/A
Service Start Date: 07/01/2005
Contract Expiration Date: 01/30/2007
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$248,667.84
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$248,667.84

Discount Percentage Approved by the SLD: 65%
Funding Commitment Decision: \$161,634.10 - Modified by SLD
Funding Commitment Decision Explanation: MR1: The consortium leader has failed to provide evidence of authority to file Forms 471 on behalf of, or evidence of the membership of 96 members included in this consortium. These entities have been removed from Block 4 of the Form 471 in consultation with the applicant. <><><><><> MR2, 92 additional entities have been added to Block 4 of the Form 471 application at the request of the applicant. <><><><><> MR3 A technology plan covering the current funding year was not provided for Bonner Springs City Library, BEN 137549; Kinsley Public Library, BEN 138039 and Jordaan Memorial Library, BEN 138042. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services. <><><><><> MR4 Bonner Springs City Library, BEN 137549; Kinsley Public Library, BEN 138039 and Jordaan Memorial Library, BEN 138042 have been removed from Block 4, Worksheet C No: 638105 of the Form 471 application. <><><><><> MR5: The dollars requested were modified to \$20,722.32 per month pre-discount.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: B02
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2005

Form 471 Application Number: 449052
Funding Request Number: 1308151
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 159310000456352
SPIN: 143002308
Service Provider Name: S&A Telephone Company, Inc.
Contract Number: SANDA

Billing Account Number: N/A
Service Start Date: 07/01/2005
Contract Expiration Date: 01/30/2007
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$19,634.76
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$19,634.76

Discount Percentage Approved by the SLD: 65%
Funding Commitment Decision: \$12,762.59 - Modified by SLD
Funding Commitment Decision Explanation: MR1: The consortium leader has failed to provide evidence of authority to file Forms 471 on behalf of, or evidence of the membership of 96 members included in this consortium. These entities have been removed from Block 4 of the Form 471 in consultation with the applicant. <><><><><> MR2, 92 additional entities have been added to Block 4 of the Form 471 application at the request of the applicant. <><><><><> MR3 A technology plan covering the current funding year was not provided for Bonner Springs City Library, BEN 137549; Kinsley Public Library, BEN 138039 and Jordaan Memorial Library, BEN 138042. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services. <><><><><> MR4 Bonner Springs City Library, BEN 137549; Kinsley Public Library, BEN 138039 and Jordaan Memorial Library, BEN 138042 have been removed from Block 4, Worksheet C No: 638105 of the Form 471 application. <><><><><> MR5: The dollars requested were modified to \$1,636.23 per month pre-discount.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: B02
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

USAC

Universal Service Administrative Company
Schools and Libraries Division
Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

RECEIVED

JUL 15 2011

KS BOARD OF REGENTS

TIME SENSITIVE MATERIAL

000005
JERRY HUEF
KAMED PROJECT
1000 SW JACKSON ST, SUITE 520
TOPEKA, KS 66612



Revised Funding Commitment Decision Letter
Funding Year 2006: (07/01/2006 - 06/30/2007)

July 12, 2011

JERRY HUFF
KANED PROJECT
1000 SW JACKSON ST, SUITE 520
TOPEKA, KS 66612

RE: Form 471 Application Number: 515831
Billed Entity Number: 226927
Applicant's Form Identifier: KANED47101.2006

This letter is your notification that the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has completed its review of your request.

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If FCC Form 486, Receipt of Service Confirmation Form, has not already been submitted, applicants should use THIS updated information when completing the Form 486.

We are also sending this information to the service provider(s) identified in the Report.

NEXT STEPS

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IMPLEMENTATION TIMEFRAME

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 - applicant BEN and Service Provider Identification Number (SPIN)
 - Form 471 Application Number 515831 as assigned by USAC
 - Funding Request Number(s) (FRNs) you are appealing if provided in the letter
 - Funding Year 2006 Revised FCDL AND
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Schools and Libraries Division
Universal Service Administrative Company

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454396
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 159310000456352
SPIN: 143022137
Service Provider Name: AT&T Corp.
Contract Number: SBCOC3
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 12/31/2007
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$785,552.28
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$785,552.28
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$479,186.89 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services.
<><><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><><> MR4: The FRN was modified from \$66,073.81 per month to \$65,462.69 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454403
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 159310000456352
SPIN: 143008823
Service Provider Name: SBC Long Distance, LLC.
Contract Number: SBCLD
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 12/31/2007
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$65,099.28
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$65,099.28
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$39,710.56 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services.
<><><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><><> MR4: The FRN was modified from \$5,475.58 per month to \$5,424.94 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454411
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 159310000456352
SPIN: 143022137
Service Provider Name: AT&T Corp.
Contract Number: SBCEQUIP
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 12/31/2007
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$138,997.32
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$138,997.32
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$84,788.37 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services.
<><><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><><> MR4: The dollars requested were changed to agree to the dollars in the contract. <><><><><> MR5: The FRN was further modified to \$11,583.11 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454417
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 159310000456352
SPIN: 143006715
Service Provider Name: Cox Kansas Telcom, LLC
Contract Number: COX
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 12/31/2007
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$599,058.36
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$599,058.36
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$365,425.60 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services. <><><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><><> MR4: The FRN was modified from \$50,387.57 per month to \$49,921.53 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454423
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 159310000456352
SPIN: 143002308
Service Provider Name: S&A Telephone Company, Inc.
Contract Number: SANDA
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 06/30/2007
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$31,080.72
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$31,080.72
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$18,959.24 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services.
<><><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><><> MR4: The FRN was modified from \$2,614.24 per month to \$2,590.06 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454432
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 159310000456352
SPIN: 143002307
Service Provider Name: S&T Telephone Cooperative Association Inc
Contract Number: SANDT
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 06/30/2007
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$56,763.84
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$56,763.84
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$34,625.94 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services.
<><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><> MR4: The FRN was modified from \$4,774.48 per month to \$4,730.32 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454440
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 159310000456352
SPIN: 143002304
Service Provider Name: Craw-Kan Telephone Cooperative, Inc.
Contract Number: CRAWKAN
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 06/30/2007
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$56,118.12
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$56,118.12
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$34,232.05 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services.
<><><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><><> MR4: The FRN was modified from \$4,720.17 per month to \$4,676.51 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454449
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 159310000456352
SPIN: 143002303
Service Provider Name: The Pioneer Telephone Association, Inc.
Contract Number: PIONEER
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 06/30/2007
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$179,132.64
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$179,132.64
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$109,270.91 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services.
<><><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><><> MR4: The dollars requested were changed to agree to the dollars in the contract. <><><><><> MR5: The ERN was further modified to \$14,927.72 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454462
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 159310000456352
SPIN: 143002306
Service Provider Name: Rural Telephone Service Co. Inc.
Contract Number: RURALT
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 06/30/2007
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$165,428.76
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$165,428.76
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$100,911.54 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services.
<><><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><><> MR4: The FRN was modified from \$13,914.43 per month to \$13,785.73 per month pre-discount to agree with the applicant documentation.
Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454471
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 159310000456352
SPIN: 143002286
Service Provider Name: Blue Valley Tele-Communications, Inc.
Contract Number: BLUEV
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 06/30/2007
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$87,575.40
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$87,575.40
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$53,420.99 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services. <><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><> MR4: The dollars requested were changed to agree to the dollars in the contract. <><><><> MR5: The FRN was further modified to \$7,297.95 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011

Appeal Wave Number: A74

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454484
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 159310000456352
SPIN: 143002293
Service Provider Name: Haviland Telephone Company, Inc.
Contract Number: HAVLND
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 06/30/2007
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$100,597.32
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$100,597.32
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$61,364.37 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services.
<><><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><><> MR4: The FRN was modified from \$8,461.37 per month to \$8,383.11 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454508
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 281350000532957
SPIN: 143019614
Service Provider Name: CenturyLink Corporation (FKA Embarq)
Contract Number: SPRINT
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 12/31/2007
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$117,748.68
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$117,748.68
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$71,826.69 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services.
<><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><> MR4: The FRN was modified from \$9,903.99 per month to \$9,812.39 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454525
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 281350000532957
SPIN: 143002291
Service Provider Name: The Golden Belt Telephone Association, Inc
Contract Number: GOLDEN
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 06/30/2008
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$24,795.72
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$24,795.72
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$15,125.39 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services.
<><><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><><> MR4: The FRN was modified from \$2,085.60 per month to \$2,066.31 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454533
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 281350000532957
SPIN: 143022855
Service Provider Name: TelCove Investment, LLC
Contract Number: TELCOVE
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 06/30/2008
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$46,605.60
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$46,605.60
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$28,429.42 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services.
<><><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><><> MR4: The ERN was modified from \$3,920.06 per month to \$3,883.80 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454538
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 986700000546854
SPIN: 143002313
Service Provider Name: Twin Valley Telephone, Inc.
Contract Number: TWINVALLEY
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 06/30/2008
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$68,938.08
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$68,938.08
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$42,052.23 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services.
<><><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><><> MR4: The FRN was modified from \$5,798.47 per month to \$5,744.84 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT
Billed Entity Name: KANED PROJECT
BEN: 226927
Funding Year: 2006

Form 471 Application Number: 515831
Funding Request Number: 1454549
Funding Status: Funded
Category of Service: TELCOMM SERVICES
Form 470 Application Number: 986700000546854
SPIN: 143002482
Service Provider Name: Sunflower Telephone Company, Inc.
Contract Number: SUNFLOWER
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 06/30/2008
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$146,708.04
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$146,708.04
Discount Percentage Approved by the SLD: 61%
Funding Commitment Decision: \$89,491.90 - Modified by SLD
Funding Commitment Decision Explanation: MR1: A technology plan covering the current funding year was not provided for Belle Plain City Library, BEN 137826 and Garnett Public Library, BEN 137562. Technology plans are required when applicants apply for more than basic wireless and wireline telecommunications services.
<><><><> MR2: A technology plan approval letter covering the current funding year was not provided for Jefferson Co W School District 340, BEN 137661. <><><><> MR3: Belle Plain City Library, BEN 137826, Garnett Public Library, BEN 137562 and Jefferson Co W School District 340, BEN 137661 have been removed from Block 4, Worksheet C No: 768488 of the Form 471 application. <><><><> MR4: The FRN was modified from \$12,339.80 per month to \$12,225.67 per month pre-discount to agree with the applicant documentation.

Revised FCDL Date: 07/12/2011
Appeal Wave Number: A74
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Request for Waiver of the Decision of the
Universal Service Administrator by
Kan-ed, Kansas Board of Regents
Topeka, Kansas
Schools and Libraries Universal Service
Support Mechanism
File No. SLD-449052
CC Docket 02-6

ORDER

Adopted: November 21, 2006

Released: November 22, 2006

By the Commission:

I. INTRODUCTION

1. In this Order, we grant partial relief to Kan-ed, Kansas Board of Regents (Kan-ed), which is appealing a decision by the Universal Service Administrative Company (USAC) that denied Kan-ed funding from the schools and libraries universal service support mechanism because USAC determined that Kan-ed failed to provide evidence of authority to represent its consortium members. We remand the underlying application to USAC for action consistent with this Order, and, to ensure that it is resolved expeditiously, we direct USAC to issue an award or a denial based on a complete review and analysis no later than 90 days from release of this Order.

II. BACKGROUND

2. Under the schools and libraries universal service support mechanism, also known as 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 connection services. In accordance with the Commission's rules, an applicant must file with USAC, for posting to

1 Letter from Jerry Huff, Director of Business Operations & Planning, Kan-ed, Kansas Board of Regents, Topeka, Kansas, to Federal Communications Commission, Request for Waiver, File No. 449052, CC Docket Nos. 96-45 and 02-6, filed Mar. 23, 2006 (Request for Waiver). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

2 47 C.F.R. §§ 54.501-54.503.

USAC's website, an FCC Form 470 requesting discounted services.³ After an applicant has entered into agreements for eligible services with one or more service providers, it must file an FCC Form 471 with USAC.⁴

3. The Commission's rules allow schools and libraries to form consortia for purposes of seeking competitive bids on their service requests.⁵ Because discounts are restricted by statute to "bona fide request[s]" for services, a consortium application may only be submitted on behalf of schools and libraries that have actually authorized the consortium to make the request.⁶ By signing the FCC Form 471, the applicant is certifying that it is authorized to submit and certify to the accuracy of the application on behalf of all consortium members.⁷ USAC must ensure that the consortium members are aware of the application to be filed and how that application obligates the expenditure of financial and professional resources.⁸ Ensuring that a school or library is aware of and approves the application on its behalf also helps to avoid cases of duplicative requests from different applicants applying on behalf of the same school or library.⁹ In *Project Interconnect*, the Wireline Competition Bureau (the Bureau) affirmed USAC's requirement that an applicant applying as a consortium must submit a letter of agency (LOA) from each of its members expressly authorizing the applicant to submit an application on its behalf.¹⁰

³ The applicant must wait 28 days before entering into an agreement with a service provider for the requested services. 47 C.F.R. § 54.504(b). *See also* Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (Funding Years 2000, 2001, 2002 FCC Form 470); Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (April 2002) (Funding Year 2003 FCC Form 470); Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (May 2003) (Funding Year 2004 FCC Form 470); Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (October 2004) (Funding Year 2005 FCC Form 470) (collectively, FCC Form 470).

⁴ The FCC Form 471 notifies USAC of the services that have been ordered, the service providers with which the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services. 47 C.F.R. § 54.504(c). *See* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (December 1997) (Funding Year 1999 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (Funding Year 2000 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000) (Funding Year 2001 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2001) (Funding Year 2002 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2003) (Funding Year 2004 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (Funding Year 2005 FCC Form 471) (collectively, FCC Form 471).

⁵ 47 C.F.R. § 54.501(d)(1).

⁶ 47 U.S.C. § 254(h)(1)(B).

⁷ 47 C.F.R. § 54.501(c)(1). *See also* USAC Website, Letter of Agency, <http://www.universalservice.org/sl/tools/reference/letters-of-agency.aspx> (retrieved Sept. 7, 2006) (LOA Guidance); FCC Form 471, Item 33, Block 6.

⁸ *Request for Review of the Decision of the Universal Service Administrator by Project Interconnect, Brooklyn Park, Minnesota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, File Nos. SLD-146858, 146854, CC Docket Nos. 96-45, 97-21, Order, 16 FCC Rcd 13655, 13659, para. 10 (Common Car. Bur. 2001) (*Project Interconnect Order*). The Wireline Competition Bureau was formerly known as the Common Carrier Bureau.

⁹ *Id.*

¹⁰ *Id.* at 13658, para. 8. USAC requires an LOA to contain the following five elements: the name of the person filing the application; the name of the person authorizing the filing of the application; the specific time frame the LOA covers; the signature, date, and title of an official who is an employee of the entity who is authorizing the filing of the application; and the type of services covered by the LOA. *See* LOA Guidance. In certain situations, other

(continued...)

Specifically, the Bureau found that this requirement is consistent with USAC's authority to implement administrative procedures that ensure compliance with the Commission's rules and requirements as established in the Commission's *Eighth Reconsideration Order*.¹¹ In lieu of an LOA, according to USAC's guidelines, "[c]onsortia which have a statutory or regulatory basis and for which participation by schools or libraries is mandatory" may provide "copies of the relevant state statute or regulation."¹² In Funding Year 2005, USAC began requiring applicants to obtain signed LOAs from each consortium member prior to the certification date of their FCC Form 471.¹³

4. *Kan-ed's Request for Waiver*. The Kansas Legislature, in the Kan-ed Act, empowered the Kansas Board of Regents to create a state-wide network to which all public and regulated private schools and public libraries will eventually be able to connect for broadband Internet and Intranet access for the purpose of distance learning.¹⁴ Section 75-7223(b) of the Kan-ed Act prohibits the network from impairing existing contracts for service between providers and schools or libraries and prohibits state ownership or construction of any new network facilities.¹⁵ Thus, the Kan-ed Act created a public-private partnership whereby all schools and libraries could request membership and apply for assistance to gain connectivity to the Kan-ed network through coordination with their local providers.¹⁶ In order to become a member, a school or library must complete a form to join the network and may renew their membership in subsequent years via an online form.¹⁷

5. Subsequent to the passage of the Kan-ed Act, the Kansas Board of Regents created an entity, Kan-ed, to contract, through competitive bidding, with private telecommunications and cable providers to create, operate and maintain the Kan-ed network.¹⁸ Kan-ed provides only the backbone, and

(...continued from previous page)

documentation, such as evidence that each consortium member knew it was represented on the application, may be accepted as proof of authorization. *Id.*

¹¹ See 47 C.F.R. § 54.705(a)(1) (setting forth the functions of the Schools and Libraries Committee) and 47 C.F.R. § 54.701(g)(i) (directing the Administrator to establish the Schools and Libraries Division, and setting forth its functions). See also *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service, Third Report and Order and Fourth Order on Reconsideration* in CC Docket No. 97-21 and *Eighth Order on Reconsideration* in CC Docket No. 96-45, 13 FCC Rcd 25058, 25075-76, paras. 30-31, 34 (1998) (*Eighth Reconsideration Order*) (describing the functions of the Schools and Libraries Committee).

¹² See LOA Guidance.

¹³ See *id.* See also February 2005 Announcements, Sample Letter of Agency (LOA) Available (2/1/05), available at <http://www.universalservice.org/sl/tools/news-archive/2005/022005.asp#020105a> (retrieved Sept. 7, 2006).

¹⁴ Kan. Stat. Ann. § 75-7221, *et seq.* (2001). See also Letter from Hal Gardner, Executive Director, Kan-ed, Kansas Board of Regents, to Schools and Library Division, Universal Service Administrative Company, dated Sept. 4, 2005, at 1 (Gardner Letter) (responding to a Program Integrity Assurance (PIA) request from USAC for additional information concerning Kan-ed's application). The PIA review process examines applicants' FCC Forms 471 and other documentation to ensure that the discounts recipients seek are for eligible services, provided to eligible entities, and for eligible uses. During this process, USAC may ask for additional documentation to support the statements made in the application. See USAC Website, Program Integrity Assurance (PIA), <http://www.sl.universalservice.org/reference/6pia.asp> (retrieved Sept. 8, 2006).

¹⁵ Kan. Stat. Ann. § 75-223(b)(1); Request for Waiver at 2.

¹⁶ *Id.*

¹⁷ E-mail from Don Dietrich, E-rate Consultant to Kan-ed, to Schools and Libraries Division, Universal Service Administrative Company, dated Sept. 16, 2005 (Dietrich E-mail). Kan-ed also states that these renewals are certified annually by an independent agency. *Id.*

¹⁸ Gardner Letter at 1.

not the individual connections, to each school district, school and library.¹⁹ Thus, Kan-ed states that since it provides only the backbone, its network costs are largely independent of the number of entities served.²⁰ Kan-ed has applied for E-rate funds since Funding Year 2002 on behalf of its members under the authority of the Kan-ed Act.²¹

6. On January 25, 2006, USAC issued its Funding Commitment Decision Letter to Kan-ed, denying Kan-ed's application in its entirety because a substantial number of the LOAs or other documentation authorizing the filing of Kan-ed's FCC Form 471 were not signed before the FCC Form 471 certification date or were not provided to USAC.²² On March 23, 2006, Kan-ed filed with the Commission a Request for Waiver, appealing USAC's decision.²³ Kan-ed contends that its network is successful in securing Internet and Intranet access in a manner that prevents duplication of requests for support, allows input from and cooperation with the private sector, and provides access to the educational benefits of distance learning.²⁴ In addition, Kan-ed also requests that it be allowed to add members to Block 4 of its FCC Form 471 for Funding Year 2006 to enable any school or library that had not signed an LOA by February 16, 2006, the certification date of its Funding Year 2006 FCC Form 471 to join its consortium during the funding year and receive discounts.²⁵

III. DISCUSSION

7. Based on the record before us, we grant partial relief to Kan-ed, allowing it to file its LOAs for Funding Years 2005 and 2006 after the certification of its FCC Forms 471.²⁶ We deny, however, Kan-ed's request to add members to Block 4 of its Funding Year 2006 FCC Form 471 throughout the funding year.²⁷

8. USAC denied Kan-ed's entire application because more than 30 percent of its LOAs were deemed incomplete.²⁸ Section 54.504(d) of the Commission's rules states that, "[i]f 30 percent or more of a request for discounts made in an FCC Form 471 is for ineligible services, the request shall be denied in its entirety."²⁹ Thus, the 30 percent rule ensures that applicants carefully evaluate the eligibility of the services for which they seek discounts. The 30 percent rule, however, does not apply to the

¹⁹ Request for Waiver at 2.

²⁰ *Id.*

²¹ *Id.*

²² See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Bradley Williams, Kan-ed, dated Jan. 25, 2006 (Funding Commitment Decision Letter).

²³ Request for Waiver at 2.

²⁴ See Gardner Letter at 3.

²⁵ Request for Waiver at 5. Funding Year 2006 began on July 1, 2006 and ends on June 30, 2007.

²⁶ Request for Waiver at 2.

²⁷ *Id.* at 5.

²⁸ See *Id.* at 2. See also Funding Commitment Decision Letter at 5-12 ("Funding was denied because a substantial number of the Letters of Agency or other documentation authorizing the filing of the Form 471 were not signed before the 471 Certification Postmark Date or were not provided.") USAC's policy allows consortia which have a statutory or regulatory basis and for which participation by schools or libraries is mandatory to provide copies of the relevant state statute or regulation as proof of authority. See LOA Guidance. We note that Kan-ed cannot rely on its statutory authority to supplant the LOA requirement because membership in Kan-ed by schools and libraries is not mandatory. See Gardner Letter at 1.

²⁹ 47 C.F.R. § 54.504(d).

submission of completed LOAs. We find that to deny an entire application because 30 percent of a consortium's members either did not submit an LOA or submitted a deficient LOA would unfairly penalize the entire consortium where only a few members of the consortium fail to produce the requested documentation. Further, such a denial may make applicants reluctant to risk applying with a consortium, in contravention of the Commission's stated desire to "encourage schools and libraries to aggregate their demand with others to create a consortium with sufficient demand to attract competitors and thereby negotiate lower rates."³⁰

9. Given the confusion surrounding the application of the 30 percent rule to Kan-ed's LOAs, we now allow Kan-ed to obtain and submit to USAC updated LOAs for the 2005 Funding Year from all of its members within 30 days from the release of this Order to ensure that each school and library listed had actually authorized Kan-ed to apply on its behalf. To the extent that Kan-ed did not have LOAs for the entities listed in Block 4 of its Funding Year 2006 FCC Form 471 prior to its certification date, we also allow Kan-ed 30 days from the date of release of this Order to obtain and submit to USAC all of the LOAs for its Funding Year 2006 application. If Kan-ed is unable to obtain LOAs from every entity listed on Block 4 of its Funding Year FCC Form 471 within 30 days, we direct USAC to remove those entities from the application and adjust Kan-ed's funding request accordingly, rather than deny the entire application. We find that denying the entire application under these circumstances would unfairly penalize the entire consortium where only a few members of the consortium failed to produce the requested documentation.³¹ We emphasize that we are not relieving Kan-ed of the obligation to obtain LOAs from its members, we are merely granting Kan-ed additional time in which to produce to USAC proof of its authority to apply on behalf of its members.³²

10. We deny, however, Kan-ed's request to add members to Block 4 of its Funding Year 2006 FCC Form 471 throughout the funding year.³³ Section 54.507(c) requires all applications to be submitted by a date determined by USAC.³⁴ While we understand Kan-ed's desire to provide service to entities that decide to join its consortium during the funding year, we find that allowing Kan-ed an open-ended application may undermine the integrity of the E-rate application and disbursement process.³⁵ In particular, we are concerned with the administrative burden on USAC of continually having to update and process Kan-ed's application throughout the funding year. We are also concerned with the ability of

³⁰ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9027, para. 476 (1997) (*Universal Service Order*), as corrected by *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata, FCC 97-157 (rel. June 4, 1997), *affirmed in part*, *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) (affirming *Universal Service Order* in part and reversing and remanding on unrelated grounds), cert. denied, *Celpage, Inc. v. FCC*, 120 S.Ct. 2212 (May 30, 2000), cert. denied, *AT&T Corp. v. Cincinnati Bell Tel. Co.*, 120 S.Ct. 2237 (June 5, 2000), cert. dismissed, *GTE Service Corp. v. FCC*, 121 S.Ct. 423 (Nov. 2, 2000).

³¹ See *Project Interconnect Order*, 16 FCC Rcd at 13661, para. 14.

³² We direct USAC to accept Kan-ed's LOAs, even though they will not have been dated prior to the certification date of Kan-ed's FCC Form 471.

³³ Request for Waiver at 2. Kan-ed may also amend its FCC Form 471 for clerical or ministerial errors pursuant to the Commission's *Bishop Perry Order*. See *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 No. 02-6, Order, 21 FCC Rcd 5316 (2006) (*Bishop Perry Order*).

³⁴ 47 C.F.R. § 54.507(c). For Funding Year 2006, the FCC Form 471 filing window closed on February 16, 2006. In the *Bishop Perry Order*, we allowed applicants to correct ministerial or clerical errors after the close of the FCC Form 471 filing window, but Kan-ed is requesting a waiver to make substantive changes to its application throughout the funding year. See *Bishop Perry Order*, 21 FCC Rcd at 5319, para. 8.

³⁵ 47 U.S.C. § 254. See also *1997 Universal Service Order*, 12 FCC Rcd at 9076-80, paras. 570-80.

USAC to conduct its PIA review over the course of a funding year when the number of members in a consortium's application is constantly changing. Thus, we decline to allow Kan-ed to allow additional schools and libraries to join its consortium after the submission of its FCC Form 471 for Funding Year 2006.

11. Accordingly, we remand the underlying application to USAC for further processing consistent with our actions in this Order. To ensure that the application is processed expeditiously, we direct USAC to issue an award or a denial based on a complete review and analysis no later than 90 days from release of this Order. We emphasize the limited nature of this decision. Our action here does not eliminate USAC's current procedure requiring that an applicant applying for funding on behalf of a consortium have signed LOAs in place prior to submitting an FCC Form 471 or demonstrate its authority through alternative means, such as state statute or regulation.³⁶ We continue to require E-rate applicants to submit complete and timely information to USAC as part of the application review process.

12. Finally, we are committed to guarding against waste, fraud, and abuse, and to ensuring that funds disbursed through the E-rate universal service mechanism are used for appropriate purposes.³⁷ Our action here in no way affects the authority of the Commission or USAC to conduct audits or investigations to determine compliance with E-rate program rules and requirements. Because audits or 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 the Commission's 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 we retain the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis whether waste, fraud, or abuse of program funds occurred and whether recovery is warranted. We remain committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under our own procedures and in cooperation with law enforcement agencies.

IV. ORDERING CLAUSES

13. ACCORDINGLY, IT IS ORDERED that, 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 Kan-ed, Kansas Board of Regents' Request for Waiver IS GRANTED IN PART AND DENIED IN PART, as described herein.

14. IT IS FURTHER ORDERED that, 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 Kan-ed, Kansas Board of Regents SHALL PROVIDE to USAC evidence of registration of those entities listed in Block 4 of its Funding Year 2005 FCC Form 471 and LOAs for all of its consortium members for its Funding Year 2006 application within 30 days from release of this Order.

15. IT IS FURTHER ORDERED that, 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 Kan-ed, Kansas Board of Regents' Request for Waiver IS REMANDED to USAC for further consideration in accordance with the terms of this Order.

³⁶ See *supra* para. 3. See also LOA Guidance.

³⁷ See *Bishop Perry Order*, 21 FCC Rcd 5316.

16. IT IS FURTHER ORDERED that, 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, USAC SHALL COMPLETE its review of the underlying application of Kan-ed, Kansas Board of Regents and ISSUE an award or a denial based on a complete review and analysis no later than 90 days from release of this Order.

17. IT IS FURTHER ORDERED that this Order shall be effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary