



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2009-2010

December 05, 2011

Jay Trembulak
Essex County Educational Service Commission
369 Passaic Ave.
Fairfield, NJ 07004

Re: Applicant Name: ESSEX COUNTY EDUCATIONAL
SERVICE COMMISSION
Billed Entity Number: 222225
Form 471 Application Number: 677581
Funding Request Number(s): 1850279
Your Correspondence Dated: October 28, 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 2009 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): 1850279
Decision on Appeal: **Denied**
Explanation:

- After review of the documentation supplied during the appeal review, it was determined that although you request USAC look at the Form 470 as if it was the latest version, Denial Reason 1 (DR1) remains because the cited Form 470 from FY 2008 did not indicate your intent to enter into a multi-year contract for the services and does not meet the 28-day competitive bidding requirement. Additionally, although you state that your contract with Verizon was a tariff rate contract and you were not required to consider other bids, Denial Reason 3 (DR3) also remains because you discouraged vendors from submitting a bid in response to the services requested on the Form 470. By informing potential bidders that Verizon was offering free hardware and that they were welcome to match the offer may have discouraged vendors from submitting a bid. Since you provided a

copy of the correct contract in your appeal that was signed on February 4, 2008 for the services being requested, Denial Reason 2 (DR2), a contract for a new service being signed prior to the expiration of the required 28-day waiting period, is reversed. However the appeal is still being denied for the aforementioned DR1 and DR3.

- FCC rules require that except under limited circumstances, an eligible school, library or consortium that includes an eligible school or library shall seek competitive bids for all services eligible for support. *See* 47 C.F.R. sec. 54.504(a). To help ensure that applicants receive the lowest pre-discount price from the vendors, applicants are required to carefully consider all bids received before entering into an agreement with a selected vendor and submitting an FCC Form 471. *See* 47 C.F.R. secs. 54.504(b)(2)(vii),(c)(1)(xi), and 54.511(a) and (b). Applicants are required to file a new FCC Form 470 in the current application period if they are applying for discounted services for which a new contract is sought. If an applicant has an existing multi-year contract they may be exempt from the competitive bid requirements set forth. *See* 47 C.F.R. secs. 54.511(c) and (d). However, if an applicant has a contract with voluntary extensions for which it has filed an FCC Form 470, it cannot extend or renew the contract beyond its original expiration date without posting a new FCC Form 470 and considering all bids received, unless voluntary extensions were indicated in Block 2, Item 13 of FCC Form 470 or in the RFP. *See* 47 C.F.R. secs. 54.511(c) and (d).

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.

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