



**Platte Valley School District R. E. 7**  
**501 Clark Street**  
**Kersey, Colorado 80644**

---

June 11, 2012

Letter of Appeal

Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

**CC Docket No 02-6**

**Requests for Waiver and for Review** of Administrator’s Decision on Appeal – Funding Year 2010-11, Issued on April 18, 2012

**Authorized person who can best discuss this Appeal with you**

Richard Larson  
eRate 360 Solutions, LLC  
322 Route 46W, Suite 280W  
Parsippany, NJ 07054

Phone: (888) 535-7771 ext 102  
Fax: (866) 569-3019  
Email: [rlarson@erate360.com](mailto:rlarson@erate360.com)  
(preferred mode of contact)

**Application Information**

Entity Platte Valley School District R. E. 7  
Billed Entity Number 142240  
471 Number 752953

<u>FRN</u>	<u>SPIN</u>	<u>Service Provider</u>	<u>Annual Cost</u>	<u>Disc. %</u>	<u>Funding</u>
2041247	143010971	Microtech-Tel	\$6,900.00	71	\$4,899.00
2041261	143026147	Centennial BOCES	\$39,720.00	71	\$28,201.20
			<b>\$46,620.00</b>		<b>\$33,100.20</b>

Document Being Appealed: Administrator’s Decision on Appeal – Funding Year 2010-11, Issued on April 18, 2012<sup>1</sup>

Funds Denied: \$33,100.20

Explanation for Funding Denial (FRNs 2041247 and 2041261) – Contract Award Date:

- During the course of a Program Integrity Assurance (PIA) Review it was determined that Platte Valley School District R. E. 7 did not have a contract in place at the time of submission of the Form 471, February 10, 2010. This determination was based on contract documentation received from you that supports you entered into an agreement for the services being requested on the above funding request on February 19, 2010. Furthermore, the appeal documentation also confirms that the Contract Award Date (CAD) is signed after the Certificate Post Date (CPD). FCC ruled require applicants to have a valid contract as defined by the applicant’s state procurement laws and regulations at the time they submit the FCC Form 471.
- You have selected your vendor for the new products and/or services prior to the expiration of the 28 day posting period. FCC rules require that except under

---

<sup>1</sup> Letter from Schools and Libraries Division, USAC, to Rich Larson, consultant to Platte Valley School District R. E. 7, dated April 18, 2012, re: Form 471 Application Number 752953 (ADL).

limited circumstances, all FCC Forms 470 received be posted on the USAC website for 28 days, and that applicants carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting an FCC Form 471. ... These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors.

Explanations for Funding Denial (FRN 2041261 only) – Services Requested:

- The services and/or products requested on the Form 471 are substantially different than those specified on the Form 470. The service request on Item 21 attachment for the above funding request is Wireless Internet Access and documentation provided is for the Firewall Service and support, whereas the FCC Form 470 posts only for the DNS service.
- Additionally, this FRN will be denied because you did not adhere to your own criteria in the vendor selection process. You indicated price was the sole factor in your vendor selection process, however, one bidder provided a quote with bundled services. Since the other bidders were not given the opportunity to provide the bundled package, your vendor selection process was not a true comparison of each of the services. Since you did not demonstrate in your appeal that the determination USAC made regarding the denial of your funding request was incorrect, USAC denies your appeal.

**Appeals:**

Platte Valley School District R. E. 7 (the District) respectfully requests that the Commission reverse the decision by Schools and Libraries Division (SLD) to deny funding for the FRNs 2041247 and 2041261 (see schedule above), and restore the funding total of \$33,100.20. We ask the Commission to consider that:

- A combination of the District's lack of familiarity with the complexities of E-rate processes and anxiety over the impending close of the filing window for the FY 2010 Form 471 led the District:
  - to select the service providers for these two FRNs a day early, and
  - to then sign the contracts after submitting and certifying Form 471 number 752953.
- SLD has failed:
  - to recognize that the bundling Firewall and DNS services with Wireless Internet Access service is an accepted standard in accordance with its own Eligible Services List for FY 2011 and
  - to properly evaluate the documentation provided by the District in its appeal which demonstrated conclusively that all three bids were for bundled services, and the District was not required to make additional requests for bundled service bids.

The District asks the Commission:

- to recognize that the District effectively solicited and evaluated bids and selected the most cost effective solution for its telecommunications and internet access needs and to waive the District's ministerial errors committed in this process, and
- to dismiss the denial of internet access based on SLD's misinterpretation of the services requested by the District and bids submitted by the vendors.

**Request for Waiver - Contract Award Dates (CAD):** The lack of E-rate know-how of District personnel led to two different dates for the CAD:

- The District used 2/8/10 for both FRNs on 471 # 752953; this was the date District personnel selected the winning bids over the bids received as of that date.
- SLD modified the CAD for both FRNs to 2/19/10, the date that the District signed the contracts for services previously awarded by the District.

However, the District contends that, since no additional bids were received on the one remaining day in the 28-day bidding period, no potential bidders were omitted from the

bidding process, and that its decision to award contracts to the service provider in each FRN was made on 2/8/2010, not on 2/19/2010 when the administrative act of signing the contracts was performed.

1. In early February, fearing that they would run of time before the window closed on 2/11/10, District personnel evaluated the only bids received and by 2/8/10 decided to select Microtech-Tel and Centennial BOCES.<sup>2 3</sup>

Since no new bids were received on 2/9/10, the Allowable Contract Date (ACD), no potential bidders were excluded from the process. The District's selection of winning bids on 2/8/10 served the dual purpose of effectively meeting E-rate bidding requirements while allowing the District to file the Form 471 within SLD's window. The District completed the Form 471 and submitted it on 2/10/10.<sup>4</sup>

Although selection was made among existing bids on 2/8/10 to ensure that the filing window for the Form 471 would not be compromised, effectively the selection process was not closed until the 2/9/10 ACD.

2. As of 2/9/10, District personnel believed that contracts did not have to be signed until the window closed on 2/11/10,<sup>5</sup> and planned to review and sign both contracts by 2/11/10. On 2/10/10, District personnel learned of SLD's extension of the closing to 2/19/10. Based on their mistaken understanding of the E-rate rules:
  - o They saw no reason to withhold submission of the now-completed Form 471.
  - o They also saw no reason to scramble to complete and sign the two contracts by 2/11/10 because they believed E-rate rules now allowed them until 2/19/10 – the new window closing date – to complete that process in a careful manner.

The District selected the winning bids and decided to go to contract with the selected vendors before they submitted the Form 471. No potential bidders were excluded from the process through 2/9/10, effectively allowing the full 28 days for receipt of bids. The administrative act of signing the contracts was completed in accordance with what they believed to be SLD requirements – by the 2/19/10 closing of the 471 window. The District did not intend that the contracts were awarded on 2/19/10 – from their admittedly flawed perspective the contracts were awarded earlier.

The FCC provides precedents that the District respectfully contends support its positions:

1. In its "*Aberdeen*"<sup>6</sup> decision, the Commission recognized that "*Petitioners mistakenly signed their contracts ... before the allowable contract date*" – in the District's case, agreed to a contract with their service providers. The Commission further stated:
 

*We find no indication in the record that, as a result of these errors, applicants*

---

<sup>2</sup> Email exchange between Mike Jakel, Director of Technology for the District, and Joe Young, Microtech-Tel, dated 2/5/2010 and 2/8/2010, subject: RE: PRI T-1 Pricing.

<sup>3</sup> Email exchange between Mike Jakel, Director of Technology for the District, and Perry Movick, Centennial BOCES, dated 2/6/2010 and 2/8/2010, subject: RE: CBOCES ISP Pricing Options.

<sup>4</sup> FCC Form 471 # 752953 for funding year 7/1/2010 – 6/30/2011, posted and certified by Platte Valley School District R. E. 7 on 2/10/2010.

<sup>5</sup> Email from Wendi Chapin, Business Services Director for the District, to Ellen O'Hara, PIA Reviewer, SLD, dated 6/25/10 3:33 PM, subject: RE: ERate App# 752953. *Ms. Chapin's misinformation and confusion is evident – as of this correspondence three months after the window closed, she still believed that contracts signed by the close of the window met SLD requirements.*

<sup>6</sup> FCC 07-63, May 8, 2007, "Aberdeen School District, Aberdeen, WA, *et al.*", File No. SLD-297249, *et al.*, CC Docket No. 02-6; pgs. 6-7

*benefited from their mistakes or that any service provider was harmed. Specifically, there is no evidence in the record that other bids were not considered because these applicants did not fully comply with our competitive bidding rules. We find that the policy underlying these rules, therefore, was not compromised due to Petitioners' errors. ... Furthermore, we find that several of these Petitioners, while not waiting the full 28 days before entering into an agreement, only missed the 28-day deadline by a minimal number of days (i.e., one to three days) and therefore their requests for discounted services were subject to competitive bidding for a meaningful period of time. While we emphasize that our competitive bidding rules are important to ensure a fair bidding process, we find that denying these Petitioners requests for funding would create undue hardship and prevent these potentially otherwise eligible schools and libraries from receiving E-rate funding.*

The District respectfully contends that, in spite of its mistakes, that it considered all possible bids and did not exclude any by selecting the winning bids, that its 2/8/12 award date missed the 28-day deadline by only one day (within the FCC's stated tolerance of one to three days), and that its errors did not compromise the competitive bidding process in any way.

2. Regarding the late signing of both contracts, the Commission in its "*Adams County*" decision,<sup>7</sup> recognized that, even though "*employees erred or they misunderstood the rules,*" their mistake only resulted in a "*missed the deadline for evidencing a signed contract*" it is clear that "*they had legally binding contracts in place during the relevant funding years.*"
3. The Commission further clarified this in its "*Barberton*"<sup>8</sup> decision that although "*Petitioners' contracts ... were not signed and dated by both parties before the Petitioners filed their FCC Forms 471, they all had some form of an agreement in place during the relevant funding year prior to the filing of their applications.*" The previously cited email exchanges between the District and each of the service providers contain a clear acceptance of the proposals and recognition of a contractual relationship.

The District respectfully asks the Commission to recognize the District's adherence to the spirit of the rules governing selection of vendors and signing of contracts, to recognize that selected the most cost effective solution for its telecommunications and internet access needs and to waive the technical violations of these rules for both FRNs, in accord with the precedents cited above.

**Request for Review - Services Requested:** In denying funding for FRN 204126 for internet service contracted with Centennial BOCES, SLD cites two related reasons:

1. In the first of these denial reasons, SLD states that the District requested funding for services "*substantially different than those specified on the Form 470*" because "*the service request ... is Wireless Internet Access and documentation provided is for the Firewall Service and support, whereas the FCC Form 470 posts only for the DNS service.*" The District points out that:
  - Item 9 (Internet Access) in 470 # 215660000810744 requests proposals for: "*Internet Service Provider – Internet Access and DNS for 500 stations.*"<sup>9</sup>

<sup>7</sup> FCC 07-63, Mach 28, 2007, "Adams County School District 14, Commerce City, Colorado, *et al.*", File Nos. SLD-425151, 425211, 425303, 425352, 426285, *et al.*, CC Docket No. 02-6; pgs. 3,5

<sup>8</sup> DA 08-2382, October 30, 2008, "Barberton City School District, Barberton, Ohio, *et al.*", File No. SLD-400938, *et al.*, CC Docket No. 02-6; pg. 4

<sup>9</sup> FCC Form 470 # 215660000810744 for funding year 7/1/2010 – 6/30/2011, posted and certified by Platte Valley School District R. E. 7 on 1/12/2010.

- The BOCES draft contract is clearly for “Internet Usage” not to exceed a bandwidth of 25 mbps at a monthly recurring cost of \$3,310, including several features, among which were “Firewall Service & Support” and “Domain Name Service (DNS) & Support.”<sup>10</sup>

The District is uncertain if SLD, in its explanation, is claiming that the contract is not for Internet Access (clearly it is), or if they are objecting to the District accepting service which includes Firewall as well as DNS service. According to the Eligible Services List for Funding Year 2010:

Eligible Internet access may include features typically provided for adequate functionality and performance when provided as a standard component of a vendor’s Internet access service. Such features may include Domain Name, Dynamic Host Configuration, and basic firewall protection against unauthorized access.<sup>11</sup>

The District respectfully contends that it should not be denied funding for accepting service which includes services considered a standard component by SLD, and as a consequence contends that this denial reason is without merit.

2. In the second denial reason, SLD states: *“You indicated price was the sole factor in your vendor selection process, however, one bidder provided a quote with bundled services. Since the other bidders were not given the opportunity to provide the bundled package, your vendor selection process was not a true comparison of each of the services.”*

The three bids received by the District<sup>12</sup> were for internet service of varying bandwidths; all were clearly bundled services:

1. Centennial BOCES (CBOCES) – 25 mbps (fiber) including firewall and DNS.
2. Proficient Telecom – 3 mbps (two bundled T1 circuits) including firewall.
3. Qwest – 3 mbps (iQ Networking Bundle DS1). The standard Qwest iQ Networking Bundle includes firewall service.<sup>13</sup>

All three quotes were bundled quotes; therefore, there was no reason to ask either Proficient Telecom or Qwest to provide bundled services.

The CBOCES bid was superior to the Proficient and Qwest bids in that its bundle included the DNS service requested in the Form 470. The District contends that it could have chosen to disqualify the Proficient and Qwest bids as non-responsive on two grounds: the lack of DNS service which was requested in the Form 470, and much more importantly, the inadequate bandwidth offered by Proficient and by Qwest. The 3 mbps bandwidth that each offered is not sufficient to service the “500 stations” quantified in the Form 470. Neither Proficient nor Qwest was able to provide anything better than bundled T1/DS1 service, while CBOCES offered the higher bandwidths afforded by cable.

Nevertheless, the District did choose to evaluate all three bids on price based on dollars per mbps of bandwidth. Both Proficient (\$246/mbps for 1.5 mbps and \$223/mbps for 3 mbps) and Qwest (\$336/mbps) were priced higher than the CBOCES \$133/mbps price.

---

<sup>10</sup> Draft Service Agreement between Centennial Board of Cooperative Educational Services and Platte Valley School District R. E. 7 (the District) for purchase of “EAGLE-Net Services” presented to the District on 2/8/2010.

<sup>11</sup> Eligible Services List, Schools and Libraries Support Mechanism, for Funding Year 2010, p.8.

<sup>12</sup> Bid documents for internet services from Centennial BOCES (pg. 1), Proficient Telecom (pgs. 2-3), and Qwest (pg. 4). *Note that, for this appeal, the calculation of the price-per-mbps (hi-lited in yellow) has been inserted on the appropriate pages.*

<sup>13</sup> Internet page from Qwest summarizing the features of its “Qwest iQ Data Bundle”. *Note that the “Security Solutions” feature includes firewall service.*

The District does not believe it should be penalized for accepting the lowest priced bid just because it also included the best selection of features. The CBOCES bid was not only lowest priced, it was also the only fully responsive bid received. The District respectfully contends that this part of the SLD explanation is also without merit.

**Conclusion:**

Based on the information and explanations above, supported by FCC precedents, the District respectfully requests that the Commission reverse the decision by SLD to deny funding for the FRNs 2041247 and 2041261, and restore the funding total of \$33,100.20. We ask the Commission to consider that:

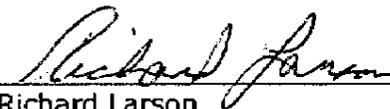
- The District's lack of familiarity with the complexities of E-rate processes combined with their anxiety over the impending close of the filing window for the FY 2010 Form 471 led the District:
  - to select the service providers for these two FRNs one day early, and
  - to then sign the contracts after submitting and certifying Form 471 number 752953.
- SLD has failed:
  - to recognize that the bundling of Firewall and DNS services with Wireless Internet Access service is an accepted standard in accordance with its own ESL for FY 2011 and
  - to properly evaluate the documentation provided by the District in its appeal which demonstrated conclusively that all three bids were for bundled services, eliminating any need for further requests for bundled service bids.

The District asks the Commission:

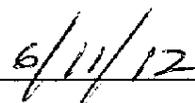
- to recognize that the District effectively solicited and evaluated bids and selected the most cost effective solution for its telecommunications and internet access needs, and to waive the District's ministerial errors committed in this process, and
- to dismiss the denial of internet access based on SLD's misinterpretation of the services requested by the District and bids submitted by the vendors.

The District appreciates the Commission's consideration of its appeal. We are available to respond to questions or to provide any further information requested by the Commission.

**Authorized signature for this Appeal<sup>14</sup>**

  
Richard Larson

eRate 360 Solutions, LLC  
322 Route 46W, Suite 280W  
Parsippany, NJ 07054  
Phone: (888) 535-7771 ext 102  
Fax: (866) 569-3019  
Email: [rlarson@erate360.com](mailto:rlarson@erate360.com)

Date:   
\_\_\_\_\_

<sup>14</sup> "Letter of Agency" from Michael Jakel, Director of Technology for Platte Valley School District RE 7, authorizing employees of eRate 360 Solutions, LLC, to perform e-rate services on behalf of the District.



**Universal Service Administrative Company**  
Schools & Libraries Division

**Administrator's Decision on Appeal – Funding Year 2010-2011**

April 18, 2012

Rich Larson  
eRate 360 Solutions, LLC  
322 Route 46W  
Suite 280W  
Parsippany, NJ 07054

Re: Applicant Name: PLATTE VALLEY SCH DIST R E 7  
Billed Entity Number: 142240  
Form 471 Application Number: 752953  
Funding Request Number(s): 2041247, 2041261  
Your Correspondence Dated: February 27, 2012

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 2010 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): 2041247  
Decision on Appeal: **Denied**  
Explanation:

- During the course of a Program Integrity Assurance (PIA) Review it was determined that Platte Valley School District R E 7 did not have a contract in place at the time of submission of the Form 471, February 10, 2010. This determination was based on contract documentation received from you that supports you entered into an agreement for the services being requested on the above funding request on February 19, 2010. Furthermore, the appeal documentation also confirms that the Contract Award Date (CAD) is signed after the Certificate Post Mark Date (CPD). 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 FCC Form 471. Since you did not

demonstrate in your appeal that the determination USAC made regarding the denial of your funding request was incorrect, USAC denies your appeal.

- You selected your vendor for new products and/or services prior to the expiration of the 28 day posting period. FCC rules require that except under limited circumstances, all FCC Forms 470 received be posted on the USAC website for 28 days, and that applicants carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting an FCC Form 471. See 47 C.F.R. secs. 54.504 (a)-(c), 54.511(a) and (c). FCC rules further require that the Administrator send the applicant a confirmation when the FCC Form 470 has been posted, and inform the applicant of the earliest date upon which they may sign a contract with the vendor it selects. See 47 C.F.R. sec. 54.504(b)(4). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098, FCC 97-246 para. 9 (rel. Jul. 10, 1997). New products and/or services include tariff Telecommunications services that are not subject to an existing, binding, written contract.

Funding Request Number(s): 2041261  
Decision on Appeal: **Denied**  
Explanation:

- During the course of a Program Integrity Assurance (PIA) Review it was determined that Platte Valley School District R E 7 did not have a contract in place at the time of submission of the Form 471, February 10, 2010. This determination was based on contract documentation received from you that supports you entered into an agreement for the services being requested on the above funding request on February 19, 2010. Furthermore, the appeal documentation also confirms that the Contract Award Date (CAD) is signed after the Certificate Post Mark Date (CPD). 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 FCC Form 471.

The services and/or products requested on the FCC Form 471 are substantially different than those specified on the FCC Form 470. The service request on Item 21 attachment for the above funding request is Wireless Internet Access and documentation provided is for the Firewall service and support, whereas the FCC Form 470 posts only for the DNS service.

Additionally, this FRN will be denied because you did not adhere to your own criteria in the vendor selection process. You indicated price was the sole factor in your vendor selection process, however, one bidder provided a quote with bundled services. Since the other bidders were not given the opportunity to provide the bundled package, your vendor selection process was not a true comparison of each of the services. Since you did not demonstrate in your appeal that the determination USAC made regarding the denial of your funding request was incorrect, USAC denies your appeal.

FCC rules require that applicants select the most cost-effective products and/or services offering with price being the primary factor. Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. See 47 C.F.R. sec. 54.511(a); also, Request for Review by Ysleta Independent School District, et al., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket Nos. 96-45, 97-21, Order, 18 FCC Rcd 26407, 26429, FCC 03-313 para. 50 (rel. Dec. 8, 2003). Ineligible products and services may not be factored into the cost-effective evaluation. See Common Carrier Bureau Reiterates Services Eligible for Discounts to Schools and Libraries, CC Docket No. 96-45, Public Notice, 13 FCC Rcd 16570, DA 98-1110 (rel. Jun. 11, 1998).

- You selected your vendor for new products and/or services prior to the expiration of the 28 day posting period. FCC rules require that except under limited circumstances, all FCC Forms 470 received be posted on the USAC website for 28 days, and that applicants carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting an FCC Form 471. See 47 C.F.R. secs. 54.504 (a)-(c), 54.511(a) and (c). FCC rules further require that the Administrator send the applicant a confirmation when the FCC Form 470 has been posted, and inform the applicant of the earliest date upon which they may sign a contract with the vendor it selects. See 47 C.F.R. sec. 54.504(b)(4). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098, FCC 97-246 para. 9 (rel. Jul. 10, 1997). New products and/or services include tariff Telecommunications services that are not subject to an existing, binding, written contract.
- FCC rules require that all products and services for which an applicant requests discounts on an FCC Form 471 must be competitively bid on an FCC Form 470. The FCC Form 470 must include a complete description of the services for which discounts are sought, be posted on the website for 28 days, and applicants must carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting an FCC Form 471. See 47 C.F.R. secs. 54.503(b) and (c), 54.511(a) and (c). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098, FCC 97-246 para. 9 (rel. Jul. 10, 1997). The only exceptions to the posting requirement are for: (1) contracts signed on or before July 10, 1997 for the life of the contract; and (2) contracts signed between July 10, 1997 and before January 30, 1998 (the date on which the website became operational) for products and/or services provided under such contract between January 1, 1998 and December 31, 1998. See 47 C.F.R. secs. 54.511(c).

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

cc: Wendi Chapin

Rich Larson  
eRate 360 Solutions, LLC  
322 Route 46W  
Suite 280W  
Parsippany, NJ 07054

Billed Entity Number: 142240  
Form 471 Application Number: 752953  
Form 486 Application Number:

---

**From:** Joe Young [JoeY@MICROTECH-TEL.com]  
**Sent:** Monday, February 08, 2010 1:34 PM  
**To:** Mike Jakel  
**Cc:** Steve Shriver  
**Subject:** RE: PRI T-1 pricing

Sounds great Mike! Which option do you want...the PRI T-1 or 2 bonded?

Thanks,

Joe Young  
Microtech-Tel  
5600 Greenwood Plaza Blvd.  
Suite 300  
Greenwood Village, CO 80111  
303-576-5602

---

**From:** Mike Jakel [<mailto:mjakel@staff.pvs.k12.co.us>]  
**Sent:** Monday, February 08, 2010 11:26 AM  
**To:** Joe Young  
**Subject:** Re: PRI T-1 pricing

Joe,

Lets move ahead with a contract.

Thanks,

On 2/5/10 5:17 PM, "Joe Young" <[JoeY@MICROTECH-TEL.com](mailto:JoeY@MICROTECH-TEL.com)> wrote:

Hi Mike and Julie.

It was a pleasure meeting with you this morning. I've pulled your Qwest records and the School District has 1 PRI T-1. The attached analysis documents your current pricing from Qwest versus the proposed costs from Microtech-Tel. The savings is over \$468.00 per month!

Attached also is the non-appropriations agreement that will allow the School District to sign a 3 year contract with the ability to terminate the contract if funding is not available.

Please let me know your decision and I will generate a contract on Monday.

Thanks!

Joe Young  
Microtech-Tel  
5600 Greenwood Plaza Blvd.  
Suite 300  
Greenwood Village, CO 80111  
303-576-5602

--

Mike Jakel

Director of Technology  
Platte Valley Schools  
970-336-8622  
970-396-6180  
[mjakel@staff.pvs.k12.co.us](mailto:mjakel@staff.pvs.k12.co.us)

---

**From:** Perry Movick [pmovick@cboces.org]  
**Sent:** Monday, February 08, 2010 3:22 PM  
**To:** Mike Jakel  
**Subject:** RE: CBOCES ISP Pricing Options  
**Attachments:** Platte Valley Schools - CBOCES ISP Services Contract - 2010-2011.pdf

Mike,

Here is the contract for your review. Let me know if I missed anything.

Thanks,

Perry Movick  
Centennial BOCES  
phn: 303-772-4420 x2215  
cell: 720-933-9982  
help desk: 303-772-4420 x2222  
email: [pmovick@cboces.org](mailto:pmovick@cboces.org)

---

**From:** Mike Jakel [<mailto:mjakel@staff.pvs.k12.co.us>]  
**Sent:** Monday, February 08, 2010 11:27 AM  
**To:** Perry Movick  
**Subject:** Re: CBOCES ISP Pricing Options

Perry,

Lets go ahead and setup a contract for the third option.

Thanks,

On 2/6/10 10:26 AM, "Perry Movick" <[pmovick@cboces.org](mailto:pmovick@cboces.org)> wrote:

Mike,

I've attached updated pricing options for your review. Basically it's the same three options as below, but for the second and third options I reduced the cost of the Qwest circuit from \$1,100 to \$300.

Since this is the last week of E-Rate this year, the folks at Qwest are slammed and I'm not going to be able to get a quote in time to give you an actual price for the circuit. However, I am comfortable doing an estimated cost with a not-to-exceed price which I can then reduce to the actual circuit cost once I have that. I estimated the Qwest circuit at \$300 by starting with your \$235/month cost and then adding \$65/month for one time charges to move the end point of the circuit. The one time charges could run anywhere from \$350 - \$700. I took the high end number, divided it by 12, and rounded it up (just in case I missed any fees, etc.) for the monthly billing this year.

Let me know if this helps. Thanks,

Perry Movick  
Centennial BOCES  
phn: 303-772-4420 x2215  
cell: 720-933-9982  
help desk: 303-772-4420 x2222  
email: [pmovick@cboces.org](mailto:pmovick@cboces.org)

**NOTE 4**

FCC Form 471	Do not write in this area.	Approval by OMB 3060-0806
<p><b>Schools and Libraries Universal Service</b>  <b>Description of Services Ordered and Certification Form 471</b>  <b>Estimated Average Burden Hours per Response: 4 hours</b></p> <p>This form asks schools and libraries to list the eligible telecommunications-related services they have ordered and estimate the annual charges for them so that the Fund Administrator can set aside sufficient support to reimburse providers for services.  <b>Please read instructions before beginning this application. (You can also file online at <a href="http://www.sl.universalservice.org">www.sl.universalservice.org</a>.)</b>  <b>The instructions include information on the deadlines for filing this application.</b></p>		
Applicant's Form Identifier (Create your own code to identify THIS form 471) 2010-01		Form 471 Application# (To be assigned by administrator) 752953
<b>Block 1: Billed Entity Information</b> (The "Billed Entity" is the entity paying the bills for the service listed on this form.)		
<b>1 a</b>	Name of Billed Entity	PLATTE VALLEY SCH DIST R E 7
<b>2 a</b>	Funding Year: July 1, 2010 Through June 30: 2011	Billed Entity Number: 142240
<b>4 a</b>	Street Address, P.O. Box, or Routing Number	501 CLARK STREET
	City	KERSEY
	State	CO
		Zip Code 80644
<b>5 a</b>	Type of Application	<input checked="" type="checkbox"/> Individual School (individual public or non-public school) <input type="checkbox"/> School District (LEA; public or non-public [e.g. diocesan] local district representing multiple schools) <input type="checkbox"/> Library (including library system, library outlet/branch or library consortium as defined under LSTA) <input type="checkbox"/> Consortium <input type="checkbox"/> Check here if any members of this consortium are ineligible or non-governmental entities)
<b>6</b>	Contact Person's Name	Wendi Chapin
First, if the Contact Person's Street Address is the same as in Item 4, check this box. <input type="checkbox"/> If not, please complete the entries for the Street Address below.		
<b>b</b>	Street Address, P.O. Box, or Routing Number	501 CLARK STREET
	City	KERSEY
	State	CO
		Zip Code 80644

Page 1 of 7



FCC Form 471 - November 2004

Entity Number	<u>142240</u>	Applicant's Form Identifier	<u>2010-01</u>
Contact Person	<u>Wendi Chapin</u>	Phone Number	<u>970-336-8500</u>
<p>This information will facilitate the processing of your applications. Please complete all rows that apply to services for which you are requesting discounts. Complete this information on the FIRST Form 471 you file, to encompass this and all other Forms 471 you will file for this funding year. You need not complete this information on subsequent Forms 471. Provide your best estimates for the services ordered across ALL of your Forms 471.  <b>Schools/school districts complete Item 7. Libraries complete Item 8. Consortia complete Item 7 and/or Item 8.</b></p>			
<b>Block 2: Impact of Services Ordered on Schools</b>			
IF THIS APPLICATION INCLUDES SCHOOLS...		BEFORE ORDER    AFTER ORDER	

7a	Number of students to be served		1122
b	Telephone service: Number of classrooms with phone service	105	105
c	Dial-up Internet access: Number of connections (up to 56kbps)	3	3
d	Direct broadband services: Number of buildings served at the following speeds: Less than 10 mbps	5	5
e	Direct connections to the Internet: Number of drops	767	767
f	Number of classrooms with Internet access	105	105
g	Number of computers or other devices with Internet access	430	430

**Block 3: Impact of Services Ordered on Libraries**  
**NOT APPLICABLE AS THIS APPLICATION IS FOR SCHOOL**

**Worksheet A No:** 1233505      **Student Count:** 1076  
**Weighted Product (Sum. Column 8):** 764.9      **Shared Discount:** 71%

1. **School Name:** PLATTE VALLEY ELEM SCHOOL  
2. **Entity Number:** 94241      **NCES:** 08 04950 00820  
3. **Rural/Urban:** Rural  
4. **Student Count:** 467      5. **NSLP Students:** 248      6. **NSLP Students/Students:** 53.104%  
7. **Discount:** 80%      8. **Weighted Product:** 373.6  
9. **Pre-K/Adult Ed/Juv:**      10. **Alt Disc Mech:**

1. **School Name:** PLATTE VALLEY HIGH SCHOOL  
2. **Entity Number:** 229849      **NCES:** 08 04950 00821  
3. **Rural/Urban:** Rural  
4. **Student Count:** 350      5. **NSLP Students:** 117      6. **NSLP Students/Students:** 33.428%  
7. **Discount:** 60%      8. **Weighted Product:** 210  
9. **Pre-K/Adult Ed/Juv:**      10. **Alt Disc Mech:**

1. **School Name:** PLATTE VALLEY MIDDLE SCHOOL  
2. **Entity Number:** 94242      **NCES:** 08 04950 01697  
3. **Rural/Urban:** Rural  
4. **Student Count:** 259      5. **NSLP Students:** 119      6. **NSLP Students/Students:** 45.945%  
7. **Discount:** 70%      8. **Weighted Product:** 181.3  
9. **Pre-K/Adult Ed/Juv:**      10. **Alt Disc Mech:**

**Block 5: Discount Funding Request(s)**

<b>FRN:</b> 2041247 <b>FCDL Date:</b>	
<b>10. Original FRN:</b>	
<b>11. Category of Service:</b> Telecommunications Service	<b>12. 470 Application Number:</b> 215660000810744
<b>13. SPIN:</b> 143010971	<b>14. Service Provider Name:</b> Microtech-Tel
<b>15a. Non-Contracted tariffed/Month to Month Service:</b>	<b>15b. Contract Number:</b> 02052010
<b>15c. Covered under State Master Contract:</b>	<b>15d. FRN from Previous Year:</b>
<b>16a. Billing Account Number:</b> 142240	<b>16b. Multiple Billing Account Numbers?:</b>

17. Allowable Contract Date: 02/09/2010	18. Contract Award Date: 02/08/2010
19a. Service Start Date: 07/01/2010	19b. Service End Date:
20. Contract Expiration Date: 07/01/2011	
21. Attachment #: Microtech10	22. Block 4 Worksheet No.: 1233505
23a. Monthly Charges: \$575.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$575.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges ( 23c x 23d): \$6,900.00	
23f. Annual non-recurring (one-time) charges: 0	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges ( 23f - 23g): \$0.00	
23i. Total program year pre-discount amount ( 23e + 23h): \$6,900.00	
23j. % discount (from Block 4): 71	
23k. Funding Commitment Request ( 23i x 23j): \$4,899.00	

FRN: 2041261	FCDL Date:
10. Original FRN:	
11. Category of Service: Internet Access	12. 470 Application Number: 215660000810744
13. SPIN: 143026147	14. Service Provider Name: Centennial BOCES
15a. Non-Contracted tariffed/Month to Month Service:	15b. Contract Number: 02082010
15c. Covered under State Master Contract:	15d. FRN from Previous Year:
16a. Billing Account Number: 142240	16b. Multiple Billing Account Numbers?:
17. Allowable Contract Date: 02/09/2010	18. Contract Award Date: 02/08/2010
19a. Service Start Date: 07/01/2010	19b. Service End Date:
20. Contract Expiration Date: 07/01/2011	
21. Attachment #: CBOCES10	22. Block 4 Worksheet No.: 1233505
23a. Monthly Charges: \$3,310.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$3,310.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges ( 23c x 23d): \$39,720.00	
23f. Annual non-recurring (one-time) charges: 0	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges ( 23f - 23g): \$0.00	
23i. Total program year pre-discount amount ( 23e + 23h): \$39,720.00	
23j. % discount (from Block 4): 71	
23k. Funding Commitment Request ( 23i x 23j): \$28,201.20	

### Block 6: Certifications and Signature

Do not write in this area.

Application ID:752953

Entity Number	142240	Applicant's Form Identifier	2010-01
Contact Person	Wendi Chapin	Phone Number	970-336-8500

### Block 6: Certifications and Signature

24.  I certify that the entities listed in Block 4 of this application are eligible for support because they are: (check one or both)
- a.  schools under the statutory definitions of elementary and secondary schools found in the **No Child Left Behind Act of 2001, 20 U.S.C. Secs. 7801(18) and (38)**, that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or
- b.  libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any schools including, but not limited to elementary, secondary

schools, colleges, or universities

25.  I certify that the entity I represent or the entities listed on this application have secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that the entities I represent or the entities listed in this application have secured access to all of the resources to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. I certify that the Billed Entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).

a.	Total funding year pre-discount amount on this Form 471 (Add the entities from Item 23l on all Block 5 Discount Funding Requests.)	\$46,620.00
b.	Total funding commitment request amount on this Form 471 (Add the entities from Items 23K on all Block 5 Discount Funding Requests.)	\$30,303.00
c.	Total applicant non-discount share (Subtract Item 25b from Item 25a.)	\$16,317.00
d.	Total budgeted amount allocated to resources not eligible for E-rate support	\$0.00
e.	Total amount necessary for the applicant to pay the non-discount share of the services requested on this application AND to secure access to the resources necessary to make effective use of the discounts. (Add Items 25c and 25d.)	\$16,317.00
f.	<input type="checkbox"/> Check this box if you are receiving any of the funds in Item 25e directly from a service provider listed on any Forms 471 filed by this Billed Entity for this funding year, or if a service provider listed on any of the Forms 471 filed by this Billed Entity for this funding year assisted you in locating funds in Items 25e.	

26.  I certify that all of the schools and libraries or library consortia listed in Block 4 of this application are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, and an SLD-certified technology plan approver, prior to the commencement of service. The plans are written at the following level(s):
- a.  an individual technology plan for using the services requested in this application; and/or
  - b.  higher-level technology plan(s) for using the services requested in this application; or
  - c.  no technology plan needed; applying for basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.

27.  I certify that I posted my Form 470 and (if applicable) made my RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted were carefully considered and the most cost-effective service offering was selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals.



28.  I certify that the entity responsible for selecting the service provider(s) has reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that the entity or entities listed on this application have complied with them.
29.  I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. Sec. 54.500(k). Additionally, I certify that the Billed Entity has not received anything of value or a promise of anything of value, other than services and equipment requested under this form, from the service provider(s) or any representative or agent thereof or any consultant in connection with this request for services.
30.  I certify that I and the entity(ies) I represent have complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. There are signed contracts covering all of the services listed on this Form 471 except for those services provided under non-contracted tariffed or month-to-month arrangements. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.
31.  I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.
32.  I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge

that I may be audited pursuant to participation in the schools and libraries program.

33.  I certify that I am authorized to order telecommunications and other supported services for the eligible entity (ies) listed on this application. I certify that I am authorized to submit this request on behalf of the eligible entity (ies) listed on this application, that I have examined this request, that all of the information on this form is true and correct to the best of my knowledge, that the entities that are receiving discounts pursuant to this application have complied with the terms, conditions and purposes of this program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under the Title 18 of the United States Code, 18 U.S.C. Sec. 1001 and civil violations of the False Claims Act.
34.  I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities listed on this application, or any person associated in any way with my entity and/or entities listed on this application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.
35.  I certify that if any of the Funding Requests on this Form 471 are for discounts for products or services that contain both eligible and ineligible components, that I have allocated the cost of the contract to eligible and ineligible companies as required by the Commission's rules at 47 C.F.R. Sec. 54.504(g)(1),(2).
36.  I certify that this funding request does not constitute a request for internal connections services, except basic maintenance services, in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. Sec. 54.506(c).
37.  I certify that the non-discounted portion of the costs for eligible services will not be paid by the service provider. The pre-discount costs of eligible services features on this Form 471 are net of any rebates or discounts offered by the service provider. I acknowledge that, for the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.

38. Signature of authorized person

39. Signature Date **2/10/2010**

**The Americans with Disabilities Act, the Individuals with Disabilities Education Act and the Rehabilitation Act may impose obligations on entities to make the services purchased with these discounts accessible to and usable by people with disabilities.**

**NOTICE:** Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Services Ordered and Certification Form (FCC Form 471) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, consistent with the Communications Act of 1934, FCC regulations and orders, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law, information provided in or submitted with this form or in response to subsequent inquiries may be disclosed to the public.

If you owe a past due debt to the Federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

**Please submit this form to:**

**SLD-Form 471  
P.O. Box 7026  
Lawrence, Kansas 66044-7026**

**For express delivery services or U.S. Postal Service, Return Receipt Requested,  
mail this form to:**

**SLD Forms  
ATTN: SLD Form 471  
3833 Greenway Drive  
Lawrence, Kansas 66046  
(888) 203-8100**

Print

<< Previous

1997 - 2010 © , Universal Service Administrative Company, All Rights Reserved

---

**From:** Wendi Chapin [wchapin@staff.pvs.k12.co.us]  
**Sent:** Friday, June 25, 2010 3:33 PM  
**To:** 'O'Hara, Ellen'  
**Cc:** Mike Jakel  
**Subject:** RE: ERate App# 752953

Ms. O'Hara,

I am confused. When is the opening of the window and from information provided by you the close was February 19, 2010, correct?

Wendi Chapin  
Business Services Director  
*"Pursuing Excellence for all..."*  
Platte Valley Schools RE-7  
P O Box 485  
Kersey, CO 80644  
970-336-8502 phone  
970-336-8511 fax

*The more you lose yourself in something bigger than yourself, the more energy you will have.* - Norman Vincent Peale

---

**From:** O'Hara, Ellen [<mailto:EOHARA@sl.universalservice.org>]  
**Sent:** Friday, June 25, 2010 1:15 PM  
**To:** Wendi Chapin@1-970-3368511  
**Cc:** Wendi Chapin  
**Subject:** ERate App# 752953

Dear Wendi Chapin,  
Attached is additional information concerning your Application #752953.

---



**Schools and Libraries Division**

Jun 25, 2010

Wendi Chapin  
PLATTE VALLEY SCH DIST R E 7  
Telephone:  
Application Number

(970) 3368500  
752953

The Program Integrity Assurance (PIA) team is in the process of reviewing all Funding Year 2010 Forms 471 to ensure that they are in compliance with the rules of the Universal Service program.

**I. FRN Denial.**

Based on documentation provided, **FRN #2041247 and FRN #2041261**, will be denied because a signed and dated contract with the service provider was not in place at the time of the submission of the FCC Form 471 certification or the window close date.

The rules of this program require that a signed contract with the service provider be in place at the time of the submission of the FCC Form 471 certification.

Should you wish to cancel your Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any cancellation request the Form 471 application number(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Ellen B. O'Hara  
PIA Reviewer  
Program Integrity Assurance  
USAC, Schools and Libraries Division  
Phone# 973-581-7552  
FAX# 973-599-6578  
E-Mail: [ehara@sl.universalservice.org](mailto:ehara@sl.universalservice.org)

-----

**Confidentiality Notice:** *The information in this e-mail and any attachments thereto is intended for the named recipient(s) only. This e-mail, including any attachments, may contain information that is privileged and confidential and subject to legal restrictions and penalties regarding its unauthorized disclosure or other use. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action or inaction in reliance on the contents of this e-mail and any of its attachments is **STRICTLY PROHIBITED**. If you have received this e-mail in error, please immediately notify the sender via return e-mail; delete this e-mail and all attachments from your e-mail system and your computer system and network; and destroy any paper copies you may have in your possession. Thank you for your cooperation.*

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

In the Matter of	)	
	)	
Application for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Aberdeen School District	)	File No. SLD-297249, <i>et al.</i>
Aberdeen, WA, <i>et al.</i>	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

**ORDER**

**Adopted: April 18, 2007**

**Released: May 8, 2007**

By the Commission:

**I. INTRODUCTION**

1. In this Order, we grant 62 appeals and deny one appeal of decisions by the Universal Service Administrative Company (USAC) concerning applications for discounted services under the schools and libraries universal service mechanism (also known as the E-rate program).<sup>1</sup> As explained below, we find that, for 34 applicants that made ministerial or clerical errors on forms that were timely submitted, good cause exists to waive section 54.504(c) of the Commission’s rules, which requires applicants to submit a completed FCC Form 471 to USAC.<sup>2</sup> We also find that, for 28 applicants, good cause exists to waive section 54.504(b)(4) of the Commission’s rules, which states that applicants must wait 28 days after their FCC Form 470 is posted to USAC’s website or after public availability of an applicant’s request for proposal (RFP) before entering into an agreement with a service provider for the requested services.<sup>3</sup> Lastly, for one applicant, we deny the appeal for failing to comply with the Commission’s competitive bidding rules.<sup>4</sup>

2. Accordingly, we remand the underlying applications associated with the granted appeals to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendix

---

<sup>1</sup> In this Order, we use the term “appeals” to generically refer to requests for review of decisions, or waivers related to such decisions, issued by the Commission, the Wireline Competition Bureau, or USAC. A list of these petitions is attached in the Appendix and we will refer to all of these parties as Petitioners. Section 54.719(c) of the Commission’s rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>2</sup> 47 C.F.R. § 54.504(c); *see infra* paras. 6-7.

<sup>3</sup> 47 C.F.R. § 54.504(b)(4); *see infra* paras. 8-9.

<sup>4</sup> *See infra* para. 10.

and issue an award or denial based upon a complete review and analysis no later than 120 days from the release of this Order. In addition, starting in Funding Year 2007,<sup>5</sup> we direct USAC to provide applicants with a 15-day opportunity to cure any ministerial or clerical errors on their FCC Form 471 that make it appear that the applicants violated the 28-day rule.<sup>6</sup>

3. As the Commission recently noted, many E-rate program beneficiaries, particularly small entities, contend that the application process is complicated, resulting in a number of applications for E-rate support being denied for ministerial or clerical errors.<sup>7</sup> We find that the actions we take here to provide relief will promote the statutory requirements of section 254(h) of the Communications Act of 1934, as amended (the “Act”), by helping to ensure that eligible schools and libraries obtain access to discounted telecommunications and information services.<sup>8</sup> Moreover, we believe that none of the waivers of sections 54.504(b)(4) and (c) granted here will frustrate the overarching purpose of the 28-day competitive bidding process, which is intended to ensure a fair opportunity for service providers to bid on the services sought by applicants.<sup>9</sup>

## II. BACKGROUND

4. Under 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 connections.<sup>10</sup> The Commission’s rules provide that each funding year, with one limited exception for existing, binding contracts, an eligible school, library, or consortium that includes eligible schools or libraries must seek competitive bids for all services eligible for support.<sup>11</sup> In accordance with the Commission’s rules, an applicant must file with USAC, for posting to USAC’s website, an FCC Form 470 requesting discounted services.<sup>12</sup> The applicant must wait 28 days after the FCC Form 470 is posted

---

<sup>5</sup> USAC shall also apply this 15-day opportunity to applications with these types of appeals currently before USAC.

<sup>6</sup> See *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File No. SLD-487170, CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5326-27, para. 23 (2006) (*Bishop Perry Order*). We recognize that USAC cannot always identify these types of errors simply by looking at the FCC Form 471. In those cases, applicants will have 15 days from receiving the denial of their application to demonstrate that it was a ministerial or clerical error that gave the appearance that the applicant violated the 28-day rule.

<sup>7</sup> See *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308 (2005) (*Comprehensive Review NPRM*); *Bishop Perry Order*, 21 FCC Rcd at 5316, para. 2.

<sup>8</sup> 47 U.S.C. § 254(h). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, amended the Communications Act of 1934.

<sup>9</sup> See 47 C.F.R. §§ 54.504 (b)(4) and (c); see, e.g., *Request for Review of the Decision of the Universal Service Administrator by Currituck County Schools, Federal-State Joint Board on Universal Service*, File No. SLD-111040, CC Docket No. 96-45, Order, 15 FCC Rcd 5564, 5566, para. 6 (Com. Car. Bur. 2000) (*Currituck County Schools Order*).

<sup>10</sup> 47 C.F.R. §§ 54.501-54.503.

<sup>11</sup> 47 C.F.R. §§ 54.504, 54.511(c).

<sup>12</sup> 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- (continued . . .)

to the USAC website or after public availability of an applicant's RFP, whichever is later, before entering into an agreement with a service provider for the requested services.<sup>13</sup> Once the school or library has complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, it must file an FCC Form 471 application to notify 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.<sup>14</sup> An applicant can enter into multi-year contracts or contracts with voluntary extensions without reposting an FCC Form 470 application and complying with the 28-day rule each year as long as the applicant indicated such intent in Item 13 on its FCC Form 470 or in its RFP.<sup>15</sup>

### III. DISCUSSION

5. In this item, we grant 62 appeals and deny one appeal of decisions by USAC denying requests for funding under the E-rate program due to an applicant's failure to comply with the Commission's 28-day competitive bidding requirement.<sup>16</sup> The E-rate program's competitive bidding requirements ensure more efficient pricing for telecommunications and information services purchased by schools and libraries by minimizing the amount of support needed. Specifically, "the 28-day posting rule

---

(Continued from previous page)

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).

<sup>13</sup> 47 C.F.R. § 54.504(b)(4); *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).

<sup>14</sup> 47 C.F.R. § 54.504(c). *See* FCC Form 471. The Commission's rules do provide a limited exemption from the 28-day competitive bidding requirement when applicants had "existing contracts" signed before January 30, 1998. *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Tenth Order on Reconsideration, 14 FCC Rcd 5983, 5986, para. 6 (1999); *see also* 47 C.F.R. § 54.511(c)(1). None of the Petitioners argue that this exemption applies to their case.

<sup>15</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 15 FCC Rcd 6732, 6736, para. 10-12 (1999); *see* USAC website, Contract guidance, at <http://www.universalservice.org/sl/applicants/step04/contract-guidance.aspx> (retrieved March 5, 2007). A contract including voluntary extensions means that the contract expires at the end of its original term and may be voluntarily extended for one or more years pursuant to the provisions in the contract. *Id.*

<sup>16</sup> The Commission may waive any provision of its rules on its own motion and for good cause shown. 47 C.F.R. § 1.3. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. *Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972). In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. *Northeast Cellular*, 897 F.2d at 1166.

is intended to provide a fair and uniform period applicable to all schools and libraries seeking discounts for eligible services to permit competitive bidding by all potential bidders.”<sup>17</sup> Generally, Petitioners’ argue either that they made clerical or ministerial errors on the FCC Form 471<sup>18</sup> or that they misunderstood our rules, which resulted in a denial of their requests for E-rate funding.<sup>19</sup> For the reasons discussed below, we waive sections 54.504(b) or (c) of our rules, as applicable, and grant these appeals.<sup>20</sup> The Commission also notes that the grant of these appeals should have minimal effect on the Universal Service Fund.<sup>21</sup> With regard to one appeal, we deny for failing to comply with the Commission’s competitive bidding rules.<sup>22</sup> Therefore, we remand the underlying applications associated with these

<sup>17</sup> See *Currituck County Schools Order*, 15 FCC Rcd at 5566, para. 6.

<sup>18</sup> See Application for Review of Aberdeen School District; Request for Review of Abilene Free Public Library; Petition for Reconsideration of Albany Public Library; Request for Review of Augusta County School District; Request for Review of Bank Street School for Children; Request for Review of Bath School Department; Request for Review of Bethlehem Area Public Library; Request for Review of B.F. Jones Memorial Library Aliquippa District Library Center; Request for Review of Calumet City Public Library; Request for Review of Chippewa Hills School District; Request for Review of Chowchilla Union High School District; Request for Review and/or Waiver of Cumberland County School District; Request for Review of David Douglas School District 40; Request for Review of Hydaburg City School; Request for Review of Jackson-Hinds Library System; Request for Review of Johnson Elementary School; Request for Review of Kennewick School District; Request for Review of Madawaska School District; Request for Review of Maine School Administration District No. 9; Request for Waiver of Marvin L. Winans Academy of Performing Arts; Request for Review of Milton School District; Request for Review of Modesto City Schools; Request for Review of Nelson Public School District; Request for Review of Norborne R-VIII School District; Request for Review of Onondaga-Cortland Madison BOCES; Request for Review of Princeton R-5 School; Request for Review of Prosser School District No. 116; Request for Review of Rapides Parish Library; Request for Review of Richland School District; Request for Review of Sycamore Community Schools; Request for Review and/or Waiver of Waverly City Schools; Request for Review of Western Ohio Computer Organization; Request for Review of White Settlement Independent School District; Request for Review of Willits Charter School.

<sup>19</sup> See Request for Review of Anchorage School District; Request for Review of Atlantic County Library System; Request for Review of Butternut School District; Request for Review of Clark Township School District; Request for Review of Columbia Union School District; Request for Waiver of Cooperative Educational Service Agency No. 7; Request for Review of Ewing Public Schools; Request for Review of Graham Independent School District; Request for Review of Islesboro School District; Request for Review of Los Angeles Unified School District; Request for Waiver of Mason Public School District; Request for Review of Miles City Unified School District; Request for Waiver of Nottingham School; Request for Review of Swampscott Public Schools; Request for Waiver of Bedford Public Schools; Application for Review of Custer County School District; Request for Review of Manton JT Union Elementary School District; Request for Waiver of Philadelphia-Montgomery Christian Academy; Request for Review of Brunswick County Schools; Request for Review of Dallas County School District 1; Request for Review of Danville City School District; Request for Review of Helena Public School District No. 1; Request for Review of Howell Township Public Schools; Request for Review of Latch School Inc.; Request for Review of North Scott Community School District; Request for Review of The School District of Palm Beach County; Request for Review of United School District. One request for waiver, filed on behalf of Reform Public Library (Reform), was submitted by USAC. USAC acknowledged that it significantly delayed posting Reform’s FCC Form 470 to its website. Due to this delay, Reform violated the 28-day rule in order to file its FCC Form 471 before the filing window closed. See Request for Waiver of Reform Public Library.

<sup>20</sup> See 47 C.F.R. §§ 54.504(b)(4) and (c).

<sup>21</sup> We estimate that the appeals granted in this Order involve applications for approximately \$15.2 million in funding for Funding Years 1999-2005. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2007 (Jan. 31, 2007). Thus, we determine that the action we take today should have minimal impact on the Universal Service Fund as a whole.

<sup>22</sup> See *infra* para. 10.

appeals to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendix and issue an award or denial based upon a complete review and analysis no later than 120 days from the release of this Order. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the requested services.<sup>23</sup>

6. *Section 54.504(c) Waivers.* According to their denial letters from USAC, these Petitioners' requests for E-rate funding were denied because their contracts for discounted services were signed prior to the 28-day waiting period computed from the date of the posting of the FCC Form 470 on the USAC website. These Petitioners' denials, however, can be more accurately described as failing to comply with the requirement of section 54.504(c) of our rules, which requires applicants to submit a completed FCC Form 471 to USAC.<sup>24</sup> That is, while the applicants filed their FCC Forms 471 on time, they need a waiver to make a correction after the deadline. Specifically, these appeals involved clerical errors on the part of the Petitioners; they inserted the wrong contract date, the wrong classification of service, or the wrong FCC Form 470 application number on the FCC Form 471, thus making it appear that the applicants violated the 28-day rule.<sup>25</sup>

7. Based on the facts and the circumstances of these specific cases, we find that good cause exists to waive section 54.504(c) of our rules.<sup>26</sup> In these circumstances, applicants committed minor errors in filling out their application forms. As the Commission recently noted, we do not believe that such minor mistakes warrant the complete rejection of each of these applicants' E-rate applications.<sup>27</sup> Our finding is consistent with our ruling in the *Bishop Perry Order* in which the Commission waived section 54.504(c) of our rules in situations where applicants' ministerial or clerical errors caused USAC to find that the applications were not complete and thus not filed within the filing window.<sup>28</sup> Importantly, like those appeals granted in the *Bishop Perry Order*, applicants' errors here could not have resulted in an

---

<sup>23</sup> Nothing in this order is intended to authorize or require payment of any claim that has previously been released by a service provider or applicant, including in a civil settlement or criminal plea agreement with the United States.

<sup>24</sup> See 47 C.F.R. § 54.504(c).

<sup>25</sup> See Application for Review of Aberdeen School District; Request for Review of Abilene Free Public Library; Petition for Reconsideration of Albany Public Library; Request for Review of Augusta County School District; Request for Review of Bank Street School for Children; Request for Review of Bath School Department; Request for Review of Bethlehem Area Public Library; Request for Review of B.F. Jones Memorial Library Aliquippa District Library Center; Request for Review of Calumet City Public Library; Request for Review of Chippewa Hills School District; Request for Review of Chowchilla Union High School District; Request for Review and/or Waiver of Cumberland County School District; Request for Review of David Douglas School District 40; Request for Review of Hydaburg City School; Request for Review of Jackson-Hinds Library System; Request for Review of Johnson Elementary School; Request for Review of Kennewick School District; Request for Review of Madawaska School District; Request for Review of Maine School Administration District No. 9; Request for Waiver of Marvin L. Winans Academy of Performing Arts; Request for Review of Milton School District; Request for Review of Modesto City Schools; Request for Review of Nelson Public School District; Request for Review of Norborne R-VIII School District; Request for Review of Onondaga-Cortland Madison BOCES; Request for Review of Princeton R-5 School; Request for Review of Prosser School District No. 116; Request for Review of Rapides Parish Library; Request for Review of Richland School District; Request for Review of Sycamore Community Schools; Request for Review and/or Waiver of Waverly City Schools; Request for Review of Western Ohio Computer Organization; Request for Review of White Settlement Independent School District; Request for Review of Willits Charter School.

<sup>26</sup> 47 C.F.R. § 54.504(c).

<sup>27</sup> *Bishop Perry Order*, 21 FCC Rcd at 5321, para. 11.

<sup>28</sup> *Id.* at paras. 10-11.

advantage for them in the processing of their application.<sup>29</sup> As such, the applicants' mistakes, if not caught by USAC, could not have resulted in the applicants receiving more funding than they were entitled to. Moreover, the Commission found in the *Bishop Perry Order* that, under certain circumstances, rigid adherence to certain E-rate rules and requirements that are "procedural" in nature does not promote the goals of section 254 of the Act – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore does not serve the public interest.<sup>30</sup> Thus, we find that good cause exists to waive section 54.504(c) of our rules for these applicants.<sup>31</sup> Accordingly, we grant and remand these appeals to USAC for further processing consistent with this Order.

8. *Section 54.504(b) Waivers.* A number of Petitioners mistakenly signed their contracts or certified their FCC Forms 471 before the allowable contract date.<sup>32</sup> Other Petitioners filed an FCC Form 471 before the allowable contract date because there was only one service provider in the area that could provide the needed services and, therefore, Petitioners mistakenly believed they did not have to wait 28 days before submitting an FCC Form 471.<sup>33</sup> Other Petitioners did not indicate they were posting for a multi-year contract or a contract with a voluntary renewal provision when they originally posted the FCC Form 470.<sup>34</sup> Finally, we find that two Petitioners complied with the Commission's rules and grant their requests for review.<sup>35</sup>

9. Based on the facts and the circumstances of these specific cases, we find that good cause exists to waive section 54.504(b)(4) of the Commission's rules, which requires applicants to wait 28 days after posting an FCC Form 470 to USAC's website before entering into an agreement with a service provider for the requested services.<sup>36</sup> We find that Petitioners' errors related to the competitive bidding process do not warrant a complete rejection of their applications. We have examined the facts of each of

---

<sup>29</sup> *Id.* at para. 11.

<sup>30</sup> *See id.* at paras. 2, 9.

<sup>31</sup> 47 C.F.R. § 54.504(c).

<sup>32</sup> *See* Request for Review of Atlantic County Library System; Request for Review of Butternut School District; Request for Review of Clark Township School District; Request for Waiver of Cooperative Educational Service Agency No. 7; Request for Review of Dallas County School District 1; Request for Review of Ewing Public Schools; Request for Review of Graham Independent School District; Request for Review of Islesboro School District; Request for Review of Los Angeles Unified School District; Request for Waiver of Mason Public School District; Request for Review of Miles City Unified School District; Request for Waiver of Nottingham School; Request for Review of Swampscott Public Schools.

<sup>33</sup> *See* Request for Waiver of Bedford Public Schools; Application for Review of Custer County School District; Request for Review of Manton JT Union Elementary School District; Request for Waiver of Philadelphia-Montgomery Christian Academy.

<sup>34</sup> *See* Request for Review of Anchorage School District; Request for Review of Brunswick County Schools; Request for Review of Columbia Union School District; Request for Review of Danville City School District; Request for Review of Helena Public School District No. 1; Request for Review of Howell Township Public Schools; Request for Review of Latch School Inc.; Request for Review of North Scott Community School District; Request for Review of The School District of Palm Beach County; Request for Review of United School District.

<sup>35</sup> In the Request for Review of Butternut School District (Butternut), we find that USAC erred in denying the school district funding for telecommunications services. The certification date of Butternut's FCC Form 471 was February 4, 2004, after the January 16, 2004 allowable contract date. In the Request for Review of United School District (United), we find that USAC also erred in denying United's funding. The FCC Form 470 filed by United School District for the services at issue indicated that the applicant was seeking a multi-year contract.

<sup>36</sup> *See* 47 C.F.R. § 54.504(b)(4).

these appeals and found that a waiver is warranted based on the circumstances presented and based on the facts that there is no evidence of waste, fraud or abuse. The goal of the competitive bidding process is to ensure that funding is not wasted because an applicant agrees to pay a higher price than is otherwise commercially available. We find no indication in the record that, as a result of these errors, applicants benefited from their mistakes or that any service provider was harmed. Specifically, there is no evidence in the record that other bids were not considered because these applicants did not fully comply with our competitive bidding rules. We find that the policy underlying these rules, therefore, was not compromised due to Petitioners' errors. In fact, those Petitioners with multi-year contracts complied with our competitive bidding rules when their requests for service were initially posted. Furthermore, we find that several of these Petitioners, while not waiting the full 28 days before entering into an agreement, only missed the 28-day deadline by a minimal number of days (*i.e.*, one to three days) and therefore their requests for discounted services were subject to competitive bidding for a meaningful period of time. While we emphasize that our competitive bidding rules are important to ensure a fair bidding process, we find that denying these Petitioners requests for funding would create undue hardship and prevent these potentially otherwise eligible schools and libraries from receiving E-rate funding. We therefore find that good cause exists to grant Petitioners a waiver of section 54.504(b)(4) of our rules.<sup>37</sup> Accordingly, we grant and remand these appeals to USAC for further processing consistent with this Order.<sup>38</sup>

10. Although we find that good cause exists to grant waivers of the Commission's rules for the Petitioners described above, we deny the appeal of Adel-Desoto-Minburn Community School District (Adel) for failing to adhere to the Commission's competitive bidding rules.<sup>39</sup> Adel said it did not file a new FCC Form 470 in Funding Year 2002 because the window for FCC Form 470s was closed.<sup>40</sup> Instead, Adel cited to an FCC Form 470 it had filed three years earlier. Commission rules require applicants to file a new FCC Form 470 for posting each year, with minor exceptions.<sup>41</sup> As a result, Adel did not file an FCC Form 470 in Funding Year 2002 to be posted on USAC's website for 28 days to solicit competitive bids for its services.<sup>42</sup> We find that the particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule.<sup>43</sup> Unlike the other Petitioners, Adel's violation of the 28-day rule was not a result of a clerical error or misunderstanding of our competitive bidding rules. Adel circumvented the competitive bidding process by not soliciting bids in the year for which it sought services. As a result, Adel's contract with its service provider was never subject to the competitive bidding process. We therefore deny Adel's petition for review.

---

<sup>37</sup> 47 C.F.R. § 54.504(b)(4).

<sup>38</sup> During post-funding review, USAC determined that Atlantic County Library System (Atlantic), Los Angeles Unified School District (Los Angeles); and Swampscott School District (Swampscott) had agreements with their service providers prior to the allowable contract date, and that Kennewick School District (Kennewick) provided the wrong classification of service on its FCC Form 470, both violations of the Commission's competitive bidding rules. Los Angeles, Swampscott and Kennewick were then subject to funding commitment adjustments by USAC which rescinded their funding commitments. In light of our decision, we direct USAC to discontinue recovery actions against Atlantic, Los Angeles, Swampscott and Kennewick.

<sup>39</sup> See Request for Review of Adel-DeSoto-Minburn Community School District.

<sup>40</sup> *Id.* at 1.

<sup>41</sup> There is a limited exception for existing, binding contracts. See 47 C.F.R. § 54.511(c).

<sup>42</sup> *Id.*

<sup>43</sup> See Request for Review of the Decision of the Universal Service Administrator by Henrico County School District, Richmond, Virginia, Federal-State Joint Board on Universal Service, File No. SLD-209204, CC Docket No. 96-45, Order, 17 FCC Rcd 706 (APD 2002) (denying a request for review where applicant relied upon an FCC Form 470 posted in Funding Year 3 in support of its Funding Year 2 service requests).

11. We emphasize the limited nature of this decision. As discussed above, the competitive bidding rules ensure more efficient pricing for telecommunications and information services purchased by schools and libraries.<sup>44</sup> Many other E-rate applicants fully complied with these rules, and our action here does not eliminate the 28-day competitive bidding requirement. Applicants are not free to disregard the 28-day rule based on their own determination that only one service provider can provide the desired services—they must use the bidding process to determine whether this is the case. In addition, we note that, in the *Comprehensive Review NPRM*, we started a proceeding to address, among other things, potential streamlining of the application and competitive bidding process for the schools and libraries support mechanism.<sup>45</sup> In the interim, all applicants must comply with our current rules and procedures and continue to submit complete and accurate information to USAC as part of the application review process. Applicants who have questions about the competitive bidding process or who need technical support should contact USAC for clarification and assistance.

12. Further, beginning in Funding Year 2007, we require USAC to provide all E-rate applicants with an opportunity to cure ministerial and clerical errors on their FCC Forms 471 that make it appear that the applicants violated the 28-day rule.<sup>46</sup> Specifically, USAC shall inform applicants promptly in writing of any and all ministerial or clerical errors that are detected in their applications, along with a clear and specific explanation of how the applicant can remedy those errors. Applicants shall have 15 calendar days from the date of receipt of notice in writing by USAC to amend or refile their FCC Form 471.<sup>47</sup> The 15-day period is limited enough to ensure that funding decisions are not unreasonably delayed for E-rate applicants and should provide sufficient time for applicants to correct unintentional ministerial and clerical errors.<sup>48</sup> The opportunity for applicants to amend their filings to cure these types of errors will also improve the efficiency and effectiveness of the Fund and reduce the occurrence of circumstances justifying waivers such as those granted above. Because applicants who are eligible for funding will now receive funding where previously it was denied for ministerial or clerical errors, we will ensure that funding is distributed first to the applicants who are determined by our rules to be most in need of funding. As a result, universal service support will be received by schools in which it will have the greatest impact for the most students. Furthermore, the opportunity to amend the application will improve the efficiency of the schools and libraries program. If USAC helps applicants file correct and complete applications initially, USAC should be able to reduce the money it spends on administering the fund because fewer appeals will be filed protesting the denial of funding for these types of issues. Therefore, we believe this additional opportunity to cure inadvertent administrative, ministerial, and clerical errors on applications will improve the administration of fund.

13. Finally, we are committed to guarding against waste, fraud, and abuse, and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeals addressed here, this action in no way affects the authority of the Commission or USAC to conduct audits and investigations to determine compliance with the E-rate program rules and

---

<sup>44</sup> See *supra* para. 6.

<sup>45</sup> *Comprehensive Review NPRM*, 20 FCC Rcd at 11325, para. 40.

<sup>46</sup> USAC shall also apply this 15-day opportunity to applications with these types of appeals currently before USAC. See *Bishop Perry Order*, 21 FCC Rcd at 5326, para. 23.

<sup>47</sup> Applicants will be presumed to have received notice five days after such notice is postmarked by USAC. USAC, however, shall continue to work beyond the 15 days with applicants attempting in good faith to amend their applications.

<sup>48</sup> We note that applicants will retain the ability to appeal decisions denying funding requests on the grounds discussed herein.

requirements. Because audits or investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or our rules, such proceedings can reveal instances in which universal service funds were improperly disbursed or in a manner inconsistent with the statute or our 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 that waste, fraud, or abuse of program funds occurred and that 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 the Commission's procedures and in cooperation with law enforcement agencies.

#### IV. ORDERING CLAUSES

14. ACCORDINGLY, IT IS ORDERED, 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 47 C.F.R. §§ 54.504(b)(4) and (c) ARE WAIVED, to the extent detailed herein.

15. IT IS FURTHER ORDERED, 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, with the exception of the Request for Review filed by Adel-Desoto-Minburn, Adel, Iowa, the Requests for Review and/or Requests for Waiver filed by the Petitioners as listed in the Appendix ARE GRANTED and REMANDED to USAC for further consideration in accordance with the terms of this Order.

16. IT IS FURTHER ORDERED, 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 the Request for Review filed by Adel-Desoto-Minburn, Adel, Iowa, IS DENIED.

17. IT IS FURTHER ORDERED, 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 USAC SHALL COMPLETE its review of each remanded application listed in the Appendix and SHALL ISSUE an award or a denial based on a complete review and analysis no later than 120 calendar days from release of this Order.

18. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release, in accordance with section 1.103 of the Commission's rules, 47 C.F.R. § 1.103.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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

In the Matter of	)	
	)	
Requests for Waiver	)	
of the Decision of the	)	
Universal Service Administrator by	)	
	)	
Adams County School District 14	)	File Nos. SLD-425151, 425211, 425303,
Commerce City, Colorado, <i>et al.</i>	)	425352, 426285, <i>et al.</i>
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

**ORDER**

**Adopted: March 22, 2007**

**Released: March 28, 2007**

By the Commission: Commissioner McDowell issuing a statement.

**I. INTRODUCTION**

1. In this Order, we grant requests by 66 schools and libraries (collectively, Petitioners) for review of decisions by the Universal Service Administrative Company (USAC) denying applications for discounted services under the schools and libraries universal service mechanism (also known as the E-rate program) on the grounds that they violated the Commission’s requirement that a legally binding agreement be in place when the FCC Form 471 application is submitted.<sup>1</sup> We also grant six appeals from applicants whose funding commitments were reduced on the grounds that an existing contract expired without the applicant posting a new FCC Form 470 for services to be provided for the remainder of the funding year.<sup>2</sup> To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in Appendices A and B and issue an award or denial based upon a complete review and analysis no later than 90 days from the release of this Order.

**II. BACKGROUND**

2. Under 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 connections.<sup>3</sup> Our rules provide that, with one limited exception for existing, binding contracts, an eligible school, library, or consortium that includes eligible schools or libraries must seek

<sup>1</sup> See Appendix A. In this Order, we use the term “appeals” to refer generically to requests for review of decisions, or to petitions for waivers related to such decisions, issued by the Commission, the Wireline Competition Bureau, or USAC. A list of these filings is attached in the Appendices and we will refer to all of these parties as Petitioners. Section 54.719(c) of the Commission’s rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>2</sup> See Appendix B.

<sup>3</sup> 47 C.F.R. §§ 54.502, 54.503.

competitive bids for all services eligible for support.<sup>4</sup> In accordance with our rules, an applicant must file with USAC an FCC Form 470 requesting services.<sup>5</sup> After the FCC Form 470 is posted to USAC's web site, the applicant must wait 28 days before entering into an agreement with a service provider for the requested services and submitting an FCC Form 471.<sup>6</sup> Section 54.504(c) of our rules also states that the FCC Form 471 requesting support for the services ordered by the applicant shall be submitted "upon signing a contract for eligible services."<sup>7</sup> Specifically, the instructions for FCC Form 471 state that applicants must have a "signed contract" or a "legally binding agreement" with the service provider "for all services" ordered on the FCC Form 471.<sup>8</sup>

3. There are two exceptions to this rule: non-contracted tariffed services and certain month-to-month services.<sup>9</sup> If the services are month-to-month, applicants can instead submit copies of standard monthly bills as proof that they have binding, legal arrangements with service providers.<sup>10</sup> In addition, applicants are instructed to indicate that such situations exist by filling in the abbreviation "MTM" in Item 15 of the FCC Form 471.<sup>11</sup>

4. To ensure that applicants are in compliance with our competitive bidding rules, applicants must file a new FCC Form 470 when the existing contract ends.<sup>12</sup> When contracts expire at the end of the original term, the applicant must post a new FCC Form 470 for services provided beyond the contract expiration date.<sup>13</sup> An applicant does not need to post a new FCC Form 470 each year when it has a multi-year contract or when exercising a contract's voluntary renewal provision if the applicant indicated that it was seeking a contract with those terms when it originally filed the FCC Form 470.<sup>14</sup>

5. Seventy-two Petitioners have requested a waiver of our rules or a review of USAC's decision to deny funding because they did not have a legally binding agreement in place when their FCC

---

<sup>4</sup> 47 C.F.R. §§ 54.504, 54.511(c).

<sup>5</sup> 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) (FCC Form 470).

<sup>6</sup> 47 C.F.R. § 54.504(b)(4); *see also* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 471).

<sup>7</sup> 47 C.F.R. § 54.504(c); *see also* *Request for Review of Waldwick School District, Schools and Libraries Universal Service Support Mechanisms*, File No. SLD-234540, CC Docket No. 02-6, Order, 18 FCC Rcd 22994, 22995, para. 3 (Wireline Comp. Bur. 2003) (*Waldwick Order*); *Request for Review of St. Joseph High School, Schools and Libraries Universal Service Support Mechanisms*, File No. SLD-234540, CC Docket Nos. 96-45, 97-21, Order, 17 FCC Rcd 22499, 22500-01, para. 4 (Wireline Comp. Bur. 2002) (*St. Joseph Order*).

<sup>8</sup> Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2001) (FCC Form 471 Instructions) at 19.

<sup>9</sup> *Id.* Applicants taking services from a filed tariff are not required to have a binding contract because the service is provided by the service provider to all parties at set rates and conditions.

<sup>10</sup> *Id.* at 20.

<sup>11</sup> *Id.*

<sup>12</sup> *See* *Request for Review of New Albany-Floyd County Consolidated School Corporation, Schools and Libraries Universal Service Support Mechanisms*, File No. SLD-287615, CC Docket No. 02-6, Order, 20 FCC Rcd 8159, 8160-61, para. 5 (Wireline Comp. Bur. 2005) (*New Albany-Floyd County Order*).

<sup>13</sup> *Id.* *See also* USAC website, Contract Guidance, <<http://www.sl.universalservice.org/reference/contract%5Fguidance.asp>> (retrieved Feb. 14, 2007).

<sup>14</sup> *Id.*

Form 471 application was submitted or because their contract expired before the end of the funding year.<sup>15</sup>

### III. DISCUSSION

6. In this item, we grant relief to 72 Petitioners seeking a reversal of USAC's decisions to deny their requests for universal service funding under the E-rate program. We grant a limited waiver of section 54.504(c) of our rules and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order.<sup>16</sup> To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in Appendices A and B and issue an award or denial based upon a complete review and analysis no later than 90 days from the release of this Order.

7. Petitioners' requests for universal service funding were denied either because they did not have a legally binding agreement in place when their FCC Form 471 application was submitted or because their contract expired before the end of the funding year. Some Petitioners claim that they could not or did not comply with our rules due to conflicting local or state procurement requirements.<sup>17</sup> Other Petitioners claim that their **employees erred or they misunderstood the rules.**<sup>18</sup> Other Petitioners claim that they technically followed program rules despite USAC's decision to the contrary.<sup>19</sup>

---

<sup>15</sup> See 47 C.F.R. § 54.504(c). Although there is no specific provision in the Commission's rules that requires applicants to file a new Form 470 for services that extend beyond the contract expiration date, this principle is implicit in the program requirement that all services funded by the schools and libraries program be competitively bid. See 47 C.F.R. 54.504(a).

<sup>16</sup> The Commission may waive any provision of its rules on its own motion and for good cause shown. 47 C.F.R. § 1.3. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. *Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972). In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. *Northeast Cellular*, 897 F.2d at 1166.

<sup>17</sup> See Request for Review of Adams County School District 14; Request for Waiver of Ballard County School District; Request for Review of Bullock County School District; Request for Review of Chesapeake Public Library System; Request for Review of Churchill County School District; Request for Review of District of Columbia Public Schools; Request for Review of Duluth Public Schools; Request for Review of Guam Department of Education; Request for Review of Holy Family School; Request for Review of Jefferson Parish School District; Request for Review of Merrimack Valley Library Consortium; Request for Review of Metropolitan Dayton Educational Cooperative Association; Request for Review of Missouri Research and Education Network; Request for Review of Monroe County Library System; Request for Review of Milwaukee Public Schools; Request for Review of Saddle Mountain Unified School District # 90; Request for Review of Saint Louis Special School District; Request for Review of Saint Paul Public Schools; Request for Review of San Diego Independent School System.

<sup>18</sup> See Request for Review of Academie Cristo de los Milagros; Request for Review of Amesbury School District; Request for Review of Audre & Bernard Rapoport Academy; Request for Review of Bertie County School; Request for Review of Bourne Middle School; Request for Review of City of Baker School System; Request for Review of Christian Academy of Indiana; Request for Review of Compton Unified School District; Request for Review of Des Moines Public School; Request for Review of Eagle Ridge Academy; Request for Review of FCMA Immokalee Charter School; Request for Waiver of Fulton County School District; Request for Review of Hmong Academy; Request for Review of Information Referral Resource Assistance Independent School District; Request for Review of Institute for Learning Research, Inc.; Request for Review of Kingman Unified School District No. 20; Request

8. Based on the facts and the circumstances of these specific cases, we find that good cause exists to grant a limited waiver of section 54.504(c) of our rules for these Petitioners.<sup>20</sup> Competitive bidding requirements serve as a central tenet of the E-rate program. They ensure more efficient pricing for telecommunications and information services purchased by schools and libraries and help deter waste, fraud and abuse. Rigid adherence to the rule in these cases, however, does not further the purposes of the statutory goal mandated by Congress of preserving and advancing universal service for schools and libraries. Furthermore, we note granting these appeals should have minimal effect on the Universal Service Fund (USF or the Fund).<sup>21</sup>

9. The record demonstrates that although some Petitioners technically missed the program deadline for having a written contract in place, they were adhering to local or state procurement laws.<sup>22</sup>

---

for Review of Lapeer District Library; Request for Review of Leland School District; Request for Review of Lincolnville Central School; Request for Review and/or Waiver of Lowell Joint Elementary School District; Request for Review of Nicholas County School District; Request for Review of North Clackamas School District 12; Request for Review of Our Lady Queen of Martyrs School; Request for Review of Parma City School District; Request for Review of RCMA Wimauma Charter School; Request for Review of Russell County Public Schools; Request for Review of Salisbury-Elk Lick School District; Request for Review of Sanborn Regional School District; Request for Review of St. Ignatius School; Request for Review of St. Leo Catholic Urban Academy; Request for Review of St. Matthias School; Request for Review of St. Rose Catholic Urban Academy; Request for Review of Upshur County School District; Request for Review of Wood County Educational Service Center.

<sup>19</sup> See Request for Review of Aldar Academy; Request for Review of Andes Central School District; Request for Review of Beacon Academy; Request for Review of Campbell City Schools; Request for Review and/or Waiver of Cristo Rey New York High School; Request for Review of Fox Public Schools; Request for Review of Greater Newark Charter School; Request for Review of Kershaw County School District; Request for Review of Laredo Independent School District; Request for Review of Lexington County School District 1; Request for Review of Madison-Oneida BOCES; Request for Review of Mercedes Independent School District; Request for Review of Miami-Dade County Public Schools; Request for Review of Montgomery County School District; Request for Review of Richmond County School District; Request for Review of Southside Independent School District; Request for Review of Sunnyside Unified School District 12; Request for Review of United Talmudical Academy; Request for Review of Weatherly Area School District.

<sup>20</sup> 47 C.F.R. § 54.504(c). We also find good cause to waive the 28-day competitive bidding rule with respect to one funding request number (FRN) for the City of Baker School System (Baker). USAC denied funding for the FRN after finding that Baker awarded the contract before the 28-day period for posting its FCC Form 470 to USAC's website had expired. See 47 C.F.R. § 54.504(b)-(c). We find that Baker misunderstood the competitive bidding rules and did not repost an FCC Form 470 because it had a multi-year contract with its service provider. Because Baker did not indicate that its contract would be multi-year when it originally requested bids, it should have reposted an FCC Form 470 to allow all parties to bid on the contract. We find that, because this contractual agreement was already subject to the Commission's competitive bidding rules when it was first entered into, Baker should not be denied needed funding for these pre-existing contractual agreements and, thus, we waive section 54.504(b) of the Commission's rules in this instance. See 47 C.F.R. § 54.504(b).

<sup>21</sup> We estimate that the appeals granted in this Order involve applications for approximately \$27.4 million in funding for Funding Years 2001-2006. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2007 (Jan. 31, 2007). Thus, we determine that the action we take today should have minimal impact on the Universal Service Fund as a whole.

<sup>22</sup> See Request for Waiver of Ballard County School District; Request for Review of Bullock County School District; Request for Review of District of Columbia Public Schools; Request for Review of Duluth Public Schools; Request for Review of Guam Department of Education; Request for Review of Holy Family School; Request for Review of Institute for Learning Research, Inc.; Request for Review of Jefferson Parish School District; Request for Review of Madison-Oneida BOCES; Request for Review of Merrimack Valley Library Consortium; Request for Review of Metropolitan Dayton Educational Cooperative Association; Request for Review of Milwaukee Public

Others had to have their commitments with service providers approved by their governing boards or their agreements with service providers were contingent upon getting USAC's approval of funding before they could legally enter into the contract.<sup>23</sup> As a result, these Petitioners were unable to sign a legally binding agreement prior to filing their FCC Form 471 as required by section 54.504(c) of our rules.<sup>24</sup> Other Petitioners were denied needed funding because of ministerial mistakes.<sup>25</sup> For example, Academia Cristo de los Milagros mistakenly noted on its FCC Form 471 that its contract ended nine months before the end of the funding year, thus securing funding for only three months instead of the 12 it intended.<sup>26</sup> In another appeal, Compton Unified School District said it submitted the wrong contract to USAC, making it appear as though its FCC Form 471 was submitted before its contract was signed.<sup>27</sup> Although the Petitioners missed the deadline for evidencing a signed contract, they had legally binding contracts in place during the relevant funding years. Thus, all Petitioners had some form of an agreement with their service providers before submitting their FCC Forms 471. We find, therefore, that in these specific circumstances, a limited waiver of rule 54.504(c) is warranted.

10. These mistakes do not warrant the complete rejection of these Petitioners' applications for E-rate funding. Importantly, these appeals do not involve a misuse of funds. The Commission recently found in *Bishop Perry Middle School* that, under certain circumstances, rigid adherence to certain E-rate rules and requirements that are "procedural" in nature does not promote the goals of section 254 of

---

Schools; Request for Review of Missouri Research and Education Network; Request for Review of Saint Paul Public Schools; Request for Review of San Diego Independent School System. Although these schools had substantially completed their selection process for service providers, the contracts were not in place when the FCC Forms 471 were submitted because of additional steps required by state or local procurement laws.

<sup>23</sup> See Request for Review of Adams County School District 14; Request for Review of Chesapeake Public Library System; Request for Review of Churchill County School District; Request for Review of Fox Public Schools; Request for Review of Monroe County Library System; Request for Review of Saddle Mountain Unified School District # 90; Request for Review of Saint Louis Special School District.

<sup>24</sup> 47 C.F.R. § 54.504(c). While the dates vary each year, an FCC Form 471 filing window is typically open from early November to early February preceding the start of the funding year. See USAC website, Schools and Libraries Timetable and List of Deadlines, <<http://www.universalservice.org/sl/tools/calendar-reminders.aspx>> (retrieved Feb. 14, 2007).

<sup>25</sup> See Request for Review of Academie Cristo de los Milagros; Request for Review of Amesbury School District; Request for Review of Audre & Bernard Rapoport Academy; Request for Review of Bertie County School; Request for Review of Bourne Middle School; Request for Review of City of Baker School System; Request for Review of Campbell City Schools; Request for Review of Christian Academy of Indiana; Request for Review of Compton Unified School District; Request for Review of Des Moines Public School; Request for Review and/or Waiver of Cristo Rey New York High School; Request for Review of Eagle Ridge Academy; Request for Review of FCMA Immokalee Charter School; Request for Waiver of Fulton County School District; Request for Review of Hmong Academy; Request for Review of Information Referral Resource Assistance Independent School District; Request for Review of Kingman Unified School District No. 20; Request for Review of Lapeer District Library; Request for Review of Leland School District; Request for Review of Lincolnville Central School; Request for Review and/or Waiver of Lowell Joint Elementary School District; Request for Review of Miami-Dade County Public Schools; Request for Review of Nicholas County School District; Request for Review of North Clackamas School District 12; Request for Review of Our Lady Queen of Martyrs School; Request for Review of Parma City School District; Request for Review of RCMA Wimauma Charter School; Request for Review of Russell County Public Schools; Request for Review of Salisbury-Elk Lick School District; Request for Review of Sanborn Regional School District; Request for Review of St. Ignatius School; Request for Review of St. Leo Catholic Urban Academy; Request for Review of St. Matthias School; Request for Review of St. Rose Catholic Urban Academy; Request for Review of Upshur County School District; Request for Review of Wood County Educational Service Center.

<sup>26</sup> Request for Review of Request for Review of Academie Cristo de los Milagros.

<sup>27</sup> Request for Review of Compton Unified School District.

the Act – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore does not serve the public interest.<sup>28</sup>

11. Consistent with precedent, we also grant the requests for review in instances where USAC denied funding solely because the execution date of the contract did not accompany the signature lines of both the applicant and the service provider.<sup>29</sup> We find in these instances that the Petitioners were denied funding by USAC only because the effective date of the contract was separate from the signature lines but that Petitioners had signed and dated contracts in place before the submission of their FCC Forms 471 and thus were in compliance with our rules.<sup>30</sup>

12. In all of these cases, there is no evidence in the record that Petitioners engaged in activity to defraud or abuse the E-rate program. Finally, we find that, for these applicants, denying their requests for funding would create undue hardship and prevent these otherwise eligible schools and libraries from receiving E-rate funding. In some instances here we depart from prior Bureau precedent.<sup>31</sup> For the reasons we describe, however, we find that the departure is warranted and in the public interest.

---

<sup>28</sup> See *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5316-17, 5319-20, paras. 2, 9 (2006) (*Bishop Perry Middle School*). Moreover, as noted recently in *Bishop Perry Middle School*, many applicants contend that the application process is complicated and time-consuming, and the Commission has started a proceeding to address, among other things, modifying the application and competitive bidding process for the schools and libraries support mechanism. See *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308, 11325, para. 40 (2005) (*Comprehensive Review NPRM*); *Bishop Perry Middle School*, 21 FCC Rcd at 5319-20, para. 9.

<sup>29</sup> See *Request for Review of a Decision of the Universal Service Administrator by Gayville-Volin School District 63-1, Schools and Libraries Universal Service Support Mechanisms*, File No. SLD-471545, CC Docket No. 02-6, Order, 21 FCC Rcd 9274 (Wireline Comp. Bur. 2006); *Request for Review of Richmond County School District, Schools and Libraries Universal Service Support Mechanisms*, File Nos. SLD-451211, 452514, 464649, CC Docket No. 02-6, Order, 21 FCC Rcd 6570 (Wireline Comp. Bur. 2006). To the extent state contract law does not require two signatures and two dates for a valid contract, Commission precedent does not impose such a requirement. We note that in detailing document retention requirements, the Commission required both beneficiaries and service providers to retain executed contracts that are “signed and dated by both parties.” *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order, 19 FCC Rcd 15808, 15825, para. 48 (2004). We clarify that this language was not intended to establish a new rule regarding the validity of a contractual agreement.

<sup>30</sup> See *Request for Review of Aldar Academy*; *Request for Review of Andes Central School District*; *Request for Review of Beacon Academy*; *Request for Review of Greater Newark Charter School*; *Request for Review of Kershaw County School District*; *Request for Review of Laredo Independent School District*; *Request for Review of Lexington County School District 1*; *Request for Review of Mercedes Independent School District*; *Request for Review of Montgomery County School District*; *Request for Review of Richmond County School District*; *Request for Review of Southside Independent School District*; *Request for Review of Sunnyside Unified School District 12*; *Request for Review of United Talmudical Academy*; *Request for Review of Weatherly Area School District*.

<sup>31</sup> See, e.g., *New Albany-Floyd County Order*, 20 FCC Rcd at 8160-61, para. 5 (finding that applicant must repost FCC Form 470 when contract expires mid-funding year); *Waldwick Order*, 18 FCC Rcd at 22995, para. 3 (denying E-rate funding because applicant did not have signed, binding agreement with service provider); *St. Joseph Order*, 17 FCC Rcd at 22500-01, para. 4 (denying E-rate funding when applicant inadvertently told USAC it did not have a binding agreement even when, in fact, it did).

Accordingly, we find that good cause exists to grant Petitioners a limited waiver of our rules, and remand these matters to USAC for further processing consistent with our decision.<sup>32</sup>

13. To assist applicants in successfully applying for funding, we direct USAC to increase its outreach and educational efforts to inform applicants about the program's application requirements in an attempt to reduce these types of errors. We expect that the additional outreach and educational efforts will better assist E-rate applicants in meeting the program's requirements and increase awareness of the filing rules and procedures. As we noted above, we believe that these changes will improve the overall efficiency of the E-rate program and reduce the occurrence of circumstances justifying waivers such as those granted above.

14. We emphasize the limited nature of this decision. As stated above, our competitive bidding rules are important to ensure more efficient pricing for telecommunications and information services purchased by schools and libraries. Although we grant the subject appeals before us, our action here does not eliminate the rule that applicants have a signed contract in place when submitting an FCC Form 471. In addition, we continue to require E-rate applicants to submit complete and accurate contract information to USAC in a timely fashion as part of the application review process.

15. Finally, we are committed to guarding against waste, fraud, and abuse, and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeals addressed here, this action in no way affects the authority of the Commission or USAC to conduct audits and investigations to determine compliance with the 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 our 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 that waste, fraud, or abuse of program funds occurred and that 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 procedures and in cooperation with law enforcement agencies.

#### IV. ORDERING CLAUSES

16. 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 section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, that the Requests for Review and Requests for Waiver filed by the Petitioners as listed in Appendices A and B ARE GRANTED and REMANDED to USAC for further consideration in accordance with the terms of this Order.

---

<sup>32</sup> We also reverse USAC's denial of funding to District of Columbia Public Schools (District of Columbia) on the ground that the applicant's funding requests included 30 percent or more of unsubstantiated amounts of eligible services. As we recently held in the *Iroquois Order*, the 30 percent rule applies to requests for ineligible services, not for unsubstantiated amounts of eligible services. *Request for Review by Iroquois West School District 10, Schools and Libraries Universal Service Support Mechanism*, File No. SLD-343292, CC Docket No. 02-6, Order, 20 FCC Rcd 540 (Wireline Comp. Bur. 2005) (*Iroquois Order*); 47 C.F.R. § 54.504(d). We therefore direct USAC to fund the previously denied application, if the application is otherwise in conformity with our rules, but to reduce the District of Columbia's funding by the amount of the costs that cannot be substantiated.

17. 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 section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, that section 54.504(c) of the Commission's rules, 47 C.F.R. § 54.504(c), IS WAIVED to the limited extent described herein.

18. 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 each remanded application listed in Appendices A and B and ISSUE an award or a denial based on a complete review and analysis no later than 90 calendar days from release of this Order.

19. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release, in accordance with section 1.103 of the Commission's rules, 47 C.F.R. § 1.103.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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

In the Matter of	)	
	)	
Request for Waiver	)	
of the Decision of the	)	
Universal Service Administrator by	)	
	)	
Barberton City School District	)	File Nos. SLD-400938, <i>et al.</i>
Barberton, Ohio, <i>et al.</i>	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

**ORDER**

**Adopted: October 30, 2008**

**Released: October 30, 2008**

By the Acting Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this order, we grant requests by 18 schools and libraries (collectively, Petitioners) for review of decisions by the Universal Service Administrative Company (USAC) denying applications or rescinding funding for discounted services under the schools and libraries universal service mechanism (also known as the E-rate program).<sup>1</sup> USAC denied the Petitioners' applications for Funding Years 2004, 2005, 2006, and 2007 on the grounds that they violated the Commission's requirement that a legally binding agreement be in place when the FCC Form 471 application is submitted.<sup>2</sup> We also grant one appeal from an applicant that had its funding commitment reduced on the grounds that an existing contract expired without the applicant posting a new FCC Form 470 for services to be provided for the remainder of the funding year.<sup>3</sup> Upon review of these records, we find that the issues raised in seven appeals were recently addressed by the Commission in the *Adams County Order*.<sup>4</sup> We further find that

<sup>1</sup> See Appendix for a complete list of Petitioners. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>2</sup> One applicant, Barberton City School District (Barberton), was denied funding because USAC found that the contract expiration date on its FCC Form 471 changed from the previous year's FCC Form 471. While the changed expiration date was the stated reason for the denial, USAC also found, during its Program Integrity Assurance (PIA) review, that Barberton entered into a contract after the FCC Form 471 certification postmark date. See *infra* para. 5. Funding Years run from July through June, e.g. Funding Year 2004 ran from July 1, 2004 to June 30, 2005.

<sup>3</sup> Request for Review of Middle Georgia Wilderness Institute.

<sup>4</sup> See *Request for Waiver of the Decision of the Universal Service Administrator by Adams County School District 14, Commerce City, CO, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-425151, 425211, 425303, 425352, 426285, *et al.*, CC Docket No. 02-6, Order, 22 FCC Red 6019 (2007) (*Adams* (continued...))

the appeals of 11 Petitioners should be granted on the merits. We therefore remand the underlying applications to USAC for further action consistent with this order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the appendix and issue an award or denial based upon a complete review and analysis no later than 90 days from the release of this order.<sup>5</sup>

## II. BACKGROUND

2. Under 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 connections.<sup>6</sup> The Commission's rules provide that an eligible school, library, or consortium must seek competitive bids for all services eligible for support.<sup>7</sup> In accordance with our rules, an applicant must file with USAC an FCC Form 470 requesting services.<sup>8</sup> After the FCC Form 470 is posted to USAC's web site, the applicant must wait 28 days before entering into an agreement with a service provider for the requested services and submitting an FCC Form 471.<sup>9</sup> Section 54.504(c) of the Commission's rules also states that the FCC Form 471 requesting support for the services ordered by the applicant shall be submitted "upon signing a contract for eligible services."<sup>10</sup> Specifically, the instructions for FCC Form 471 state that applicants must have a "signed contract" or a "legally binding agreement" with the service provider "for all services" ordered on the FCC Form 471.<sup>11</sup>

---

(...continued from previous page)

*County Order*) (finding good cause to grant a limited waiver of the Commission's contract rules and procedures for several applicants).

<sup>5</sup> In performing a complete review and analysis of each underlying application, USAC shall either grant the underlying application before it, or, if denying the application, provide the applicant with any and all grounds for denial.

<sup>6</sup> 47 C.F.R. §§ 54.502, 54.503.

<sup>7</sup> 47 C.F.R. § 54.504. There is one limited exception for existing, binding contracts signed on or before July 10, 1997. *See* 47 C.F.R. § 54.511(c).

<sup>8</sup> 47 C.F.R. § 54.504(b); *see also* Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (October 2004) (FCC Form 470).

<sup>9</sup> 47 C.F.R. § 54.504(b)(4); *see also* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (FCC Form 471).

<sup>10</sup> 47 C.F.R. § 54.504(c); *see also* *Request for Review of Waldwick School District, Schools and Libraries Universal Service Support Mechanisms*, File No. SLD-234540, CC Docket No. 02-6, Order, 18 FCC Rcd 22994, 22995, para. 3 (Wireline Comp. Bur. 2003) (*Waldwick Order*); *Request for Review of St. Joseph High School, Schools and Libraries Universal Service Support Mechanisms*, File No. SLD-234540, CC Docket Nos. 96-45, 97-21, Order, 17 FCC Rcd 22499, 22500-01, para. 4 (Wireline Comp. Bur. 2002) (*St. Joseph Order*).

<sup>11</sup> Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 at 19 (November 2001) (FCC Form 471 Instructions). There are two exceptions to this rule: non-contracted tariffed services and certain month-to-month services. If the services are month-to-month, applicants can instead submit copies of standard monthly bills as proof that they have binding, legal arrangements with service providers. *Id.*

3. To ensure that applicants are in compliance with our competitive bidding rules, applicants must file a new FCC Form 470 when the existing contract ends.<sup>12</sup> When contracts expire at the end of the original term, the applicant must post a new FCC Form 470 for services provided beyond the contract expiration date.<sup>13</sup> An applicant does not need to post a new FCC Form 470 each year when it has a multi-year contract or when exercising a contract's voluntary renewal provision if the applicant indicated that it was seeking a contract with those terms when it originally filed the FCC Form 470.<sup>14</sup>

4. Eighteen Petitioners have requested a waiver of our rules or a review of USAC's decision to deny or rescind funding because they did not have a legally binding agreement in place when their FCC Form 471 application was submitted or because their contract expired before the end of the funding year.<sup>15</sup>

### III. DISCUSSION

5. We grant relief to 18 Petitioners seeking a reversal of USAC's decisions to deny or rescind their requests for universal service funding under the E-rate program. For seven Petitioners, we grant a limited waiver of section 54.504(c) of our rules and remand the underlying applications associated with these appeals to USAC for further action consistent with this order.<sup>16</sup> We grant 11 Petitioners' appeals on the merits because these Petitioners demonstrated that they had in place contracts that met the Commission's rules and procedures when submitting their FCC Forms 471. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications.<sup>17</sup> We remind USAC of its obligation to independently determine whether the disbursement of universal service funds would be consistent with program requirements, Commission rules and orders, or applicable statutes and to decline to disburse funds where this standard is not met. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each

---

<sup>12</sup> See *Request for Review of New Albany-Floyd County Consolidated School Corporation, Schools and Libraries Universal Service Support Mechanisms*, File No. SLD-287615, CC Docket No. 02-6, Order, 20 FCC Rcd 8159, 8160-61, para. 5 (Wireline Comp. Bur. 2005) (*New Albany-Floyd County Order*).

<sup>13</sup> *Id.*

<sup>14</sup> USAC website, Contract Guidance, <http://www.sl.universalservice.org/reference/contract%5Fguidance.asp> (retrieved Aug. 11, 2008).

<sup>15</sup> See 47 C.F.R. § 54.504(c). Although there is no specific provision in the Commission's rules that requires applicants to file a new Form 470 for services that extend beyond the contract expiration date, this principle is implicit in the program requirement that all services funded by the schools and libraries program be competitively bid. See 47 C.F.R. 54.504(a).

<sup>16</sup> The Commission may waive any provision of its rules on its own motion and for good cause shown. 47 C.F.R. § 1.3. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. *Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972). In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. *Northeast Cellular*, 897 F.2d at 1166.

<sup>17</sup> Additionally, nothing in this order is intended: (1) to authorize or require payment of any claim that previously may have been released by a service provider or applicant, including in a civil settlement or plea agreement with the United States; or (2) to authorize or require payment to any person or entity that has been debarred from participation in the E-rate program.

application listed in the appendix and issue an award or denial based upon a complete review and analysis no later than 90 days from the release of this order.

6. Appeals Granted by Waiver. Based on the facts and circumstances of these specific cases, we find that good cause exists to grant a limited waiver of section 54.504(c) of the Commission's rules for six Petitioners: Barberton; Coffee County School District; Kings River Elementary School District; Manatee County School District; Midwest City-Del City Independent School District; and Urban Day School.<sup>18</sup> These Petitioners claim that their employees erred or they misunderstood the rules.<sup>19</sup> Specifically, Barberton certified its FCC Form 471 three days before the contract was awarded to its service provider.<sup>20</sup> Coffee County School District submitted its FCC Form 471 the evening before signing its contract, mistakenly believing that USAC would consider the form submitted the next business day.<sup>21</sup> Kings River Elementary School District signed its contract 10 days after submitting its FCC Form 471, but had written a signed and dated acceptance letter before the FCC Form 471 was certified.<sup>22</sup> Manatee County School District had a valid Funding Year 2005 multi-year contract in place for the relevant funding period, but mistakenly reposted for the same services in subsequent years and executed new contracts each year, including one contract that was not signed by the applicant when it filed its Funding Year 2006 FCC Form 471.<sup>23</sup> Midwest City-Del City Independent School District entered into a five-year agreement, renewable on an annual basis, in Funding Year 2005 with its service provider and inadvertently signed a contract renewal three days after certifying its FCC Form 471 in Funding Year 2007.<sup>24</sup> Urban Day School's service provider signature date and the effective date of the agreement were both February 7, 2007, before the FCC Form 471 was certified on February 8, 2007.<sup>25</sup> Urban Day School, however, did not sign the contract until five days after the FCC Form 471 was certified.<sup>26</sup>

7. As the Commission found in the *Adams County Order*, these mistakes do not warrant the complete rejection of these Petitioners' applications for E-rate funding.<sup>27</sup> Although the record demonstrates that Petitioners' contracts had minor errors or were not signed and dated by both parties before the Petitioners filed their FCC Forms 471, they all had some form of an agreement in place during the relevant funding year prior to the filing of their applications.<sup>28</sup> Importantly, these appeals do not

---

<sup>18</sup> 47 C.F.R. § 54.504(c).

<sup>19</sup> See Request for Review by Barberton City School District; Request for Review of Coffee County School District; Request for Review of Kings River Elementary School District; Request for Review of Manatee County School District; Request for Review of Midwest City-Del City Independent School District; Request for Review of Urban Day School.

<sup>20</sup> See FCC Form 471, Barberton City School District (certified Jan. 30, 2004) (Barberton FCC Form 471).

<sup>21</sup> See Request for Review of Coffee County School District at 2.

<sup>22</sup> See FCC Form 471, Kings River Elementary School District (certified Feb. 6, 2007) (Kings River FCC Form 471); Request for Review by Kings River Elementary School District at 1-3.

<sup>23</sup> See Request for Review of Manatee County School District at 2-3.

<sup>24</sup> Request for Review of Midwest City-Del City Independent School District at 2.

<sup>25</sup> See FCC Form 471, Urban Day School (certified Feb. 8, 2007) (Urban Day School FCC Form 471); Request for Review of Urban Day School at Attachment 1 (IT People Unlimited, Inc. Contract).

<sup>26</sup> See Request for Review of Urban Day School at Attachment 1 (IT People Unlimited, Inc. Contract).

<sup>27</sup> *Adams County*, 22 FCC Rcd at 6023-24, para. 10.

<sup>28</sup> We also grant Barberton's appeal with respect to being denied funding because its contract expiration date changed from the previous year's FCC Form 471. See *supra* n.2. Barberton notes that USAC was under the (continued...)

involve a misuse of funds. The Commission recently found in the *Bishop Perry Order* that, under certain circumstances, rigid adherence to certain E-rate rules and requirements that are “procedural” in nature does not promote the goals of section 254 of the Act – ensuring access to discounted telecommunications and information services to schools and libraries – and, therefore, does not serve the public interest.<sup>29</sup>

8. We also find that good cause exists to grant a waiver for Middle Georgia Wilderness Institute, which was denied funding on a month-to-month basis after the contract with its service provider expired several months before the end of the E-rate funding year.<sup>30</sup> Middle Georgia Wilderness Institute entered into a multi-year contract in 2005 that expired on February 3, 2008.<sup>31</sup> The school continued to receive services on a month-to-month basis from the same service provider after the contract ended, but was denied funding by USAC.<sup>32</sup> Consistent with the *Adams County Order*, we waive USAC’s requirement that the contract expiration date coincide with the end of the funding year.<sup>33</sup>

9. As the Commission found in the *Adams County Order*, these mistakes do not warrant the complete rejection of these Petitioners’ applications for E-rate funding.<sup>34</sup> Although the record demonstrates that Petitioners’ contracts had minor errors or were not signed and dated by both parties before the Petitioners filed their FCC Forms 471, they all had some form of an agreement in place during the relevant funding year prior to the filing of their applications.<sup>35</sup> Importantly, these appeals do not

(...continued from previous page)

mistaken impression that Barberton had a multi-year contract when, in fact, Barberton entered into two separate one-year contracts that each had differing expiration dates. Request for Review by Barberton City School District at 3. Upon review of the record, we find that Barberton had two separate contracts that complied with E-rate program rules for two separate funding years. Therefore, since Barberton did not have a multi-year contract, we find it is acceptable that Barberton’s FCC Forms 471 had different expiration dates for Funding Years 2003 and 2004.

<sup>29</sup> See *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5316-17, 5319-20, paras. 2, 9 (2006) (*Bishop Perry Order*). Moreover, as noted in the *Bishop Perry Order*, many applicants contend that the application process is complicated and time-consuming, and the Commission has started a proceeding to address, among other things, modifying the application and competitive bidding process for the schools and libraries support mechanism. See *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308, 11325, para. 40 (2005) (*Comprehensive Review NPRM*); *Bishop Perry Order*, 21 FCC Rcd at 5319-20, para. 9.

<sup>30</sup> Request for Review of Middle Georgia Wilderness Institute at 1-2.

<sup>31</sup> *Id.* at 1.

<sup>32</sup> *Id.*

<sup>33</sup> *Adams County Order*, 22 FCC Rcd at 6022, para. 8.

<sup>34</sup> *Id.* at 6023-24, para. 10.

<sup>35</sup> We also grant Barberton’s appeal with respect to being denied funding because its contract expiration date changed from the previous year’s FCC Form 471. See *supra* n.2. Barberton notes that USAC was under the mistaken impression that Barberton had a multi-year contract when, in fact, Barberton entered into two separate one-year contracts that each had differing expiration dates. Request for Review by Barberton City School District at 3. Upon review of the record, we find that Barberton had two separate contracts that complied with E-rate program (continued...)

involve a misuse of funds. The Commission recently found in the *Bishop Perry Order* that, under certain circumstances, rigid adherence to certain E-rate rules and requirements that are “procedural” in nature does not promote the goals of section 254 of the Act – ensuring access to discounted telecommunications and information services to schools and libraries – and, therefore, does not serve the public interest.<sup>36</sup> We find that, for these applicants, denying or rescinding their requests for funding would create undue hardship and prevent these otherwise eligible schools and libraries from receiving E-rate funding. Finally, granting these appeals should have minimal effect on the Universal Service Fund (USF or the Fund).<sup>37</sup> Accordingly, we find that good cause exists to grant Petitioners a limited waiver of our rules, and remand these matters to USAC for further processing consistent with our decision.<sup>38</sup>

---

(...continued from previous page)

rules for two separate funding years. Therefore, since Barberton did not have a multi-year contract, we find it is acceptable that Barberton’s FCC Forms 471 had different expiration dates for Funding Years 2003 and 2004.

<sup>36</sup> See *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5316-17, 5319-20, paras. 2, 9 (2006) (*Bishop Perry Order*). Moreover, as noted in the *Bishop Perry Order*, many applicants contend that the application process is complicated and time-consuming, and the Commission has started a proceeding to address, among other things, modifying the application and competitive bidding process for the schools and libraries support mechanism. See *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308, 11325, para. 40 (2005) (*Comprehensive Review NPRM*); *Bishop Perry Order*, 21 FCC Rcd at 5319-20, para. 9.

<sup>37</sup> We estimate that the appeals granted in this order involve applications for approximately \$3.35 million in funding for Funding Years 2004-2007. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Fourth Quarter 2008 (Aug. 1, 2008). Thus, we determine that the action we take today should have minimal impact on the Universal Service Fund as a whole.

<sup>38</sup> In the case of one Petitioner, Clarksburg-Harrison Public Library (Clarksburg-Harrison), we also find good cause to waive section 54.720 of the Commission’s rules that establishes deadlines for affected parties to seek review of decisions issued by USAC. 47 C.F.R. § 54.720. Clarksburg-Harrison indicates that it was given different advice by the Commission and USAC regarding the proper procedure for filing its appeal and, by the time it determined the proper course of action, its appeal was late. Request for Review by Clarksburg-Harrison Public Library at 1. Specifically, Clarksburg-Harrison said it contacted USAC by phone and was told to file its appeal with the Commission. *Id.* The Commission subsequently told Clarksburg-Harrison to file with USAC “to obtain a case number.” *Id.* When the library eventually filed its appeal with USAC, it was 16 days late. *Id.* We find that the conflicting advice given to Clarksburg-Harrison hampered its ability to file in a timely manner. Had USAC or the Commission originally accepted Clarksburg-Harrison’s appeal, it would have been timely filed. Furthermore, Clarksburg-Harrison was only a few days late in filing its appeal and has demonstrated that it was making a good-faith effort to comply with the E-rate program’s procedures. Therefore, consistent with precedent, we find good cause to waive the filing deadline from section 54.720 of the Commission’s rules in this instance. See, e.g., *Request for Review by Benavides Independent School District*, File No. SLD-348268, CC Docket No. 02-6, Order, 21 FCC Rcd 12910 (Wireline Comp. Bur. 2006) (granting a waiver request when applicant did not receive notice of the requirements for filing an appeal in accordance with Commission rules).

10. Appeals Granted on the Merits. We also grant 11 appeals because we find that the applicants were either in compliance with the Commission's rules or USAC's guidance on contracts.<sup>39</sup> Consistent with precedent, we grant one request for review of a decision in which USAC denied funding solely because the execution date of the contract did not accompany the signature lines of both the applicant and the service provider.<sup>40</sup> Consistent with USAC's current guidance to applicants, we grant four appeals where the Petitioners had contracts signed by the applicant but not the service provider prior to the submission of their FCC Forms 471, or the Petitioner listed the effective date as the date the contract was signed.<sup>41</sup> Finally, consistent with our obligation to conduct a *de novo* review of appeals of decisions made by USAC,<sup>42</sup> we grant seven appeals on the merits because the Petitioners submitted evidence to the Commission demonstrating that each Petitioner had a valid, signed contract in place at the time it submitted its FCC Forms 471 to USAC.<sup>43</sup>

11. We emphasize the limited nature of this decision. The Commission's competitive bidding rules serve as a central tenet of the E-rate program. They ensure more efficient pricing for

---

<sup>39</sup> See *supra* para. 2; 47 C.F.R. § 54.504(c); USAC website, Contract Guidance, <http://www.usac.org/sl/applicants/step04/contract-guidance.aspx> (retrieved Aug. 11, 2008).

<sup>40</sup> See Request for Review of Merkaz Bnos High School (USAC denied funding because the effective date of the contract was separate from the signature lines); see *Adams County Order*, 22 FCC Rcd at 6024, para. 11; *Request for Review of a Decision of the Universal Service Administrator by Gayville-Volin School District 63-1, Schools and Libraries Universal Service Support Mechanism*, File No. SLD-471545, CC Docket No. 02-6, Order, 21 FCC Rcd 9274 (Wireline Comp. Bur. 2006) (granting the request for review where USAC denied funding solely because the agreement between Gayville-Volin and its service provider was not dated by both parties); *Request for Review of Richmond County School District, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-451211, 452514, 464649, CC Docket No. 02-6, Order, 21 FCC Rcd 6570 (Wireline Comp. Bur. 2006) (granting Richmond's appeal where USAC denied funding solely because the execution date of the contract did not accompany the signature lines of both the applicant and the service provider).

<sup>41</sup> See Request for Review of Jerome Joint School District (demonstrating that it had valid contracts even though one contract did not contain the signature of the service provider and the second contract had the effective date of the contract instead of the date the parties signed); Request for Review of Ottawa Elementary School (noting that the school timely signed the three contracts in question but its service providers did not sign the contracts until a few days after the FCC Form 471 was submitted); Request for Review of Sophia Academy (noting that it provided USAC with a contract that was unsigned by its service provider but providing the correct, signed contract on appeal with the Commission); Request for Review of Townshend Elementary School (noting that the service provider had not signed and dated the contract when the FCC Form 471 was submitted but later provided USAC with a contract that was signed and dated by both parties).

<sup>42</sup> See 47 C.F.R. § 54.723.

<sup>43</sup> See Request for Review of Cascade Union Elementary School District (noting that, although the wrong documentation was provided for Program Integrity Assurance (PIA) review, a valid contract was in place when the FCC Form 471 was submitted); Request for Review of Clarksburg-Harrison Public Library (providing the valid contract on appeal that was dated before submission of FCC Form 471); Request for Review and/or Waiver of Cleburne Independent School District (noting that it had a "ratified" contract, which is considered a valid contract under its state's procurement laws, before signing the actual contract); Request for Review of Durham Public School District (following North Carolina procurement law that requires only an agreement in writing, not a formal contract); Request for Review of Mosdos Chasidei Square (demonstrating that it had a valid contract when its FCC Form 471 was filed by noting the date at the top of the contract despite a conflicting date next to the signature that was written in several months later); Request for Review of St. Fidelis School (noting that it provided USAC with an unsigned, electronic copy of the contract but providing the correct, signed contract on appeal with the Commission).

telecommunications and information services purchased by schools and libraries and help deter waste, fraud and abuse.<sup>44</sup> Although we grant the subject appeals before us, our action here does not eliminate the rule that applicants have a signed contract in place when submitting an FCC Form 471. In addition, we continue to require E-rate applicants to submit complete and accurate contract information to USAC in a timely fashion as part of the application review process.

12. Finally, we are committed to guarding against waste, fraud, and abuse, and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the Requests for Review or Waiver addressed here, this action in no way affects the authority of the Commission or USAC to conduct audits and investigations to determine compliance with the 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 the Commission's rules, such proceedings can reveal instances in which universal service funds were disbursed improperly 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 that waste, fraud, or abuse of program funds occurred and that 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 the Commission's 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 pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), the Requests for Review and Requests for Waiver filed by the Petitioners as listed in the Appendix ARE GRANTED and REMANDED to USAC for further consideration in accordance with the terms of this order.

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 pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), section 54.504(c) of the Commission's rules, 47 C.F.R. § 54.504(c), IS WAIVED to the limited extent described herein.

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 pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), section 54.504(a) of the Commission's rules, 47 C.F.R. § 54.504(a), IS WAIVED to the limited extent described herein.

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, and pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), section 54.720 of the Commission's rules, 47 C.F.R. § 54.720, IS WAIVED to the limited extent described herein.

---

<sup>44</sup> See *Adams County Order*, 22 FCC Rcd at 6022, para. 8.

17. 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 pursuant to the authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), USAC SHALL COMPLETE its review of the underlying applications as listed in the Appendix and ISSUE an award or a denial based on a complete review and analysis no later than 90 days from release of this order.

18. IT IS FURTHER ORDERED that, pursuant to authority delegated under sections 0.91, 0.291 and 1.102 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.102, this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Jennifer K. McKee  
Acting Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

**NOTE 9**

FCC Form

Approval by OMB  
3060-0806**470**

## Schools and Libraries Universal Service Description of Services Requested and Certification Form

Estimated Average Burden Hours Per Response: 4.0 hours

This form is designed to help you describe the eligible telecommunications-related services you seek so that this data can be posted on the Fund Administrator website and interested service providers can identify you as a potential customer and compete to serve you.

Please read instructions before beginning this application.

(To be completed by entity that will negotiate with providers.)

### Block 1: Applicant Address and Identifications

<b>Form 470 Application Number:</b> 21566000810744
<b>Applicant's Form Identifier:</b> 2010-01
<b>Application Status:</b> CERTIFIED
<b>Posting Date:</b> 01/12/2010
<b>Allowable Contract Date:</b> 02/09/2010
<b>Certification Received Date:</b> 01/12/2010

<b>1. Name of Applicant:</b> PLATTE VALLEY SCH DIST R E 7		
<b>2. Funding Year:</b> 07/01/2010 - 06/30/2011		<b>3. Your Entity Number</b> 142240
<b>4a. Applicant's Street Address, P.O.Box, or Route Number</b> 501 CLARK STREET		
<b>City</b> KERSEY	<b>State</b> CO	<b>Zip Code</b> 80644
<b>b. Telephone number</b> (970) 336- 8500		<b>c. Fax number</b> (970) 336- 8511
<b>5. Type Of Applicant</b>		
<input type="radio"/> Individual School (individual public or non-public school)		
<input checked="" type="radio"/> School District (LEA;public or non-public[e.g., diocesan] local district representing multiple schools)		
<input type="radio"/> Library (including library system, library outlet/branch or library consortium as defined under LSTA)		
<input type="radio"/> Consortium (intermediate service agencies, states, state networks, special consortia of schools and/or libraries)		
<b>6a. Contact Person's Name:</b> Wendi Chapin		
<i>First, if the Contact Person's Street Address is the same as in Item 4 above, check this box. If not, please complete the entries for the Street Address below.</i>		
<b>6b. Street Address, P.O.Box, or Route Number</b>		
<input checked="" type="radio"/> P O Box 485		
<b>City</b>	<b>State</b>	<b>Zip Code</b>

<b>Kersey</b>	<b>CO</b>	<b>80644</b>
<p><i>Check the box next to your preferred mode of contact and provide your contact information. One box MUST be checked and an entry provided.</i></p>		
<input checked="" type="checkbox"/>	<b>6c. Telephone Number</b>	<b>(970) 336- 8500</b> ext. <b>502</b>
<input checked="" type="checkbox"/>	<b>6d. Fax Number</b>	<b>(970) 336- 8511</b>
<input checked="" type="checkbox"/>	<b>6e. E-mail Address</b>	<b>wchapin@staff.pvs.k12.co.us</b>

**Block 2: Summary Description of Needs or Services Requested**

**7 This Form 470 describes (check all that apply):**

a.  Tariffed or month-to-month services to be provided without a written contract. A new Form 470 must be filed for non-contracted tariffed or month-to-month services for each funding year.

b.  Services for which a new written contract is sought for the funding year in Item 2.  
 Check if you are seeking  a multi-year contract and/or  a contract featuring voluntary extensions

c.  A multi-year contract signed on or before 7/10/97 but for which no Form 470 has been filed in a previous funding year.

**NOTE: Services that are covered by a signed, written contract executed pursuant to posting of a Form 470 in a previous funding year OR a contract signed on/before 7/10/97 and previously reported on a Form 470 as an existing contract do NOT require filing of a new Form 470.**

**What kinds of service are you seeking: Telecommunications Services, Internet Access, Internal Connections Other than Basic Maintenance, or Basic Maintenance of Internal Connections? Refer to the Eligible Services List at [www.sl.universalservice.org](http://www.sl.universalservice.org) for examples. Check the relevant category or categories (8, 9, 10 and/or 11 below), and answer the questions in each category you select.**

**8  Telecommunications Services**  
*Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have and RFP, you risk denial of your funding requests.*

a  **YES**, I have released or intend to release an RFP for these services. It is available or will become available on the Web at at or via (check one):  
 the Contact Person in Item 6 or  the contact listed in Item 12.

b  **NO**, I have not released and do not intend to release an RFP for these services.

**Whether you check YES or NO, you must list below the Telecommunications Services you seek. Specify each service or function (e.g., local voice service) and quantity and/or capacity (e.g., 20 existing lines plus 10 new ones). See the Eligible Services List at [www.sl.universalservice.org](http://www.sl.universalservice.org) for examples of eligible Telecommunications services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Attach additional lines if needed.**

<input type="checkbox"/> <b>Check this box if you prefer discounts on your bill.</b>	<input type="checkbox"/> <b>Check this box if you prefer reimbursement after paying your bill in full.</b>	<input type="checkbox"/> <b>Check this box if you do not have a preference.</b>
--	--	---

Service or Function:	Quantity and/or Capacity:
<a href="#">Local Voice Service</a>	<a href="#">Existing Voice T1 - 24 or more</a>
<a href="#">Local Voice Service</a>	<a href="#">New voice trunks (4-12)</a>
<a href="#">Long Distance Service</a>	<a href="#">Supporting 20-32 voice lines</a>
<a href="#">Mobile Voice Service</a>	<a href="#">Existing 8 mobile connections</a>

<b>Local Voice Service</b>	<b>Existing 7 analog circuits</b>
<b>Mobile Voice Service</b>	<b>1-15 additional mobile connections</b>
<b>Data Circuits</b>	<b>T1 or Faster</b>

**9  Internet Access**  
*Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have and RFP, you risk denial of your funding requests.*

a  **YES**, I have released or intend to release an RFP for these services. It is available or will become available on the Web at or via (check one):  
 the Contact Person in Item 6 or  the contact listed in Item 12.

b  **NO**, I have not released and do not intend to release an RFP for these services.

**Whether you check YES or NO**, you must list below the Internet Access Services you seek. Specify each **service or function** (e.g., monthly Internet service) and quantity and/or capacity (e.g., for 500 users). See the Eligible Services List at [www.sl.universalservice.org](http://www.sl.universalservice.org) for examples of eligible Telecommunications services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Attach additional lines if needed.

<input type="checkbox"/> <b>Check this box if you prefer discounts on your bill.</b>	<input checked="" type="checkbox"/> <b>Check this box if you prefer reimbursement after paying your bill in full.</b>	<input type="checkbox"/> <b>Check this box if you do not have a preference.</b>
--	---	---

<b>Service or Function:</b>	<b>Quantity and/or Capacity:</b>
<b>Internet Service Provider</b>	<b>Internet Access and DNS for 500 stations</b>

**10  Internal Connections Other than Basic Maintenance**  
*Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have and RFP, you risk denial of your funding requests.*

a  **YES**, I have released or intend to release an RFP for these services. It is available or will become available on the Web at or via (check one):  
 the Contact Person in Item 6 or  the contact listed in Item 12.

b  **NO**, I have not released and do not intend to release an RFP for these services.

**Whether you check YES or NO**, you must list below the Internal Connections Services you seek. Specify each **service or function** (e.g., a router, hub and cabling) and quantity and/or capacity (e.g., connecting 1 classroom of 30 students). See the Eligible Services List at [www.sl.universalservice.org](http://www.sl.universalservice.org) for examples of eligible Telecommunications services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Attach additional lines if needed.

<input type="checkbox"/> <b>Check this box if you prefer discounts on your bill.</b>	<input checked="" type="checkbox"/> <b>Check this box if you prefer reimbursement after paying your bill in full.</b>	<input type="checkbox"/> <b>Check this box if you do not have a preference.</b>
--	---	---

**11  Basic Maintenance of Internal Connections**  
*Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have and RFP, you risk denial of your funding requests.*

a  **YES**, I have released or intend to release an RFP for these services. It is available or will become available on the Web at or via (check one):

the Contact Person in Item 6 or  the contact listed in Item 12.

b  **NO**, I have not released and do not intend to release an RFP for these services.

**Whether you check YES or NO**, you must list below the Basic Maintenance Services you seek. Specify each **service or function** (e.g., basic maintenance of routers) and quantity and/or capacity (e.g., for 10 routers). See the Eligible Services List at [www.sl.universalservice.org](http://www.sl.universalservice.org) for examples of eligible Telecommunications services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Attach additional lines if needed.

c  **Check this box if you prefer discounts on your bill.**

**Check this box if you prefer reimbursement after paying your bill in full.**

**Check this box if you do not have a preference.**

**12 (Optional)** Please name the person on your staff or project who can provide additional technical details or answer specific questions from service providers about the services you are seeking. This need not be the contact person listed in Item 6 nor the Authorized Person who signs this form.

Name:

Title:

Telephone number

() -

Fax number

() -

E-mail Address

**13a.**  Check this box if there are any restrictions imposed by state or local laws or regulations on how or when service providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures, and/or a Web address where they are posted and provide a contact name and telephone number.

**A Colorado constitutional amendment prohibits public schools and libraries from entering into multi-year financial obligations.**

Check this box if no state and local procurement/competitive bidding requirements apply to the procurement of services sought on this Form 470.

**13b.** If you have plans to purchase additional services in future years, or expect to seek new contracts for existing services, you may summarize below (including the likely timeframes). If you are requesting services for a funding year for which a Form 470 cannot yet be filed online, include that information here.

### Block 3: Technology Resources

**14.**  **Basic telephone service only:** If your application is for basic telephone service and voice mail only, check this box and skip to Item 16. Basic telephone service is defined as wireline or wireless single line voice service (local, cellular/PCS, and/or long distance) and mandatory fees associated with such service (e.g., federal and state taxes and universal service fees).

**15.** Although the following services and facilities are ineligible for support, they are usually necessary to make effective use of the eligible services requested in this application. Unless you indicated in Item 14 that your application is **ONLY** for basic telephone service, you must check at least one box in (a) through (e). You may provide details for purchases being sought.

a. Desktop software: Software required  has been purchased; and/or  is being sought.

b. Electrical systems:  adequate electrical capacity is in place or has already been arranged; and/or  upgrading for additional electrical capacity is being sought.

c. Computers: a sufficient quantity of computers  has been purchased; and/or  is being sought.

d. Computer hardware maintenance: adequate arrangements  have been made; and/or  are being sought.

e. Staff development:  all staff have had an appropriate level of training /additional training has already been scheduled; and/or  training is being sought.

f. Additional details: Use this space to provide additional details to help providers to identify the services you desire.

**Block 4: Recipients of Service**

**16. Eligible Entities That Will Receive Services:**

Check the ONE choice (Item 16a, 16b or 16c) that best describes this application and the eligible entities that will receive the services described in this application. You will then list in Item 17 the entity/entities that will pay the bills for these services.

a.  Individual school or single-site library.

b.  Statewide application for (enter 2-letter state code) representing (check all that apply):

- All public schools/districts in the state:
- All non-public schools in the state:
- All libraries in the state:

If your statewide application includes INELIGIBLE entities, check here.  If checked, complete Item 18.

c.  School district, library system, or consortium application to serve multiple eligible entities:

<b>Number of eligible sites</b>	<b>5</b>
<i>For these eligible sites, please provide the following</i>	
<b>Area Codes (list each unique area code)</b>	<b>Prefixes associated with each area code (first 3 digits of phone number) separate with commas, leave no spaces</b>
<b>970</b>	336 , 351 , 352 , 392

**17. Billed Entities**

17. Billed Entities: List the entity/entities that will be paying the bills directly to the provider for the services requested in this application. These are known as Billed Entities. At least one line of this item must be completed. If a Billed Entity cited on your Form 471 is not listed below, funding may be denied for the funding requests associated with this Form 470.

Entity	Entity Number

PLATTE VALLEY SCH DIST R E 7

142240

**18. Ineligible Participating Entities**

List the names of any entity/entities here for whom services are requested that are not eligible for the Universal Service Program.

Ineligible Participating Entity

Area Code

Prefix

**Block 5: Certification and Signature**

19.  I certify that the applicant includes:(Check one or both.)

- a.  schools under the statutory definitions of elementary and secondary schools found in the **No Child Left Behind Act of 2001, 20 U.S.C.Secs.7081(18) and (38)**, that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or
- b.  libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to elementary and secondary schools, colleges and universities).

20.  I certify that all of the individual schools, libraries, and library consortia receiving services under this application are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, an SLD-certified technology plan approver, prior to the commencement of service. The plans were written at the following level(s):

- a.  individual technology plans for using the services requested in the application, and/or
- b.  higher-level technology plans for using the services requested in the application, or
- c.  no technology plan needed; application requests basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only

21.  I certify that I will post my Form 470 and (if applicable) make my RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology plan goals. I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the status and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

22.  I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. Sec. 54.500(k). Additionally, I certify that the entity or entities listed on this application have not received anything of value or a promise of anything of value, other than the services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.

23.  I acknowledge that support under this support mechanism is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support.

24.  I certify that I am authorized to order telecommunications and other supported services for the eligible entity (ies). I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this application, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

25.  I certify that I have reviewed all applicable state and local procurement/competitive bidding requirements and that I have complied with them. I acknowledge that persons willfully making false statements on this form can be punished by fine or forfeiture, under the Commissions Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

26.  I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program.

27. Signature of authorized person:

28. Date (mm/dd/yyyy): **01/12/2010**

29. Printed name of authorized person: **Wendi Chapin**

30. Title or position of authorized person: **Business Services Director**

31a. Address of authorized person: **501 Clark  
P O Box 485  
City: Kersey State: CO Zip: 80644**

31b. Telephone number of authorized person: **(970) 336 - 8500** ext. **502**

31c. Fax number of authorized person: **(970) 3368511**

31d. E-mail address number of authorized person: **wchapin@staff.pvs.k12.co.us**

31e. Name of authorized person's employer: **Weld County SD RE-7**

**Service provider involvement with preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests. For more information, refer to the SLD web site at [www.sl.universalservice.org](http://www.sl.universalservice.org) or call the Client Service Bureau at 1-888-203-8100.**

**NOTICE:** Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, information provided in or submitted with this form or in response to subsequent inquiries may also be subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law.

If you owe a past due debt to the federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without

action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:

**SLD-Form 470  
P.O. Box 7026  
Lawrence, Kansas 66044-7026  
1-888-203-8100**

For express delivery services or U.S. Postal Service, Return Receipt Requested, mail this form to:

**SLD Forms  
ATTN: SLD Form 470  
3833 Greenway Drive  
Lawrence, Kansas 66046  
1-888-203-8100**

FCC Form 470  
November 2004

[New Search](#)

[Return To Search Results](#)



Ault-Highland RE-9  
Briggsdale RE-10  
Brush RE-2J  
Eaton RE-2  
Johnstown-Milliken RE-5J

**Longmont Office**  
830 So Lincoln Street  
Longmont, CO 80501  
303-772-4420 Office  
303-776-0504 Fax

Morgan County RE-3  
Park R-3  
Pawnee RE-12  
Platte Valley RE-7  
Prairie RE-11

**Greeley Office**  
2020 Clubhouse Drive  
Greeley, CO 80634  
970-352-7404 Office  
970-352-7350 Fax

St Vrain Valley RE-1J  
Thompson R-2J  
Weld RE-1  
Weldon Valley RE-20J  
Wiggins RE-50J

**South Platte Office**  
821 West Platte Avenue  
Ft Morgan, CO 80701  
970-867-8297 Office  
970-867-6129 Fax

**Service Agreement**

**THIS SERVICE AGREEMENT (“Agreement”) IS MADE** between the **CENTENNIAL BOARD OF COOPERATIVE EDUCATIONAL SERVICES** (the "CBOCES") and **PLATTE VALLEY SCHOOL DISTRICT RE7** (the “Client”) set forth below according to the following terms, conditions and provisions:

1. **IDENTITY OF THE CLIENT.**

**Name:** Platte Valley School District RE7  
**Address:** 501 Clark Street  
**City/State/Zip:** Kersey, CO 80644  
**Business Telephone:** (970) 336-8500

2. **SERVICES.** CBOCES will provide, and the Client will purchase, the EAGLE-Net Services (the “Services”) as described in the attached Exhibit 1. Client agrees that it will not resell the Services.

3. **RATE AND PAYMENT.** CLIENT will be charged and pay for the services provided pursuant to this Agreement per the attached Exhibit(s):

Client will be invoiced monthly. Client shall pay CBOCES all charges within 30 days from the invoice date. Any amount not paid when due will be subject to late interest at the lesser of 1.5% per month or the maximum rate allowed by law. Unless Client provides CBOCES with certification of tax-exempt status, the Client must also pay CBOCES any applicable taxes assessed in connection with Client’s services. CBOCES may reasonably modify the payment terms or require other reasonable assurance of payment based on payment history or a material adverse change in Client’s financial condition.

4. **LICENSES/ACCESS.** If CBOCES must access a building that houses Client’s premises to install, operate, or maintain Service or associated CBOCES equipment, Client will reasonably provide access. Client will also provide or secure at Client’s expense the appropriate space and power, and any rights or licenses that may be required.

5. **TERM OF AGREEMENT.** The term of this Agreement shall commence on **July 1, 2010** and shall terminate on **June 30, 2014**. The Client has the option to renew the contract for additional one (1) year terms and to change the amount of Internet Usage during the term of this Agreement. At the end of the initial term and each renewal term, this Agreement will continue automatically on a month-to-month basis unless one party notifies the other in writing of an intent not to renew at least 30 calendar days prior to the end of the term.

6. **TERMINATION AND NON-APPROPRIATION.** If Client fails to pay CBOCES as provided for in this Agreement, CBOCES may terminate this Agreement at its sole discretion. If CBOCES fails to provide the services as required herein, and such failure is not due to a Force Majeure condition, Client may terminate this Agreement upon thirty (30) days written notice to CBOCES.

If Client terminates this Agreement prior to the end of its term for any reason other than as described in this Paragraph 6, it shall be liable to CBOCES for (i) 100% of any remaining installation costs, plus (ii) 50% of the monthly recurring charges for all Services that would have been due during the first year of this Agreement and 10% of the monthly recurring charges for all Services that would have been due for the remaining unexpired Term of this Agreement, plus (iii) any third party costs and expenses incurred by CBOCES in so terminating such Service.

Notwithstanding any other provision herein to the contrary, this Agreement and Client's obligations hereunder are expressly subject to and contingent upon funds for such purpose being budgeted, appropriated, and otherwise made available by Client. If Client is unable to appropriate the payments required pursuant to this Agreement, or if such appropriations are insufficient during any fiscal year, and Client is not otherwise in default, Client may at its option elect to terminate this Agreement and be released from any further obligations upon the giving of thirty (30) days' written notice to CBOCES; provided however, that Client may not terminate this Agreement for non-appropriation, in order to obtain functionally equivalent services from a third party. This Agreement shall terminate upon the last day of any fiscal year during which there has occurred an event of non-appropriation pursuant to this section.

7. **DISCLAIMER OF WARRANTIES.** CBOCES DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY CBOCES, ITS AFFILIATES, AGENTS, OR CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES WILL CREATE ANY WARRANTY. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CLIENT ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICES.
8. **LIMITATION OF LIABILITY.** NO PARTY, ITS AFFILIATES, AGENTS, OR CONTRACTORS WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, RELIANCE, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR FOR ANY LOST PROFITS OR REVENUES OR LOST DATA OR COSTS OF COVER RELATING TO THE SERVICES OR THIS AGREEMENT, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS ASSERTED. WITH REGARD TO ANY SERVICE RELATED CLAIM FOR DAMAGES THAT IS NOT LIMITED BY THE PRECEDING SENTENCE, CLIENT'S EXCLUSIVE REMEDIES FOR SUCH CLAIM WILL BE LIMITED TO THE TOTAL MONTHLY RECURRING CHARGES ("MRCs") OR USAGE CHARGES PAID BY THE CLIENT TO CBOCES FOR THE AFFECTED SERVICE IN THE ONE MONTH IMMEDIATELY PRECEDING THE OCCURRENCE OF THE EVENT GIVING RISE TO THE CLAIM. THE TOTAL AGGREGATE LIABILITY FOR CLIENT AND CBOCES RELATED TO THIS AGREEMENT WILL NOT EXCEED THE TOTAL MRCs AND USAGE CHARGES PAID BY THE CLIENT TO CBOCES UNDER THIS AGREEMENT IN THE THREE MONTHS IMMEDIATELY PRECEDING THE OCCURRENCE OF THE EVENT GIVING RISE TO THE CLAIM (EACH "DAMAGE CAP").  
  
This limitation of liability and Damage Cap will not apply to Client's payment obligation for charges under this Agreement.
9. **NON-WAIVER.** The failure of either party to exercise any of its rights under this agreement for a breach thereof shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach.
10. **NOTICES.** Any notice given in connection with this Agreement shall be in writing and shall be delivered either by hand, by certified mail, return receipt requested, or by overnight courier service, to the party at the party's address stated herein. Any party may change its address stated herein by giving notice of the change in accordance with this paragraph.
13. **FORCE MAJEURE.** A party shall not be held in default under, or in noncompliance with, the provisions of this Agreement, nor suffer any enforcement or imposition of damages relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the party to anticipate and control, including, but not limited to, war or riots, civil disturbances, floods or other natural catastrophes, labor stoppages, slow downs or power outages.
14. **CHOICE OF LAW/VENUE.** Any dispute under this Agreement or related to this Agreement shall be decided in accordance with the laws of the State of Colorado. Venue for any proceeding shall be in Denver, Colorado.
15. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties and supersedes all prior oral or written agreements or understandings relating to this subject matter.
16. **SEVERABILITY.** If any section, subsection, paragraph, term or provision of this Agreement is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other section, subsection, paragraph, term or provision of this Agreement, all of which will remain in full force and effect for the term of the Agreement.
17. **SERVICE LEVEL AGREEMENT.** Service is subject to the Service Level Agreement (SLA) located at the EAGLE-Net Web Site (<http://co-eaglenet.net>). The SLA provides the Client's sole and exclusive remedy for service interruptions or service deficiencies.

18. **AMENDMENTS.** This Agreement may be supplemented, amended or revised only in writing by agreement of both parties.

**CBOCES:**

Signature: Jack McCabe Date: 2/8/10  
Jack McCabe, Executive Director  
Centennial Board of Cooperative Educational Services

**CLIENT:**

Name (Printed): \_\_\_\_\_

Title: \_\_\_\_\_

Entity: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Platte Valley School District RE 7**

**EAGLE-Net Managed Services Pricing  
Exhibit 1**

<b>CBOCES E-Rate SPIN: 143026147</b>	<b>Bandwidth (Mbps)</b>	<b>Monthly Recurring Charge (MRC)</b>	<b>Annual Cost</b>
<b>Internet Usage (*Not-to-Exceed):</b> -Commodity Internet -Internet2 -Firewall Services & Support -Domain Name Service (DNS) & Support -Microwave Radio/Qwest Service-Fiber connection from Kersey to EAGLE-Net	25.0	\$3,310.00	\$39,720.00
<b>Total</b>		<b>\$3,310.00</b>	<b>\$39,720.00</b>

**Pricing Options:**

**Internet Bandwidth (Mbps)**

The purchased Bandwidth can be scaled up or down in 1.0 Mbps increments.

**Pricing Notes:**

\*The Monthly Usage Charge is presented as Not-to-Exceed pricing - As the number of participants and the collective amount of Internet bandwidth purchased by EAGLE-Net increases, the cost / Mbps of Internet bandwidth will decrease.

The pricing does not include any fees for access to Internet2. These fees have been funded by outside organizations.

 **Schools & Libraries****Eligible Services List  
Schools and Libraries Support Mechanism  
for Funding Year 2010****Overall Eligibility Requirements for All Categories of Service:**

The Eligible Services List indicates whether specific products or services may be able to receive discounts under the Schools and Libraries Support Mechanism.

The List is organized into four sections that represent the four funding categories established by the Federal Communications Commission (FCC) plus a Miscellaneous section that is applicable to multiple categories:

[Telecommunications Services](#)  
[Internet Access](#)  
[Internal Connections](#)  
[Basic Maintenance](#)  
[Miscellaneous](#)

In addition, the following sections are provided:

[Special Eligibility Conditions](#)  
[Glossary](#), providing additional information about  
the terms used in this Eligible Services List  
[Index](#)

Funding may be provided only for eligible products or services that will be used for educational purposes. See 47 C.F.R. §§ 54.500(b), 54.504. The conditions for eligibility are described in the specific entries of this Eligible Services List. Services that are not eligible are listed at the end of each category.

All program participants are reminded to review the Special Eligibility Conditions at the end of this Eligible Services List in addition to all of the entries applicable to the services or products they are requesting. Additional information about eligibility requirements is available at USAC's website at <http://www.usac.org/sl/tools/reference-area.aspx>, the reference area of the USAC website at <http://www.usac.org/sl/tools/reference-area.aspx>, and in Schools and Libraries News-briefs available at <http://www.usac.org/sl/tools/news-briefs/Default.aspx>. These documents are not incorporated by reference into the Eligible Services List.

This version of the Eligible Services List is dated December 2, 2009. Some eligibility information in this List represents a change from prior funding years and applies to funding requests for Funding Year 2010.

	Services List.
E-mail Service	<p>Internet-based <a href="#">e-mail</a> is eligible. Such a service is often included in the cost of basic conduit access to the Internet or may be provided at a separate cost, either as a fixed charge and/or on a per-user or other basis.</p> <p>Some e-mail services may include substantial ineligible features, such as collaboration tools, and services to ineligible users. Funding is limited strictly to the eligible e-mail portion. <a href="#">E-mail archiving</a> is not eligible for discount. Any <a href="#">cost allocation</a> must be based on tangible information that provides a reasonable and appropriate delineation between the eligible and ineligible components.</p>
Internet Access	<p>Basic conduit access to the Internet is eligible regardless of technology platform. Access technologies include but are not limited to:</p> <ul style="list-style-type: none"> <li>• <a href="#">Broadband over Power Lines (BPL)</a>-enabled Internet access service</li> <li>• <a href="#">Cable Modem</a></li> <li>• <a href="#">Digital Subscriber Line (DSL)</a></li> <li>• Telephone dial-up</li> <li>• <a href="#">T-1</a> lines</li> <li>• Wireless</li> </ul> <p><b>Eligible Internet access may include features typically provided for adequate functionality and performance when provided as a standard component of a vendor's Internet access service. Such features may include <a href="#">Domain Name Configuration</a>, and <a href="#">firewall</a> protection against unauthorized access.</b></p> <p>A wireless Internet access service is eligible under the same provisions as wired access to the Internet.</p> <p>Wide Area Network facilities can be eligible for funding as a part of Internet access if the service is limited to basic conduit access to the Internet and the offering is the most cost-effective means of accessing the Internet.</p> <p><a href="#">GSP (Global Service Provider) fees</a> necessary to obtain Internet access are eligible.</p> <p>A wireless Internet access service designed for portable electronic devices is eligible to be funded if used for educational purposes.</p>
Web Hosting	<p>A <a href="#">web hosting</a> service that provides a means for a school or library to display content on the Internet is eligible. Web hosting may include password protected pages.</p> <p><a href="#">Domain name registration</a> necessary for the creation of a school or library website is eligible for discount.</p>

**Platte Valley School District RE 7**  
**EAGLE-Net Managed Services Pricing**

<b>CBOCES E-Rate SPIN: 143026147</b>	<b>Bandwidth (Mbps)</b>	<b>Monthly Recurring Charge (MRC)</b>	<b>Annual Cost</b>
<b>Internet Usage (*Not-to-Exceed):</b> -Commodity Internet -Internet2 -Firewall Services & Support -Domain Name Service (DNS) & Support -Microwave Radio/Qwest Service-Fiber connection from Kersey to EAGLE-Net	25.0	\$3,310.00	\$39,720.00
<b>Total</b>		<b>\$3,310.00</b>	<b>\$39,720.00</b>

**Pricing Options:**

**Internet Bandwidth (Mbps)**

The purchased Bandwidth can be scaled up or down in 1.0 Mbps increments.

**Pricing Notes:**

\*The Monthly Usage Charge is presented as Not-to-Exceed pricing - As the number of participants and the collective amount of Internet bandwidth purchased by EAGLE-Net increases, the cost / Mbps of Internet bandwidth will decrease.

The pricing does not include any fees for access to Internet2. These fees have been funded by outside organizations.

**\$3,310 / 25 mbps = \$133/mbps**

~~\$~~ 133 | mb

## Mike Jakel

---

**From:** Wendi Chapin  
**Sent:** Monday, January 25, 2010 7:36 AM  
**To:** Mike Jakel  
**Subject:** FW: Platte Valley Sch Dist R E 7 E-Rate Proposal - Application #215660000810744  
**Attachments:** ProficientLogoSLTag313x97.gif; Proficient Telecom - Data Services Proposal - Premier Q.doc

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Mike,

FYI,

Wendi Chapin  
Business Services Director  
*Pursuing Excellence for All...*  
Platte Valley School RE-7  
Office: 970-336-8502  
Fax: 970-336-8511

*"A mind that is stretched by a new experience can never go back to its old dimensions." - Oliver Wendell Holmes, Sr.*

---

**From:** Tom Jordan [mailto:tjordan@proficienttel.com]  
**Sent:** Sunday, January 24, 2010 10:50 PM  
**To:** Wendi Chapin; tjordan@proficienttel.com  
**Subject:** Platte Valley Sch Dist R E 7 E-Rate Proposal - Application #215660000810744



**SPIN 143032068**

January 24, 2010

Wendi Chapin  
Platte Valley Sch Dist R E 7  
501 Clark Street  
Kersey, CO 80644

RE: E-Rate Universal Service Application Number: 215660000810744

I am pleased to submit for your consideration the attached proposal for data services. This proposal is being provided in response to your Form 470 application which was filed with the Universal Service Administrative Company.

Proficient Telecom began offering services in 1996. In recent years we have specialized in serving schools and libraries, particularly those which receive E-Rate funding. Today, we offer a comprehensive list of communications solutions to schools and libraries throughout the United States.

Based on the information provided in your Form 470 filing, Proficient Telecom is recommending **Managed Single T-1 Internet Access Service (1.5 Mbps) at just \$369 per month** or **Managed Bonded T-1 Internet Access Service (3.0 Mbps) at just \$669 per month** (These rates are before E-rate discounts). See the attached proposal for additional details, as well as higher bandwidth, firewall, email and web hosting pricing.

If your organization is seeking a different service, please reply and indicate what it is and I'll be happy to give you a bid. Please be patient. As we close in on the E-rate contract deadline, I typically receive a large number of inquiries and am working hard to get service agreements in place. I don't want to miss your communication. Please also feel free to give me a call. I can be reached on 314-406-6000.

**Finally, if you would kindly reply to this message with "Received", it would be greatly appreciated. If your organization has already chosen a service provider for this specific application number, indicate as such and I will remove it from our interested applicant list.**

Thank you.

Sincerely,

Tom Jordan  
314-406-6000  
[tjordan@proficienttel.com](mailto:tjordan@proficienttel.com)  
[www.proficienttel.com](http://www.proficienttel.com)  
SPIN 143032068

$\$369 / 1.5 \text{ mbps} = \$246 \text{ mbps}$   
 $\$669 / 3.0 \text{ mbps} = \$223 \text{ mbps}$

price per mbps  
\$ 246 / mb



PLATTE VALLEY SCH DIST R E 7

1/18/2010

Existing service for account: 72372077- contract expires 06/2010

**iQ Networking Bundle DS1, 36 month term**

Includes Internet Access bandwidth of up to 3.0 MBPS. Adtran router equipment - Installation c router is accomplished through "Plug -n Play" installation which consists of router configuration before shipment. Remote access is required and customer must provide a single analog line fo to the included modem. Adtran maintenance is included for 8x5 coverage.

Option #2	Quantity	Description	Unit Cost	Total Cost	Activation
	2	T1 Local Loop	\$235.00	\$470.00	waived
	1	3.0 Mbps IQ Internet Port Bundle*	\$540.00	\$540.00	waived
				<b>Total: \$ 1,010.00</b>	

$\$1,010 / 3.0 \text{ mbps} = \$336 \text{ mbps}$

$\$ 336 / \text{mb}$

# QWEST iQ DATA BUNDLE

## Simplified Network Solution with Enhanced Tools

### Complex Made Simple

- Internet Access or Private Networking
- Fixed Speed—1.5 Mbps to 45 Mbps
- Equipment—pre-configured, plug 'n play
- Support—router configuration
- Security Solutions—enhanced data protection

### What You Can Expect

- More capital to run your business by saving money on equipment and maintenance
- Smooth business operations with dependable Internet service or private networking with Service Level Agreements
- Improved productivity from the latest business technology enhancements

### Enhance Your Business Performance With These Services at No Additional Charge:

- Outbound Fax Over E-mail
- Audio/Web Conferencing
- Qwest iQ™ Online Backup
- Anti-Virus/Anti-Spam
- E-mail and Collaboration

**Qwest iQ® Data Bundle starts at \$450/month.\***

*Need More? Use available upgrades to expand your capabilities.*

\*The rate shown is based on a minimum three-year term commitment, Internet Port DS-1 bandwidth, ADTRAN equipment selection, and local loop availability. Rate does not include taxes, surcharges or other fees. Special early cancellation charges apply.

Qwest delivers scalable data and voice networking solutions across one of the largest fiber footprints in the U.S. Availability of Qwest services varies. Please refer to the following for availability details about Qwest iQ Data Bundle and solution enhancements: <http://qwest.com/legal/docs/availability.pdf>

**Qwest.**   
**BUSINESS**

**Platte Valley School District RE 7  
142240:**

**Letter of Agency For FY 12 (2009 - 2010) and FY 13 (2010 – 2011)**

I hereby authorize eRate 360 Solutions, LLC and its employees: Keith C. Oakley, Steve Tenzer, Rich Larson, Carlos Alvarez, Matt Hetman, Fred Josephs, and Bert Garofano to submit FCC Form 470, FCC Form 471, and other E-rate forms, and to submit various change applications such as SPIN changes and service substitutions, to the Schools and Library Division of the Universal Service Administrative Company on behalf of **Platte Valley School District RE 7** for all eligible services outlined in the most current "Eligible Services List" published by USAC. I understand that, in submitting these forms on our behalf, you are making certifications for **Platte Valley School District RE 7**. By signing this Letter of Agency, I make the following certifications

- (a) I certify that **schools in our district** are all schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38), that do not operate as for-profit businesses and do not have endowments exceeding \$50 million.
- (b) I certify that our **school district** has secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that to the extent that the Billed Entity is passing through the non-discounted charges for the services requested under this Letter of Agency, that the entities I represent have secured access to all of the resources to pay the non-discounted charges for eligible services from funds to which access has been secured in the current funding year.
- (c) I certify that our **school district** is covered by a technology plan(s) that is written, that covers all 12 months of the funding year, and that has been or will be approved by a state or other authorized body, or an SLD-certified technology plan approver, prior to the commencement of service. The plan(s) is written at the following level(s):
  - an individual technology plan for using the services requested in this application; and/or
  - higher-level technology plan(s) for using the services requested in this application; or
  - no technology plan needed; applying for basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.
- (d) I certify that the services the district purchases at discounts provided by 47 U.S.C. § 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the rules of the Federal Communications Commission (Commission or FCC) at 47 C.F.R. § 54.500(et seq.).
- (e) I certify that our **school district** has complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.
- (f) I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

- (g) I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.
- (h) I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies) covered by this Letter of Agency. I certify that I am authorized to make this request on behalf of the eligible entity(ies) covered by this Letter of Agency, that I have examined this Letter, that all of the information on this Letter is true and correct to the best of my knowledge, that the entities that will be receiving discounted services under this Letter pursuant to this application have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.
- (i) I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities, or any person associated in any way with my entity and/or the entities, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.
- (j) I certify, on behalf of the entities covered by this Letter of Agency, that any funding requests for internal connections services, except basic maintenance services, applied for in the resulting FCC Form 471 application are not in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. § 54.506(c).
- (k) I certify that, to the best of my knowledge, the non-discount portion of the costs for eligible services will not be paid by the service provider. I acknowledge that the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.
- (l) I certify that I am authorized to sign this Letter of Agency and, to the best of my knowledge, information, and belief, all information provided to **eRate 360 Solutions, LLC** for E-rate submission is true.

District: Platte Valley School District RE 7

Date: 9-14-10

Signature: 

Printed Name: Michael Jakel

Title: Director of Technology