

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

November 27, 2013

In the Matter of

Schools and Libraries Universal Service
Support Mechanism

Request for Review of a Decision of the
Universal Service Administrator by

Bound Brook School District

CC Docket No. 02-6

Request for Review

Applicant: Bound Brook School District

Billed Entity Number: 123501

For 471: 892413

FRN: 2425332, 2425333, 2425334, 2425395, 2425398, 2425401

Submitted by:

Ben Sniecinski
E Rate Advantage, LLC
Phone 908 894 5213
Fax 888 527 5449
ben@erateadvantage.com

Introduction

This is an appeal of USAC's denial concerning application 892413. USAC denied the appeal because (1) "...the request for changes and corrections was received after the FCDL was issued..." (2) "...your appeal requests additional funds..."

Argument

1 – We contend this is an M&C error on the part of the applicant and the PIA reviewer.

2 – The applicant made a error by not specifically asking the PIA reviewer to validate entity 16048111 as a 90% entity. When in fact the documentation submitted clearly represents a 90% e-rate discount.

3 - The reviewer viewed the documentation that was submitted and validated entity 16048111 as a 80% entity even though the documentation that was submitted should have been used to validate the school as 90%. The PIA reviewer was questioned on this and the applicant was told, "The discount is at 80% because that is what was on the application and there was no request made asking to increase the discount. When you get the Funding Commitment Decision Letter(FCDL) you can appeal this decision."

4 – Per precedent established by the FCC in the Bishop Perry Order, the PIA reviewer failed to "... 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."

5 - The FCC has issued various other orders relating to clerical and ministerial errors on the part of applicants. These orders offer relief to the applicants in the form of FCC waivers of existing rules. These Orders include: Bishop Perry Order (FCC 06-54), the Ann Arbor Public Schools Order (DA 10-2354) and FCC 11-60 issued on April 14th, 2011.

In paragraph 23 of the Bishop Perry Order, "As of the effective date of this Order, we require USAC to provide all E-rate applicants with an opportunity to cure ministerial and clerical errors on their FCC Form 470 or FCC Form 471, and an additional opportunity to file the required certifications. 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."

We contended that by the PIA reviewer requesting a copy of the school NSLP information, with 119 total students and 96 eligible for free and reduced lunch, should have caught the fact that this does not equate to a 80% discount but rather a 90% discount and afforded the applicant the opportunity to increase the requested discount.

We further contend that in the applicants response to the PIA reviewer, "attached please find the school NSLP {sic} data. This should be good to validate both schools at 90%. Please let me

know if you have any additional questions.” The applicant did in fact request an increase to 90%. This is in direct conflict to what the PIA reviewer states.

By failing to provide us with the required 15 days to correct our clerical error, the application was approved for a lower discount

USAC argues that the request for the correction was not made prior to the FCDL. We contend that by sending in the NSLP data, which clearly shows the higher discount rate, and requesting the increase, we did make this argument before the FCDL was issued.

We believe an error was made on the part of the PIA reviewer and that this error is an error that can be corrected.

We argue that if the case was reversed and the NSLP data was actually showed a lower discount, the PIA reviewer would have noticed and reduced our discount accordingly.

USAC makes the argument that our appeal requests additional funds that were not included in the FCC Form 471. We can't argue with this, they are correct because an error was made by PIA in not identifying the error and not allowing us time to correct the error.

We believe there is precedent to allow these types of changes. In the Aberdeen School District Order, DA 12-300, the FCC granted 35 requests for review because the FCC found that good cause exists to grant their requests for review. Some of these applicants filed with one discount percentage, a lower one, and were given the opportunity to submit additional documentation to adjust their discount percentage to a higher percentage.

6 - The Ann Arbor Decision (DA 10-2354) further supports that mistakes happen in the E Rate application and review process and offer applicants relief from these mistakes.

Specifically, we find that the petitioners inadvertently made ministerial or clerical errors while completing their FCC forms, while responding to USAC requests for additional information during the application review process, or while making requests for service substitution.⁵ These errors include: failing to timely notify USAC to correct a USAC clerical error,⁶ entering the wrong FCC Form 470 number, wrong billed entity number, or wrong billed entity number/worksheet number on their FCC Form 471;⁷ entering the wrong name or service provider identification number (SPIN);⁸ entering the wrong expiration date for a contract;⁹ erroneously characterizing the purchase and installation of equipment as a recurring service;¹⁰ making a calculation error;¹¹ entering the monthly charge as the annual charge;¹² entering the discounted annual price rather than the pre-discount annual price;¹³ entering the amount that a service provider was mistakenly temporarily charging rather than the contracted monthly rate;¹⁴ miscalculating its discount rate;¹⁵ failing to separately list a building where equipment was to be located;¹⁶ failing to enter a request for telecommunications service that was clearly indicated on its item 21 attachment;¹⁷ basing its block 5 funding requests on the wrong FCC Form 471 block 4 worksheet;¹⁸ selecting the wrong term or service;¹⁹ selecting the wrong category of service in its FCC Form 471; ²⁰ making a typographical error in recording the cost of ineligible equipment in response to a USAC request for additional data;²¹ failing to follow the correct procedure for modifying its FCC Form 471;²² mistakenly providing the wrong documentation concerning a purchase; ²³ and describing the service it purchased as for its entire district when it was only intended to serve a single elementary school.²⁴ In addition, one applicant omitted a

service from a service substitution request,25 and another entered the wrong application number on the certifications it submitted and apparently failed to press the submit button to submit its otherwise completed application.26

7 – Mistakes happen and the FCC and USAC have established precedent to correct these mistakes.

8 – We contend the PIA reviewer failed to identify the error and offer the applicant an opportunity to make the necessary corrections.

9 – The NSLP data clearly supports a higher discount rate.

Summary

The PIA reviewer made a mistake in not identifying the fact that the applicant wanted to increase the entities discount from 80% to 90%. They also made the mistake of not checking the NSLP data that was submitted, which clearly supports the higher discount rate. The PIA reviewer failed to provide the applicant an opportunity to correct the error. The NSLP data clearly supports the higher discount amount.

There is no waste fraud and abuse just a simple mistake for which there is a clear remedy.

We request this application be sent back to PIA for further review based on the documentation originally submitted.

Thank you,



Ben Sniecinski

Subject: Re: FY2013 E-rate app 892413 Bound Brook SD
Date: Tuesday, August 20, 2013 12:52:30 PM Eastern Daylight Time
From: Ben Sniecinski
To: Bianco, Alexander

Alexander,

Attached please find the school NSLP data. This should be good to validate both schools at 90%. Please let me know if you have any additional questions.

Thanks,

Ben

E-rate demand outpaces available funding nearly 2:1. [You can make a difference](#)

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ben@erateadvantage.com
www.erateadvantage.com

From: "Bianco, Alexander" <Alexander.Bianco@sl.universalservice.org>
Date: Friday, August 16, 2013 2:07 PM
To: "Ben@1-888-5275449" <IMCEAFAX-Ben+401-888-5275449@solixinc.com>
Cc: Ben Sniecinski <ben@erateadvantage.com>
Subject: FY2013 E-rate app 892413 Bound Brook SD

Dear Ben Sniecinski,

Please see the attached letter in regards to your e-rate application 892413 for Bound Brook School district. If you have any questions let me know.

Thank you,
Alexander Bianco
Associate Manager, Program Integrity Assurance
24 Lorida Plaza West | Parsippany, NJ 07054
T: 973 891 5328 | F: 973 899 6578
abianco@sl.universalservice.org

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Site Voucher For Voucher 1

Agreement Number: 03500490 Sponsor Name: BOUND BROOK BD OF ED
 Claim Month: October Claim Year: 2012
 Site Name: LAMONTE

Number of Students Approved for Meal/Milk Benefits (Free/Reduced Applications)

Category	* Lunch/Breakfast	Regular After School Snack	Special Milk
Free	77	0	0
Reduced Price	19	0	

* Report the number of students with access to either lunch or breakfast, whichever number is higher. Do not report the sum of breakfast and lunch participants.

Enter Participation Data for the Month

	National School Lunch	Regular School Breakfast	Severe Need School Breakfast	After School Snack	
				Area Eligible	Regular
Meal Service Days	18	0	18	0	0
Average Daily Attendance	114	0	114	0	0
Enrollment	119	0	119	0	0

Special Milk Program

#1/2 Pints Milk Purchased	Cost of Milk	#1/2 Pints of Carry Over Milk from prior month
0	0	0

Report Number of Meals/Milk claimed for the Month

Category	National School Lunch	Regular School Breakfast	Severe Need School Breakfast	After School Snack		Special Milk
				Area Eligible	Regular	
Free	1135	0	337	0	0	0
Reduced	233	0	56		0	
Paid	317	0	43		0	0
Total	1685	0	436	0	0	0

Subject: Re: FY2013 E-rate app 892413 Bound Brook SD
Date: Wednesday, August 28, 2013 11:45:27 AM Eastern Daylight Time
From: Ben Sniecinski
To: Bianco, Alexander

Alexander,

I just checked my application and found that it was approved. However, entity #16048111 seems to have been approved at 80% when in fact it should have been 90%, per my documentation. Can you please explain this to me.

Thanks

Ben

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Thank you,
Alexander Bianco
Associate Manager, Program Integrity Assurance
200 Lawrence Plaza West | Parsippany, NJ 07054
T: 973 851 8228 | F: 973 598 8578
abianco@sl.universalservice.org

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Subject: RE: FY2013 E-rate app 892413 Bound Brook SD
Date: Wednesday, August 28, 2013 12:48:44 PM Eastern Daylight Time
From: Bianco, Alexander
To: Ben Sniecinski

Entity discount is at 80% because that is what was on the application and there was no request made asking to increase the discount. When you get the Funding Commitment Decision Letter (FCDL) you can appeal this discount.

Alexander Bianco
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From: Ben Sniecinski [mailto:ben@erateadvantage.com]
Sent: Wednesday, August 28, 2013 11:45 AM
To: Bianco, Alexander
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