

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Requests for Review of
Decisions of the
Universal Service Administrator by
Saint Raphael Academy
Pawtucket, RI
Schools and Libraries Universal Service
Support Mechanism
SLD File Nos. 548823, 602910, 654635
CC Docket No. 02-6

ORDER

Adopted: May 4, 2012

Released: May 4, 2012

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

1. Consistent with precedent, we grant three appeals filed by Saint Raphael Academy (Saint Raphael) seeking review of decisions of the Universal Service Administrative Company (USAC) under the E-rate program (more formally known as the schools and libraries universal service support program) for funding years 2007 through 2009. In each decision, USAC found violations of the Commission's competitive bidding requirements. Based on our review of the record, we find that the instant requests for review involve the same alleged competitive bidding issue addressed in the Queen of Peace Order, in which we concluded that allowing applicants to reference specific vendors, products or services on their FCC Form 470 or request for proposal (RFP) poses a risk to the competitive bidding process, but declined to penalize applicants that engaged in such practice prior to release of that order. Because the practices at issue occurred before we released the Queen of Peace Order, we grant Saint Raphael's requests for review and remand the underlying applications to USAC for additional processing consistent with this order.

2. On our own motion, we also waive section 54.507(d) of the Commission's rules and any USAC procedural deadlines, such as the invoicing deadline, that might be necessary to effectuate our

1 See Request for Review of the Decision of the Universal Service Administrator by Queen of Peace High School, CC Docket No. 02-6, Order, 26 FCC Rcd 16466 (Wireline Comp. Bur. 2011) (Queen of Peace Order).

2 See Appendix.

3 Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

4 See Queen of Peace Order, 26 FCC Rcd 16468-69, paras. 6-8. The Bureau instructed USAC, if otherwise appropriate, "to approve all currently pending applications and appeals in which an applicant failed to state "or equivalent" when listing a specific manufacturer's name, brand, product or service on the FCC Form 470s and to implement the guidance provided herein beginning with FCC Forms 470 or requests for proposals that are posted for Funding Year 2013." Id. at 16469, para. 9.

ruling.⁵ We find good cause to waive section 54.507(d) because filing an appeal of a denial of funding is likely to cause petitioners to miss the program's subsequent procedural deadlines in that funding year. 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 a denial based on a complete review and analysis no later than 90 calendar days from the release date of this order. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioner's applications.

3. 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 pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 54.722(a), that the requests for review filed by Saint Raphael Academy as listed in the appendix ARE GRANTED and their underlying applications ARE REMANDED to USAC for further consideration in accordance with the terms of this order.

4. 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 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), that section 54.507(d) of the Commission's rules, 47 C.F.R. § 54.507(d), IS WAIVED to the limited extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

⁵ 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year).

APPENDIX

Petitioner	Application Number	Funding Request Number	Funding Year	Date Appeal Filed
Saint Raphael Academy	548823	1525308	2007	Aug. 17, 2010
Saint Raphael Academy	602910	1662545	2008	Aug. 17, 2010
Saint Raphael Academy	654635	1794799	2009	Aug. 17, 2010