



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 15- 261

Released: February 26, 2015

**STREAMLINED RESOLUTION OF REQUESTS RELATED TO
ACTIONS BY THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY**

CC Docket No. 96-45
CC Docket No. 02-6
WC Docket No. 06-122

Pursuant to our revised procedure for resolving requests for review, requests for waiver, and petitions for reconsideration of decisions related to actions taken by the Universal Service Administrative Company (USAC) that are consistent with precedent (collectively, Requests), the Wireline Competition Bureau (Bureau) grants and denies the following Requests.¹ The deadline for filing petitions for reconsideration or applications for review concerning the disposition of any of these Requests is 30 days from release of this Public Notice.²

¹ See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45, 02-6, WC Docket Nos. 02-60, 06-122, 08-71, 10-90, 11-42, 14-58, Public Notice, 29 FCC Rcd 11094 (Wireline Comp. Bur. 2014). 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).

² See 47 C.F.R. §§ 1.106, 1.115; see also 47 C.F.R. § 1.4(b)(2) (setting forth the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission).

Schools and Libraries (E-rate)
CC Docket No. 02-6

Dismiss as Moot³

Chi-Chil-Tah, Application No. 815966, Request for Review, CC Docket No. 02-6 (filed Dec. 20, 2013)

eBackpack, Inc., (Lutheran High School North), Application No. 911385, Request for Review, CC Docket No. 02-6 (filed Dec. 2, 2013)

Granted⁴

*Allowing Correction of Service Start Date*⁵

High Plains Area Voc-Tech District, Application No. 983168, Request for Waiver, CC Docket No. 02-6 (filed Jan. 30, 2015)

*Multi-year Contract*⁶

Zephyrhills Public Library, Application No. 948909, Request for Review, CC Docket No. 02-6 (filed Nov. 10, 2014)

³ See, e.g., *Requests for Review and/or Requests for Waiver of the Decisions of the Universal Service Administrator by Al Noor High School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 8223 (Wireline Comp. Bur. 2012) (dismissing as moot requests for review where USAC approved the underlying funding request).

⁴ We remand these applications to USAC and direct USAC to complete its review of the applications and issue a funding commitment or a denial based on a complete review and analysis no later than 90 calendar days from the release date of this Public Notice. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications. We also waive sections 54.507(d) and 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. See 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 C.F.R. § 54.514(a) (codifying the invoice filing deadline).

⁵ See, e.g., *Request for Review and/or Waiver of the Decision of the Universal Service Administrator by Glendale Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 1040 (Wireline Comp. Bur. 2006); *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by Audubon Regional Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 13119 (Wireline Comp. Bur. 2012) (both orders granting requests for review from applicants who inadvertently listed the wrong service start date on their FCC Forms 486).

⁶ See, e.g., *Request for Review of a Decision of the Universal Service Administrator by Albert Lea Area Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 24 FCC Rcd 4533, 4539-40, para. 10 (Wireline Comp. Bur. 2009) (allowing funding for services provided under a multi-year contract when the applicant's FCC Form 470 did not explicitly request bids for multiple years, but the FCC Form 470 in effect for the relevant funding year did not require applicants to disclose whether they were seeking a multi-year contract).

*Late-Filed FCC Form 471 Applications*⁷

Dollar Bay-Tamarack City Area Schools, Application No. 993328, Request for Waiver, CC Docket No. 02-6 (filed Nov. 3, 2014, supplemented Feb. 10, 2015)

PPEP TEC-Celestino Fernandez Learning Center, Application No. 990733, Request for Waiver, CC Docket No. 02-6 (filed Jan. 16, 2015)

*Ministerial and/or Clerical Errors*⁸

State of Florida Department of Management Services, Application No. 924027, Request for Waiver or Review, CC Docket No. 02-6 (filed Oct. 20, 2014)

Oregon School District 220, Application No. 939645, Request for Review, CC Docket No. 02-6 (filed Dec. 17, 2014)

Parma City School District, Application No. 790025, Request for Review, CC Docket No. 02-6 (filed July 23, 2012)

⁷ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 9256, 9259-62, paras. 8-9, 13 (2010) (granting waiver requests where, for example, petitioners filed their FCC Forms 471 within 14 days after the FCC Form 471 filing window deadline, or filed within 30 days despite medical issues and denying requests that do not present special circumstances); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Anderson Elementary School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 5319, 5319-20, para. 2 (Wireline Comp. Bur. 2012) (treating late-filed item 21 attachments like late-filed certifications).

⁸ See, e.g., *Request for Review of a Decision of the Universal Service Administrator by Grand Rapids Public Schools; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15413, 15416, para. 6 (Wireline Comp. Bur. 2008) (granting waiver of section 54.504(c) of the Commission's rules to allow the applicant to make a correction after the deadline where applicant committed the unintentional, clerical error of inserting the incorrect FCC Form 470 number on its FCC Form 471 application); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 17319, 17320 nn.14, 16 (Wireline Comp. Bur. 2010) (permitting the applicant to correct the pre-discount price to match the contract rate and to correct clear mistake concerning list of block 4 entities). Consistent with precedent, we also waive section 54.720(b) of the Commission's rules, which requires applicants to seek review of a USAC decision within 60 days, for Parma City School District. See 47 C.F.R. § 54.720(b); *Request for Waiver and Review of Decisions of the Universal Service Administrator by Alexander County School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 8492, 8493, para. 3 (Wireline Comp. Bur. 2013) (granting petitioners waivers of the appeal filing deadline for appeals submitted within a reasonable period of time after receiving actual notice of USAC's adverse decisions).

*Selecting Lowest Priced Responsive Service Offering Where Price Was Not Primary Factor in Vendor Selection Process*⁹

Encinitas Union Elementary School District, Application Nos. 852780, 892138, and 947306, Request for Review and Waiver, CC Docket No. 02-6 (filed Jan. 23, 2015)

*Violation of the Competitive Bidding 28-Day Rule*¹⁰

Educational Service Unit #4, Application Nos. 867886, 914954, 867694, 851509, 848018, 849509, 909727, 914732, 847989, 851498, 898048, 915793, 847697, 851505, 847123, 851772, 907540, 915882, 859179, 859226, 906105, 915860, 847078, 851821, 847950, 851817, 909914, 914932, 851835, 847930, 851828, 914947, 847259, 851795, 907588, 915897, 869366, 869366, 864377, 915870, 847096, 851755, 905512, 915763, 847641, 860372, Request for Waiver, CC Docket No. 02-6 (filed Jan. 10, 2014)

*Deducting Ineligible Costs*¹¹

Oconee County School District, Application No. 534223, Request for Waiver, CC Docket No. 02-6 (filed Feb. 12, 2015)

Spring Cove School District, Application No. 623265, Request for Waiver, CC Docket No. 96-45 (filed Feb. 26, 2009, supplemented Dec. 14, 2011)

Spring Cove School District, Application No. 671757, Request for Waiver, CC Docket No. 96-45 (filed Jun. 30, 2009, supplemented Dec. 14, 2011)

Denied

*Late-Filed FCC Form 471 Applications*¹²

Archimedean Academy, Application No. 995608, Request for Waiver, CC Docket No. 02-6 (filed Jan. 9, 2015)

⁹ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Allendale County School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 6109, 6115-17, paras. 10-12 (Wireline Comp. Bur. 2011) (granting waiver of requirement that price of E-rate supported services be the primary factor in bid evaluation where the petitioner demonstrated that it selected the least expensive responsive bid for E-rate eligible services).

¹⁰ See, e.g., *Application for Review of the Decision of the Universal Service Administrator by Aberdeen School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 8757 (2007) (granting waivers of violations of the 28-day rule when the applicants only missed the deadline by one to three days, thereby allowing their requests for services to be competitively bid for a meaningful period of time).

¹¹ See, e.g., *Requests for Review of the Decisions of the Universal Service Administrator by Aiken County Public Schools et al.; Schools and Libraries Universal Service Support Mechanism* CC Docket No. 02-6, Order, 22 FCC Rcd 8735, 8737-40, paras. 6, 9-10 (2007); *Requests for Review of the Decisions of the Universal Service Administrator by Business Technologies, Inc. et al.; Schools and Libraries Universal Service Support Mechanism* CC Docket No. 02-6, Order, 25 FCC Rcd 17033 (Wireline Comp. Bur. 2010) (both granting applicants the chance to have their funding requests reassessed after they removed ineligible services from those applications).

¹² See *supra* note 7.

Bunker Hill Public Library District, No. 995588, Request for Waiver, CC Docket No. 02-6 (filed Dec. 15, 2014)

*Late-Filed FCC Form 471 Application – Petition for Reconsideration*¹³

Lincoln Public School Department, Application No. 993928, Petition for Reconsideration, CC Docket No. 02-6 (filed Jan. 16, 2015)

*Ministerial and/or Clerical Errors*¹⁴

Kaw Valley Unified School District 321, Application No. 968430, Request for Review, CC Docket No. 02-6 (filed Nov. 3, 2014)

Lutheran High School-Rockford Lutheran High School, Application No. 971739, Request for Waiver, CC Docket No. 02-6 (filed Dec. 8, 2014)

*Signed Contract Requirement*¹⁵

McCrorry Public School District, Application No. 976344, Request for Waiver, CC Docket No. 02-6 (filed Oct. 28, 2014)

Palestine Independent School District, Application No. 909912, Request for Waiver, CC Docket No. 02-6 (filed Dec. 11, 2014)

*Untimely Filed Request for Review*¹⁶

Bishop Amat Memorial High School, Application No. 913209, Request for Waiver, CC Docket No. 02-6 (filed Dec. 30, 2014)

¹³ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Allan Shivers Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 10356 (Wireline Comp. Bur. 2014) (denying petitions for reconsideration that fail to identify any material error, omission, or reason warranting reconsideration, and rely on arguments that have been fully considered and rejected by the Bureau within the same proceeding).

¹⁴ See *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Assabet Valley Regional Vocational District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1924, 1925, para. 1 (Wireline Comp. Bur. 2012) (finding some petitioners had not demonstrated that good cause existed to justify waivers to permit changes that were not the result of clerical or ministerial errors).

¹⁵ See, e.g., *Request for Review of the Decision of the Universal Service Administrator by St. Joseph High School; 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, 17 FCC Rcd 22499 (Wireline Comp. Bur. 2002) (denying request for waiver of the signed contract requirement when applicants submitted an FCC Form 471 application with no legally binding contract in place).

¹⁶ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684 (Wireline Comp. Bur. 2010); *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Bound Brook School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 5823 (Wireline Comp. Bur. 2014) (denying appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days, as required by the Commission's rules, and did not show special circumstances necessary for the Commission to waive the deadline).

Temple Terrace Public Library, Application No. 985239, Request for Waiver, CC Docket No. 02-6 (filed Nov. 25, 2014)

New Life Christian School, Application No. 946618, Request for Review, CC Docket No. 02-6 (filed Dec. 19, 2014)

*Untimely Filed Requests for Review – Petition for Reconsideration*¹⁷

Evergreen School District, Application No. 919347, Petition for Reconsideration, CC Docket No. 02-6 (filed Jan. 20, 2015)

*Failure to Consider Price as the Primary Factor in Vendor Selection Process*¹⁸

Alhambra Elementary School District 68, Application Nos. 740556, 792775, 828905 and 899427, Request for Review, CC Docket No. 02-6 (filed August 1, 2014)¹⁹

¹⁷ See, e.g., *Requests for Waiver and/or Review of Decisions of the Universal Service Administrator by Chadbad Outreach Center et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 27 FCC Rcd 11079 (Wireline Comp. Bur. 2012) (dismissing petitions for reconsideration under 47 C.F.R. § 1.106(p) because the petitioners failed to identify any material error, omission, or reason warranting reconsideration and relied on arguments that had been fully considered and rejected by the Bureau within the same proceeding).

¹⁸ See, e.g., *Request for Review of a Decision of the Universal Service Administrator by Fall River Public School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 7427, 7428-29, paras. 4-5 (Wireline Comp. Bur. 2013) (denying appeal where applicant failed to consider price as primary factor in its vendor selection process and where it was not clear from the record that applicant selected the lowest-cost provider).

¹⁹ This appeal is also denied on three additional grounds in violation of the Commission’s competitive bidding rules. First, the petitioner failed to provide notice to potential bidders of its use of a multi-tiered bid evaluation approach. See *Requests for Review of a Decision of the Universal Service Administrator by Baltimore City School District and Cobb County School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 11193, 11199, para. 12 (Wireline Comp. Bur. 2011) (“Consistent with state and local procurement requirements, we expect that any applicant using a multi-tiered process would provide notice – in either its FCC Form 470 or its [Request for Proposal] RFP – to all potential bidders as to the specific criteria to be evaluated in each tier, how those criteria will be scored, which criteria will be used as disqualification criteria, and the circumstances under which bidders will be disqualified from further consideration.”). Second, the petitioner failed to describe with sufficient detail the services it sought in its FCC Form 470, and it indicated that no RFP was available, when there was an RFP. See, e.g., *Request for Review of a Decision of the Universal Service Administrator by Washington Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 13746, 13748, paras. 3-5 (Wireline Comp. Bur. 2013) (explaining that failure by an applicant to describe with specificity the services it is seeking to purchase on its FCC Form 470 or to indicate on the FCC Form 470 that it has a RFP available providing detail about the requested services violates the E-rate program’s competitive bidding rules). Third, the petitioner failed to produce documentation regarding its vendor selection process. See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Central Islip Free Union School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 8630, 8635-36, paras. 11-12 (Wireline Comp. Bur. 2011) (denying appeal where the applicant failed to produce documentation regarding its vendor selection process (i.e., documents describing the bid evaluation criteria and weighting, bid evaluation worksheets, correspondence between the beneficiary and prospective bidder) and, thus, could not demonstrate compliance with the E-rate program’s competitive bidding rules).

*Denying Support for Ineligible Entities*²⁰

Bais Chaya Mushka, Application Nos. 841703, 841751, Request for Review, CC Docket No. 02-6 (filed Feb. 11, 2013)

Cheder at the Ohel, Application No. 567727, Request for Review, CC Docket No. 02-6 (filed July 31, 2013)

The Cradle, Application Nos. 591853, 652683, 711947, 789620, 831131, 879327, Request for Review, CC Docket No. 02-6 (filed July 2, 2014)

Torah Umesorah, Application Nos. 841008, 858516, Request for Review, CC Docket No. 02-6 (filed July 8, 2014)

*SPIN changes*²¹

Allendale School District, Application No. 779360, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2013)

Christopher Columbus High School, Application No. 836777, Request for Review, CC Docket No. 02-6 (filed Dec. 18, 2012)

Closter School District, Application No. 783610, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2013)

Harding School District, Application No. 785227, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2013)

Hoboken School District, Application No. 789547, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2013)

²⁰ See *Requests for Review of Decisions of the Universal Service Administrator by Bootheel Consortium et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 8747, 8748-8752, paras. 3-9 (2007) (relying on the standards set by the individual states in determining whether libraries are eligible for assistance under the Library Services and Technology Act and whether schools provide primary or secondary education and are therefore eligible for E-rate support).

²¹ *Schools and Libraries Universal Service Support Mechanism; A National Broadband Plan for Our Future*, CC Docket No. 02-6, GN Docket No. 09-51, Sixth Report and Order, 25 FCC Rcd 18762, 18802-03, para. 91 (2010) (explaining that it would be inconsistent with the purposes of the program to allow a an E-rate applicant to change vendors after conducting a competitive bidding process and signing a contract “unless (1) there is a legitimate reason to change providers (e.g. breach of contract or the service provider is unable to perform); and (2) the newly selected service provider received the next highest point value in the original bid evaluation, assuming there was more than one bidder).

All of the appeals in this category except Christopher Columbus High School, Immaculate Conception School, and New London Public Library were filed as a consolidated request for review with the Allendale request for review. In addition to denying those appeals, in the alternative, we also dismiss the appeals of the following applications on the basis that they were late filed: Allendale School District, Closter School District, Harding School District, Hoboken School District, Kenilworth School District, Lenape Regional High School District, Moriah School of Englewood, Mountain Lakes School District, Red Bank Catholic High School, Red Bank School District, Rumson Borough School District, Saint James Elementary School, and Unity Charter School. See 47 C.F.R. § 54.720(a) (requiring applicants to seek review of a USAC decision within 60 days).

Immaculate Conception School, Application No. 832766, Request for Review, CC Docket No. 02-6 (filed Nov. 5, 2012)

Kenilworth School District, Application No. 787307, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2013)

Lenape Regional High School District, Application No. 787342, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2013)

Mendham Borough School District, Application No. 790130, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2013)

Moriah School of Englewood, Application No. 791321, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2013)

Mountain Lakes School District, Application No. 791355, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2013)

New London Public Library, Application No. 912051, Request for Review, CC Docket No. 02-6 (filed Nov. 20, 2013)

Red Bank Catholic High School, Application No. 804389, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2013)

Red Bank School District, Application No. 805247, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2013)

Rumson Borough School District, Application No. 795934, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2013)

Saint James Elementary School, Application No. 804290, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2013)

Unity Charter School, Application No. 800154, Request for Review, CC Docket No. 02-6 (filed Feb. 19, 2013)

Contribution Methodology
WC Docket No. 06-122

Denied

*Request to Waive FCC Form 499-A Revision Deadline*²²

City of Burlington dba Burlington Telecom (Burlington Telecom), Request for Waiver, WC Docket No. 06-122 (filed Jan. 23, 2015)

For additional information concerning this Public Notice, please contact Erica Myers at (202) 418-7400, in the Telecommunications Access Policy Division, Wireline Competition Bureau.

- FCC -

²² See 47 C.F.R. §§ 54.706, 54.711, 54.713 (requiring all telecommunications carriers providing interstate telecommunications services and certain other providers of interstate telecommunications to file the annual Telecommunications Reporting Worksheet (FCC Form 499-A)); see *Universal Service Contribution Methodology; Petition for Waiver of Universal Service Fund Rules by Outfitter Satellite, Inc.*, WC Docket No. 06-122, Order, 28 FCC Rcd 13358, 133561, para. 11 (Wireline Comp. Bur. 2013) (entities with business before the Commission are required to familiarize themselves and comply with Commission rules and regulations); *Universal Service Contribution Methodology; Federal-State Joint Board on Universal Service; Requests for Review of Decisions of Universal Service Administrator by Airband Communications, Inc. et al.*, WC Docket No. 06-122, CC Docket No. 96-45, Order, 25 FCC Rcd 10861 (Wireline Comp. Bur. 2010) (denying deadline waivers where claims of good cause amount to no more than simple negligence, errors by the petitioner, or circumstances squarely within the petitioner's control); *Federal-State Joint Board on Universal Service; Request for Review by National Network Communications, Inc.*, CC Docket No. 96-45, Order, 22 FCC Rcd 6783 (Wireline Comp. Bur. 2007) (good cause not shown when filer claimed it did not have skilled personnel to interpret and correctly apply FCC Form 499 instructions).