

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

In the Matter of)	
)	
Request for Review)	
Of the Decision of)	
The Universal Service Administrator by)	
)	
Gustine Independent School District)	File No. SLD-108651
Gustine, Texas)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Changes to the Board of Directors)	CC Docket No. 97-21
Of the National Exchange Carrier)	
Association, Inc.)	

ORDER

Adopted: November 16, 1999

Released: November 16, 1999

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration an appeal by Gustine Independent School District (Gustine), filed on June 21, 1999, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator). Gustine seeks review of SLD’s denial of its application for additional funding requests under the schools and libraries universal support mechanism. For the reasons set forth below, we deny Gustine’s appeal and affirm SLD’s denial of Gustine’s application for additional discounts for telecommunications services.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.¹ The Commission’s rules provide that, with one limited exception, an eligible school, library or consortium must seek competitive bids for all services eligible for support.²

3. To comply with this competitive bid requirement, the Commission’s rules require that an applicant submit to the Administrator a completed FCC Form 470, in which the applicant lists the services for which it seeks discounts.³ The Administrator must post the FCC Form 470

¹ 47 U.S.C. § 254 (h)(1)(B); 47 C.F.R. §§ 54.502, 504.503.

² 47 C.F.R. § 54.504.

³ 47 C.F.R. § 54.504(b)(1) and (b)(3).

to its website and the applicant is required to wait 28 days before making a commitment with a selected service provider.⁴ After the FCC Form 470 has been posted for 28 days, and the applicant has selected a service provider, the applicant must submit to the Administrator an FCC Form 471, which lists the services that have been ordered.⁵

4. By letter dated February 18, 1999, SLD granted Gustine's funding requests for various telecommunications and internal connection services. In a letter dated March 3, 1999, Gustine appealed SLD's Funding Commitment Letter, concluding that SLD must have mistakenly left out the vendor, Texas State Technical College (TSTC), when entering Gustine's vendors into SLD's database from Gustine's FCC Form 471.⁶ Gustine requested a correction in its funded amount to include TSTC's services. On May 25, 1999, SLD affirmed its initial funding decision and denied Gustine's appeal.⁷ Specifically, the Administrator's Decision on Appeal explained that Gustine's funding requests for TSTC were not entered into the data base because the TSTC contract award date of February 1, 1998 was prior to the end of the 28-day posting period for Gustine's FCC Form 470, and that Commission rules require applicants to wait at least 28 days from the date of posting the FCC Form 470 to the SLD website before making arrangements or signing contracts for new services.

5. In its June 21, 1999 Letter of Appeal to the Commission, Gustine appeals SLD's decision to deny funding for services from TSTC, indicating that the award date listed by SLD for the contract with TSTC was incorrect.⁸ It attaches a copy of the contract with TSTC showing that it was executed on March 16, 1998.

6. We have reviewed Gustine's application and SLD's records relating to this application and we conclude that SLD properly denied Gustine's application for discounts for services provided by TSTC. SLD's records reveal that Gustine's FCC Form 470 was posted to the website on February 5, 1998. Gustine subsequently filed its FCC Form 471, listing the contract with TSTC and indicating that it was signed on February 1, 1998. The TSTC contract in the attached appendix was unsigned and undated. After receiving Gustine's March 3, 1999 appeal, SLD staff requested that Gustine submit a signed contract for its TSTC services. Gustine submitted a facsimile of a contract with TSTC that was signed on February 1, 1998. In

⁴ 47 C.F.R. §§ 54.504(b)(3) and (b)(4), 54.511.

⁵ 47 C.F.R. § 54.504(c).

⁶ Letter from Dr. Carole Tarwater, Superintendent, Gustine Independent School District to the Schools and Libraries Corporation, dated March 3, 1999.

⁷ Letter from the Schools and Libraries Division, Universal Service Administrative Company to Dr. Carole Tarwater, dated May 25, 1999 (Administrator's Decision on Appeal).

⁸ Letter from Dr. Carole Tarwater, Gustine Independent School District, to the Federal Communications Commission, dated June 16, 1999.

accordance with the Commission's rules, the allowable date for Gustine's contract for services with TSTC was 28 days after the February 5, 1998 date on which it was posted to the SLD website, or March 5, 1998.⁹ Thus, SLD properly affirmed its initial determination that Gustine's contract with TSTC was executed prior to the close of the period required by the rules.

7. Furthermore, Gustine's newly provided version of the contract accompanying its appeal warrants no different result. While the genesis of a contract with a March 16, 1998 date at this point in time is unclear, SLD properly made its funding decision using the documentation provided with Gustine's FCC Form 471. In fact, because Gustine had failed to provide a signed contract, after receiving Gustine's March 3, 1999 appeal, SLD's staff requested that Gustine submit one. Had the March 16, 1998 copy of the contract existed then, Gustine had the opportunity to provide it at that time. In light of this circumstance, the record in this proceeding demonstrates that SLD's funding decision was fully in accord with the Commission's rules.

8. ACCORDINGLY, IT IS ORDERED, 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, and 54.722(a), that the appeal filed by Gustine Independent School District, Gustine, Texas, filed June 21, 1999, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Yog R. Varma

Deputy Chief, Common Carrier Bureau

⁹ 47 C.F.R. § 54.504(b)(4).