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COMMISSION DENIES APPEAL FOR STATE MASTER CONTRACT-RELATED FUNDING

The Commission upheld USAC's denial of funding in two separate cases involving funding related to operations under state master contracts due to poor record-keeping and technical violations. The cases demonstrate the importance of proper diligence when operating under state master contracts.

In the first case (Gila Bend Unified School District Order, DA 11-896 (2011)), the Commission upheld USAC's denial of funding based upon a finding that the school had failed to retain documentation regarding the "number of bids, associated prices, and bid evaluation" incurred during the competitive bidding process and thus USAC could not determine the cost-effectiveness of the bid. The school argued on appeal that its state procurement rules only required the school to retain the purchase orders from vendors selected under the master contract. The Commission held that the applicant must consider ALL bids, not just those of the vendors selected under the state master contract. In addition, it emphasized that the applicant must retain for five years all documentation from the competitive bidding process. Since the applicant had not done so in this instance, the Commission denied the appeal and further ordered USAC to continue recovery of funds distributed to the applicant.

In the second case (Cascade School District 422, DA 11-895 (2011)), the applicant had failed to indicate on its Form 471 application that it was requesting services from a state master contract, and had mistakenly provided USAC with a Form 470 filed by the state for a different year when asked to provide the Form 470 provided on the state-level for the relevant funding year. The Commission found that the mistakes could not be considered clerical in nature, because the Commission was unable to determine, based on the information provided, the execution date of the state master contract at issue and was never provided with a copy of the executed agreement. Accordingly, the Commission denied the appeal and further ordered USAC to continue recovery of funds distributed to the applicant.

CONSISTENT WITH PRECEDENT, COMMISSION ALLOWS GOOD FAITH EFFORTS IN PROVING DISCOUNT LEVELS

The Commission granted an appeal of a USAC decision which reduced funding where the Billed Entity had made errors in establishing the appropriate discount level. USAC had reduced funding by 20% on the ground that the school had not supported the discount level with sufficient documentation. The Commission followed precedent from a previous Order in which the Commission had directed USAC not to deny funding requests where an applicant had made a "good faith effort" to comply with survey guidelines for establishing discount levels. The Commission required USAC to inform the school of any errors regarding the requested discount rate calculation along with instructions regarding how the applicant can remedy the errors. In the present case, the applicant had failed to identify students' grade levels. The Commission ordered

USAC to provide the applicant with 60 days to provide additional documentation in support of its discount rate request. (Odyssey Charter School Order, DA 11-897 (2011))

If you have any questions, contact [Mark Palchick](#) or any member of the firm's [Communications Law Group](#).

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