

January 26, 2018

Federal Communications Commission
445 12th Street SW
Washington, DC, 20554

**CAVE CITY PUBLIC SCHOOLS
REQUEST FOR REVIEW AND PETITION FOR WAIVER**

Applicant:	Cave City Public School District
Billed Entity Number:	139623
Funding Year:	2017
FCC Form 471 Application Number:	171003692
Funding Request Numbers:	1799006128

Cave City Public School District requests review of the action taken by the Universal Service Administrative Company ("USAC") with respect to the above-captioned application.

I. BACKGROUND

On December 11, 2014, we posted an FCC Form 470 (FCC Form 470 Number 121050001269982), seeking bids for internet services at our four campus locations. On March 26, 2015, we entered into a multiyear agreement with Southwestern Bell Telephone Company and eventually filed for and received E-rate discounts for the requested services in funding year 2015.

We submitted our funding year 2017 FCC Form 471 (FCC Form 471 Application Number 171003692) on March 8, 2017. We indicated on the application that a Form 470 had been posted for the requested services. However, due to a mistrial error, the incorrect Form 470 number was listed as the "establishing FCC Form 470." We later discovered that another of our Forms 470 (FCC Form 470 Number 204950001270050) had been incorrectly listed on the application.

On June 2, 2017, we received a Program Integrity Assurance ("PIA") information request in EPC. USAC attempted to confirm that the Form 470 listed on the application was correct, as it did not reference data transmission and/or internet access services. We informed USAC that the Form 470 number listed on the application was *not* the correct form.

Despite our PIA response, on June 6, 2017 we received notification that USAC had denied the internet access funding request entirely because, according to USAC, the "Form 470 did not support the request."

We first appealed the funding commitment decision with USAC. USAC modified the contract information as it appears in EPC and associated the contract with FCC Form #160028464. This Form 470 was a Funding Year 2016 form and should not have been listed as the establishing FCC Form 470 for this contract.

On November 29, 2017, we were notified that USAC had denied the appeal; however, the reason for the denial was based on a different violation than the one identified in the June 6, 2017 funding commitment decision letter:

The FRN Product and Service Details or documentation provided during review of your application shows that you selected your vendor prior to the end of the 28-day posting period, 3-26-2015. In your Receipt Notification Letter, USAC notified you that the earliest date upon which you could sign a contract or enter into a legally binding agreement (Allowable Contract Date) was 3-18-2016. Consequently, USAC denies your appeal because your application did not comply with the competitive bidding requirement that your FCC Form 470 be posted on the website for 28 days prior to signing a contract or entering into a legally binding agreement for new products and/or services. You selected your vendor for new products and/or services prior to the expiration of the 28-day posting period. FCC rules require that except under limited circumstances, all FCC Forms 470 received be posted on the USAC website for 28 days, and that applicants carefully consider all bids received before selecting a vendor, entering into a legally binding agreement or signing a contract, and signing and submitting an FCC Form 471. See 47 C.F.R. secs. 54.503(b) and (c), 54.511(a). FCC rules further require that the Administrator send the applicant a confirmation when the FCC Form 470 has been posted, and inform the applicant of the earliest date upon which they may sign a contract with the vendor it selects. See 47 C.F.R. sec. 54.503(c)(4). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Red 10095, 10098, FCC 97-246 para. 9 (rel. Jul. 10, 1997). New products and/or services include tariff, month to month and services for which a new written contract is sought for the current funding year.

Given the explanation provided, we learned that USAC had associated the wrong Form 470 with our funding year Funding Year 2017 application. But because USAC denied the appeal, we were informed that we would have to file an appeal with the Commission.

II. DISCUSSION

Contrary to USAC's determination, we did post a Form 470 for the requested services. The establishing Form 470 was posted in funding year 2015. We then entered into a multiyear agreement with the service provider.

The issue involves a series of ministerial errors made attempting to correct the Form 470 number through PIA review and the subsequent USAC appeal. We posted two Forms 470 during the funding year 2015 application cycle and simply selected the wrong one. Then when we attempted to correct the issue through USAC, a wrong Form 470 was again associated with the contract.

Cave City Public School District is a small school district with quite limited resources. We do not have an E-rate consultant, and we have only one staff member working on E-rate. There is also an added level of complexity that was not an issue in 2015. Our error was due, in part, to our unfamiliarity with EPC.

While the errors may have led USAC to believe we violated program rules, the mistakes were clerical in nature and in no way demonstrated an attempt to defraud the program. We followed the program's competitive bidding rules -- posting a Form 470, waiting the required 28 days before entering into an agreement -- but unfortunately selected the wrong form on the funding year 2017 application.

III. RELIEF SOUGHT

Cave City School District respectfully requests that the Commission reverse the funding commitment decision and update the Form 471 with the correct contract and Form 470 information.

In the alternative, the District requests that the Commission waive Section 54.503(c) and any other of the Commission's rules as are necessary to grant the requested relief.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Julie Johnson", with a long horizontal flourish extending to the right.

Julie Johnson
Director of Technology

Cave City School District
Cave City, AR 72521
870-283-3330
juliej@cavecity.ncsc.k12.ar.us

FCC Form 470

Approval by OMB
3060-0806

Schools and Libraries Universal Service Description of Services Requested and Certification Form 470

Estimated Average Burden Hours per Response: 3 hours

This form is designed to help you describe the eligible services you seek so that this data can be posted on the Fund Administrator Internet Site and interested service providers can identify you as a potential customer and compete to serve you.

Please read instructions before beginning this form.

Form 470 Application Number: 121050001269982	Applicant's Form Identifier: FY2015470-A
Application Status: CERTIFIED	Posting Date: 12/11/2014
Allowable Contract Date: 01/08/2015	Certification Received Date: 12/11/2014

Block 1: Applicant Address and Information

1 Name of Applicant:

CAVE CITY PUBLIC SCHOOL DIST

2 Funding Year: 2015 (Funding years run from July 1 through the following June 30)**3** Entity Number: 139623**4a** Street Address, P.O.Box, or Route Number:

HIGHWAY 167 NORTH

City: CAVE CITY **State:** AR **Zip Code:** 72521 -0000**4b** Telephone Number: (870) 283 -5391**4c** Fax Number: (870) 283 -6887**5a** Eligible Entities That Will Receive Services:

Check the ONE choice in **5a** that best describes the eligible entities that will receive the services described in this form. You will then list in Item **15** the entity/entities that will pay the bills for these services.

- ☐ Individual School (individual public or non-public school)
- ☒ School District (LEA; public or non-public [e.g., diocesan] local district representing multiple schools)
- ☐ Library (including library system, library outlet/branch or library consortium as defined under LSTA)
- ☐ Consortium (intermediate service agencies, states, state networks, consortia of schools and/or libraries)
- ☐ Statewide application for (enter 2-letter state code) representing (check all that apply)

☐ All public schools/districts in the state☐ All non-public schools in the state☐ All libraries in the state**5b** Recipient(s) of Services - Check all that apply:

<input type="checkbox"/> Private	<input checked="" type="checkbox"/> Public	<input type="checkbox"/> Charter
<input type="checkbox"/> Tribal	<input type="checkbox"/> Head Start	<input type="checkbox"/> State Agency
5c Number of eligible entities for which services are sought: 3		
Block 1: Applicant Address and Information (continued)		
6a Contact Person's Name: Julie Johnson		
If the Contact Person's Street Address is the same as Item 4a above, check here. <input type="checkbox"/> If not, complete Item 6b.		
6b Street Address, P.O. Box, or Route Number: NOTE: USAC will use this address to mail correspondence 711 N. Main Street P.O. Box 600 City: Cave City State: AR Zip Code: 72521 Check the box next to your preferred mode of contact and provide your contact information. One box MUST be checked and an entry provided. <input type="checkbox"/> 6c Telephone Number: (870) 283 -3330 <input type="checkbox"/> 6d Fax Number: (870) 283 -6887 <input checked="" type="checkbox"/> 6e E-Mail Address: juliej@cavecity.ncsc.k12.ar.us Re-enter E-mail Address: juliej@cavecity.ncsc.k12.ar.us If a consultant is assisting you with your application process, please complete Item 7 below: 7 Consultant Name: Name of Consultant's Employer: Consultant's Street Address: City: State: Zip Code: Consultant's Telephone Number: Ext. Consultant's Fax Number: Consultant's E-mail Address: Re-enter E-mail Address: Consultant Registration Number:		
Entity Number: 139623		Applicant's Form Identifier: FY2015470-A
Contact Person: Julie Johnson		Phone Number: (870) 283-3330
Block 2: Summary Description of Needs or Services Requested		
8 Category One: Internet Access and/or Telecommunications If you check YES to indicate you have a Request for Proposals (RFP) that specifies the services you are seeking, your RFP must be available to all interested bidders for at least 28 days. If your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests. a <input type="checkbox"/> YES, I have released or intend to release an RFP for one or more of these services. It is available or will become available on the Internet at: or via (check one) <input type="checkbox"/> the contact person in Item 6 or <input type="checkbox"/> the contact person listed in Item 12		

Your RFP Identifier:

b ☒ NO, I have not released and do not intend to release an RFP for any of these services.

Whether you check YES or NO, you must list below the Internet access and/or telecommunications you seek. Specify each service (e.g., voice service, monthly Internet access service, etc) and quantity and/or capacity (e.g., for voice service, 20 existing lines plus 10 new ones, or for monthly Internet access service, for 500 users).

Service	Quantity and/or Capacity
Local and Long Distance Services	75 New and Existing Lines
Ethernet	2 - 100mb circuits
Ethernet	1 - 1gb circuits
Leased Fiber	1 - 1gb

9 [Reserved]

Entity Number: 139623

Applicant's Form Identifier: FY2015470-A

Contact Person: Julie Johnson

Phone Number: (870) 283-3330

10 Category Two: Internal Connections and Managed Internal Broadband Services

If you check YES to indicate you have a Request for Proposals (RFP) that specifies the services you are seeking, your RFP must be available to all interested bidders for at least 28 days. If your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

a ☐ YES, I have released or intend to release an RFP for one or more of these services. It is available or will become available on the Internet at:
or via (check one) ☐ the contact person in Item 6 or ☐ the contact person listed in Item 12

Your RFP Identifier:

b ☐ NO, I have not released and do not intend to release an RFP for any of these services.

Whether you check YES or NO, you must list below the Internal Connections and Managed Internal Broadband Services you seek. Specify each service (e.g., a router, hub and cabling) and quantity and/or capacity (e.g., connecting 1 classroom of 30 students).

11 Category Two: Basic Maintenance of Internal Connections

If you check YES to indicate you have a Request for Proposals (RFP) that specifies the services you are seeking, your RFP must be available to all interested bidders for at least 28 days. If your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

a ☐ YES, I have released or intend to release an RFP for these services. It is available or will become available on the Internet at:
or via (check one) ☐ the contact person in Item 6 or ☐ the contact person listed in Item 12

Your RFP Identifier:

b ☐ NO, I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Basic Maintenance services you seek. Specify each service (e.g., basic maintenance of routers) and quantity and/or capacity (e.g., for 10 routers).

Entity Number: 139623

Applicant's Form Identifier: FY2015470-A

Contact Person: Julie Johnson		Phone Number: (870) 283-3330
12 (Optional) Please name the person on your staff or project who can provide additional technical details or answer specific questions from service providers about the services you are seeking. This person does not need to be the contact person(s) listed in Item 6 nor the Authorized Person who signs this form.		
Name: Julie Johnson		
Title: Technology Director		
Telephone Number: (870) 283 - 3330		
Fax Number: (870) 283 - 6887		
Email Address: juliej@cavacity.ncsc.k12.ar.us		
Re-enter E-mail Address: juliej@cavacity.ncsc.k12.ar.us		
13 <input type="checkbox"/> Check this box if there are any restrictions imposed by state or local laws or regulations on how or when service providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures and/or provide an Internet address where they are posted and a contact name and telephone number.		
<input type="checkbox"/> Check this box if no state and local procurement/competitive bidding requirements apply to the procurement of services sought on this FCC Form 470. If you are requesting services for a funding year for which an FCC Form 470 cannot yet be filed online, include that information here.		
Block 3:		
14. [Reserved]		
Entity Number: 139623		Applicant's Form Identifier: FY2015470-A
Contact Person: Julie Johnson		Contact Phone Number: (870) 283-3330
Block 4: Recipients of Service		
15 Billed Entities		
List the entity/entities that will be paying the bills directly to the provider for the services requested in this form. These are known as Billed Entities. At least one line of this item must be completed. If a Billed Entity cited on your FCC Form 471 is not listed below, funding may be denied for the funding requests associated with this FCC Form 470. Attach additional pages if needed.		
Entity Number	Entity Name	
16025604	CAVE CITY SCHOOL DISTRICT ADMINISTRATION	
16034361	CAVE CITY HIGH SCHOOL	
82990	CAVE CITY MIDDLE SCHOOL	
139623	CAVE CITY PUBLIC SCHOOL DIST	
82989	CAVE CITY ELEMENTARY SCHOOL	

Entity Number: 139623		Applicant's Form Identifier: FY2015470-A
Block 5: Certifications and Signature		Contact Phone Number: (870) 283-3330
16	<p>I certify that the applicant includes: (Check one or both.)</p> <p>a <input checked="" type="checkbox"/> schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801 (18) and (38), that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or</p> <p>b <input type="checkbox"/> libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any schools (including, but not limited to elementary and secondary schools, colleges, and universities).</p>	
17	[Reserved]	
18	<p>I certify that I will post my FCC Form 470 and (if applicable) make any applicable RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology goals.</p>	
19	<p>I certify that I will retain required documents for a period of at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification) after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the form for, receipt of, and delivery of services receiving schools and libraries discounts. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.</p>	
20	<p>I certify that the services the applicant purchases at discounts provided by 47 U.S.C. § 254 will be used primarily for educational purposes, see 47 C.F.R. § 54.500, and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. § 54.513. Additionally, I certify that the entity or entities listed on this form have not received anything of value or a promise of anything of value, other than services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.</p>	
21	<p>I acknowledge that support under this support mechanism is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that I have considered what financial resources should be available to cover these costs.</p>	
22	<p>I certify that I am authorized to procure eligible services for the eligible entity(ies). I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this form, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.</p>	
23	<p>I certify that I have reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that I have complied with them. I acknowledge that persons willfully making false statements on this form may be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.</p>	
24	<p>I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program.</p>	
Entity Number: 139623		Applicant's Form Identifier: FY2015470-A
Contact Person: Julie Johnson		Contact Phone Number: (870) 283-3330
25	Signature of authorized person: <input checked="" type="checkbox"/>	26 Date: 12/11/2014
27a	Printed name of authorized person: Julie Johnson	
27b	Title or position of authorized person:	

Technology Director

☐ Check here if the consultant in Item 7 is the Authorized Person.

27c Street Address, P.O. Box, Route Number, City, State, Zip Code:

711 N. Main Street
P.O. Box 600

City: Cave City
State: AR
Zip Code: 72521

27d Telephone Number of Authorized Person:

(870) 283-3330

27e Fax Number of Authorized Person:

(870) 283-6887

27f E-mail Address of Authorized Person:

juliej@cavecity.ncsc.k12.ar.us

Re-enter E-mail Address:

juliej@cavecity.ncsc.k12.ar.us

27g Name of Authorized Person's Employer:

Cave City School District

Service provider involvement with preparation or certification of an FCC Form 470 can taint the competitive bidding process and result in the denial of funding requests. For more information, refer to the Schools and Libraries area of the USAC web site at www.usac.org/sl or call the SLD Client Service Bureau at 1-888-203-8100.

Entity Number: 139623

Applicant's Form Identifier: FY2015470-A

Contact Person: Julie Johnson

Phone Number: (870) 283-3330

NOTICE: In accordance with Section 54.503 of the Federal Communications Commission's rules, certain schools and libraries ordering services that are eligible for and seeking universal service discounts must file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F.R. § 54.503(c). The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.503. Schools and libraries must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to

determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, information provided in or submitted with this form or in response to subsequent inquiries may also be subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law.

If you owe a past due debt to the federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your form without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, *et seq.*

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

FCC Form 470
October 2014

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