

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

3/28/2019

Re: Letter of Appeal, USAC's Red Light Outreach March 28, 2019 as a follow-up to the submitted 11/17/2017 Confirmation Number: 20171117042901125

Dear Sir or Madam:

We are submitting this letter of appeal regarding denial of E-rate FY2012, FY 2013 and FY 2014 and FY 2015 Funding Request Internet Access on the grounds that all competitive bidding documentation has been retained, and all bids have been fully considered in the selection processes regarding the below funding requests:

Appellant Name: e2e Exchange, LLC
Applicant Name: Southern Westchester BOCES

FY	471	FRN	Service Provider	Recipient
2015	1001336	2724304	Best Web	Eastchester
2015	1001344	2724312	Best Web	Greenburgh Central
2014	939394	2563364	Best Web	Eastchester
2014	939398	2563429	Best Web	Greenburgh Central
2013	881490	2403025	Best Web	Eastchester Greenburgh Central
2013	881507	2403046	Best Web	Central
2012	838722	2275464	Best Web	East Chester

Appeal Summary

On 3/28/2019, we received a phone call from USAC that they were going to issue a COMAD to FRN's 2403025, 2403046, 2275464. All of these FRN's were tied to the FRN's in the appeal submitted 11/17/2017 to the FCC Confirmation Number: 20171117042901125. At the time the original appeal was filed, USAC had not notified us that the original FRN's were going to be COMAD. We do not have any formal communication other than a phone and we can see through the Data Retrieval Tool that the FRN's were not committed however, they were disbursed. The COMAD should never happen all processes were followed using USAC guidelines. The denial reasons for all of these FRNs are grossly incorrect. The EPC portal has failed to provide the platform required to properly review and evaluate the FRNs for full E-rate funding.

The denials are grossly incorrect for the following reasons:

- 1.) The selective reviews were issued under multiple 471s under BEN 123677 for Southern Westchester BOCES in the EPC portal. This means specific questions for specific 471s were not issued under their actual application numbers, rather, their own individual 471 request. However, the follow up questions issued were issued under their individual 471s. This made responding to these requests extremely difficult. As a result, the lack of consistency leaves no visible trail between applicant uploads and USAC questions during the PIA and Selective Review which led to USAC making the incorrect determination to deny these FRNs.
- 2.) The EPC upload function is known to us to be prone to errors that created incomplete submissions. We uploaded documentation at least 8 times and the attachments are present but are either incomplete or do not load upon clicking them due to errors within the EPC portal. There was no notification given to us that the uploads had failed. USAC then issued denials were sent out based on these failed upload submissions. We also reached out to USAC with every response to ensure all documentation was received and that USAC confirmed receipt. USAC did not respond to let us know if anything further was needed to complete the review even though we asked several times.

Issues with SWB PIA and Selective Review Processes

It is clear there have been major issues with the EPC PIA table and the upload documentation function in EPC from our experience. EPC only allows reviews to occur under one form 471, and so EPC has demonstrated it is not an adequate tool to address the review of multiple 471s in one request. By attempting to include the review of many applications, under this one application in EPC, USAC inadvertently created a situation which led to the denials of these funding requests.

The issuance of the selective review was messy, at best, by USAC reviewers and it is due to EPCs structural limitations noted above. It is unclear in EPC where the Selective Review began. There is no original issuance of the review. There is also no single place in EPC that all of the selective review responses and questions are located. USAC outreach dated 11/14 under App# 161003040 is the first Selective Review issuance, but it is labeled as follow up by USAC and claims items are missing from a response. However, the original request and submission is missing. This could mean there are possibly other questions and responses missing. There is no way to know for sure what was requested and was supplied. This makes it impossible to know if USAC's determination of what was originally uploaded is correct.

To add chaos to the confusion, we also see that USAC's outreach listed under 471# 161003040 dated 12/8/16 labeled "Incomplete response reminder" has an answered date of 10/26/16 and an assigned date of 12/8/16. The system shows it was answered before it was issued. Even worse, the denial notifications issued afterwards are dated 12/13/2013. The 15 day response time had not even expired before denials were issued.

This begins to paint a picture of carelessness. Applications are being denied before the response time has expired, there is no clear line of documentation requests, submission, and USAC outreach and responses are missing from the EPC PIA table.

USAC has tried to conduct a massive review with a tool that is not capable of handling such a large request. We have never seen a review of any size conducted in this manner, let alone such a large one. Not enough care was given by the USAC reviewers on how they issued and reviewed these applications. It became easy to deny these FRNs when the picture became very unclear, but it was the process that USAC reviewers implemented that created this confusion. : All of the attached documentation will demonstrate very clearly that all the information that is needed is available. The denial reasons that claim the documentation had not been kept on file, vendor evaluations not completed or consistent, and that full bid copies were not available are completely incorrect.

This chaos is not affecting other FRN's because theses FRN's are multi year contracts and the only notification that we have is a phone call from Karen Hulmes on 3/28/2019. There is not a consistent communication platform used during this evaluation process, there is not a consistent person reviewing this case, and the FRN has sat in the FCC filing platform for 16 months.

It has been the consultants experience with this Billed Entity in particular that USAC will work through any and all PIA requests in the best interest of the applicant to make sure all documentation is in place in order to fund these applications. The proof is in the funding approvals where these FRNs began between funding year 2012 and funding year 2015. The previous year's funding request had met the criteria for approval and they were filed for in exactly the same manner in funding year 2016, only to be denied. The application review process for FY 2016 was inconsistent with the previous approvals that were based on the very same documentation.

This Appeal Must Be Overturned

It is now important to demonstrate that all of the documentation USAC needs to overturn the denial reasons. We have carefully collated every bid, vendor evaluation, and signed agreement for each denied FRN. This will clearly show that not only has all the documentation been kept on file, but that every FRN has gone through an intensive selection process that upholds the integrity of these applications. It is disappointing to have to go through the appeals process to fund FRNs that have been fully funded by USAC when all needed documentation is in place. Many of these FRNs are continuations from previous years and have been consistently funded since their inception FRNs. In any event, the below summary, attached detailed spreadsheet of bidding information, and copies of all bids and vendor evaluations will dispel all denials so that these requests are funded in full.

FRN Summary of Appeals

Awards for the denied FRNs brought forth in the received denials letters are listed below were a result of the Funding 2012 Form 470# 543120000935124. Bestweb, Lighttower, and Windstream submitted bids, and Bestweb was clearly the most effective choice for both all FRNs:

FY	471#	District	FRNs	Vendor
2012	838722	Eastchester	2275464	Best Web
2013	881490	Eastchester	2403025	Best Web
2013	881507	Greenburgh	2403046	Best Web

Only 3 bids were accepted as a result of this Form 470, One from Bestweb, one from Lighttower, and the last from Windstream.

All providers returned the provided bid sheets. BestWeb and Lighttower also included individual bids. Windstream only returned the bid pricing sheet.

Scenario#1 1 Gig Star was the option selected for both Eastchester and Greenburgh Central. The pricing per the bids is as follow:

FY	471#	District	Number of Bids	Best Web Bids	Lighttower Bids	Windstream
2012	161003353	Eastchester	3	\$3,124.00	\$3,995.00	\$6,280.00
2012	161003355	Greenburgh 7	3	\$3,704.00	\$4,900.00	\$9,520.00

Best Web was chosen as the lowest cost bidder for both Eastchester and Greenburgh 7.

For clarity, it is important to discuss the pricing format of the pricing on the actual bids that were received. Lighttower provided their pricing as the monthly recurring cost. Bestweb provided their pricing as the entire cost over the life of the proposed 5 year term. On paper, just looking at the numbers, it would appear that Lighttower provides the lowest cost solution. In actuality, Bestweb's pricing should be divided by 60, reflecting each month in the term of the service, as this is the number of months for the proposed service term. By doing this, it becomes clear that Bestweb offers the lowest monthly recurring cost.

After looking at bid processes, it becomes very clear that the applicant, with help of the consultant has done everything that can be done to ensure all of these FRNs have been properly documented. Bid copies have been saved, vendor evaluations completed and stored, and cost effectiveness at the core of the applicant's determination for every vendor award.

Southern Westchester BOCES is a longtime supporter of Universal Service and has never had any issues that have been portrayed in the denials. The documentation and records being shared here do not only show that they have followed program rules, but

that they are upholding the integrity of Universal Service. Keeping records of this magnitude is no small feat, and there is supporting documentation for every FRN.

It is a major disappointment that EPC has been a real issue with getting these FRNs funded. It is no coincidence that the first year PIAs are in EPC that these denials have occurred. The denials are a direct result of EPCs growing pains. The process was messy and unclear, the communication was non-existent between reviewers and consultant despite our attempts to bridge that gap.

A Consortium of this size needs to be treated with great care from USAC. Southern Westchester BOCES has demonstrated how invested they are in this process and Universal Service by being able to provide every piece of documentation for every FRN. Southern Westchester BOCES has shown its integrity here, and upholding a denial would be a real setback in USAC's ability to govern the E-rate process.

We respectfully request that you overturn the denial and restore full funding of these FRNs. Thank you for reviewing this appeal. Please use the contact information below.

Sincerely,

Shari Phillips
President, e2e Exchange LLC
315-422-7608

For Attachments listed below, please reference FCC Appeal from 11/17/2017
Confirmation Number: 20171117042901125

- FY 2012 full bid responses for Bestweb and Lighttower
- FY 2012 Bid Sheet returned by Windstream; Windstream provided no actual bid
- Vendor evaluations for FRNs 22403025, 2275464, 2724304 and 2563364 for Eastchester
- Vendor evaluations for FRNs 2403046, 2724312 and 2563429 for Greenurgh 7,
- Signed LOI for FRNs 22403025, 2275464, 2724304 and 2563364 for Eastchester
- Signed LOI for FRNs 2403046, 2724312 and 2563429 for Greenurgh 7