

May 16, 2018

Letter of Appeal (Form 471 #171020329; FRN 1799041132 - Local Telephone Service)

Federal Communications Commission (FCC)
Schools and Libraries Program
CC Docket No. 02-6

To whom it may concern:

Entity name (BEN)	San Antonio Indep School District (141544)
Contact person	Patricia Holub
Contact information (mailing address, phone, email)	Chief Technology Officer 1702 North Alamo Street San Antonio, Texas 78215 P: (210) 244-2900 Fax: (210) 223-8879 pholub@saisd.net
Service provider	Southwestern Bell Telephone Company (SPN: 143004662)
Funding year	2017
Application type & number	Form 471 #171020329
FRNs	FRN 1799041132 - Local Telephone Service
Appeal reason	Your RFP 14-053 (AT) was issued on 10/3/2014. Your FCC Form 470 # 879060001242351 was filed on 10/5/2014 with an Allowable Contract Date of 11/2/2014. According to Program rules, applicants must wait 28 days after their FCC Form 470 is posted to USAC's website or after public availability of their RFP, whichever is later, before selecting a vendor or executing a contract. Since you posted your FCC Form 470 after issuing your RFP, your RFP bid due date is less than 28 days after your FCC Form 470 filing date. Your RFP deadline or response date must coincide or be later than your FCC Form 470 Allowable Contract Date, therefore FRN 1799041132 will be denied.

Appeal explanation:

The San Antonio Independent School District (SAISD; 141544) is requesting the full funding of Form 471 #171020329, FRN 1799041132 (Local Telephone Service), which was previously denied in relation to the FCC's 28-day program rule. SAISD is appealing the above denial decision on the basis that:

- (1) SAISD intended to fully comply with program rules by waiting 28 days from the date RFP 14-053(AT) was posted to select a vendor and it's "late" certification of FCC Form 470 (879060001242351) was not intentional and inadvertent;
- (2) SAISD missed the 28-day rule deadline by a minimal number of days (2), therefore retaining a "meaningful competitive bidding period" (*Aberdeen* opinion, FCC 07-63);
- (3) SAISD's FY2017 local telephone service procurement met the FCC's standard for "open and fair" competitive bidding; and
- (4) Denial of funding for the inadvertent noncompliance with the 28-day rule (by two days) will cause an undue hardship on SAISD and prevent otherwise eligible schools and libraries to received E-rate funding.

(1) SAISD intended to fully comply with program rules by waiting 28 days from the date RFP 14-053(AT) was posted to select a vendor and it's "late" certification of the FCC Form 470 (879060001242351) was unintentional and inadvertent.

The RFP was posted and opened for the entire 28 days beginning 10/3/2014 on the Texas Purchase Group website (see attachment SAISD_POSTING_LOCALTELEPHONE_10.3.14.pdf), and via the San Antonio Express on 10/5/2014 and 10/12/2014 (see attachment SAISD_REQUEST_10.5.14_10.12.2014.pdf). The Form 470 was certified on 10/5/2014 (see USAC Open Data) and evaluations for proposals did not begin until 11/7/2014, and concluded on 11/17/2014 (see attachment

SAISD_BIDREVIEW_LOCALTELEPHONE.pdf) – well past 28 days. SAISD board approval for the contract was achieved on 1/20/2015 (see attachment SAISD_BOARDAPPROVE_LOCALTELEPHONE_1.20.15.pdf).

(2) SAISD missed the 28-day rule deadline by a minimal number of days (2), therefore retaining a “meaningful competitive bidding period” (Aberdeen opinion, FCC 07-63).

SAISD requests that its FY2015 error related to the FCC’s 28-day rule not warrant a complete rejection of its local telephone service application based on the circumstances presented above and based on the fact that there is no evidence of waste, fraud or abuse.

(3) SAISD’s FY2017 local telephone service procurement met the FCC’s standard for “open and fair” competitive bidding.

All bidders were treated the same. No bidder had advance knowledge of the project information. The same information was shared with all bidders. No gifts were received by service providers. Further, Having a 26-day period between the 470 certification and the bid submission deadline, while two days short of the rule, did not result in and there is no evidence of:

- (1) waste, fraud or abuse;
- (2) SAISD benefiting from the error;
- (3) harm to any service provider or any provider interested in vying for the contract (i.e., all bids submitted were considered); or
- (4) evidence or claim that SAISD is paying a higher price than is otherwise commercially available, nor that any service provider was rejected or denied a reasonable opportunity to submit a bid.

(4) Denial of funding for the inadvertent noncompliance with the 28-day rule (by two days) will cause an undue hardship on SAISD and prevent otherwise eligible schools and libraries to received E-rate funding.

SAISD has been an E-rate applicant since the inception of the E-rate program, without issue. During that time, SAISD’s 54,000 students (100% of which receive Free and Reduced Lunch) have benefited from access to digital learning at the FCC’s desired thresholds.

Sincerely,



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