

May 25, 2018

Letter of Appeal

Mrs. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Request for Review

USAC Administrator's Decision on Denial of Funding Commitment
CC Docket No. 02-6

Appellant Name: David Gornstein
Applicant: Bellwood School District 88
BEN: 136365
Funding Year: 2017
Form 471 #: 171047407
FRN: 1799109123, 1799109262, 1799109320

Dear Sir or Madam:

Bellwood School District 88 is appealing USAC's denial of funding for E-Rate Funding Year 2017, on FCC 471 Application # 171047407, FRNs 1799109123, 1799109262, 1799109320, in a Revised Funding Commitment Decision Letter dated 03/27/2018 for Appeal #77073, having the following reason(s):

Reason for Denial of Funding Request:

FRN is denied because the applicant is relying on a voluntary contract extension, but the original contract did not include a provision for voluntary contract extensions. Therefore, the extended contract does not meet E-rate requirements and cannot be used to support the funding request since the request is not supported by a contract that is in force for the Funding Year.

FCC rules require that except under limited circumstances, an eligible school, library or consortium that includes an eligible school or library shall seek competitive bids for all services eligible for support. See 47 C.F.R. sec. 54.503(b). To help ensure that applicants receive the lowest pre-discount price from the vendors, applicants are required to carefully consider all bids received before entering into a legally binding agreement with a selected vendor and submitting an FCC Form 471. See 47 C.F.R. secs. 54.503(b) and (c), 54.511(a).

Applicants are required to file a new FCC Form 470 in the current application period if they are applying for discounted services for which a new contract is sought. If an applicant has an existing multi-year contract they may be exempt from the competitive bid requirements set forth. However, if an applicant has a contract with voluntary extensions for which it has filed an FCC Form 470, it cannot extend or renew the contract beyond its original expiration date

without posting a new FCC Form 470 and considering all bids received, unless voluntary extensions were indicated in the original contract.

Basis for Appeal:

FRN 1799109123 is a request for services being provided under an existing multi-year contract with AT&T that was signed on 3/25/2014. In FY2014 applicant filed FCC Form 470# #102040001119385, posted and certified: 02/06/2013, with an Allowable Contract Date: 03/06/2013.

FRN 1799109262 is a request for services being provided under an existing multi-year contract with AT&T that was signed on 3/16/2012. In FY2014 applicant filed FCC Form 470# #102040001119385, posted and certified: 02/06/2013, with an Allowable Contract Date: 03/06/2013.

FRN 1799109320 is a request for services being provided under an existing multi-year contract with AT&T that was signed on 3/25/2014. In FY2016 applicant filed FCC Form 470# #160020586, posted and certified: 01/21/2016, with an Allowable Contract Date: 02/18/2016.

There were no bids received, the contract with AT&T was used as their bid and deemed as being the most cost-effective solution meeting the requirements of the district. This is the establishing FCC Form 470 for these services.

Based upon information provided by a former employee of the district, these funding requests were filed in good faith, although we have found that the actual contract expiration dates differ from those originally applied for.

FRN Funding Months Initial Contract Term CED Extension

FRN	FY2017 Requested Funding Months	Submitted CED	AT&T Confirmed CED	FY2017 Actual Funding Months
1799109123	6	12/30/2017	9/20/2017	2-1/2
1799109262	7	1/30/2018	Last circuit expires 2/22/2018	7-1/2
1799109320	11	5/15/2018	3/25/2017	0

Corrective Measure:

For FRN 1799109123 and FRN 1799109262 we respectfully request that the FCC reverse USAC's earlier decision to deny the applicant's funding request, and fund these requests as partially submitted. During our research and review we found that the various contracts did not expire as originally submitted; rather, AT&T has advised that the actual LD Agreement expired 9/20/2017, the Opt-E-Man last circuit expired 2/22/2018. Therefore, we are requesting that funding be provided for the period 7/1/2017 through 9/20/2017; and 7/1/2017 through 2/22/. A copy of the emails from AT&T are attached.

For FRN 1799109320, USAC's original decision to deny funding is correct.

The granting of this appeal will serve the public interest by allowing the District to capture funding to pay its eligible category 1 services without adversely affecting current or future E-Rate applicants.

For the District,

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Bellwood School District 88 (BEN 135365)



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Attachment:
AT&T Email - Contract End Dates