

**Before the
Federal Communications Commission
Washington, D.C.**

In the Matter of)	
)	
)	
Schools and Libraries)	CC Docket No. 02-6
Universal Service Support Mechanism)	
)	
Request for Review and/or Waiver)	
By Lincoln County Schools)	Application No. 171028255
of the Funding Decisions by the)	
Universal Service Administrative Company)	

**REQUEST FOR REVIEW AND/OR WAIVER BY LINCOLN COUNTY SCHOOLS OF
THE FUNDING DECISIONS BY THE UNIVERSAL SERVICE ADMINISTRATIVE
COMPANY**

Pursuant to Sections 54.719 and 54.722 of the Federal Communications Commission’s rules,¹ Lincoln County Schools (“LCS”) hereby respectfully requests a review of the Universal Service Administrative Company (“USAC”) decision to deny Schools and Libraries Universal Service funding to LCS for Funding Year 2017. As a result of USAC’s decision, LCS faces the dismissal of its E-rate funding for Funding Year 2017 despite LCS following the FCC’s directive to seek both lit and dark fiber solutions for its Wide Area Network (“WAN”) and having its draft proposal reviewed more than once by USAC.

For the reasons set forth below, the Wireline Competition Bureau (the “Bureau”) should grant this appeal and/or any waivers necessary or warranted and remand the relevant application to USAC for immediate approval. Because the issues raised by this appeal are governed by the standards and analysis in orders the Commission and Bureau have previously issued, LCS also

¹ 47 C.F.R. § 54.719(b), (c); 47 C.F.R. § 54.722(a).

requests an expedited review and inclusion in the next available Public Notice streamlined order to be released by the Bureau.²

I. BACKGROUND

Lincoln County Schools is located in Fayetteville, Tennessee, and it serves 3,838 students. LCS's discount rate for Funding Year 2017 was 80 percent.

Prior to Funding Year 2017, LCS developed a draft request for proposals ("RFP") to seek WAN services for the district.³ On February 6, 2017, LCS's technology director Brad Luna ("Mr. Luna") sent an e-mail to Joe Freddoso ("Mr. Freddoso"), USAC's contracted dark fiber expert, asking Mr. Freddoso if he was reviewing Form 470s to ensure compliance with E-rate requirements. Mr. Freddoso responded that he was, and Mr. Luna then forwarded LCS's draft RFP to him for his review.⁴

Mr. Freddoso asked whether LCS already had equipment in place or if it planned to bid on it.⁵ He also explained which service to select on the FCC Form 471 and provided a few tips for the competitive bidding process.⁶

On February 7, 2017, LCS posted an FCC Form 470 and accompanying RFP,⁷ and Mr. Freddoso replied to Mr. Luna again to let him know that he saw the completed filing and had no

² See 47 C.F.R. § 54.722(a) (delegated authority for the Wireline Bureau to decide appeals as long as they do not raise novel questions of fact, law or policy); *Streamlined Process for Resolving Requests for Review Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45 and 02-6, WC Docket Nos. 02-60, 06-122, 08-71, 10-90, 11-42, and 14-58, Public Notice 29 FCC Rcd 11094 (Wireline Comp. Bur. 2014); see also 47 C.F.R. § 54.724 (establishing deadline of 90 days for Bureau or Commission review of an appeal).

³ Affidavit of Brad Luna ¶ 3.

⁴ See **Exhibit 1**, E-mail from Brad Luna to Joe Freddoso, dated February 8, 2017. This e-mail chain begins on February 6, 2017, and goes through February 8, 2017; Affidavit of Brad Luna ¶ 4.

⁵ See *id.*

⁶ See *id.*

further questions.⁸ On February 17, 2017, Mr. Freddoso again wrote Mr. Luna, only asking whether the district planned to seek funding for maintenance services.⁹

LCS's RFP provided additional information regarding the services it was seeking.¹⁰ In the RFP, LCS explained that it was seeking bids for a three-year contract for WAN services for its seven schools, four administrative buildings, and one multi-use building.¹¹ LCS specifically noted that it was "requesting pricing for Lit and Dark Fiber Services as per E-rate rules to compare the short term and long term cost of these services."¹²

LCS specified that bidders must offer both lit and dark fiber service options with their proposals.¹³ E-rate rules require bids for both dark and lit fiber if one wants to possibly receive dark fiber, and LCS included this requirement because it thought that it was complying with FCC rules requiring a comparison of dark and lit fiber projects.

LCS received a bid from only one bidder for the WAN services – ENA Services, LLC ("ENA") – and LCS therefore awarded the contract for dark fiber services to ENA.¹⁴ In fact, ENA was also the only company to bid on LCS's WAN services for the past three years.¹⁵ Neither AT&T nor Charter have fiber facilities to all of LCS's services, and they have

⁷ See **Exhibit 2**, FCC Form 470 # 170064564; Affidavit of Brad Luna ¶ 5.

⁸ See **Exhibit 1**, February 8th e-mails between Mr. Luna and Mr. Freddoso; Affidavit of Brad Luna ¶ 5.

⁹ See **Exhibit 3**, E-mail from Mr. Freddoso to Mr. Luna dated February 17, 2017; Affidavit of Brad Luna ¶ 6.

¹⁰ See **Exhibit 4**, Lincoln County Tennessee Request for Proposal/Bid ("LCS RFP"), dated February 7, 2017.

¹¹ See *id.* at p. 3.

¹² *Id.*

¹³ *Id.*

¹⁴ Affidavit of Brad Luna ¶ 8.

¹⁵ *Id.*

accordingly only bid on Internet access in the past.¹⁶ What is more, no potential bidder asked whether it could provide a bid for only one of the services.¹⁷

On November 7, 2017, USAC denied LCS's application for funding,¹⁸ and LCS appealed USAC's decision pursuant to Commission rules.¹⁹ USAC denied the appeal on May 1, 2018,²⁰ and LCS now timely files this request for review and/or waiver by the Commission.

II. LCS FOLLOWED THE FCC'S DIRECTIVE TO SEEK BOTH LIT AND DARK FIBER SOLUTIONS FOR ITS WIDE AREA NETWORK SERVICES.

The Commission should grant LCS's request for review or waiver because LCS was following the FCC's directive in seeking both lit and dark fiber solutions for its WAN services, and LCS was not required to seek separate bids for each type of service. USAC, however, found that LCS did not conduct a fair and open competitive bidding process because it asked carriers to bid for both lit and dark fiber solutions.

As the Commission noted in the Second Modernization Order, applicants are supposed to compare dark fiber with lit fiber options.²¹ Specifically, "if a school or library intends to seek support to lease and light dark fiber, the schools or library must also solicit proposals to provide the needed services over lit fiber over a time period comparable to the duration of the dark-fiber lease or IRU."²² The Order does not require or even speak to whether an applicant should

¹⁶ Affidavit of Brad Luna ¶ 9.

¹⁷ Affidavit of Brad Luna ¶ 10.

¹⁸ See **Exhibit 5**, USAC Funding Commitment Decision Letter dated November 17, 2017.

¹⁹ 47 C.F.R. § 54.719(a). See also **Exhibit 6**, LCS's Appeal to USAC.

²⁰ See **Exhibit 7**, Revised Funding Commitment Decision Letter dated May 1, 2018.

²¹ 29 FCC Rcd 15538, 15553, para. 39.

²² *Id.*

require bids for both services from each potential vendor, and if it was the Commission's intent for schools and libraries to seek separate bids for each type of service – as USAC contends in its denial of LCS's application – the Order was not clear.

In fact, LCS's interpretation of the Commission's directive was reasonable. In trying to comply with the requirements of the Second Modernization Order, LCS requested "pricing for Lit and Dark Fiber Services as per E-rate rules to compare the short term and long term costs of these services."²³ It is clear that LCS was not trying to dissuade prospective bidders or limit the number of bid responses as USAC has suggest; rather, LCS was simply trying to do what it thought was required by the Second Modernization Order.

What is more, LCS's alleged error did not harm the competitive bidding process in any way, and USAC's speculation that the competitive bidding process was harmed is without foundation. In looking at the history of LCS's bidding process, only one carrier has submitted bids for WAN services – lit or dark fiber – for the past three years. The only other carriers in the area do not have the necessary fiber facilities and either do not seem interested in installing them or only want to bid on Internet access services. Regardless of what LCS would have stated in its RFP, no other carrier would have bid to provide WAN services, and it is fundamentally unfair for a simple misunderstanding on the part of LCS – if there even was one – to result in the loss of all of the district's funding for an entire year.

As such, the Commission should find that LCS complied with the applicable competitive-bidding requirements and with the directive to seek both lit and dark fiber solutions or waive the rule(s), as necessary, to serve the public interest.

²³ See LCS RFP at p. 3.

III. IF THE COMMISSION BELIEVES THAT LCS'S PROCESS RESULTED IN A VIOLATION OF ANY COMMISSION RULE, WAIVING THAT RULE IS IN THE PUBLIC INTEREST BECAUSE OF THE SIGNIFICANT FINANCIAL IMPACT LCS WOULD INCUR.

Although LCS believes that its competitive-bidding process was fully consistent with Commission rules and precedent, even if the Commission concludes that LCS violated its rules, granting LCS's requested relief serves the public interest. Any of the Commission's rules may be waived if good cause is shown.²⁴ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.²⁵ The Commission may also take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.²⁶

Here, the financial impact on LCS due to a simple misunderstanding of the FCC's rules would be significant and would result in LCS losing an entire year's funding if USAC's decision is upheld. Again, LCS thought that it was complying with the Commission's directives in requesting its bidders to include both dark and lit fiber solutions, and LCS's recent competitive-bidding history shows that this requirement did little to change the number of bids LCS received as ENA has been the only bidder for the last three years. LCS should therefore not be punished for any good faith misinterpretation of the FCC's rules.

Moreover, LCS's technology director Mr. Luna tried to ensure that the RFP met all requirements by sharing it with USAC prior to submitting it, which shows that LCS was not trying to subvert the competitive bidding process. Mr. Freddoso – USAC's expert on fiber applications – reviewed the RFP on more than one occasion, and he did not identify the

²⁴ 47 C.F.R. § 1.3.

²⁵ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

²⁶ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

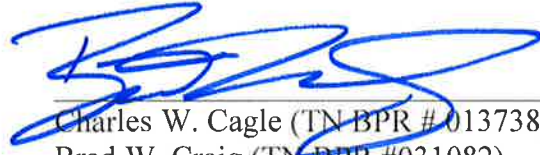
provision in the RFP that is now at issue. Had the issue been identified by Mr. Freddoso either time he reviewed the RFP, LCS would have had plenty of time to issue another RFP and still complete all of the competitive bidding requirements in time to file its application.

It is clear that LCS was not trying to undermine the competitive bidding process, and it even asked USAC's fiber application expert to review its RFP to ensure that it met all requirements. Mr. Freddoso's failure to identify what is now at issue shows the ambiguity in the rule relied upon by USAC to deny LCS's funding. Accordingly, should the Commission determine that LCS has violated any rule of the Commission, LCS requests that the Commission waive the rule to serve the public interest and prevent LCS from losing an entire year's worth of funding over a simple misinterpretation of the rule.

IV. CONCLUSION

For the reasons set forth herein, the Commission should grant LCS's request for appeal or, in the alternative, request for waiver. In addition, LCS requests that the Commission remand the instant funding request back to USAC for commitments consistent with the relief requested in this appeal, including any additional waivers of Commission rules necessary to effectuate the relief sought.

Respectfully submitted,



Charles W. Cagle (TN BPR # 013738)

Brad W. Craig (TN BPR #031082)

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WALDROP, P.C.

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June 29 2018

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been served on the following counsel of record in the manner of service indicated below:

☐

By placing postage prepaid envelope in United States Mail Service, addressed to:

☐

By placing document in third party express delivery carrier, i.e., Federal Express, for overnight delivery to the following counsel of record:

☐

By sending document via electronic mail to: USAC-appeals@sl.universalservice.org

☐

By causing the foregoing to be hand delivered to counsel of record at the following address on this _____ day of _____, 2018:

This the _____ day of _____, 2018.

ATTACHMENTS

Affidavits

Affidavit of Brad Luna

Exhibits

- | | |
|-----------|---|
| Exhibit 1 | E-mail from Brad Luna to Joe Freddoso, dated February 8, 2017 |
| Exhibit 2 | FCC Form 470 # 170064564 |
| Exhibit 3 | E-mail from Mr. Freddoso to Mr. Luna dated February 17, 2017. |
| Exhibit 4 | Lincoln County Tennessee Request for Proposal/Bid ("LCS RFP"), dated February 7, 2017 |
| Exhibit 5 | USAC Funding Commitment Decision Letter dated November 17, 2017 |
| Exhibit 6 | LCS's Appeal to USAC |
| Exhibit 7 | Revised Funding Commitment Decision Letter dated May 1, 2018 |

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By Lincoln County Schools)	Application No. 171028255
of the Funding Decisions by the)	
Universal Service Administrative Company)	

STATE OF TENNESSEE)
)
COUNTY OF LINCOLN)

1. I am over the age of eighteen (18) and am competent to testify as to the matters set forth herein.

3. For Funding Year 2017, LCS developed a draft request for proposals (“RFP”) for Wide Area Network (“WAN”) services for the district.

4. On February 6, 2017, I sent an e-mail to Joe Freddoso asking if he was reviewing Form 470s to ensure compliance with E-rate requirements. Mr. Freddoso responded that he was, and I therefore forwarded him LCS's draft RFP for his review. Mr. Freddoso then asked whether LCS already had equipment in place or if it planned to bid on it, and he also explained which service to select and provided tips for the competitive bidding process.

5. On February 7, 2017, LCS's FCC Form 470 and accompanying RFP was posted. After that, Mr. Freddoso sent another e-mail to me to let me know that he saw the completed filing and had no further questions.

6. On February 17, 2017, Mr. Freddoso sent me another e-mail asking whether LCS planned to seek funding for maintenance services.


7. Mr. Freddoso never told me that the RFP could not require bidders to include both dark and lit fiber solutions.

8. The only bidder to submit a bid for LCS's WAN services was ENA Services, LLC, and ENA was therefore awarded the bid. For the past three years, ENA has been the only company to submit for LCS's WAN services.

9. AT&T and Charter do not have fiber facilities to all of LCS's services, and in the past, the have only bid on Internet access.

10. No potential bidder asked whether it could bid for only one of the services.

FURTHER AFFIANT SAYETH NOT.



Brad Luna

Sworn to and subscribed before me this the 28th day of June,
2018.



Notary Public

My Commission Expires: 2-24-2019



Exhibit 1

E-mail from Brad Luna to Joe Freddoso, dated February 8, 2017



Brad Luna <bluna@lcsdoe.org>

RE: Fiber reviews

1 message

Joe Freddoso <Joe.Freddoso@usac.org>
To: "bluna@lcsdoe.org" <bluna@lcsdoe.org>

Wed, Feb 8, 2017 at 12:43 PM

Hi Brad,

Saw the filing. No further questions. Let me know how I can help.

Joe

From: Joe Freddoso
Sent: Monday, February 06, 2017 5:53 PM
To: bluna@lcsdoe.org
Subject: RE: Fiber reviews

If you have clarification questions on addendum content and posting -- please call me. I can't speak for every reviewer -- but I will do my best to help.

Joe

From: Brad Luna [bluna@lcsdoe.org]
Sent: Monday, February 06, 2017 5:42 PM
To: Joe Freddoso
Subject: Re: Fiber reviews

On the equipment, we already possess it (this is technically a rebid of an existing service). The 28 day rule got me last year, and you are correct, what I would have considered a minor change, they considered "cardinal" and denied my funding. Needless to say, I won't make that mistake again! It really does further complicate our bid process though, as we had a mandatory onsite pre-bid meeting to work out any questions last year to our RFP, and I posted a clarifying document after that meeting, which is what caused the problem. In the past, you could handle those updates through the RFP process that were usual and customary in our operations of the RFP process.

"When what we are is what we want to be, that's happiness."
Malcolm S. Forbes

Brad Luna #oneLC
Technology Supervisor
Lincoln County Schools
910 Hedgemont Avenue
Fayetteville, TN 37334
931-436-1467 (phone)
bluna@lcsdoe.org

On Mon, Feb 6, 2017 at 4:23 PM, Joe Freddoso <Joe.Freddoso@usac.org> wrote:

Hi Brad,

Thanks for the opportunity to review.

I don't see anything I would have comments on...here are some things to keep in mind.

- 1) When you file - use the following service options: Dark Fiber (for leased dark fiber); Lit Fiber Service (leased lit fiber)
- 2) When you state that you have equipment -- do you mean you will bid for it or you already possess it? If you are going to bid it on a separate FCC form 470 - keep in mind that USAC prefers that the Category1 Network equipment be bid separately on the FCC form 470. This will allow the equipment to either be bundled with the lease or bid separately by an equipment vendor and may provide better pricing. To bid Category1 Network Equipment select the **Other** service option and write in Category1 Network Equipment.

Category1 Equipment is any device where the fiber connection from the WAN terminates. It can be a switch with an SFP module for example. This is opposed to a LAN switch where only internal devices terminate.

Here are some other tips from FY 16 review.

All addenda posted to EPC - All RFP addenda --need to be posted to EPC.

Changes to RFP - Almost all material adaptations or changes to the RFP or technical specifications, even responses to vendor questions, are being viewed as cardinal changes and require a restart of the required 28 day bid window. A good rule of thumb here is that if the applicant goes outside of the original RFP guidance in any way-- adding services, end points, route detail -- it has to be generally shared with all vendors and usually requires a restart. If you can answer a question by referring to a clause in the existing RFP -- likely not a cardinal change. If you are adding new requirements--likely a cardinal change.

Competitive bidding rules - The focus in review this year is very much on competitive bidding rules -- the 28 day bidding window; bidding all required options; network equipment and maintenance and operations on the same 470 as the leased dark fiber and leased lit fiber bid.

Cost Analysis - A thorough cost analysis between **all bids** received is required and should be documented. For leased dark fiber and self provisioning this includes network equipment and maintenance and operations over the term of the cost analysis.

Hope this helps in some way. I am available to help more if needed.

Joe

From: Brad Luna [bluna@lcsdoe.org]
Sent: Monday, February 06, 2017 1:24 PM
To: Joe Freddoso
Subject: Re: Fiber reviews

Here is my almost final draft, it won't have any drastic changes. If you have any comments I'd appreciate it!

"When what we are is what we want to be, that's happiness."
Malcolm S. Forbes

Brad Luna #oneLC
Technology Supervisor
Lincoln County Schools
910 Hedgemont Avenue
Fayetteville, TN 37334

931-438-1467 (phone)
bluna@lcdoe.org

On Mon, Feb 6, 2017 at 12:09 PM, Joe Freddoso <Joe.Freddoso@usac.org> wrote:
Hi Brad,

I am doing reviews and happy to take a look.

Joe

From: Brad Luna [bluna@lcdoe.org]
Sent: Monday, February 06, 2017 12:52 PM
To: Joe Freddoso
Subject: Fiber reviews

Are you doing reviews of 470's requesting dark fiber again this year? If so, can I go ahead and send you a preliminary copy of my RFP for review to solve any issues that might need to be addressed?

"When what we are is what we want to be, that's happiness."
[Malcolm S. Forbes](#)

Brad Luna #oneLC
Technology Supervisor
Lincoln County Schools
910 Hedgemont Avenue
Fayetteville, TN 37334
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bluna@lcdoe.org

The information contained in this electronic communication and any attachments and links to websites are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, or the person responsible for delivering this communication to the intended recipient, be advised you have received this communication in error and that any use, dissemination, forwarding, printing or copying is strictly prohibited. Please notify the sender immediately and destroy all copies of this communication and any attachments.

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Exhibit 2

FCC Form 470 # 170064564



FCC Form 470 – Funding Year 2017

Form 470 Application Number: 170064564

LCS-WAN-17-22-470

Billed Entity

LINCOLN COUNTY SCHOOL DISTRICT
206 DAVIDSON ST E
FAYETTEVILLE, LINCOLN, TN 37334-3502
931-433-3565

Contact Information

Brad Luna
bluna@lcdoc.org
931-438-1467

Billed Entity Number: 128288

FCC Registration Number: 0013941968

Application Type

Applicant Type: School District

Recipients of Services: Public School; Public School District

Number of Eligible Entities: 13

Consulting Firms

Name	Consultant Registration Number	Phone Number	Email
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Consultants

Name	Phone Number	Email
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RFPs

Id	Name
27959	Attachment A Price Proposal
27960	Attachment B Installation Cost
27961	Attachment C Standard contract WAN
27962	RFP Lit-Dark Fiber Services 17-22

Category One Service Requests

Service Type	Function	Other	Minimum Capacity	Maximum Capacity	Entities	Quantity	Unit	Installation and Initial Configuration?	Maintenance and Technical Support?	Associated RFPs
Internet Access and/or Telecommunications	Dark Fiber				8	6	Fiber Strands	Yes	Yes	27959, 27960, 27961, 27962
Internet Access and/or Telecommunications	Lit Fiber Service		1 Gbps	10 Gbps	8	8	Circuits	Yes	Yes	27959, 27960, 27961, 27962

Description of Other Functions

Id	Name
----	------

Narrative

The district is requesting pricing for Lit and Dark Fiber Wide Area Network (WAN) service for our district. The district will choose the most cost effective method of delivery of WAN services based on the cost of proposals. Please see the RFP for details. The district already owns and operates all equipment necessary to utilize a Dark Fiber network and is not requesting pricing for equipment to light Dark Fiber.

Installation Payment Plan

Range of Years: 3 - 3 Years

Payment Type: Annual

Category Two Service Requests

Service Type	Function	Manufacturer	Other	Entities	Quantity	Unit	Installation and Initial Configuration?	Associated RFPs
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Description of Other Manufacturers

Id	Name
----	------

Narrative

Technical Contact

Brad Luna
Technology Coordinator
931-438-1467
bluna@lcdoe.org

State and Local Procurement Restrictions

All requirements are listed in the RFP
--

Recipients of Service

Billed Entity Number	Billed Entity Name
128288	LINCOLN COUNTY SCHOOL DISTRICT

Certifications

I certify that the applicant includes:

I certify that the applicant includes 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.

Other Certifications

I certify that this FCC Form 470 and any applicable RFP will be available for review by potential bidders 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.

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.

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.

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 later of the last day of the applicable funding year or the service delivery deadline

for the associated funding request. 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. 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.

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. 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.

NOTICE:

In accordance with Section 54.503 of the Federal Communications Commission's ("Commission") 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. 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 requested in this form. We will use the information you provide to determine whether you have complied with the competitive bidding requirements applicable to requests for universal service discounts. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, the information you provide in this form 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 you provide in this form 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 in this form 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 or Universal Service Administrator may return your form without action or deny a related request for universal service discounts.

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 3.5 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. We also will accept your comments via the email if you send them to PRA@FCC.gov.
DO NOT SEND COMPLETED WORKSHEETS TO THESE ADDRESSES.

Authorized Person

Bill Heath
LINCOLN COUNTY SCHOOL DISTRICT
206 DAVIDSON ST E
FAYETTEVILLE, LINCOLN, TN 37334-3502
931-433-3565
bheath@lcdoe.org

Certified Timestamp

02/07/2017 05:21 PM EST

Exhibit 3

E-mail from Mr. Freddoso to Mr. Luna dated February 17, 2017



Brad Lu a <blu a@lctdoe.org>

Lincoln County TN 470

1 message

Joe Freddoso <JFreddoso@usac.org>
To: "bluna@lctdoe.org" <bluna@lctdoe.org>

Wed, Feb 17, 2016 at 8:11 PM

Hi Bill,

Hope you are doing well.

I am USAC's contracted dark fiber consultant. Part of my role is to contact applicants who file a 470 with a dark fiber option.

I saw the Lincoln County filing and read the RFP. You have existing fiber between the 11 locations and the hub -- It appears to be about 78 miles or so of run if you use hub and spoke. You want to compare dark and lit options. I think I have that basic understanding.

My only question is how will the dark fiber be maintained. Who repairs cuts, repairs markers, performs locates (if the fiber is buried). Most of the applicants bidding dark fiber are also bidding maintenance as a separate category 1 service on the dark fiber 470.

Here is a maintenance spec I have seen some applicants use:

Dark Fiber Maintenance

Operations and Maintenance Practices: The (School District) will require on-going maintenance and operations of the fiber for the term of the lease. When pricing maintenance and operations, the respondent should include an overview of fiber maintenance practices including:

- Call before you dig locate services;
- Routine maintenance and inspection,
- Scheduled maintenance windows and scheduling practices for planned outages,
- Fiber monitoring including information on what fiber management software is used, what fiber monitoring system is used, and who performs the monitoring,
- Handling of unscheduled outages and customer problem reports?What service level agreement is included, and what alternative service levels may be available at additional cost,
- What agreements are in place with applicable utilities and utility contractors for emergency restoration,
- Repair of fiber breaks,
- Replacement of damaged fiber,
- Replacement of fiber which no longer meets specifications,
- Policies for customer notification regarding maintenance,

If I can be of any other help, let me know.

Joe

The information contained in this electronic communication and any attachments and links to websites are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, or the person responsible for delivering this communication to the intended recipient, be advised you have received this communication in error and that any use, dissemination, forwarding, printing or copying is strictly prohibited. Please notify the sender immediately and destroy all copies of this communication and any attachments.

Exhibit 4

Lincoln County Tennessee Request for Proposal/Bid (“LCS RFP”), dated February 7, 2017



LINCOLN COUNTY, TENNESSEE

Vicky Trentham
Deputy Finance Director

REQUEST FOR PROPOSAL/BID

Date: February 7, 2017
Product/Service: Lit and Dark Fiber service
Bid Opening: 10:00 a.m., March 17, 2017, Lincoln County Finance Department, Courthouse
Basement Conference Room, Fayetteville, TN

Notice is hereby given that the Lincoln County Finance Department requests proposals for the above product/service. A complete set of General Terms & Conditions, Bid Specifications, and Bid Forms are attached. Bidders are cautioned to read this document carefully. If you have any questions concerning this bid, please contact Brad Luna, Lincoln County Department of Education (931) 438-1467 or Vicky Trentham, Lincoln County Finance Department (931) 438-1565.

ACCEPTANCE AGREEMENT

The undersigned agrees to comply with all provisions as stated in the Bid Specifications of the Finance Department, Lincoln County, if awarded the bid. I(We) hereby certify that if the contract is awarded to our firm that the Deputy Finance Director, Purchasing Agent, members of the County Legislative Body, or other officials, employees, or members of the Board of Education or Highway Commission are not financially interested or have any personal beneficial interest either directly or indirectly in the purchase of supplies, materials, equipment or contractual services for the County, and we will not give or offer the Director or Purchasing Agent or assistant or employee any rebate, gift, or otherwise any money or other things of value whatsoever, or any promise, obligation, or contract for future reward or compensation.

(Please PRINT or TYPE)

COMPANY: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

PHONE: () _____ FAX: () _____

EMAIL: _____

REPRESENTATIVE SIGNATURE: _____

DATE: _____

Vicky N. Trentham, Dep.

Vicky Trentham, Lincoln County Deputy Finance Director

GENERAL TERMS AND CONDITIONS

PRODUCT OR SERVICE: **Lit and Dark Fiber service**

DEADLINE FOR RECEIVING BIDS: **10:00 a.m., March 17, 2017**

1. **Bid Format:** **SEALED BID.** Bid forms must be completed in ink or typed, signed in ink, and free from alterations. FAXED BIDS will not be accepted. BIDS MUST BE CLEARLY MARKED ON OUTSIDE OF ENVELOPE WITH “RFP-WAN 17-22” AND OPENING DATE. Lincoln County is not responsible for the confidentiality of bids inadvertently opened during mailing or receipt thereof. Unsealed bids will not be accepted. *Any bid received after time and date indicated above will not be considered.*
2. **Bid Opening:** Unless otherwise stated, bids will be opened publicly and read aloud in the **Courthouse Basement Conference Room, 112 Main Avenue South, Fayetteville, TN 37334** on above stated deadline date.
3. Prospective bidders who are authorized, licensed, and capable are requested to submit bids to provide these needed product(s) and/or service(s) for Lincoln County.
4. It shall be the responsibility of the bidder to submit a bid response that complies with the conditions and specifications of the Request for Proposal; Policies and Procedures of Lincoln County, applicable laws of the State of Tennessee, and any other applicable laws, regulations, and requirements.
5. It is the intent of this Request for Proposal to secure competitive bid responses. The specifications herein are intended only to indicate the general character, style and quality of the item(s) desired. Bidders are encouraged to propose and offer equipment, supplies, or service either as specified herein, or equal to or better in character, style, and quality to items specified herein. Any exceptions to the specifications must be listed on a separate sheet entitled “Exceptions to Specifications.” *Bids taking complete or major exceptions will not be accepted.*
6. Bidders agree that other parts and services not specified but which might be needed by Lincoln County in fulfillment of the procurement transaction will be made available at prices equal to or less than the lowest price charged other non-profit or governmental organizations.
7. Lincoln County reserves the right to increase or decrease quantities to be purchased over the life of this agreement and to reject any or all bids or any part of any bid, to waive technicalities, or to accept other than the bid with the lowest cost meeting all specifications. *Lincoln County may accept any bid deemed in the best interest of the County, whether or not it is the low bid.*
8. Any bid submitted should be for the total cost to Lincoln County.
9. Payment will be made within thirty (30) days of the date vendor bill is received and signed by an authorized County representative.
10. Evaluation and award of bids will be made to one or more bidder(s) who meet the requirements of the Finance Department of Lincoln County.
11. **IMPORTANT! Bidder must use bid form(s) (if provided) included in this bid package, and bid must be signed by authorized representative of company/business placing bid at time bid is received by Lincoln County. If not, bid will be rejected at time of bid opening.**

Lincoln County does not discriminate on the basis of race, color, national origin, age or disability. All bidders, contractors, and sub-contractors shall comply with this non-discrimination statement.

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to §12-12-106.

RFP-WAN-17-22

1. Introduction background and overview:

The intent of this RFP is to request Wide Area Network (WAN) services for the Lincoln County School District, referred to as District throughout this RFP. The District currently has 7 schools, 4 administrative facilities and one multi-use Pre-k/alternative school/administrative facility. The District is requesting pricing for Lit and Dark Fiber Services as per E-rate rules to compare the short term and long term cost of these services. However, responders to this RFP may also provide responses to additional services and or goods that will complement and/or supplement the services requested through this RFP as an additional Attachment.

The awarded contract(s) will be valid for a minimum of 3 years, starting as early as April 1, 2017 and ending June 30, 2020. If both the District and the successful bidder both agree, this contract may be extended an additional 2 years for 12 month terms, renewable annually during the regular E-rate 471 filing window. Pricing may be reviewed and possibly lowered annually during the 471 filing window if applicable, but can be no higher than the prices proposed.

2. Lit/Dark Fiber: The District is requesting proposals for both Dark and Lit Fiber Wide Area Network Access (WAN). Pricing for Lit fiber service will require the proposer to provide all equipment necessary to provide a turnkey managed service that will terminate on the District Local Area Network (LAN). Dark Fiber proposals will require pricing for the leasing of Dark Fiber monthly. All equipment necessary to utilize or "light up" dark fiber is already purchased and currently being utilized. There will be no request for equipment for the Dark Fiber portion of this proposal. **Proposers for Lit/Dark Fiber must offer both Lit and Dark Fiber service options with their proposals.**

- a. Lit fiber shall support multiple VLANs, OSPF Routing capability of LAN traffic, multi-cast routing, SNMP access to any proposer router(s)/equipment for monitoring of errors, CPU, memory, network utilization, packet rates, etc. by the District.
 - b. The District is not requesting to own Dark fiber, but lease dark fiber. All maintenance, repair, locating services etc. will be the responsibility of the proposer and should be included in the pricing. If there will be separate charges for repair/maintenance please provide either a yearly or monthly cost for maintenance. Maintenance cost may include: maintenance of the fiber, monitoring of the fiber, repairs for breakage of fibers, inspection fees, locating services, etc. The District is requesting the installation cost be amortized over 3 years for any special construction charges relating to dark or lit fiber.
 - c. The proposer must have a clearly defined help desk with for the District with email support and a toll free number with a minimum support time from 7am until 5pm CST weekdays.
 - d. The District should have the ability to add other users to any portal or other provider services as needed.
 - e. Installation cost must be provided for all locations listed in Attachment B. This cost should include any equipment, labor, tools, supplies and or testing necessary to have a fully functional managed Internet service. Proposer will work with the District to complete the work in a timely manner and during mutually agreed hours.
 - f. Both Lit and Dark Fiber solutions shall have the ability to implement 10 Gb speeds.
3. **SLA (Service Level Agreements):** Provide the district with reasonable SLA agreement for network availability, latency, packet loss, installation intervals for new or modified services, response time for major/minor outages, consequences for noncompliance with SLA including financial penalties and terms for contract termination. Industry standard SLA of 99.99% uptime is preferred with a packet latency of <=50ms and <=.25% Packet Loss. Include financial penalties for failure to meet any SLA and a process of how the SLA will be monitored for compliance.

4. **Contractor Personnel Requirements:** Contractor is responsible for complying with TCA 49-5-413 which requires all contractors to pass a criminal history records check by the Tennessee Bureau of Investigations and the Federal Bureau of Investigation for each employee prior to starting work in any facility with students present.
5. **Performance Bond:** The District requires a performance bond in the amount of \$250,000 for the first 12 months of the contract. Proposer failure to provide the bond within 7 days of being notified of apparent winning bid will result in proposal rejection and the next best proposal will be selected based on the evaluation criteria from Section 17. This bond will ensure continuous services for the District in the event the proposer fails to meet the requirements of this RFP in a timely manner or the contract is terminated for cause and the District loses Erate funding. If the existing services are continued as is and no new construction/buildout costs are needed, the proposer may request to waive the performance bond.
6. **Terms and Conditions:** The District will provide their standard contract as an attachment to this RFP. Any exceptions to these contract terms must be expressed in the proposal submitted. Exceptions to District contract terms will be considered in the assessment of Responsiveness.
7. **Inquiries:** All questions regarding this RFP must be submitted by no later than 2:00 pm on March 7, 2017. All questions should be submitted via email to rfp@lcdoe.org. All official answers will be posted on our website at www.lcdoe.org/rfp. It is the proposer's responsibility to check this website often for any updates to the RFP.
8. **Intent to Propose:** The District requires that all companies wishing to respond to this RFP email a signed Letter of Intent by the deadline listed in the Schedule of Events. Included in this intent to propose should be the email address, name and number of the main contact for notifications of updates to the RFP.
9. **Pre-Bid Conference:** A Pre-bid conference may be held for any interested proposer. The pre-bid conference will be held at the Technology Office, 910 Hedgemont Ave, Fayetteville, TN 37334. All vendors who submit an "Intent to Propose" will be notified of a Pre-bid conference. If a pre-bid meeting is requested, it will be mandatory that all proposers attend either physically or virtually via conference call.
10. **Schedule of Events:** Below is the anticipated schedule of events.

Event	Date
RFP Issued	2/7/17
Intent to Propose	2/22/17
Pre-bid Conference (if needed)	2/27/17 1:00 pm (may be adjusted to accommodate proposers)
Written Question Deadline	3/7/17
Response to Questions Posted to Web	3/10/17 4:00pm
Proposal Due	3/17/17 10:00 am

11. **Responsive Bids:** Bids must contain the following items to be deemed Responsive.

- a. Signed Acceptance Agreement from 1st page of RFP
- b. Followed format requirement from Section 16
- c. All items from Section 12 complete and as instructed
- d. All items from Section 16i-16v were provided as requested
- e. Must have pricing for both Lit and Dark fiber
- f. Proposer must provide a valid Erate Service Provider Identification Number (SPIN Number) with their proposal.
- g. Terms and Conditions Acceptance/Exceptions/additions

12. **Proposals Instructions:**

- a. All proposals shall be delivered to: Lincoln County Finance Department, C/O Brad Luna, 112 Main Ave S, Rm B104, Fayetteville TN 37334 by 10:00 am on March 17, 2017. Any proposal received after 10:00 am on March 17, 2017 will be rejected.

- b. All proposals shall be clearly identified on the outside of any packaging/proposal as RFP-WAN 17-22
- c. Proposers must submit 2 copies of the proposal along with one electronic copy of the proposal on a DVD/CD or USB Flash/thumb drive.
- d. Provide District with digital copies of the Excel Spreadsheets of Price Proposals, Installation Charges and supplemental pricing along with the electronic copies in item 12b
- e. Proposal must be signed by an officer or employee of the company legally authorized to enter a contract for the company.

13. Evaluation:

- a. All proposals will first be reviewed to ensure a proposal has met all guidelines to be responsive in section 11.
 - b. The Technology Department will evaluate all components and award points as designated in the Evaluation Criteria section of this RFP.
 - c. The Technology Department may contact proposers during the evaluation portion for clarification on proposals and ask for clarifications in writing.
 - d. The District reserves the right to negotiate a final and best contract.
14. **RFP Errors/omissions/conflict:** If a proposer identifies any conflict, error, discrepancy or other irregularity in the RFP, the proposer shall immediately notify the District of the issue in writing. All modifications, if any, will be provided in writing by the District on our RFP webpage www.lcdoe.org/rfp. Failure to notify the District of a known conflict prior to submission of the proposal shall nullify any and all protests of the discrepancy.
15. **Proposals and Proposal Cost:** The District shall not pay any costs associated with the preparation, submittal, or presentation of any proposal.

16. Evaluation Criteria:

Response Format: The proposal shall be divided by the tabs listed below. Failure to follow this format or include any item below may result in dismissal of proposal. Proposals will be assigned points based on the following items:

- i. **Technical Approach and Timeline (20 points)**
 - ii. **Experience and Qualifications (15 points)**
 - iii. **Price (60 points)**
 - iv. **Capacity and Past Performance (20 points)**
 - v. **Contract Terms (5 points)**
- i. **Technical Approach and Timeline:**
 - a. Provide your terms for SLA
 - b. Provide years of experience with Erate and understanding of program rules
 - c. Provide a detailed timeline of installation of proposed services
 - d. Provide details of communication for various aspects of your proposal
 - e. Provide details of how service will be monitored for performance (Lit fiber)
 - f. Provide procedures for documentation and record keeping (10 years from last date of service for Erate documentation or per current Erate Rules for retention)
- ii. **Experience and Qualifications**
 - a. Provide details of team supporting this proposal/contract.
 - b. Provide details of the organizational structure of your company
 - c. Provide details of experience in services offered in this RFP to other K-12 customers
- iii. **Price:**
 - a. Provide a completed Price Proposal (Attachment A)
 - b. Provide a completed Installation Cost worksheet (Attachment B)

- c. Proposer may provide supplemental/complimentary pricing for value added services not specifically covered by this RFP. Services should be related to the scope and intent of this RFP and not be a catalog bid of all services. Any supplemental pricing will not be considered for the evaluation of this RFP or weighted in the awarding of points. The District reserves the right to accept or reject any supplemental pricing during contract negotiation. Label any supplemental pricing as Attachment D.
- d. If there are any other cost, such as warranty, lifecycle cost, etc. please provide this info at the bottom of (Attachment A).
- e. All prices shall include any delivery/shipping/setup fee to the District.
- f. The District may award a contract but choose not to act on the award. The District is not guaranteeing any specific quantity of items in the RFP. A purchase order will be required to start any service relating to a new contract. The District may choose to purchase services from one of two Tennessee Internet Consortiums in lieu of any contract awarded locally.
- g. Each table in Attachment A will have a separate cost evaluation point value, and an average cost points of all tables will be used to determine final cost points on the Price Proposal. The Price Proposal and the Installation Proposal points will be averaged together to arrive at a final cost evaluation score. All evaluation points will be based on 40 possible points.
- h. The District will choose the most cost effective means of WAN delivery. All costs will be considered in the cost effectiveness including Installation, Initial Pricing, and long term pricing.

iv. **Capacity and Past Performance:**

- a. Provide an estimate of how many K-12 clients are currently being provided similar services to the scope of this RFP
- b. Describe the ability to expand and meet future demands of the District
- c. Describe the details of installation, setup and timeline to install services for the District
- d. Please list any references and contacts from K-12 sector or government sectors.

v. **Contract Terms and Conditions:** The District Standard contract is provided in Attachment C.

- a. List any exceptions to the general terms and conditions.
- b. Any additional terms, or documents containing terms, that the Proposer submits for inclusion in the final contract or as a requirement for the District to sign prior to using or receiving Proposers goods or services, are to be listed as an exception.
- c. Failure to disclose these at the time of submitting the Proposal is grounds for disqualification as non-responsive.
- d. If no exceptions are taken, include a statement to that effect in the proposal.
- e. Exceptions, or additions, to the standard terms, which the District considers non-negotiable, may be grounds for declaring your proposal as nonresponsive.

Price Proposal Worksheet

All requested pricing is monthly unless otherwise noted. Do not provide Yearly cost unless specifically requested!
Do not include Government Taxes/Surcharges/fees in your proposal. Only include fees related to proposer.

Table 1. Lit Fiber WAN

Prices should be for monthly cost per line for each year of service, prices may increase/decrease each year. Cost should include all equipment costs to utilize service as a monthly fee. It is preferable for price to decrease over time. If prices vary based on distance, please provide cost based on estimated charges per mile as a separate line item and note accordingly. You may clone Table 1 for each location if necessary)

Bandwidth (Each circuit)	Monthly Fee Year 1	Monthly Fee Year 2	Monthly Fee Year 3	Monthly Fee Year 4	Monthly Fee Year 5	Mileage Charges if Applicable
1GB						
2GB						
5GB						
10GB						

Table 2. Dark Fiber WAN

Prices should be for monthly cost per line for each year of service, prices may increase/decrease each year. Must contain all maintenance cost or list maintenance cost separately in Additional cost section If prices vary based on distance, please provide cost based on estimated charges per mile as a separate line item and note accordingly. You may clone Table 2 for each location if necessary)

Each Circuit	Monthly Fee Year 1	Monthly Fee Year 2	Monthly Fee Year 3	Monthly Fee Year 4	Monthly Fee Year 5	Mileage Charges if Applicable

Table 3. Additional Costs

List any monthly or yearly cost not easily accounted for in Table 1 or Table 2. Please also note if this price affects lit or Dark fiber, or both and whether it is monthly or yearly. One time cost for installation should only be included in the installation attachment B

<u>School</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zipcode</u>	<u>Fiberoptic Installation Cost Lit Fiber</u> <u>One time Fee</u>	<u>Fiberoptic Installation Cost Dark Fiber</u> <u>One Time Fee</u>
Blanche School	1649 ARDMORE HWY	Taft	TN	38488		
NINTH GRADE ACADEMY	900 MAIN AVE S	Flintville	TN	37335		
STONE BRIDGE ACADEMY (SBA)	1107 HEDGEMONT AVE	Fayetteville	TN	37334		
FLINTVILLE SCHOOL	37 FLINTVILLE SCHOOL RD	Fayetteville	TN	37334		
HIGHLAND RIM ELEM SCHOOL	111 HIGHLAND RIM RD	Fayetteville	TN	37334		
SOUTH LINCOLN ELEMENTARY SCH	362 SMITH MILL RD	Fayetteville	TN	37334		
UNITY ELEM-JR HIGH SCHOOL	259 BOONSHILL PETERSBURG RD	Petersburg	TN	37144		
LINCOLN COUNTY HIGH SCHOOL	1233 HUNTSVILLE HWY	Fayetteville	TN	37334		
New Sites will assume comparable/average cost	TBD					

If no charge for installation, please add 0.00 to each cell

Attachment C
STANDARD CONTRACT INFORMATION

Contract Approval

The RFP and the contractor selection processes do not obligate the District and do not create rights, interests, or claims of entitlement in the apparent best evaluated Proposer or any vendor. Contract award and District obligations pursuant thereto shall commence only after the contract is signed by the Contractor and the head of the procuring District agency and after the contract is signed by all other District officials as required by laws and regulations to establish a legally binding contract.

Contract Payments

Contract payments shall be made in accordance with the Payment Terms and Conditions Section of the final contract.

No payment shall be made until the contract is approved as required by District laws and regulations. Under no conditions shall the District be liable for payment of any type associated with the contract or responsible for any work done by the Contractor, even work done in good faith and even if the Contractor is orally directed to proceed with the delivery of services, if it occurs before the contract start date specified by the contract or before contract approval by District officials as required by applicable statutes and rules of Tennessee.

RFP and Proposal Incorporated into Final Contract

This RFP (including any amendments) and the successful proposal shall be incorporated into the final contract.

Contract Monitoring

The Contractor shall be responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and acceptance by the District. The District may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. At reasonable times, the District may inspect those areas of the Contractor's place of business that are related to the performance of the contract. If the District requires such an inspection, the Contractor shall provide reasonable access and assistance.

Contract Amendment

During the course of this contract, the District may request the Contractor to perform additional work for which the Contractor would be compensated. That work shall be within the general scope of this RFP. In such instances, the District shall provide the Contractor a written description of the additional work, and the Contractor shall submit a time schedule for accomplishing the additional work and a price for the additional work based on the rates included in the Contractor's Proposal to this RFP, however the rates may be lower than the original proposed rates. If the District and the Contractor reach an agreement regarding the work and associated compensation, said agreement shall become effective by means of a contract amendment. Any such amendment requiring additional work must be mutually agreed upon by the parties and signed by the Contractor and the head of the procuring District agency and must be approved by other District officials as required by laws and regulations. The Contractor shall not commence additional work until the District has issued a written contract amendment and secured all required approvals.

PRO FORMA CONTRACT

The *pro forma* contract (provided in the following pages) contains capitalized and bracketed items that shall be replaced with appropriate information in the final contract.

**CONTRACT FOR SERVICES BETWEEN
LINCOLN COUNTY BOARD OF EDUCATION
AND**

(Contractor Name)

This Contract for Services ("CONTRACT") sets forth YOUR and OUR respective responsibilities and obligations with regard to the SERVICES to be provided by YOU to US. When WE use "YOU" and "YOUR" in this CONTRACT, WE mean YOU, the CONTRACTOR that is identified below. When WE use "WE", "US", "District" or "DISTRICT" and "OUR", WE mean the LINCOLN COUNTY BOARD OF EDUCATION whose address is 206 E. Davidson Street, Fayetteville, TN 37334.

Full Legal Name of CONTRACTOR: *[Legal name of contractor]*

Type of legal entity of CONTRACTOR: *[legal entity type]*

CONTRACTOR'S Physical Address: *[Address of contractor]*

d/b/a Name of CONTRACTOR: *[business name of contractor]*

CONTRACTOR'S Mailing Address: *[business mailing address]*

CONTRACTOR'S Tax Identification Number: *[tax identification number of contractor]*

DATE OF CONTRACT:

CONTRACT DOCUMENTS:

This contract consists of the following documents, all of which are incorporated herein by reference so as to become a part thereto:

***This Contract,
RFP WAN 17-22
Contractor's response to RFP WAN 17-22***

In the event of conflicting provisions, all documents shall be construed according to the following priorities:

***Any properly executed amendment or change order to this contract (most recent with first priority),
This Contract
RFP WAN 17-22
Contractor's response to RFP WAN 17-22***

SERVICES to be provided by CONTRACTOR and dates for SERVICES to be provided:

General Scope of Wide Area Network. The Contractor agrees to be responsible for the design, delivery, installation and maintenance of all the necessary bandwidth, network hardware and software systems, to supply the District with Lit Fiber

WAN Services, and/or Dark Fiber WAN services including management of security and network management. It is the intent of this bundled service offering to provide a technical infrastructure for the District educators and students to access, utilize and leverage Internet-based resources as effectively as possible and meet the technical specifications and support services. The Contractor agrees to meet all the District's requirements in accordance and as defined in the *Request for Proposals for Lit Fiber and Dark Fiber service, hereinafter referred to as the "RFP"*, and as defined in the other documents referenced below.

Duties and Responsibilities of Contractor. Contractor agrees to provide and District agrees to purchase the following services: As per specifications in the attached RFP Documents, Contractor will supply Wide Area Network services at the agreed bandwidth for the District. This service is to commence on _____. Changes to bandwidth levels will be provided within thirty (30) days of written notice provided that capacity exists on the facility to support the requested change, and are available without charge once per contract year if requested.

Maintenance. Contractor's maintenance windows are (Day of week) _____ from _____ Local time to _____ local time. Contractor will provide e-mail notification to designated District maintenance point of contact in advance of such maintenance (typically 48 hours). Circuit availability calculation does not include scheduled or emergency network maintenance given advance notification.

Additionally, if authorized by their own enabling authority, other interested K-12 public districts of Tennessee, may, at their option and the option of the Contractor, enter into their own contracts with the awarded service provider, in accordance with the terms, conditions, as establish by TCA Title 12-3-1203.

Term. The term of this contract will begin on _____. The initial contract term will end on June 30, 2020. This contract may be extended for two (2) additional terms of 1 year. Any extension must be approved by both parties. In no event shall the term of this contract, including extensions, extend beyond June 30, 2022. All contract extensions will occur during the current year 471 filing window, available on the USAC website. Contract will be valid from July 1 through June 30 of each year after year 1.

CONTRACT Price for SERVICES or PRODUCTS:

Compensation. Contractor shall be paid the corresponding amount based on the bandwidth selected as priced in the Contractor's response to RFP WAN 17-22. There will be no other charges or fees for performance of this contract. No payment shall be made until the contract is approved as required by District laws and regulations. Under no conditions shall the District be liable for payment of any type associated with the contract or responsible for any work done by the Contractor, even work done in good faith and even if the Contractor is orally directed to proceed with the delivery of services, if it occurs before the contract start date specified by the contract or before contract approval by District officials as required by applicable statutes and rules of Tennessee.

Taxes. District shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to District.

Special Terms:

Contract Monitoring: The Contractor shall be responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and acceptance by the District. The District may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. At reasonable times, the District may inspect those areas of the Contractor's place of business that are related to the performance of the contract. If the District requires such an inspection, the Contractor shall provide reasonable access and assistance.

TERMS AND CONDITIONS OF CONTRACT

1. INDEPENDENT CONTRACTOR. The parties hereto agree that the CONTRACTOR and any agents, subcontractors and employees of the CONTRACTOR in the performance of this CONTRACT shall act in an independent contractor

capacity and not as officers, employees or agents of DISTRICT. The CONTRACTOR'S employees shall at all times be and remain the sole employees of the CONTRACTOR, and the CONTRACTOR shall be solely responsible for payment of all employees' wages, benefits and other compensation. The CONTRACTOR, without any cost or expense to DISTRICT, shall faithfully comply with all applicable laws or regulation involving workers' compensation and unemployment insurance, social security and withholding of income tax from wages, and shall indemnify and hold US harmless from any expenses or claims of whatsoever nature which may arise from an alleged violation of such applicable laws or regulations. YOU have total control over the means, manner, and method of the performance of this CONTRACT. WE are only interested in the results of YOUR performance and obtaining the SERVICES described in this CONTRACT. Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act or omission of any other party contrary to the terms of this paragraph.

2. COMPLIANCE WITH THE LAW. YOU shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the CONTRACT.

3. PRICE. The CONTRACTOR shall be required to perform the specified SERVICES or supply the specified PRODUCTS at the price(s) stated in the CONTRACT. YOU shall not be allowed or paid travel or per diem expenses except as specifically set forth in this CONTRACT.

4. TIME OF PERFORMANCE. All SERVICES shall be performed or PRODUCTS supplied within the time period(s) specified in the CONTRACT. Time is of the essence with respect to YOUR performance under this CONTRACT.

5. PERFORMANCE SUBJECT TO OUR SATISFACTION. YOU shall be compensated only for work performed to the satisfaction of DISTRICT.

6. INVOICES. YOU shall send an itemized invoice to OUR address promptly after SERVICES are satisfactorily completed or PRODUCTS supplied in accordance with the terms and conditions of this CONTRACT. The invoice should include only amounts due under the CONTRACT.

7. PAYMENT. WE shall put forth reasonable efforts to make payment by the required payment date. The required payment date is (a) the date on which payment is due under the terms of this CONTRACT; (b) thirty (30) days after a proper invoice actually is received by US if a date on which payment is due is not specified in the CONTRACT (a "proper" invoice is not received until WE accept any service as satisfactorily performed); or (c) the payment date specified on the invoice is later than the dates established by (a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the CONTRACT. Payment by US should not be construed by the CONTRACTOR as acceptance of the service performed by YOU. WE reserve the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service or material if such post payment testing or inspection discloses a defect or a failure to meet specifications. WE will utilize the Service Provider Invoice (SPI) method of Erate payments throughout the term of this contract. WE understand that services may start prior to any Funding Commitments from the Erate program and that OUR portion will be paid accordingly.

8. WARRANTY. The CONTRACTOR warrants that all SERVICES performed or PRODUCTS supplied by the CONTRACTOR, its agents and subcontractors shall be free and clear of any defects in workmanship or PRODUCTS. Unless otherwise stated in the CONTRACT, all SERVICES and parts are warranted for a period of one year following completion of performance by the CONTRACTOR and acceptance by US. YOU shall correct any problem with the service or PRODUCTS and/or replace any defective part or material with a part or material of equivalent or superior quality without any additional cost to US.

9. PATENT, COPYRIGHT, AND TRADEMARK INDEMNITY. The CONTRACTOR warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: (a) the design of any service(s), product(s) or process(es) provided or used in the performance of the CONTRACT which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or (b) any copyrighted matter in any report document or other material provided to US under this CONTRACT. YOU shall defend any suit or proceeding brought against US on account of any alleged patent, copyright or trademark infringement in the United States of any of the SERVICES provided or used in the performance of the CONTRACT. WE may participate in or choose to conduct, in OUR sole discretion, the defense of any such action. If information and assistance are furnished by US at YOUR written request, it shall be at the YOUR expense, but the responsibility for such expense shall be only that within YOUR written authorization. YOU shall indemnify and hold US harmless from all damages, costs, and expenses, including attorney's fees that the CONTRACTOR or WE may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any SERVICES provided or used in the performance of the CONTRACT. If any of the SERVICES provided by the CONTRACTOR in such suit or proceeding are held to constitute infringement and use is enjoined, the CONTRACTOR shall, at its own expense and at its option, either procure the right to continue use of such infringement SERVICES, replace them with non-infringement equal performance SERVICES or modify them so that they are no longer infringing.

10. OWNERSHIP RIGHTS. WE shall have unrestricted authority to reproduce, distribute, and use any submitted report, data, or material, and any software or modifications and any associated documentation that is designed or developed and delivered to US as part of the performance of the CONTRACT.

11. HOLD HARMLESS PROVISION. YOU shall hold US, and OUR employees, directors, agents, officials and attorneys, harmless from and indemnify US, and OUR employees, directors, agents, officials and attorneys, against any and all claims, demands and actions based upon or arising out of any activities performed by YOU and YOUR employees and agents under this CONTRACT and shall, at OUR request, defend any and all actions brought against US, or OUR employees, directors, agents, officials and attorneys based upon any such claims or demands.

12. AUDIT PROVISIONS. WE have the right, at reasonable times and at a site designated by US to audit YOUR books, documents and records to the extent that the books, documents and records relate to information required to be retained under E-rate Rules for the CONTRACT. The CONTRACTOR agrees to maintain records related to the CONTRACT for the term required under the Federal E-rate program. The CONTRACTOR shall give full and free access to all records to US and/or OUR authorized representative.

13. DEFAULT. WE may, subject to the Force Majeure provisions of this CONTRACT, and in addition to OUR other rights under the CONTRACT, declare YOU in default by written notice thereof to YOU, and terminate as provided in the Termination Provisions of this CONTRACT the whole or any part of this CONTRACT for any of the following reasons:

- a. Failure to begin work within the time specified in the CONTRACT or as otherwise specified
- b. Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the CONTRACT terms;
- c. Unsatisfactory performance of the work;
- d. Breach of any term or condition of this CONTRACT;
- e. Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
- f. Discontinuance of work without approval;
- g. Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;

h. Insolvency or bankruptcy; or

i. Assignment made for the benefit of creditors.

14. TERMINATION PROVISIONS. WE have the right to terminate this CONTRACT, in whole or in part, for any of the following reasons. Termination shall be effective upon written notice to the CONTRACTOR.

a. TERMINATION FOR CONVENIENCE: WE have the right to terminate the CONTRACT for OUR convenience if WE determine termination to be in OUR best interest. Should funding for this contract be discontinued or reduced, District shall have the right to terminate the contract immediately upon written notice to Contractor. The CONTRACTOR shall be paid for SERVICES satisfactorily completed prior to the effective date of the termination, but in no event shall the CONTRACTOR be entitled to recover loss of profits.

b. TERMINATION FOR CAUSE: WE shall have the right to terminate the CONTRACT for CONTRACTOR default. WE shall also have the right, upon written notice to the CONTRACTOR, to terminate the CONTRACT for other cause as specified in this CONTRACT or by law. If it is later determined that WE erred in terminating the CONTRACT for cause, then, at OUR discretion, the CONTRACT shall be deemed to have been terminated for convenience under this CONTRACT.

c. REMEDIES AND PRESERVATION OF RIGHTS. In the event that WE terminate this CONTRACT in whole or in part, WE may procure, upon such terms and in such manner as WE determine, SERVICES similar or identical to those so terminated, and YOU shall be liable to US for any reasonable excess costs for such similar or identical SERVICES included within the terminated part of the CONTRACT. If the CONTRACT is terminated by US, in addition to any other rights provided in this CONTRACT, WE may require YOU to transfer title and delivery immediately to US in the manner and to the extent directed by US, such partially completed work, including, where applicable, reports, working papers and other documentation, as the CONTRACTOR has specifically produced or specifically acquired for the performance of such part of the CONTRACT as has been terminated. Except as provided below, payment for completed work accepted by US shall be at the CONTRACT price. Except as provided below, payment for partially completed work including, where applicable, reports and working papers, delivered to and accepted by US shall be in an amount agreed upon by the CONTRACTOR and US. WE may withhold from amounts otherwise due the CONTRACTOR for such completed or partially completed work(s), such sum as WE determine to be necessary to protect US against loss. OUR rights and remedies under this CONTRACT shall not be exclusive and are in addition to any other rights and remedies provided by law or under this CONTRACT. OUR failure to exercise any rights or remedies provided in this CONTRACT shall not be construed to be a waiver by US of OUR rights and remedies in regard to the event of default or any succeeding event of default.

15. FORCE MAJEURE. Neither party will incur any liability to the other if its performance of any obligation under this CONTRACT is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control are defined as acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes. YOU shall notify US orally within five (5) days and in writing within ten (10) days of the date on which YOU become aware, or should have reasonably become aware, that such cause would prevent or delay YOUR performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the CONTRACT is prevented or delayed, and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The CONTRACTOR shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as DISTRICT may reasonably request. After receipt of such notification, WE may elect either to cancel the CONTRACT or to extend the time for performance as reasonably necessary to compensate for the CONTRACTOR'S delay.

16. CONTRACT CONTROVERSIES. In the event of a controversy or claim arising from the CONTRACT, YOU must, within six months after the cause of action accrues, file a written notice of controversy or claim with US for a determination. WE shall send OUR written determination to YOU. OUR decision shall be final and conclusive unless, within thirty (30) days after receipt of such written determination, YOU file suit in the Chancery Court of Lincoln County, Tennessee or in the United States District Court for the Eastern District of Tennessee. Pending a final judicial resolution of a controversy or claim, the CONTRACTOR shall proceed diligently with the performance of the CONTRACT in a manner consistent with OUR interpretation and WE shall compensate YOU pursuant to the terms of the CONTRACT.

17. **ASSIGNABILITY AND SUBCONTRACTING.** Subject to the terms and conditions of this Paragraph, this CONTRACT shall be binding upon the parties and their respective successors and assigns. The CONTRACTOR shall not subcontract with any person or entity to perform all or any part of the work to be performed under this CONTRACT without OUR prior written consent, which consent may be withheld at OUR sole and absolute discretion. YOU may not assign, in whole or in part, this CONTRACT or its rights, duties, obligations, or responsibilities hereunder without OUR prior written consent, which consent may be withheld at OUR sole and absolute discretion. Notwithstanding the foregoing, YOU may, without OUR consent, assign YOUR rights to payment to be received under the CONTRACT, provided that YOU provide written notice of such assignment to US together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this CONTRACT. For the purposes of this CONTRACT, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the CONTRACTOR provided, however, that the term shall not apply to the sale or other transfer to stock or a publicly traded company. Any assignment consented to by US shall be evidenced by a written assignment agreement executed by the CONTRACTOR and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the CONTRACT and to assume the duties, obligations, and responsibilities being assigned. A change of name by the CONTRACTOR, following which the CONTRACTOR'S federal identification number remains unchanged, shall not be considered to be an assignment hereunder. YOU shall give US written notice of any such change of name.

18. **NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE.** During the term of the CONTRACT, the CONTRACTOR agrees as follows: In the hiring of any employees for any activity required under this CONTRACT, YOU, your, subcontractor(s) or any person acting on YOUR behalf shall not by reason of gender, nationality, disability, ethnicity, race, creed or color, or any other unlawful basis, discriminate against any individual who is qualified and available to perform the work to which the employment relates. Neither the CONTRACTOR nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the performance of work or any other activity required under the CONTRACT on account of gender, nationality, disability, ethnicity, race, creed or color, or any other unlawful basis. The CONTRACTOR and any subcontractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined. The CONTRACTOR shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.

19. **CONTRACTOR INTEGRITY PROVISION.**

a. For purposes of this clause only, the words "confidential information," "consent," "CONTRACTOR," "financial interest," and "gratuity," shall have the following definitions.

i. Confidential information means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to CONTRACT with US.

ii. Consent means written permission signed by a duly authorized officer or employee of DISTRICT, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, DISTRICT shall be deemed to have consented by virtue of execution of this CONTRACT.

iii. CONTRACTOR means the individual or entity that has entered in the CONTRACT with US, including directors, officers, partners, managers, key employees and owners of more than a 5% interest.

iv. Financial interest means: (a) ownership of more than a 5% interest in any business; or (b) holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

v. Gratuity means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

b. The CONTRACTOR shall maintain the highest standards of integrity in the performance of the CONTRACT and shall take no action in violation of applicable law.

c. The CONTRACTOR shall not disclose to others any confidential information gained by virtue of the CONTRACT.

d. The CONTRACTOR shall not, in connection with this or any other agreement with US, directly, or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by an officer or employee of DISTRICT.

e. The CONTRACTOR shall not, in connection with this or any other agreement with US, directly or indirectly, offer,

give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of DISTRICT.

f. Except with the consent of DISTRICT, neither the CONTRACTOR nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under the CONTRACT except as provided therein.

g. The CONTRACTOR, by execution of the CONTRACT and by the submission of any bills or invoices for payment pursuant thereto, certifies, and represents that he or she has not violated any of these provisions.

h. For violation of any of the above provisions, DISTRICT may terminate this and any other agreement with the CONTRACTOR, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions and claim damages for all expenses incurred in obtaining another CONTRACTOR to complete performance hereunder. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those DISTRICT may have under law, statute, regulation or otherwise.

20. APPLICABLE LAW. This CONTRACT shall be governed by and interpreted and enforced in accordance with the laws of the State of Tennessee (without regard to any conflict of laws provisions) and the decisions of the Tennessee courts. The CONTRACTOR consents to the jurisdiction of any court of the State of Tennessee and any federal courts in Tennessee, waiving any claim or defense that such forum is not convenient or proper. The CONTRACTOR agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Tennessee law.

21. INTEGRATION. The CONTRACT, including all referenced documents, constitutes the entire agreement between the parties. No agent, representative, employee or officer of either DISTRICT or the CONTRACTOR has authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the CONTRACT, which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the CONTRACT. No modifications, alterations, changes, or waiver to the CONTRACT or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties. All such amendments will be made using the appropriate DISTRICT form.

22. CHANGE ORDERS. DISTRICT reserves the right issue change orders at any time during the term of the CONTRACT or any renewals or extensions thereof: (1) to increase or decrease the quantities resulting from variations between any estimated quantities in the CONTRACT and actual quantities; (2) to make changes to the SERVICES within the scope of the CONTRACT; (3) to notify the CONTRACTOR that DISTRICT is exercising any CONTRACT renewal or extension option; or (4) to modify the time of performance that does not alter the scope of the CONTRACT to extend the completion date beyond the Expiration Date of the CONTRACT or any renewals or extensions thereof. Any such change order shall be in writing signed by DISTRICT. The change order shall be effective as of the date appearing on the change order, unless the change order specifies a later effective date. Such increases, decreases, changes or modifications will not invalidate the CONTRACT, nor, if performance security is being furnished in conjunction with the CONTRACT, release the security obligation. The CONTRACTOR agrees to provide the service in accordance with the change order. For purposes of this CONTRACT, "change order" is defined as a written order signed by DISTRICT directing the CONTRACTOR to make changes authorized under this clause.

Any change orders shall be within the general scope of this contract. In such instances, the District shall provide the Contractor a written description of the additional work, and the Contractor shall submit a time schedule for accomplishing the additional work and a price for the additional work based on the rates included in the Contractor's Proposal to this RFP, however the rates may be lower than the original proposed rates. If the District and the Contractor reach an agreement regarding the work and associated compensation, said agreement shall become effective by means of a contract amendment. Any such amendment requiring additional work must be mutually agreed upon by the parties and signed by the Contractor and the head of the procuring District agency and must be approved by other District officials as required by laws and regulations. The Contractor shall not commence additional work until the District has issued a written contract amendment and secured all required approvals.

23. INSURANCE. YOU shall, at YOUR sole cost and expense obtain and maintain in force throughout the original term, and any extension, of this CONTRACT the following insurances:

Commercial General Liability Insurance. Commercial General Liability Insurance occurrence version commercial

general liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000.00) each occurrence for bodily injury, personal injury, and property damage. If such insurance contains a general aggregate limit, it shall apply separately to the work/location in this Contract or be no less than two times the occurrence limit. Such insurance shall: Contain or be endorsed to contain a provision that includes District, its officials, officers, employees, and volunteers as additional insured's with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds. For any claims related to this agreement, Contractor's insurance coverage shall be primary insurance as respects District, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering District, its officials, officers, employees, and volunteers shall be excess of Contractor's insurance and shall not contribute with it.

Automotive Liability Insurance. Automotive Liability Insurance including vehicles owned, hired, and non-owned, with a combined single limit of not less than one million dollars (\$1,000,000.00) dollars each accident. Such insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes District, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Contractor.

Worker's Compensation. Contractor shall maintain workers' compensation insurance with statutory limits as required by the State of Tennessee or other applicable laws and employers' liability insurance with limits of not less than \$100,000. Contractor shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by Contractor's workers' compensation insurance coverage.

Other Insurance:

Require all subcontractors to maintain during the term of the agreement Commercial General Liability insurance, Business Automobile Liability insurance, and Worker's Compensation/Employers Liability insurance (unless subcontractor's employees are covered by Contractor's insurance) in the same manner as specified for Contractor. Contractor shall furnish subcontractor's certificates of insurance to District without expense immediately upon request.

Any deductibles and/or self-insured retentions greater than \$10,000.00 must be disclosed to and approved by District prior to the commencement of services.

If the Contractor has or obtains primary and excess policy(s), there shall be no gap between the limits of the primary policy and the deductible features of the excess policies.

Contractor shall procure contractual coverage for indemnification provisions of this Contract.

24. INDEMNIFICATION. YOU shall indemnify, hold harmless and defend US and OUR directors, officers, agents, employees and attorneys, in either their official or individual capacities, from and against any and all loss, damage, liability, claims, suits, judgments, and demands whatsoever (INCLUDING attorney fees) arising from:

a. any injury to, or death of, any person or persons, or damage to property, arising out of or caused or claimed to have been caused by acts or omissions of the CONTRACTOR, any subcontractor, employee or agent of the CONTRACTOR, or any other person or entity directly or indirectly employed by any of them, whether or not caused in whole or in part, by actions or omissions of DISTRICT, its agents, employees or officials, or any representative of DISTRICT with respect to or in connection to services under this CONTRACT; provided, however, that if any injury to or death of any person or persons, or damage to property, arises out of any actions or omissions of the DISTRICT, its agents, employees or officials, or any representative of DISTRICT, then the indemnity required by this CONTRACT by YOU shall be proportionately reduced taking into account the relative degree of responsibility of the CONTRACTOR, its agents, employees, representative and of DISTRICT and its agents, employees, and representatives;

b. any claims, suits, actions, losses and/or damages by any of YOUR agents, employees or subcontractors against DISTRICT, its board of school directors, officers, agents employees and attorneys in their official or individual capacities caused or allegedly caused by any alleged or actual acts or omissions of DISTRICT employee, agent, official, board member or attorney, unless (a) it is determined by a court of competent jurisdiction that the act or omission by DISTRICT'S employee, agent, official, board member or attorney was taken maliciously and in willful violation of the rights of YOUR agents, employees or subcontractors and with no involvement by YOU or YOUR agents, officials or employees;

c. any claims, suits, actions, losses and/or damages by any person, INCLUDING, growing out of any alleged improper

conduct of any nature or type, INCLUDING, physical, mental or sexual abuse or harassment, invasion of bodily integrity, personal injury, violation or civil rights, and/or unlawful discrimination, by or attributable to any of YOUR employees, agents, officials or contractors; and

d. YOUR breach of any term of this CONTRACT.

25. MISCELLANEOUS PROVISIONS.

a. Survival of Designated Provisions Beyond Termination of CONTRACT. Notwithstanding anything herein to the contrary, the following provisions shall survive termination of this CONTRACT:

i. The indemnity, hold harmless and defense provisions of this CONTRACT;

ii. The Patent, Copyright, and Trademark provisions of this CONTRACT;

iii. The Ownership provisions of this CONTRACT;

iv. The Contract Controversy provisions of this CONTRACT;

v. The provisions pertaining to OUR remedies under this CONTRACT; and

vi. The Contractor Integrity provisions of this CONTRACT.

b. Sub-contractor Relations. Neither this contract nor any of the rights and obligations of Contractor hereunder shall be assigned or transferred in whole or in part without the prior written consent of District. Any such assignment or transfer shall not release Contractor from its obligations hereunder. In the event that YOU enter into any contractual relationship with any other person or entity to perform any SERVICES under this CONTRACT, by appropriate and enforceable agreement, YOU shall require each such subcontractor, to the extent of the work or services to be performed by the subcontractor, to be bound to comply with the terms and conditions of this CONTRACT for the protection of DISTRICT. Each subcontract agreement shall preserve and protect the rights of DISTRICT with respect to the work and services of the subcontractor. YOU shall identify to US any subcontractor YOU utilize to provide services under this CONTRACT and shall provide to US before the subcontractor is permitted to perform services under this CONTRACT a copy of the contract between YOU and the subcontractor.

c. No waiver by US of any Default shall constitute a waiver of any subsequent event, and the WE retains a right of election of remedies at all times.

d. All persons signing this CONTRACT on behalf of the CONTRACTOR hereby personally covenant and warrant to US that they are authorized to enter into this CONTRACT by the governing body of the CONTRACTOR, if any, by all necessary resolutions or actions.

e. CONTEXT. Reference in this CONTRACT to the singular shall be meant to include reference to the plural and vice versa. Reference in this CONTRACT to the masculine gender shall be meant to include the female and neuter and vice versa.

f. HEADINGS. The headings of any Section or Paragraph hereof are for reference purposes only and shall not in any way affect the meaning or interpretation thereof.

g. SEVERABILITY. All agreements and covenants herein contained are severable. In the event that any provision of this CONTRACT should be held to be unenforceable, the validity and enforceability of the remaining provisions hereof shall not be affected thereby. Any court construing this CONTRACT is expressly granted the authority to revise any invalid or unenforceable provision hereof in order to render same enforceable.

h. CONTINGENT FEES. Contractor hereby represents that Contractor has not been retained or retained any persons to solicit or secure a Local Education Agency contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

i. EFFECTIVE DATE. This contract shall not be binding upon the parties until it has been signed first by the Contractor and then by the authorized representatives of the District.

j. COMPLIANCE WITH LAWS. Contractor agrees to comply with any applicable federal, state and local laws and regulations.

k. DISTRICT PROPERTY. Any District property, including but not limited to books, records and equipment that is in Contractor's possession shall be maintained by Contractor in good condition and repair, and shall be returned to District by Contractor upon termination of the contract. All goods, documents, records, and other work product and property produced during the performance of this contract are deemed to be District property.

l. NOTICES. Notices to District shall be mailed or hand-delivered to:

Lincoln County Finance Department
112 Main Avenue South
Room B104
Fayetteville TN 37334
Attn. Finance Director

Notices to Contractor shall be mailed or hand delivered to:

Dated: _____

Lincoln County Board of Education

By: _____
Director

Contractor:

By: _____
Title: _____

NOTARY ACKNOWLEDGMENTS

Exhibit 5

USAC Funding Commitment Decision Letter dated November 17, 2017

FRN	FRN Status	471 Application Number	BEN	Billed Entity Name	Applicant City	Applicant State	Service Provider Name	Fund Year	Orig Funding Request	Cmt'd Funding Request	Orig FRN Service Type	Cmt'd FRN Service Type	Wave Number	FCDL Date	FCDL Comment for 471 Application	FCDL Comment for FRN	FRN Committed Amount
1799060346	Denied	171028255	128288	LINCOLN COUNTY SCHOOL DISTRICT	FAYETTEVILLE	TN	ENA Services, LLC	2017	\$78,720.00	\$0.00	Data Transmission and/or Internet Access	Data Transmission and/or Internet Access	25	11/17/2017	MRI:The applicant did not submit any RAL corrections.	DR1:This FRN will be denied because documentation provided during review indicated that Proposers for Lit/Dark Fiber must offer both Lit and Dark Fiber service options with their proposals. This is a competitive bidding violation because it deters other service providers from submitting a bid for services which may be more cost effective and interferes with the fair and open competitive bidding process required by FCC Rules.	\$0.00

Exhibit 6
LCS's Appeal to USAC

January [XX], 2018

Letter of Appeal
Universal Service Administrative Company
Schools and Libraries Division – Correspondence Unit
30 Lanidex Plaza West
P.O. Box 685
Parsippany, NJ 07054-0685

Re: Appeal of Lincoln County Schools; FY2017; BEN: 128288

Dear Appeals Reviewer:

Pursuant to 47 C.F.R. § 54.719(a), Lincoln County Schools (LCS) hereby respectfully submits this appeal of decisions by the Universal Service Administrative Company (USAC) to deny LCS' application for funding year 2017:

Funding Year	Form 471#	FRN#	FCDL
2017	171028255	1799060346	11/17/17

Contact:

Brad Luna
Lincoln County Schools
910 Hedgemont Avenue
Fayetteville, TN 37334
[931-438-1467]
bluna@lcdoe.org

Charles W. Cagle
Lewis, Thomason, King, Krieg & Waldrop, P.C.
424 Church Street, Suite 2500
P.O. Box 198615
Nashville, TN 37219
(615) 259-1365
CCagle@LewisThomason.com

Counsel for Lincoln County Schools

USAC's Reason for Denial of Funding

FCDL Notice: "This FRN will be denied because documentation provided during review indicated that Proposers for Lit/Dark Fiber must offer both Lit and Dark Fiber service options with their proposals. This is a competitive bidding violation because it deters other service providers from submitting a bid for services which may be more cost effective and interferes with the fair and open competitive bidding process required by FCC."

Summary

Lincoln County Schools (or the District) respectfully appeals USAC's decision to dismiss its funding for funding year 2017.

In brief, Lincoln County thought it was following the FCC directive to seek both for both lit and dark fiber, if that District wanted to seek bids for dark fiber. That is exactly what its RFP did. Further, Lincoln County submitted its draft proposal to USAC for review more than once and USAC's fiber expert never indicated that Lincoln County's RFP was drafted incorrectly. Finally, the competitive bidding process would have been no different if Lincoln County had separated its requests for lit and dark fiber. As such, finding that Lincoln County's procurement did not violate the Commission's competitive bidding requirements.

For these reasons, Lincoln County urges USAC to reverse its decision to deny the FY2017 Lincoln County application for E-rate funding.

Background

Lincoln County Schools is located in Fayetteville, TN, and serves 3,838 students. Lincoln County's discount rate for funding year 2017 was 80 percent.

Prior to funding year 2017, Lincoln County developed a draft request for proposals to seek Wide Area Network (WAN) services for the district. On February 6, Brad Luna, technology supervisor for the Lincoln County Schools, sent an email to Joe Freddoso, USAC's contracted dark fiber expert, asking Mr. Freddoso if he were reviewing Form 470s to ensure compliance with E-rate requirements.¹ Mr. Freddoso responded that he was, and Mr. Luna forwarded the draft RFP to Mr. Freddoso for his review.²

Mr. Freddoso asked whether Lincoln County already had equipment in place or if it planned to bid on it.³ He also explained which service to select on the FCC Form 471 and provided a few tips for the competitive bidding process.⁴

¹ See Exhibit 1, Email from Brad Luna, technology supervisor, Lincoln County Schools, to Joe Freddoso, USAC, dated February 8, 2017 (February 8 Email between Mr. Luna and Mr. Freddoso). The email chain began on February 6 and goes through February 8, 2017.

² See *id.*

³ See *id.*

⁴ See *id.*

On February 7, 2017, Lincoln County posted an FCC Form 470 and accompanying RFP.⁵ Mr. Freddoso replied again to Mr. Luna, letting him know he saw his completed filing and had no further questions.⁶ On February 17, 2017, Mr. Freddoso again wrote Mr. Luna, only asking whether the district planned to seek funding for maintenance services.⁷

The RFP provided additional information regarding the services sought by Lincoln County.⁸ In the RFP, Lincoln County explained that it was seeking bids for a three-year contract for Wide Area Network (WAN) services for its seven schools, four administrative buildings and one multi-use building.⁹ The District specifically noted that it was “requesting pricing for Lit and Dark Fiber Services as per E-rate rules to compare the short term and long term cost of these services.”¹⁰

Lincoln County specified that bidders must offer both lit and dark fiber service options with their proposals.¹¹ E-rate rules require bids for both dark and lit fiber if you want to possibly receive dark fiber. Lincoln County included this requirement as it thought it was complying with FCC rules requiring a comparison of dark and lit fiber projects.

Lincoln County received bids from one bidder for the WAN services, ENA Services LLC, so Lincoln County awarded the contract for dark fiber services to ENA. ENA Services LLC was the only company to bid on Lincoln County’s WAN services for the past three years. AT&T and Charter do not have fiber facilities to all of Lincoln County’s services, so they have only bid on Internet access in the past. No potential bidder asked whether it could provide a bid for only one of the services.

On November 17, 2017, USAC denied Lincoln County’s application for funding.¹² Lincoln County is filing this appeal within the 60-day deadline.

Discussion

As noted above, USAC found that Lincoln County did not conduct a fair and open competitive bidding process because it asked carriers to bid for both lit and dark fiber solutions for its WAN. However, seeking bids for both lit and dark fiber is exactly what the FCC rules told Lincoln County to do. As the FCC noted in the Second Modernization Order, applicants are supposed to

⁵ See FCC Form 470 # 170064564.

⁶ Exhibit 1, February 8 Email between Mr. Luna and Mr. Freddoso.

⁷ Exhibit 2, Email from Joe Freddoso, USAC, to Brad Luna, Lincoln County technology supervisor, dated Feb. 17, 2017.

⁸ Exhibit 3, Lincoln County Tennessee Request for Proposal/Bid (Lincoln County RFP), dated February 7, 2017.

⁹ See Lincoln County RFP, at 3.

¹⁰ *Id.*

¹¹ *Id.*

¹² Exhibit 4, FCDL.

compare dark fiber with lit fiber options.¹³ Specifically, “if a school or library intends to seek support to lease and light dark fiber, the schools or library must also solicit proposals to provide the needed services over lit fiber over a time period comparable to the duration of the dark-fiber lease or IRU.”¹⁴ The Order does not require or even speak to whether an applicant should require bids for both services from each potential vendor. If it was the FCC’s intent to seek separate bids for each type of service, the Order was not clear. Lincoln County’s reading of the language is reasonable.

Further, as described above, Mr. Luna tried to ensure that his RFP met the program requirements by sharing it with USAC prior to submitting it. Mr. Luna was not trying to subvert the competitive bidding process; to the contrary, he went above and beyond to ensure he was complying with the rules. Mr. Freddoso, who was the acknowledged expert at USAC on fiber applications, reviewed the RFP more than once and did not identify the provision in the RFP as an issue. Lincoln County appreciates that USAC was working with applicants to review their RFPs early in the process.

In fact, if Mr. Freddoso had identified this issue either time he reviewed the RFP, there would have been plenty of time for Lincoln County to issue another RFP and still complete all of the competitive bidding requirements in time to file its application. USAC should stand behind the work of its employees, especially, when as here, the rule is ambiguous and there was no effect on the competitive bidding process.

Finally, this alleged error did not harm the competitive bidding process in any way. USAC’s speculation that competitive bidding was harmed in this case is without foundation or basis. As described above, only one carrier has submitted bids for WAN services—lit or dark fiber—for the past three years. The only other carriers in the area do not have the necessary fiber facilities and do not seem interested in installing them or only want to bid on Internet access services. Regardless of what Lincoln County would have stated in its RFP, no other carrier would have bid to provide WAN services. It is fundamentally unfair for a simple misunderstanding of the rule to result in the loss of all of the district’s funding for an entire year.

For these reasons, Lincoln County’s respectfully requests that USAC reverse its decision to deny funding its E-rate application for WAN services for FY2017-18.

¹³ Modernization Order, ¶ 39.

¹⁴ *Id.*

Exhibit 7

Revised Funding Commitment Decision Letter dated May 1, 2018



May 1, 2018

Revised Funding Commitment Decision Letter

Funding Year 2017

Contact Information:

Bill Heath
LINCOLN COUNTY SCHOOL DISTRICT
206 DAVIDSON ST E
FAYETTEVILLE, TN 37334
bheath@lcsdoe.org

BEN: 128288

Post Commitment Wave: 18

Totals

Original Commitment Amount	\$0.00
Revised Commitment Amount	\$0.00

What is in this letter?

Thank you for submitting your post-commitment request for Funding Year 2017 Schools and Libraries Program (E-rate) funding. Attached to this letter, you will find the revised funding statuses and/or post commitment changes to the original Funding Commitment Decision Letter (FCDL) you received. Below are the changes that were made:

- Appeals

The Universal Service Administrative Company (USAC) is providing this information to both the applicant(s) and the service provider(s) so that all parties are aware of the post-commitment changes related to their funding requests and can work together to complete the funding process for these requests.

Next Steps

1. **File the FCC Form 486**, Service Confirmation and Children's Internet Protection Act (CIPA) Certification Form, for any FRNs included in this RFCDL, if you have not already done so. Please review the CIPA requirements and file the form(s).



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- o If USAC approved funding on an FRN in your original FCDL, the deadline to submit the FCC Form 486 is 120 days from the date of the original FCDL or from the service start date (whichever is later).
 - o If a new FRN was created for this RFCDL or funding was not approved on an FRN in your original FCDL but is approved in this RFCDL, the deadline to submit the FCC Form 486 is 120 days from the date of this RFCDL or from the service start date (whichever is later).
2. **Invoice USAC**, if you or your service provider have not already done so. Work with your service provider(s) to determine if your bills will be discounted or if you will request reimbursement from USAC after paying your bills in full.
- **If you (the applicant) are invoicing USAC:** You must pay your service provider(s) the full cost for the services you receive and file the [FCC Form 472](#), the Billed Entity Applicant Reimbursement (BEAR) Form, to invoice USAC for reimbursement of the discounted amount.
 - **If your service provider(s) is invoicing USAC:** The service provider(s) must provide services, bill the applicant for the non-discounted share, and file the [FCC Form 474](#), the Service Provider Invoice (SPI) form, to invoice USAC for reimbursement for the discounted portion of costs. Every funding year, service providers must file an [FCC Form 473](#), the Service Provider Annual Certification Form, to be able to submit invoices and to receive disbursements.
 - **To receive an invoice deadline extension, the applicant or service provider** must request an extension on or before the last date to invoice. **If you anticipate, for any reason, that invoices cannot be filed on time**, USAC will grant a one-time, 120-day invoice deadline extension if timely requested.

How to Appeal or Request a Waiver of a Decision

You can appeal or request a waiver of a decision in this letter **within 60 calendar days** of the date of this letter. Failure to meet this deadline will result in an automatic dismissal of your appeal or waiver request.

Note: The Federal Communications Commission (FCC) will not accept appeals of USAC decisions that have not first been appealed to USAC. However, if you are seeking a waiver of E-rate program rules, you must submit your request to the FCC and not to USAC. USAC is not able to waive the E-rate program rules.

- **To submit your appeal to USAC**, visit the Appeals section in the [E-rate Productivity Center \(EPC\)](#) and provide the required information. USAC will reply to your appeal submissions to confirm receipt.
- Visit USAC's [website](#) for additional information on submitting an appeal to USAC, including step-by-step instructions.
- **To request a waiver of the FCC's rules or appeal USAC's appeal decision**, please submit it to the FCC in proceeding number CC Docket No. 02-6 using the [Electronic Comment Filing System](#) (ECFS). Include your contact information, a statement that your filing is a waiver request,



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identifying information, the FCC rule(s) for which you are seeking a waiver, a full description of the relevant facts that you believe support your waiver request and any related relief, and any supporting documentation.

For appeals to USAC or to the FCC, be sure to keep a copy of your entire appeal, including any correspondence and documentation, and provide a copy to the affected service provider(s).

Obligation to Pay Non-Discount Portion

Applicants are required to pay the non-discount portion of the cost of the eligible products and/or services to their service providers. Service providers are required to bill applicants for the non-discount portion of costs for the eligible products and/or services. The FCC stated that requiring applicants to pay the non-discounted share of costs ensures efficiency and accountability in the program. If using the BEAR invoicing method, the applicant must pay the service provider in full (the non-discount plus discount portion) **before** seeking reimbursement from USAC. If using the SPI invoicing method, the service provider must first bill the applicant **before** invoicing USAC.

Notice on Rules and Funds Availability

The applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program and the FCC's rules. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds.



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Revised Funding Commitment Decision Overview

Funding Year 2017

Funding Request Number (FRN)	Service Provider Name	Request Type	Revised Committed	Review Status
1799060346	ENA Services, LLC	Appeals	\$0.00	Denied



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Post Commitment Request Number: 88042	Post Commitment Request Type: Appeals	Post Commitment Decision: Denied
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FRN: 1799060346	Service Type: Data Transmission and/or Internet Access	Original Status: Denied	Revised Status: Denied
FCC Form 471: 171028255			

Dollars Committed			
Monthly Cost		One-Time Cost	
Months of Service	12		
Total Eligible Recurring Charges	\$98,400.00	Total Eligible One Time Charges	\$0.00
Total Pre-Discount Charges		\$98,400.00	
Discount Rate		80.00%	
Revised Committed Amount		\$0.00	

Dates	
Service Start Date	7/1/2017
Contract Expiration Date	6/30/2020
Contract Award Date	4/21/2017
Service Delivery Deadline	6/30/2018
Expiration Date (All Extensions)	6/30/2022

Service Provider and Contract Information	
Service Provider	ENA Services, LLC
SPIN (498ID)	143030857
Contract Number	
Account Number	
Establishing FCC Form 470	170064564

Consultant Information	
Consultant Name	
Consultant's Employer	
CRN	

Revised Funding Commitment Decision Comments:
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Post Commitment Rationale:

The FRN 1799060346 was denied during PIA review due to competitive bid violation on the RFP that established the competitive bidding process for this FRN. The RFP (RFP Lit-Dark Fiber Services 17-22 page 3 item 2), specified that bid responses must include both Dark and Lit solutions. It was determined during the PIA review that this requirement could potentially dissuade prospective bidders from participating in the bid process and limit bid responses. Your appeal did not show that USAC's determination was incorrect. Consequently, your appeal is denied. |FCC rules require that all products and services for which an applicant requests discounts on an FCC Form 471 must be competitively bid on an FCC Form 470. The FCC Form 470 must include a complete description of the services



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for which discounts are sought, be posted on the website for 28 days, and applicants must 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). 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 Rcd 10095, 10098, FCC 97-246 para. 9 (rel. Jul. 10, 1997). To the extent an applicant seeks construction of a network that the applicant will own, the applicant must also solicit bids for both the services provided over third-party networks and construction of applicant-owned network facilities, in the same request for proposals. Similarly, to the extent an applicant seeks bids for special construction associated with dark fiber or bids to lease and light dark fiber, the applicant must also solicit bids to provide the needed services over lit fiber. Additionally, to the extent an applicant seeks bids for equipment and maintenance costs associated with lighting dark fiber, the applicant must include these elements in the same FCC Form 470 as the dark fiber. See C.F.R. secs. 54.503 (c) (iv)-(vi).