

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	
)	
Request for Review of a Decision of the)	Administrator Correspondence Dated
Universal Service Administration Corp. for)	June 23, 2018
Wicomico County School District)	
BEN 126413)	
FCC Form 471 171026689)	
FRNs 1799056918 & 1799113411)	

Request for Review or Waiver

In accordance with sections 54.719 through 54.721 of the Commission's rules, Wicomico County School District, Salisbury, MD (Wicomico) requests Federal Communications Commission ("FCC" or "Commission") review of a decision of the Schools and Libraries Division of the Universal Service Administrative Company ("USAC" or "Administrator"). USAC denied funding because it incorrectly interpreted the Competitive Bidding Process which was consistent with long standing FCC Rules and Precedence.¹ It is contrary to the public interest to deny \$93,757.30 in E-rate funding for badly needed reasonably priced services which is clearly less than the \$571,500.00 from the alternative bid, which would have been a waste and abuse of Universal Service Funds.

Consistent with precedent, Wicomico asks the Commission to overturn this decision and restore badly needed funding to Wicomico by granting this appeal or issuing a waiver as this

¹ Kalamazoo 2, DA 02-2975, Rel. November 4, 2002; Ysleta, FCC 03-313, Rel. December 8, 2003; Bishop Perry, FCC 06-54, Rel. May 19,2006

request contains no waste, fraud or abuse, or a failure to adhere to core program requirements, and is consistent with the public interest.

Discussion:

In February 2016, at the urging of State of Maryland government officials and Education Superhighway, Wicomico sought pricing for construction of a fiber optic lateral to Willards Elementary School. Skyline Technology Solutions (Skyline) provided Wicomico with a quote for the requested work on February 13, 2016 [Attachment 1.] Wicomico decided not to pursue the project at that time.

The E-Rate bidding process for FRNs 1799056918 & 1799113411 was formally initiated with FCC Form 470 170056237 on December 21, 2016. Due to minor modifications of errors included in the RFP documentation attached to this FCC Form 470, Wicomico placed the RFP on hold to update the RFP by issuing Addendum 1. Rather than attaching an updated RFP to this FCC Form 470, FCC Form 470 170066517 was issued on February 16, 2017 with an updated RFP. In addition to submitting the FCC Forms 470 and RFP's in USAC's E-rate Productivity Center (EPC), both FCC Forms 470 and the RFP's were posted on <http://www.emarylandmarketplace.com/> which reaches hundreds of vendors.

Consistent with the Kalamazoo Reconsideration Order, DA 02-2975, Wicomico appropriately and consistent with program rules, used the bid in hand from Skyline Technology Solutions (Skyline) dated February 13, 2016 as a response to the FCC Form 470 170066517, just as Kalamazoo used their existing contract as a bid.

Wicomico used the bid received from Skyline, February 13, 2016, for \$92,224.30 and the bid received from FTS Fiber received on March 22, 2017 the bid due date [Attachment 2,] for \$514,800.00 to conduct their competitive bidding process. The bid from FTS Fiber for the build was for \$514,800.00, 5.6 times the bid from Skyline. Had Wicomico accepted the bid from FTS Fiber they would have not only wasted funds they would have been in violation of cost-effectiveness requirements as illustrated in the Ysleta Order, FCC 03-313.

USAC erred in its decision that Skyline's confirmation of the validity of the pricing provided on March 31, 2017 was the date Skyline submitted their bid. Skyline's bid was based on the Carroll County Contract, CCPN RFP# 49.F.2.13.14, which has a contract end date of September 30, 2018. Reaching out and validating the pricing is a good business practice, just as it is a standard business practice to have expiration dates, which may be extended. USAC is relying on an updated quote that was prepared on April 20, 2017 to document in the Purchase Order file. The updated quote dated April 20, 2017 [Attachment 3] is exactly the same as the quote provided on February 16, 2016, with the exception of the Quote Date and Expiration Date, which confirms that the original quote was valid. The pricing was locked in by CCPN RFP# 49.F.2.13.14. At worst this would be considered an immaterial ministerial or procedural error, which the Bishop Perry Order, FCC 06-54 would excuse.

Just as FTS submitted their bid on the final day of the bid window there was no reason for Wicomico to expect Skyline to not do the same, thus it would have not been reasonable to reach out to Skyline again to submit their bid with an updated expiration date in conjunction with the new FCC Form 470.

The denial of FRN 171026689 should be reversed as the denial reasons were based on the denial of FRN 1799056918, which Wicomico has shown to be erroneous.

Conclusion:

Upholding USAC's decision would suggest that schools should either stay in the dark ages with slow, inconsistent Internet, or sign a contract for a non-cost-effective service, which may then be denied, or even worse COMAD/RIDF after the installation is complete. Wicomico properly followed E-Rate and Maryland State Laws and Regulations in this competitive bidding process. Signing a contract with FTS Fiber based on their bid would have been a clear waste of Funds. Any errors were simply technical in nature and in no way interfered with the Purpose of the E-Rate Program. Any of the Commission's rules may be waived if good cause is shown.² The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.³ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁴

We respectfully request approval of this appeal; though if the FCC agrees with USAC's decisions, these formalities may be waived in the interest of the public and there was no waste, fraud or abuse of the fund.

Respectfully Submitted,

/s/

David LeNard
Consultant on behalf of Wicomico County School District
410-902-5800 ext 103
dlenard@erateelite.com

² 47 C.F.R. § 1.3.

³ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

⁴ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.



Skyline Technology Solutions

6956-F Aviation Blvd.
Glen Burnie, MD 21061
Phone: (410) 553-2600
Fax: (410) 787-2551

QUOTATION

Quote No. Q0002601
Customer ID WICOMICO CPS
Quote Date 2/13/2016
Buyer Ian Robertson
Project Name Willards ES

Attachment 1:

BILL TO:	SHIP TO:
Wicomico County Public Schools 101 Long Ave Salisbury, MD 21804	Ian Robertson Wicomico County Public Schools 2424 Northgate Drive Suited 100 Salisbury, MD 21801

F.O.B. POINT		SHIP VIA		ORDERED BY	
				Ian Robertson	
QUOTE DATE		TERMS		SALES PERSON	
2/13/2016		Net 30 Days		Rick Fairhurst	
PART NUMBER		QUANTITY	UNITS	M.S.R.P.	UNIT PRICE
					DISC %
					EXTENDED PRICE

PART NUMBER	QUANTITY	UNITS	M.S.R.P.	UNIT PRICE	DISC %	EXTENDED PRICE
MISC JOB MATERIALS	1.00	EA	0.00	5,606.7000	0.00	5,606.70
Misc. Job Materials						
Notes:						
PROJECT MANAGER	20.00	EA	0.00	141.4000	0.00	2,828.00
Project Manager						
Notes:						
OUTSIDE PLANT TECH	340.00	EA	0.00	90.9000	0.00	30,906.00
Outside Plant Technician						
Notes:						
FIBER OPTIC LINE TEC	16.00	EA	0.00	161.6000	0.00	2,585.60
Fiber Optic Line Technician/Splicer						
Notes:						
STRUCTURE CABLE TECH	320.00	EA	0.00	60.6000	0.00	19,392.00
Structured Cable Tech						
Notes:						
HEAVY EQUIPMENT OPER	170.00	EA	0.00	181.8000	0.00	30,906.00
Heavy Equipment Operator						

Notes: Skyline Would like to thank you for allowing us to provide you with a formal quote to construct a fiber optic lateral to Willards Elementary School. The Scope of work is as follows:

1. Install new 2 inch conduit from existing fiber on Rt 50 North along Main St. Left on Old Ocean City Rd then North along Richardson turning left onto school property over to Willards ES. the conduit will then riser up on the exterior of the building penetrating above the drop ceiling.
5. Install new 12 count single mode fiber through the new 2 inch conduit from Rt 50 to the main data room of the Elementary School.
6. Terminat all 12 Fibers in a new Rack Mount fiber enclosure in the main data room rack.
7. Ring Cut existing backbone fiber and perform necessary splicing of fiber to create a single home run pair from Willards back to either Pittsville or the Herman Rd Bldg..
8. Test the new fiber bi-directional with both OTDR and Power Meter at both 1310 and 1550nm
9. Provide as built documentation and test result to County upon completion.

Continued



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QUOTE DATE		TERMS		SALES PERSON	
2/13/2016		Net 30 Days		Rick Fairhurst	
				2/13/2017	
PART NUMBER		QUANTITY	UNITS	M.S.R.P.	UNIT PRICE
		DISC %	EXTENDED PRICE		

Prices subject to change- we shall not be liable for any loss of profits, business, goodwill, data, interruption of business, nor for incidental or consequential warranty of merchantability or fitness for a particular purpose, and damages related to this agreement. Minimum 20% restocking fee with original packaging .

Make Purchase Orders to:

Skyline Technology Solutions
6956 Aviation Blvd., Suite F
Glen Burnie, MD 21061
410.553.2600 FAX 410.787.2551

Order Instructions

Please Include the Following Information on your PO:

Customer Address and Email
Ship to Address and Contact Name
Invoice Name and Address
PO Number
Quantities and Part Numbers
Order Date
Chassis Serial #(s) - Maintenance Requests
F.O.B. = Origin

Vendor Authorization:

Contract Vehicle

CCPN RFP# 49.F.2.13.14

Total	92,224.30
Total Misc. Charges	0.00
Sales Tax	0.00
TOTAL	92,224.30

Attachment 2:

OPTION 2 - LEASED DARK FIBER:

ONE-TIME FEES: \$ 514,800.00 Lump Sum

ONE-TIME FEES: \$ / 48 monthly

ESTIMATED DATE COMPLETION: 180 days ARO

Firm Fixed WAN FEES – 60 MONTH Contract:

First Fiber Pair (2 Strands): \$ 725.00 / Month

Additional Fiber Pair(s): \$ 600.00 / Month

Amount of available Fiber: 72 Pairs = 144 Strands

Firm Fixed WAN FEES – 84 MONTH Contract:

First Fiber Pair (2 Strands): \$ 675.00 / Month

Additional Fiber Pair(s): \$ 550.00 / Month

Amount of available Fiber: 72 Pairs = 144 Strands

Please provide any additional pricing information that is required to determine the Total Cost of Ownership for the above contract periods. Any fees not identified with the Form of Proposal will be assumed included in the above Monthly ISP Fees. Include the method used to adjust each fee with the Form of Proposal.

 - Check if a schedule of additional fees is attached.



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Attachment 3:

QUOTATION

Quote No.	Q0002601
Customer ID	WICOMICO CPS
Quote Date	4/20/2017
Buyer	Ian Robertson
Project Name	Willards ES

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MISC JOB MATERIALS	1.00	EA	0.00	5,606.7000	0.00	5,606.70
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Misc. Job Materials

Notes:

PROJECT MANAGER	20.00	EA	0.00	141.4000	0.00	2,828.00
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Project Manager

Notes:

OUTSIDE PLANT TECH	340.00	EA	0.00	90.9000	0.00	30,906.00
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Outside Plant Technician

Notes:

FIBER OPTIC LINE TEC	16.00	EA	0.00	161.6000	0.00	2,585.60
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Fiber Optic Line Technician/Splicer

Notes:

STRUCTURE CABLE TECH	320.00	EA	0.00	60.6000	0.00	19,392.00
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Structured Cable Tech

Notes:

HEAVY EQUIPMENT OPER	170.00	EA	0.00	181.8000	0.00	30,906.00
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Heavy Equipment Operator

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Vendor Authorization:

Contract Vehicle

CCPN RFP# 49.F.2.13.14

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