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DA 98-977
Released: May 21, 1998

FLORIDA DEPARTMENT OF MANAGEMENT SERVICES FILES MOTION FOR DECLARATORY RULING OR, IN THE ALTERNATIVE, PETITION FOR WAIVER, OF EXISTING CONTRACTS RULE

PLEADING CYCLE ESTABLISHED

CC Docket No. 96-45

Comment Date: June 11, 1998
Reply Comment Date: June 22, 1998

In an order released on May 8, 1997, the Federal Communications Commission ("Commission") concluded that schools and libraries must solicit competitive bids for all services eligible for universal service discounts.¹ In the *Universal Service Order*, the Commission also held that schools and libraries could obtain universal service discounts on certain existing contracts without complying with the competitive bidding requirement.² In so holding, the Commission adopted the Joint Board's recommendation that the Commission not require schools and libraries to renegotiate contracts in order to benefit from federal universal service support.³ The Commission stated that this limited exemption from the competitive bidding requirement "shall not apply to voluntary extensions of contracts."⁴

On May 11, 1998, the Florida Department of Management Services ("Florida DMS") filed a Motion for Declaratory Ruling or, Alternatively, a Petition for Waiver, of the

¹ Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, 12 FCC Rcd 8776, 9029, para. 480 (released May 8, 1997) (*Universal Service Order*).

² *Universal Service Order*, 12 FCC Rcd at 9062-63, para. 545. The Commission subsequently clarified the definition of existing contracts exempt from the competitive bid requirement. See 47 C.F.R. § 54.511(c)(i), (ii). See also Federal-State Joint Board on Universal Service, *Fourth Order on Reconsideration*, CC Docket No. 96-45, FCC 97-420, at para. 217 (released December 30, 1997) (adopting existing contract rule).

³ *Universal Service Order*, 12 FCC Rcd at 9063-64, para. 547.

⁴ *Universal Service Order*, 12 FCC Rcd at 9063, para. 545.

Commission's rule regarding voluntary extensions of contracts.⁵ The Florida DMS seeks a declaratory ruling that exercise of its contract renewal provisions, which it contends are part of its original master contracts, are not voluntary extensions of contracts and meet the Commission's definition of an existing contract. The Florida DMS seeks this ruling so that exercise of its renewal options would be exempt from the Commission's competitive bid requirements.⁶ If the Commission does not render such a ruling, the Florida DMS alternatively seeks a waiver of the Commission's rule on voluntary extensions of contracts, with the result that the exercise of its contract renewal options would be exempt from the Commission's competitive bid requirements.⁷ Parties wishing to comment on this petition are directed to file comments on or before **June 11, 1998**, to file reply comments on or before **June 22, 1998**, and to follow the procedures set forth below.

Filing Requirements. All filings should reference: **Florida Department of Management Services Motion for Declaratory Ruling or, in the Alternative, Petition for Waiver, CC Docket No. 96-45, DA 98-977.** All interested parties should include the name of the filing party and the date of the filing on each page of their comments and reply comments. Parties should include a table of contents in all documents regardless of length and should indicate whether they are filing an electronic copy of a submission via the Internet or via diskette. Pleadings must comply with Commission rules.⁸ One original and five copies of all comments and reply comments must be sent to Magalie Roman Salas, Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Three copies also should be sent to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, 2100 M Street, N.W., 8th Floor, Washington, D.C. 20554. Copies of documents filed with the Commission may be obtained from the International Transcription Service, 1231 20th Street, N.W., Washington, D.C. 20037, (202) 857-3800. Such documents are also available for review and copying at the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., from 9:00 a.m. to 4:30 p.m.

Parties may also file informal comments or an exact copy of formal comments electronically via the Internet at: <<http://www.fcc.gov/e-file/ecfs.html>>. Only one copy of an electronic submission must be submitted. A party must note whether an electronic submission is an exact copy of formal comments on the subject line and should note in its paper submission that an electronic copy of its comments is being submitted via the Internet. A commenter also must include its full name and Postal Service mailing address in its submission. Parties not submitting an exact copy of their formal comments via the Internet are also asked to submit their comments on diskette. Parties submitting diskettes should submit them to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, 2100 M Street, N.W., Room 8606, Washington, D.C. 20554. Such a submission should be on a 3.5

⁵ Florida Department of Management Services, Motion for Declaratory Ruling or, Alternatively, Petition for Waiver, filed May 11, 1998 (*Florida DMS Motion*).

⁶ *Florida DMS Motion* at 9-10.

⁷ *Florida DMS Motion* at 10.

⁸ See, e.g., 47 C.F.R. §§ 1.49, 1.415, 1.419.

inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. Each diskette should contain only one party's pleadings, preferably in a single electronic file. Electronic submissions are in addition to and not a substitute for the formal filing requirements addressed above.

Ex parte contact. Filing of this petition initiates a permit-but-disclose proceeding under the Commission's rules.⁹

For further information on this Public Notice, contact Frances Downey or Irene Flannery, Accounting Policy Division, Common Carrier Bureau at (202) 418-7400.

-- Action by Chief, Accounting Policy Division --

⁹ See 47 C.F.R. § 1.1206.