

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC 20554

In the matter of)
)
Request for Waiver by)
)
Infinity Communications and)
Consulting, Inc.)
Bakersfield, California)
)
Central Unified School District)
Fresno, California)
)
Lake Tahoe Unified School District)
South Lake Tahoe, California)
)
Santa Rita Union School District)
Salinas, California)
)
Schools and Libraries Universal Service) CC Docket No. 02-06
Support Mechanism)
)

SUPPLEMENT TO PETITION FOR WAIVER

On December 31, 2014 we sent in a **PETITION FOR WAIVER** for the above E-Rate Applicants. We inadvertently left out an attachment. Attached to this SUPPLEMENT is the USAC Selective Review response we sent in for Santa Rita Union School District dated October 28, 2014. The attached USAC letter dated September 29, 2014 clearly points out our concern that USAC is now applying the new E-rate Modernization Order criteria that came out on July 23, 2014 to prior year(s) E-rate applications where the SLD Reviewer states "In the recent *E-rate Modernization Order*, the FCC explained that individual data plans are generally not a cost-effective means for applicants to purchase on-campus Internet connectivity.". As we stated in our PETITION FOR WAIVER, "Infinity maintains that this kind of cost comparison was never announced, implied or

even discussed for Funding Years 2013 and 2014, either on the USAC website or at USAC training sessions (for applicants and/or service providers)."

Prior to the July 23, 2014 E-rate Modernization order being published, we can find no written record on the SLD website and/or in any SLD training materials, where the information listed below were criteria we needed to consider to receive E-rate funding for funding years 2013 and 2014. The questions below came from the September 29, 2014 Santa Rita USD Selective Review letter:

'9. For each building, did you investigate the cost of providing the same wireless data access by expanding the capacity of your existing wired or wireless LANs to handle any additional bandwidth required (or purchasing it if you did not have any prior access (including purchasing any necessary wireless access points (WAPs)))? If not, why not?

10. If you did, a) what was the cost for such upgrades and b) explain why purchasing such upgrades was not more cost effective than purchasing the wireless data plans? Please provide supporting documentation.

12. If you compared the cost of cellular data plans to the cost of upgrading your broadband capacity to handle the wireless devices, did you compare the prices of the options in the marketplace BEFORE considering any E-rate discounts or only AFTER reducing the prices by the expected E-rate discounts? "

While we now understand the above criteria need to be considered prior to applying for wireless access going forward for funding year 2015 and beyond, this is not the criteria given to us in past years and for this reason, we are requesting this waiver.

Respectfully submitted,

Fred Brakeman

Fred Brakeman RCCD, CSI, CEMP
President

January 2, 2015

FY2014 E-rate Application Information Request

September 29, 2014

Brittany Mosqueda
Santa Rita Union School District
FCC Form 471 Application Number(s): 963214

Response Due Date: **October 14, 2014**

Santa Rita Union School District's Response Date: 10/28/2014

Dear Applicant:

We are currently in the process of reviewing your FY 2014 applications for E-rate support and have some questions about your Priority One funding requests for wireless data services.

Applicants are required to select cost-effective solutions when seeking E-rate support.¹ The above-referenced funding request(s) seeks substantial financial support for individual cellular data plans. In the recent *E-rate Modernization Order*, the FCC explained that individual data plans are generally not a cost-effective means for applicants to purchase on-campus Internet connectivity.²

Furthermore, you have also requested E-rate funding for separate high-capacity connections to your schools, which appears to make the individual data plans a duplicative service. Duplicative services are services that deliver the same functionality to the same population in the same location during the same time.³ In the *Second Report and Order*, the FCC determined that the use of duplicative services contravenes the requirement that discounts be awarded to meet the "reasonable needs and resources" of applicants.

In order for us to reach a funding decision regarding your funding request for 10GB mobile broadband for 3200 devices requested on application 963214 FRN 2617096, please provide answers to the following questions:

A. Preliminary eligibility of services

1. Please provide an explanation of why you are requesting funding to purchase a large number of cellular data connections rather than building out your Local Area Network (LAN)/Wireless Local Area Network (WLAN). **There are two reasons, one is curriculum based (as the tablets provide the best resource for achieving our curriculum goals) and the other is economic (as building out**

¹ See 47 C. F. R. § 54.511(a); *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order and Further Notice of Proposed Rulemaking, FCC 14-99, para. 50 (*E-rate Modernization Order*); *Request for Review by Ysleta Independent School District of the Decision of the Universal Service Administrator*, CC Docket Nos. 96-45, 97-21, Order, 18 FCC Rcd 26407, 26432, para. 54 (2003).

² See *E-Rate Modernization Order*, para. 151.

³ See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9209, para. 22 (2002) (*Second Report and Order*).

a Local Area Network would run to about \$250,000 per site). With limited E-rate support available for building out the LAN, this undertaking was simply beyond the scope of what the District could afford on its own. The decision to proceed with cellular data connections was based on it being a Priority One service (allowing us to take advantage of both the E-rate support and California TeleConnect support to which we were entitled. Additionally, it would allow our students to take the tablets off campus (use for which we have made a cost allocation), which allows them to work towards our curriculum goals. Lastly, prior to 7/11/14, the 7th Report and Order had not yet been issued and the comparison of cellular data connections cost against the cost of a Local Area Network (LAN)/Wireless Local Area Network (WLAN) was not the standard set.

2. Please describe who used/will be using the individual data plans and how the connections were used/are to be used. Are the connections for students, teachers, or staff? Please provide a breakdown of the number of data plans for students/teachers/other staff. Where are the services used? **The individual data plans are designed for student use. The data-enabled devices will be used throughout the day for instructional purposes. There are 3200 data plans between HP tablets for Kindergarten through second grade and 14" HP Chromebooks for grades 3-8.**
3. Do any of the individual data plans come with free or reduced prices for mobile devices? **Yes.** If so, because E-rate does not support the cost of mobile devices, have you deducted any cost attributable to the device from the cost of the service plan? **No.** If so, what is the cost allocation? **N/A.** If not, why not? Note, your cost-allocation must be based on tangible criteria and reach a realistic result. **At the time of application there was no requirement to do a cost allocation. There is currently a pending request for clarification in front of the FCC on the methodology to be used for such a retroactive cost allocation.**
4. Are students/teachers/staff that use the individual data plans able to take the devices associated with those data plans off campus? Can some or all of the students/teachers/other staff use the data services off campus? **Yes, grades 6-8 will be taking the devices home with them and using the data plans. Grades K-5 will not be taking the devices home.**
 - (a) If so, how many can students/teachers/other staff can use the data services off campus and what is the breakdown? **Of the 3200 devices, 1100 will be taken home. The students taking them home will be in Grades 6, 7, and 8 will be using the devices both on and off-campus.**
 - (b) If so, because E-rate only supports on campus use, not off-campus use, have you deducted a portion of the cost of the service based on off-campus use? If so, how did you allocate costs and what, if any, records of off-campus traffic usage did you base it on, and can you provide them? If not, why not? **Yes, we estimate that of the time spent using them on campus that of the data plan usage, 11% of the data plan usage will be used at home. See attached calculation form.**
 - (c) If not, what safeguards do you have to prevent off-campus use?

B. Duplicative services and cost-effectiveness

Please answer questions 5-8 for each building used by the students, teachers, or other staff with access to the individual data plans for which you have sought support.

5. For each funding year at issue, how much bandwidth did you or do you need to meet the on-campus educational needs of your students? For example, for each elementary school you may have determined that in funding year 2013, you needed 100 Mbps connectivity. **Currently, we are at 100 Mbps across the campuses and between school sites back to the data center. We**

- would like to have a 1 Gbps connection between our school sites and to our ISP at some point in the near future.
6. How much bandwidth do the individual wireless data plans for which you are seeking support provide for the students, teachers, and staff in in the school? The 4G LTE bandwidth will be at whatever speed is provided by the cellular towers in the area. This might be at 2-15 Mbps per device, but there are a lot of atmospheric variables which will affect the actual throughput speeds. Once the 4G LTE data limit is reached during the billing cycle, it will be throttled back to 2G speeds, which is approximately 128 Kbps until the start of the new billing cycle.
 7. What other broadband connections do you have to that building and how much bandwidth do such connections provide? The only connections provided are (1) 100 Mbps leased fiber line to each school site.
 8. If the total of 7) and 8) exceeds the total for 6), please explain why your request does not represent a request for duplicative services? This request does not represent a request for duplicative services because of the aggregate connectivity capacity across our district. With the addition of over 3,200 devices to our network, we do not have the capacity to effectively handle the aggregate demands on our infrastructure. The traffic generated by the influx of devices would cause a massive amount of slowdowns and latency across our district.
 9. For each building, did you investigate the cost of providing the same wireless data access by expanding the capacity of your existing wired or wireless LANs to handle any additional bandwidth required (or purchasing it if you did not have any prior access (including purchasing any necessary wireless access points (WAPs)))? If not, why not? See answer to question A.2 above.
 10. If you did, a) what was the cost for such upgrades and b) explain why purchasing such upgrades was not more cost effective than purchasing the wireless data plans? Please provide supporting documentation. See answer to question A.2 above.
 11. Did you use anything in addition to the FCC Form 470, such as a Request for Proposal, to provide potential bidders with a more detailed description of the service you sought, i.e., to provide connections to the mobile devices at issue here? Yes, we issued a Request for Proposal. If so, please provide such materials. See attached Request for Proposal. If your description narrowed your request to only wireless priority one solutions or individual data plans, why did you do so? See answer to question A.2 above.
 12. If you compared the cost of cellular data plans to the cost of upgrading your broadband capacity to handle the wireless devices, did you compare the prices of the options in the marketplace BEFORE considering any E-rate discounts or only AFTER reducing the prices by the expected E-rate discounts? We looked at the potential fiscal impact both before we looked at installing Wireless LAN's vs Wireless Tablets and also after receiving quotes back after we put out a RFP for the wireless tablet service. We note, however, that this question assumes a standard that was not in effect during early 2014 when we were putting together the application for Funding Year 2014. We followed all of the requirements for cost allocation and determining cost effectiveness that were in place at the time.

Please email or fax the requested information to my attention. If you have any questions or you do not understand what we are requesting, please feel free to contact me.

It is important that we receive all of the information requested within 15 calendar days so we can complete our review of your application(s). Failure to send all of the information requested may result

Cost Effective Review Information request

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Response due: 10/14/2014

in a reduction or denial of funding. If you need additional time to prepare your response, please let me know as soon as possible.

Thank you for your cooperation and continued support of the Universal Service Program.

Sincerely,

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