



E-Rate Consulting Contract Agreement

Effective 4/24/2014, the Education Service Center Region 12 E-Rate Consulting, (“ESC12 E-Rate”) and San Diego ISD (“Applicant”) each agree to perform the obligations listed in this Agreement which includes a Letter of Agency.

Letter of Agency Applicant hereby authorizes **ESC12E-Rate** to file FCC Forms 470, 471 486, 472, 500 and other relevant FCC forms necessary to comply with E-Rate program rules on behalf of the Applicant for all Program Years, past, present, and future as necessary. These FCC forms are necessary to receive Universal Service Fund monies, more commonly known as the “E-Rate Program.” With the sole exception of ESC12E-Rate acting as an agent of Applicant for the purpose of filing FCC Forms 470, 471 486, 472, 500 and other relevant FCC forms and all processes necessary to comply with E-Rate program rules on behalf of the Applicant for all Program Years, past, present, and future as necessary, the Applicant does not authorize ESC12E-Rate to act as an agent of the Applicant or on behalf of the Applicant in any other capacity.

The Applicant will: (1) be listed as the contact person on the above referenced FCC forms, unless otherwise agreed upon; (2) sign and certify all relevant FCC Forms, unless otherwise agreed upon and (3) order services listed on the application. The Applicant understands they are liable for any and all certifications and representations made on FCC Forms concerning the E-Rate program.

This Agreement is subject to change based upon program rule changes made by the FCC or the Schools and Libraries Division (SLD) of the Universal Service Administrative Company, as well as any changes in applicable federal or state law. Either party’s failure to fulfill the obligations listed below will discharge, at the option of the other party, such other party’s obligations contained herein. To the fullest extent permitted under Texas law, Applicant agrees to indemnify, defend, and hold harmless ESC12E-Rate for any and all claims arising hereunder or related to this Agreement, including matters within the jurisdiction of state or federal administrative agencies. Any waiver by either party of any provision of this Agreement shall not operate as, nor be construed to be, a waiver of any subsequent breach thereof.

By signing this Agreement, Applicant makes the following certifications:

- a) Applicant and all applicants in its system meet the statutory definitions of elementary and secondary applicants found in the **No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38)** do not operate as for-profit businesses and do not have endowments exceeding \$50 million.
- b) Applicant has secured 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. Applicant recognizes that some of the aforementioned resources are not eligible for support. Applicant certifies securement of all the resources to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. Applicant will pay the non-discount portion of the cost of goods and services to the service provider(s).
- c) If required by Commission rules, all of its applicants are covered by technology plans that do or will cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body or an SLD-certified technology plan approver prior to the submission of the FCC Form 486 and commencement of service.

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- d) Applicant will post Form 470 and (if applicable) make any related RFP available for at least 28 days before considering all bids received and selecting a service provider. Applicant certifies that all bids submitted will be carefully considered and the most cost-effective service offering will be selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals.
 - e) Applicant has reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and all applicants related to the Applicant have complied with them.
 - f) Applicant certifies that the services purchased at discounts provided by 47 U.S.C. § 254 will be used primarily for educational purposes 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. §§ 54.500, 54.513. Additionally, the Applicant will not receive anything of value or a promise of anything of value, other than services and equipment sought from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.
 - g) Applicant certifies that it will comply with all program rules, including recordkeeping requirements and acknowledges that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. Applicant acknowledges that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.
 - h) Applicant certifies that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged applicants that are treated as sharing in the service, receive an appropriate share of benefits from those services.
 - i) Applicant certifies that it will retain required documents for a period of at least five (5) years (or whatever retention period is required by the rules in effect at the time of this certification), after the last day of service delivered. Applicant certifies that it will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of and delivery of services receiving schools and libraries discounts and that if audited, it will make such records available to ESC12E-Rate. Applicant acknowledges that it may be audited pursuant to participation in the schools and libraries program.
 - j) Applicant certifies that it is authorized to order telecommunications and other supported services for the eligible entity(ies) covered by this Agreement. The Applicant certifies that it is authorized to make this request on behalf of the eligible entity(ies) covered by this Agreement, the Applicant has examined this Agreement, that all of the information on this Agreement is true and correct to the best of the Applicant's knowledge, that the entities that will be receiving discounted services under this Agreement pursuant to Applicant's application have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.
 - k) Applicant acknowledges 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. Applicant will institute reasonable measures to be informed and will notify USAC should Applicant be informed or become aware that Applicant or any of the entities, or any person associated in any way with the entity and/or the entities, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.
 - l) Applicant certifies, on behalf of the entities covered by this Agreement, that any funding requests for internal connections services, except basic maintenance services, applied for are not in violation of the Commission requirement that eligible entities are not eligible for such support

more than twice every five (5) funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. § 54.506(c).

- m) Applicant certifies that the non-discount portion of the costs for eligible services will not be paid by the service provider. Applicant acknowledges that the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product, constitutes a rebate of some or all of the cost of the supported services.
- n) Applicant certifies that it is authorized to sign this Agreement and, to the best of the Applicant's knowledge, information, and belief, all information provided to ESC12E-Rate for E-Rate submission is true.

Responsibilities and Obligations of the Applicant

1. The Applicant agrees to thoroughly complete the Client Questionnaire in the ESC12E-Rate online management system within **10 business days after new client orientation has been completed** unless other arrangements have been agreed upon by both parties.
2. The Applicant agrees to inform ESC12E-Rate of any state or local bidding restrictions and/or regulations prior to filing the FCC Form 470. These restrictions or regulations include, but are not limited to, bonding requirements and media or public notification requirements.
3. The Applicant agrees to notify ESC12E-Rate of any products or services to be included on the FCC Form 470 application that may potentially be purchased or governed by a contract prior to filing the FCC Form 470.
4. The Applicant understands that all contracted services or products (that is, services or products that are purchased or governed by a contract) to be listed on the Application for discounts must be covered under a contract executed in the proper time period (after the 28 day bidding cycle is over, but before the submission of the FCC Form 471). The Applicant further understands that funding for services contracted before the allowable 28 day bidding has ended, or after the 471 Application is submitted, may not be funded.
5. Applicant agrees to document the bid evaluation process (a list of evaluation factors and how many points each bid received for each factor) for any service requested for which one or more bids are received. **All bids received in accordance with applicable laws and Applicant's policies and procedures must be evaluated.**
6. The Applicant agrees to provide ESC12E-Rate copies of an average month's bill for all services to be included on the FCC Form 471 application.
7. If applicable, the Applicant agrees to include and describe, in the Applicant's Technology Plan, any purchases of equipment to be included on the Application. The Applicant agrees to have a written technology plan for the relevant funding year before authorizing ESC12E-Rate to file FCC Form 470.
8. If applicable, the Applicant agrees to have its Technology Plan approved by the appropriate agency (which is usually the Texas Education Agency for Texas public and charter applicants) no later than June 30th of the funding year prior to the start of services.
9. The Applicant agrees to provide any information necessary to file any FCC form to ESC12E-Rate upon request, **within five (5) Applicant business days** unless otherwise agreed upon by both parties. This includes, but is not limited to, free and reduced lunch information, monthly bills, copies of contracts, and letters that authorize ESC12E-Rate to obtain account information. **Failure to do so may result in delay or denial of funding. Additional fees from ESC12E-Rate may also apply.**
10. The Applicant agrees to forward to ESC12E-Rate any request for information originated from the SLD or USAC within **three (3) Applicant business days**. **Failure to do so may result in delay or denial of funding. Additional fees from ESC12E-Rate may also apply.**
11. The Applicant agrees to provide an authorized signature and date for any necessary FCC Form that has been prepared by ESC12E-Rate upon review and approval of the FCC form by Applicant.

12. The Applicant understands that it is the sole responsibility of the Applicant to follow and adhere to any and all relevant FCC, USAC, or SLD rules and regulations, as well as any applicable federal, state, or local laws.

Responsibilities and Obligations of ESC12E-Rate

1. ESC12E-Rate agrees to complete on behalf of the Applicant any relevant FCC Form, Service Provider Identification Number Change requests, Service Substitution requests, and any necessary requests during the length of this Agreement. **Any additional services for which the Applicant desires to pursue, such as appeals, will be provided at an additional charge.**
2. ESC12E-Rate agrees to notify the Applicant of relevant program rule changes within a reasonable time period during the length of this Agreement.
3. If desired by the Applicant, ESC12E-Rate agrees to assist the Applicant to determine the scope and details of the types of services or products to be included in the competitive bidding process. These services/products will be listed on FCC Form 470 and must undergo a minimum 28-day competitive bidding cycle.
4. ESC12E-Rate agrees to notify Applicant of relevant deadlines for the submission of completed FCC Forms 470 and 471 to the SLD.
5. ESC12E-Rate will provide assistance with any question or inquiry regarding the E-Rate Program or the services to be provided by ESC12E-Rate hereunder from the Applicant, the SLD, USAC, or any other such federal or state administrative agency.
6. ESC12E-Rate agrees to provide on-going E-Rate support to the Applicant, as generally described above, and including providing reminders about upcoming deadlines for a period starting no earlier than the execution date of this Agreement and ending no earlier than the end of this Agreement.
7. ESC12E-Rate agrees to provide support in the event of a Payment Quality Assurance Review, Invoice Audit Review, Selective Review or any other SLD review during this Agreement. Furthermore, ESC12E-Rate agrees to provide support should an on-site audit conducted by the SLD or their representatives occur covering an application filed by ESC12E-Rate during this Agreement.
8. ESC12E-Rate agrees to perform all tasks and the scope of work detailed in the Scope of Work section.

Scope of Work

“E-Rate Works” is an effective management of your applicant’s entire E-Rate process while still working hand-in-hand with your E-Rate team in making sure all parties are always informed of any correspondence with USAC. “E-Rate Works” consists of the following deliverables that will ensure exemplary results:

- Access to our online database management system
- Use of RFP Management System for electronic proposal submission
- Internal Auditing of all E-Rate invoices
- Children’s Internet Protection Act (CIPA) Compliance Review
- Technology Plan Compliance Review
- Priority 1 and Priority 2 funding support as requested by the applicant
- Discount Rate Analysis and Optimization
- Forms Preparation and Submission
- Initial Review, Selective Review, and Site Review Support (all PIA and audit reviews)

Our database allows you to store up to 1.5 Gigabytes of information as part of your contract amount. If you exceed this amount of storage, you will be invoiced \$150.00 for each additional Gigabyte.

Any on-site travel required will be an additional fee based on the mode of transportation and time needed. We will discuss the per diem rate on an individual case basis when necessary.

Failure by the Applicant to perform the obligations and responsibilities listed on this Agreement, and the possible loss of funding as a result thereof, does not discharge full payment obligations of the Applicant.

This Agreement is effective to act on your behalf for Funding Year 2008 through 2025.

LIABILITY

IN NO EVENT WILL ESC12E-RATE BE LIABLE TO THE APPLICANT FOR ANY ACTUAL, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE THAT MAY RESULT FROM ESC12E-RATE'S PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT OR APPLICANT'S FAILURE TO TIMELY SUBMIT NECESSARY INFORMATION TO ESC12E-RATE, INCLUDING BUT NOT LIMITED TO A DELAY OR DENIAL OF APPLICANT'S FUNDING.

Confidentiality Statement: To the extent permitted by law, the parties shall not disclose any information contained in this Agreement. Notwithstanding any provision of this Agreement to the contrary, nothing herein may be construed as a limitation on Applicant's obligation under the Texas Public Information Act, Texas Government Code Chapter 552, and no disclosure of materials required by the Act shall constitute a breach of this Agreement. In the event the Applicant receives a request for information contained in this Agreement, Applicant shall promptly notify ESC12E-Rate of the request and shall permit ESC12E-Rate to submit to the Texas Attorney General reason why information contained in this Agreement should not be released pursuant to the Texas Government Code § 553.305. Applicant shall not be required to submit such reasons why the materials should not be released, or to incur an expense in resisting the release of the materials.

Signing below indicates that both parties agree to every provision of this Agreement.

San Diego ISD
Name of Applicant

Education Service Center Region 12
Name of Service Provider

Rosalinda Flores
Applicant Authorized Signature

Sharon Henson
ESC12E-Rate Authorized Signature

5/16/2014
Date

5/21/14
Date

Rosalinda Flores
Printed Name

Sharon Henson
Printed Name

Director of Media Services
Title or Position

Deputy Director,
School Support & Grant Services Division
Title or Position

Any additional support needed by the applicant may be added during the term of the contract through a contract addendum. This includes technology plan development, waiver/appeal requests, on-site internal evaluation, training, workshops and any other additional E-Rate support your applicant may need that is not listed in this section.