EXHIBIT B

FUNDING COMMITMENT REPORT
Service Provider Name: ENA Services, LLC
SPIN: 143030857
Funding Year: 2014

Name of Billed Entity: DAYTON CITY SCHOOL DISTRICT
Billed Entity Address: 520 CHERRY ST
Billed Entity City: DAYTON
Billed Entity State: TN
Billed Entity Zip Code: 37321-1482
Billed Entity Number: 128277
Contact Person's Name: Matt Marcus
Preferred Mode of Contact: EMAIL
Contact Information: Matt@DaytonCity.net
FCC Form 471 Application Number: 968862
Funding Request Number: 2637402
Funding Status: Not Funded
Category of Service: Internet Access
Site Identifier: 47 00930 00315
FCC Form 470 Application Number: 283390001111946
Contract Number: 2-225071-00
Billing Account Number: Dayton City Voice
Service Start Date: 07/01/2014
Contract Expiration Date: 06/30/2016
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: $28,385.40
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: $.00
Pre-Discount Amount: $28,385.40
Applicant's Discount Percentage Approved by SLD: 80%
Funding Commitment Decision: $.00 - Contract Violation
Funding Commitment Decision Explanation: DR1: This FRN is denied because you failed to demonstrate that a valid contract exists between Sweetwater City School District Consortium (SCSDC) and ENA Services, LLC (ENA). The SCSDC provided a contract between Metropolitan Nashville Public Schools (MNPS) and ENA (Contract # 2-225071-00) that was signed and executed March 7, 2011. In their response, the SCSDC stated that the ENA costs proposed to the SCSDC were lower than the costs proposed in the previous consortium procurement with MNPS. SCSDC selected MNPS pricing instead of executing a contract with ENA. SCSDC has not demonstrated that there was a contract executed between SCSDC and ENA. Furthermore, there is no provision in the MNPS contract, or underlying RFP, that allows for the SCSDC to piggy-back onto that contract. In response to our Intent to Deny letter, SCSDC cited Tennessee Code Section 12-3-1203(b)(1)-(2)to support that a valid contract exists. Since this statue is limited to the purchase of equipment, the MNPS contract falls outside of the Tennessee Code parameters. Additionally, the dollar amount exceeds the statutory threshold. Accordingly, SCSDC failed to demonstrate that a valid contract is in place. <><><><><> DR2: SCSDC was afforded opportunities to justify the selection of ENAs bid proposal of $9,336,396, which is over $3 million more than AT&Ts $6,053,804.04bid, as the most cost-effective solution. SCSDC stated that AT&Ts bid had defects which had the cumulative effect of offsetting the value of a lower sticker price. SCSDC acknowledged that the price differential is significant but indicated ENAs service offering was unique and not comparable to AT&T. SCSDC also stated AT&Ts bid excluded installation charges. A thorough review of each proposal shows that the services offered are similar. As a result, the circumstances presented do not justify the selection of ENA and it has been determined that SCSDC failed to adhere to the requirements of selecting the most cost-effective solution.

FCDL Date: 10/19/2015
Wave Number: 068
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2016

Consultant Name:
Consultant Registration Number (CRN):
Consultant Employer:

EXHIBIT B

FUNDING COMMITMENT REPORT
Service Provider Name: ENA Services, LLC
SPIN: 143030857
Funding Year: 2014

Name of Billed Entity: DAYTON CITY SCHOOL DISTRICT
Billed Entity Address: 520 CHERRY ST
Billed Entity City: DAYTON
Billed Entity State: TN
Billed Entity Zip Code: 37321-1482
Billed Entity Number: 128277
Contact Person's Name: Matt Marcus
Preferred Mode of Contact: EMAIL
Contact Information: Matt@DaytonCity.net
FCC Form 471 Application Number: 972289
Funding Request Number: 2647173
Funding Status: Not Funded
Category of Service: Internet Access
Site Identifier: 47 00930 00315
FCC Form 470 Application Number: 283390001111946
Contract Number: 2-225071-00
Billing Account Number: Dayton City
Service Start Date: 07/01/2014
Contract Expiration Date: 06/30/2016
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: $48,000.00
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: $.00
Pre-Discount Amount: $48,000.00
Applicant's Discount Percentage Approved by SLD: 80%
Funding Commitment Decision: $.00 - Contract Violation
Funding Commitment Decision Explanation: DR1: This FRN is denied because you failed to demonstrate that a valid contract exists between Sweetwater City School District Consortium (SCSDC) and ENA Services, LLC (ENA). The SCSDC provided a contract between Metropolitan Nashville Public Schools (MNPS) and ENA (Contract # 2-225071-00) that was signed and executed March 7, 2011. In their response, the SCSDC stated that the ENA costs proposed to the SCSDC were lower than the costs proposed in the previous consortium procurement with MNPS. SCSDC selected MNPS pricing instead of executing a contract with ENA. SCSDC has not demonstrated that there was a contract executed between SCSDC and ENA. Furthermore, there is no provision in the MNPS contract, or underlying RFP, that allows for the SCSDC to piggy-back onto that contract. In response to our Intent to Deny letter, SCSDC cited Tennessee Code Section 12-3-1203(b)(1)-(2)to support that a valid contract exists. Since this statue is limited to the purchase of equipment, the MNPS contract falls outside of the Tennessee Code parameters. Additionally, the dollar amount exceeds the statutory threshold. Accordingly, SCSDC failed to demonstrate that a valid contract is in place. <><><><><> DR2: SCSDC was afforded opportunities to justify the selection of ENAs bid proposal of $9,336,396, which is over $3 million more than AT&Ts $6,053,804.04 bid, as the most cost-effective solution. SCSDC stated that AT&Ts bid had defects which had the cumulative effect of offsetting the value of a lower sticker price. SCSDC acknowledged that the price differential is significant but indicated ENAs service offering was unique and not comparable to AT&T. SCSDC also stated AT&Ts bid excluded installation charges. A thorough review of each proposal shows that the services offered are similar. As a result, the circumstances presented do not justify the selection of ENA and it has been determined that SCSDC failed to adhere to the requirements of selecting the most cost-effective solution.

FCDL Date: 10/19/2015
Wave Number: 068
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2016

Consultant Name:
Consultant Registration Number (CRN):
Consultant Employer:

EXHIBIT B

FUNDING COMMITMENT REPORT
Service Provider Name: ENA Services, LLC
SPIN: 143030857
Funding Year: 2015

Name of Billed Entity: DAYTON CITY SCHOOL DISTRICT
Billed Entity Address: 520 CHERRY ST
Billed Entity City: DAYTON
Billed Entity State: TN
Billed Entity Zip Code: 37321-1482
Billed Entity Number: 128277
Contact Person's Name: Matt Marcus
Preferred Mode of Contact: EMAIL
Contact Information: matt@daytoncity.net
FCC Form 471 Application Number: 1020094
Funding Request Number: 2768077
Funding Status: Not Funded
Service Type: Voice Services
FCC Form 470 Application Number: 283390001111946
Contract Number: 2-225071-00
Billing Account Number: Dayton City Schools VOIP
Service Start Date: 07/01/2015
Contract Expiration Date: 06/30/2016
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: $21,737.76
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: $.00
Pre-Discount Amount: $21,737.76
Applicant's Discount Percentage Approved by SLD: 60%
Funding Commitment Decision: $.00 - Contract Violation
Funding Commitment Decision Explanation: DR1: This FRN is denied because you failed to demonstrate that a valid contract exists between Sweetwater City School District Consortium (SCSDC) and ENA Services, LLC (ENA). The SCSDC provided a contract between Metropolitan Nashville Public Schools (MNPS) and ENA (Contract # 2-225071-00) that was signed and executed March 7, 2011. In their response, the SCSDC stated that the ENA costs proposed to the SCSDC were lower than the costs proposed in the previous consortium procurement with MNPS. SCSDC selected MNPS pricing instead of executing a contract with ENA. SCSDC has not demonstrated that there was a contract executed between SCSDC and ENA. Furthermore, there is no provision in the MNPS contract, or underlying RFP, that allows for the SCSDC to piggy-back onto that contract. In response to our Intent to Deny letter, SCSDC cited Tennessee Code Section 12-3-1203(b)(1)-(2)to support that a valid contract exists. Since this statue is limited to the purchase of equipment, the MNPS contract falls outside of the Tennessee Code parameters. Additionally, the dollar amount exceeds the statutory threshold. Accordingly, SCSDC failed to demonstrate that a valid contract is in place. <><><><><> DR2: SCSDC was afforded opportunities to justify the selection of ENAs bid proposal of $9,336,396, which is over $3 million more than AT&Ts $6,053,804.04bid, as the most cost-effective solution. SCSDC stated that AT&Ts bid had defects which had the cumulative effect of offsetting the value of a lower sticker price. SCSDC acknowledged that the price differential is significant but indicated ENAs service offering was unique and not comparable to AT&T. SCSDC also stated AT&Ts bid excluded installation charges. A thorough review of each proposal shows that the services offered are similar. As a result, the circumstances presented do not justify the selection of ENA and it has been determined that SCSDC failed to adhere to the requirements of selecting the most cost-effective solution.

FCDL Date: 10/16/2015
Wave Number: 021
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2016

Consultant Name:
Consultant Registration Number (CRN):
Consultant Employer:

EXHIBIT B

FUNDING COMMITMENT REPORT
Service Provider Name: ENA Services, LLC
SPIN: 143030857
Funding Year: 2015

Name of Billed Entity: DAYTON CITY SCHOOL DISTRICT
Billed Entity Address: 520 CHERRY ST
Billed Entity City: DAYTON
Billed Entity State: TN
Billed Entity Zip Code: 37321-1482
Billed Entity Number: 128277
Contact Person's Name: Matt Marcus
Preferred Mode of Contact: EMAIL
Contact Information: matt@daytoncity.net
FCC Form 471 Application Number: 1012352
Funding Request Number: 2767910
Funding Status: Not Funded
Service Type: Internet Access
FCC Form 470 Application Number: 283390001111946
Contract Number: 2-225071-00
Billing Account Number: Dayton City School
Service Start Date: 07/01/2015
Contract Expiration Date: 06/30/2016
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: $84,000.00
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: $.00
Pre-Discount Amount: $84,000.00
Applicant's Discount Percentage Approved by SLD: 80%
Funding Commitment Decision: $.00 - Contract Violation
Funding Commitment Decision Explanation: DR1: This FRN is denied because you failed to demonstrate that a valid contract exists between Sweetwater City School District Consortium (SCSDC) and ENA Services, LLC (ENA). The SCSDC provided a contract between Metropolitan Nashville Public Schools (MNPS) and ENA (Contract # 2-225071-00) that was signed and executed March 7, 2011. In their response, the SCSDC stated that the ENA costs proposed to the SCSDC were lower than the costs proposed in the previous consortium procurement with MNPS. SCSDC selected MNPS pricing instead of executing a contract with ENA. SCSDC has not demonstrated that there was a contract executed between SCSDC and ENA. Furthermore, there is no provision in the MNPS contract, or underlying RFP, that allows for the SCSDC to piggy-back onto that contract. In response to our Intent to Deny letter, SCSDC cited Tennessee Code Section 12-3-1203(b)(1)-(2)to support that a valid contract exists. Since this statue is limited to the purchase of equipment, the MNPS contract falls outside of the Tennessee Code parameters. Additionally, the dollar amount exceeds the statutory threshold. Accordingly, SCSDC failed to demonstrate that a valid contract is in place. <><><><><> DR2: SCSDC was afforded opportunities to justify the selection of ENAs bid proposal of $9,336,396, which is over $3 million more than AT&Ts $6,053,804.04bid, as the most cost-effective solution. SCSDC stated that AT&Ts bid had defects which had the cumulative effect of offsetting the value of a lower sticker price. SCSDC acknowledged that the price differential is significant but indicated ENAs service offering was unique and not comparable to AT&T. SCSDC also stated AT&Ts bid excluded installation charges. A thorough review of each proposal shows that the services offered are similar. As a result, the circumstances presented do not justify the selection of ENA and it has been determined that SCSDC failed to adhere to the requirements of selecting the most cost-effective solution.

FCDL Date: 10/16/2015
Wave Number: 021
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2016

Consultant Name:
Consultant Registration Number (CRN):
Consultant Employer:

EXHIBIT
C

Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2013-2014

March 15, 2016

Charles W. Cagle
Lewis, Thomason, King, Krieg & Waldrop, P. C.
424 Church Street, Suite 2500
P. O. Box 198615
Nashville, TN 37219

Re:	Applicant Name:	DAYTON CITY SCHOOL DISTRICT
	Billed Entity Number:	128277
	Form 471 Application Number:	918525
	Funding Request Number(s):	2506944
	Your Correspondence Dated:	December 04, 2015

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2013 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2506944
Decision on Appeal: **Denied**
Explanation:

- The FRN was denied because the applicant failed to demonstrate that a valid contract exists between Sweetwater City School District Consortium (SCSDC) and ENA Services, LLC (ENA). In addition, SCSDC appeal did not justify the selection of ENA's bid proposal of $9,336,396, which is over $3 million more than AT&T's $6,053,804.04 bid, as the most cost-effective solution.

  SCSDC argues there was a valid contract under Tennessee law and that there was offer and acceptance. SCSDC explains that the memorialization of the contract was through the MNPS contract that was offered as an alternative in ENA's bid proposal to SCSDC. SCSDC also asserts that the FCC lessened the written contract requirement in the E-rate Modernization Order and that there was a legally binding agreement based on ENA's performance via the MNPS contract.

SCSDC asserts there was an offer and an acceptance and a valid contract existed under Tennessee law.

USAC does not have evidence of valid acceptance. SCSDC refers to a March 4, 2013 award letter in its appeal, but a copy of this award letter was not provided.

The FCC lessened the written contract requirement in the E-rate Modernization Order codifying the legally binding standard effective November 2014. At the time SCSDC entered into a contract with ENA, the legally binding standard was not effective and is not applicable to SCSDC contract. SCSDC was required to demonstrate that a contract was in place with ENA at the time its FCC Form 471 certification. As noted above, SCSDC has not provided evidence that it accepted ENA's proposal at the time the FCC Form 471 was submitted.

Although there are provisions in the Tennessee code that would allow SCSDC to use certain contracts that are executed by other local governmental units or LEAs, the provisions cited by SCSDC did not become effective until July 1, 2013 and were to apply to contracts that were executed on or after that date. In addition, the former Tennessee statutes for allowing local governmental units and LEAs to purchase off of existing contracts would not apply to the 2011 Metro-Nashville contract for two reasons. Section 12-3-1004(b)(1)-(2), allowed LEAs to purchase "equipment" based on another LEA's existing contract. ENA's contract with Metro-Nashville was not limited to "equipment." Further, section 12-3-1004(c)(1)-(2) allowed local governmental units to purchase "same goods and equipment" where the unit price did not exceed ten thousand dollars. The 2011 Metro-Nashville contract would not fall within this provision because it was for services and not limited to "goods and equipment" and the unit price was greater than $10,000.

SCSDC argues that the prices offered by the service provider, ENA, were below the prevailing market rates. SCSDC also asserts that the AT&T's bid to the SCSDC was actually higher than ENA's bid by $1.8 million. SCSDC states that the figures in AT&T's bid response did not include all charges for the requested services. For example, AT&T did not include installation charges in its bid pricing because it had not yet engineered, much less installed, the circuits required to render the services required by the RFP. SCSDC further proffers that the quality of service proposed by ENA was higher than that offered by AT&T as determined through analysis of the bid responses and prior experience of the consortium members with both bidders.

AT&T's bid was not higher than ENA's bid. SCSDC assumes that AT&T's bid price included the pricing from a NetTN contract referenced in AT&T's bid. Also, the evaluation forms clearly account for the costs that SCSDC claims AT&T excluded from their bid price. Further, SCSDC did not provide any documentation to support the allegation that AT&T's hypothetical "actual" bid price would be $11.1 million and therefore $1.8 million higher than ENA's bid.

The claim that ENA's bid was lower than AT&T's prices elsewhere under a state contract does not change the fact that the price of the ENA bid was $3 million

more than the price of AT&T's bid. Comparing ENA's SCSDC bid to an entirely unrelated AT&T bid is not a fair comparison.

SCSDC did not provide any supporting documentation to support this assertion. Instead, SCSDC cites to a portion of the AT&T bid that describes AT&T's projected timeline for installation after the contract has been awarded. While SCSDC argues that this language excludes installation costs, this section does not mention costs associated with installation and is in direct response to SCSDC's question, "What delivery concerns do you have in performing this contract?" AT&T's response to the question, and the title of this particular section, is "AT&T has no delivery concerns in support of this contract." SCSDC has misconstrued the meaning of this portion of AT&T's bid language in its appeal.

SCSDC's arguments and assertions also fail to identify how AT&T's service offerings are of a lower quality than ENA's service offerings. SCSDC mischaracterizes the AT&T bid by stating, among other assertions, that it failed to commit to a July 1 start date, failed to identify personnel, and failed to give assurances of timely performance. AT&T's bid does not support SCSDC's characterization of AT&T's shortcomings.

SCSDC has not addressed the issue of why it selected to use the MNPS contract with ENA that included higher pricing than ENA's bid proposal to SCSDC. ENA did not reduce the pricing of the MNPS contract until December 2013, nearly a year after SCSDC submitted it FCC Form 471 application to USAC. Therefore, even relying on the ENA pricing, SCSDC did not select the most cost-effective service offering when it decided to piggyback off the MNPS contract.

SCSDC argues the consortium conducted a fair and open competitive bidding process that evaluated the bidders on price and other factors, as allowed by Commission rules. Additionally, SCSDC asserts the consortium met the Commission's competitive bidding requirements, including using price as a primary factor.

Although SCSDC asserts that it complied with the FCC's competitive bidding rules, SCSDC did not demonstrate that it selected the most cost-effective bid. SCSDC did not provide any supporting documentation to justify the selection of ENA's bid, which was $3 million more than the AT&T bid, as the most cost-effective solution. In addition, SCSDC has not explained how its decision to piggyback off the MNPS contract which had higher pricing than ENA's bid proposal to SCSDC was the most cost-effective service offering. Although ENA eventually lowered its pricing in the MNPS contract to match the pricing in the SCSDC bid proposal, this amendment was nearly a year after SCSDC submitted its FCC form 471 application.

With respect to SCSDC's arguments that the consortium will suffer significant harm if USAC does not reverse its decisions and that the denials would set a precedent requiring schools and libraries to purchase the cheapest services, regardless of quality and other factors, USAC cannot make policy decisions.

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Matt Marcus

Charles W. Cagle
Lewis, Thomason, King, Krieg & Waldrop, P. C.
424 Church Street, Suite 2500
P. O. Box 198615
Nashville, TN 37219

Billed Entity Number: 128277
Form 471 Application Number: 918525
Form 486 Application Number:

Administrator's Decision on Appeal – Funding Year 2013-2014

March 15, 2016

Charles W. Cagle
Lewis, Thomason, King, Krieg & Waldrop, P. C.
424 Church Street, Suite 2500
P. O. Box 198615
Nashville, TN 37219

Re:	Applicant Name:	DAYTON CITY SCHOOL DISTRICT
	Billed Entity Number:	128277
	Form 471 Application Number:	919152
	Funding Request Number(s):	2507396
	Your Correspondence Dated:	December 04, 2015

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2013 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2507396
Decision on Appeal: **Denied**
Explanation:

- The FRN was denied because the applicant failed to demonstrate that a valid contract exists between Sweetwater City School District Consortium (SCSDC) and ENA Services, LLC (ENA). In addition, SCSDC appeal did not justify the selection of ENA's bid proposal of $9,336,396, which is over $3 million more than AT&T's $6,053,804.04 bid, as the most cost-effective solution.

  SCSDC argues there was a valid contract under Tennessee law and that there was offer and acceptance. SCSDC explains that the memorialization of the contract was through the MNPS contract that was offered as an alternative in ENA's bid proposal to SCSDC. SCSDC also asserts that the FCC lessened the written contract requirement in the E-rate Modernization Order and that there was a legally binding agreement based on ENA's performance via the MNPS contract.

SCSDC asserts there was an offer and an acceptance and a valid contract existed under Tennessee law.

USAC does not have evidence of valid acceptance. SCSDC refers to a March 4, 2013 award letter in its appeal, but a copy of this award letter was not provided.

The FCC lessened the written contract requirement in the E-rate Modernization Order codifying the legally binding standard effective November 2014. At the time SCSDC entered into a contract with ENA, the legally binding standard was not effective and is not applicable to SCSDC contract. SCSDC was required to demonstrate that a contract was in place with ENA at the time its FCC Form 471 certification. As noted above, SCSDC has not provided evidence that it accepted ENA's proposal at the time the FCC Form 471 was submitted.

Although there are provisions in the Tennessee code that would allow SCSDC to use certain contracts that are executed by other local governmental units or LEAs, the provisions cited by SCSDC did not become effective until July 1, 2013 and were to apply to contracts that were executed on or after that date. In addition, the former Tennessee statutes for allowing local governmental units and LEAs to purchase off of existing contracts would not apply to the 2011 Metro-Nashville contract for two reasons. Section 12-3-1004(b)(1)-(2), allowed LEAs to purchase "equipment" based on another LEA's existing contract. ENA's contract with Metro-Nashville was not limited to "equipment." Further, section 12-3-1004(c)(1)-(2) allowed local governmental units to purchase "same goods and equipment" where the unit price did not exceed ten thousand dollars. The 2011 Metro-Nashville contract would not fall within this provision because it was for services and not limited to "goods and equipment" and the unit price was greater than $10,000.

SCSDC argues that the prices offered by the service provider, ENA, were below the prevailing market rates. SCSDC also asserts that the AT&T's bid to the SCSDC was actually higher than ENA's bid by $1.8 million. SCSDC states that the figures in AT&T's bid response did not include all charges for the requested services. For example, AT&T did not include installation charges in its bid pricing because it had not yet engineered, much less installed, the circuits required to render the services required by the RFP. SCSDC further proffers that the quality of service proposed by ENA was higher than that offered by AT&T as determined through analysis of the bid responses and prior experience of the consortium members with both bidders.

AT&T's bid was not higher than ENA's bid. SCSDC assumes that AT&T's bid price included the pricing from a NetTN contract referenced in AT&T's bid. Also, the evaluation forms clearly account for the costs that SCSDC claims AT&T excluded from their bid price. Further, SCSDC did not provide any documentation to support the allegation that AT&T's hypothetical "actual" bid price would be $11.1 million and therefore $1.8 million higher than ENA's bid.

The claim that ENA's bid was lower than AT&T's prices elsewhere under a state contract does not change the fact that the price of the ENA bid was $3 million more than the price of AT&T's bid. Comparing ENA's SCSDC bid to an entirely unrelated AT&T bid is not a fair comparison.

SCSDC did not provide any supporting documentation to support this assertion. Instead, SCSDC cites to a portion of the AT&T bid that describes AT&T's projected timeline for installation after the contract has been awarded. While SCSDC argues that this language excludes installation costs, this section does not mention costs associated with installation and is in direct response to SCSDC's question, "What delivery concerns do you have in performing this contract?" AT&T's response to the question, and the title of this particular section, is "AT&T has no delivery concerns in support of this contract." SCSDC has misconstrued the meaning of this portion of AT&T's bid language in its appeal.

SCSDC's arguments and assertions also fail to identify how AT&T's service offerings are of a lower quality than ENA's service offerings. SCSDC mischaracterizes the AT&T bid by stating, among other assertions, that it failed to commit to a July 1 start date, failed to identify personnel, and failed to give assurances of timely performance. AT&T's bid does not support SCSDC's characterization of AT&T's shortcomings.

SCSDC has not addressed the issue of why it selected to use the MNPS contract with ENA that included higher pricing than ENA's bid proposal to SCSDC. ENA did not reduce the pricing of the MNPS contract until December 2013, nearly a year after SCSDC submitted it FCC Form 471 application to USAC. Therefore, even relying on the ENA pricing, SCSDC did not select the most cost-effective service offering when it decided to piggyback off the MNPS contract.

SCSDC argues the consortium conducted a fair and open competitive bidding process that evaluated the bidders on price and other factors, as allowed by Commission rules. Additionally, SCSDC asserts the consortium met the Commission's competitive bidding requirements, including using price as a primary factor.

Although SCSDC asserts that it complied with the FCC's competitive bidding rules, SCSDC did not demonstrate that it selected the most cost-effective bid. SCSDC did not provide any supporting documentation to justify the selection of ENA's bid, which was $3 million more than the AT&T bid, as the most cost-effective solution. In addition, SCSDC has not explained how its decision to piggyback off the MNPS contract which had higher pricing than ENA's bid proposal to SCSDC was the most cost-effective service offering. Although ENA eventually lowered its pricing in the MNPS contract to match the pricing in the SCSDC bid proposal, this amendment was nearly a year after SCSDC submitted its FCC form 471 application.

With respect to SCSDC's arguments that the consortium will suffer significant harm if USAC does not reverse its decisions and that the denials would set a

precedent requiring schools and libraries to purchase the cheapest services, regardless of quality and other factors, USAC cannot make policy decisions.

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Matt Marcus

Charles W. Cagle
Lewis, Thomason, King, Krieg & Waldrop, P. C.
424 Church Street, Suite 2500
P. O. Box 198615
Nashville, TN 37219

Billed Entity Number: 128277
Form 471 Application Number: 919152
Form 486 Application Number:

Administrator's Decision on Appeal – Funding Year 2014-2015

March 15, 2016

Charles W. Cagle
Lewis, Thomason, King, Krieg & Waldrop, P. C.
424 Church Street, Suite 2500
P. O. Box 198615
Nashville, TN 37219

Re:	Applicant Name:	DAYTON CITY SCHOOL DISTRICT
	Billed Entity Number:	128277
	Form 471 Application Number:	968862
	Funding Request Number(s):	2637402
	Your Correspondence Dated:	December 04, 2015

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2014 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2637402
Decision on Appeal: **Denied**
Explanation:

- The FRN was denied because the applicant failed to demonstrate that a valid contract exists between Sweetwater City School District Consortium (SCSDC) and ENA Services, LLC (ENA). In addition, SCSDC appeal did not justify the selection of ENA's bid proposal of $9,336,396, which is over $3 million more than AT&T's $6,053,804.04 bid, as the most cost-effective solution.

  SCSDC argues there was a valid contract under Tennessee law and that there was offer and acceptance. SCSDC explains that the memorialization of the contract was through the MNPS contract that was offered as an alternative in ENA's bid proposal to SCSDC. SCSDC also asserts that the FCC lessened the written contract requirement in the E-rate Modernization Order and that there was a legally binding agreement based on ENA's performance via the MNPS contract.

SCSDC asserts there was an offer and an acceptance and a valid contract existed under Tennessee law.

USAC does not have evidence of valid acceptance. SCSDC refers to a March 4, 2013 award letter in its appeal, but a copy of this award letter was not provided.

The FCC lessened the written contract requirement in the E-rate Modernization Order codifying the legally binding standard effective November 2014. At the time SCSDC entered into a contract with ENA, the legally binding standard was not effective and is not applicable to SCSDC contract. SCSDC was required to demonstrate that a contract was in place with ENA at the time its FCC Form 471 certification. As noted above, SCSDC has not provided evidence that it accepted ENA's proposal at the time the FCC Form 471 was submitted.

Although there are provisions in the Tennessee code that would allow SCSDC to use certain contracts that are executed by other local governmental units or LEAs, the provisions cited by SCSDC did not become effective until July 1, 2013 and were to apply to contracts that were executed on or after that date. In addition, the former Tennessee statutes for allowing local governmental units and LEAs to purchase off of existing contracts would not apply to the 2011 Metro-Nashville contract for two reasons. Section 12-3-1004(b)(1)-(2), allowed LEAs to purchase "equipment" based on another LEA's existing contract. ENA's contract with Metro-Nashville was not limited to "equipment." Further, section 12-3-1004(c)(1)-(2) allowed local governmental units to purchase "same goods and equipment" where the unit price did not exceed ten thousand dollars. The 2011 Metro-Nashville contract would not fall within this provision because it was for services and not limited to "goods and equipment" and the unit price was greater than $10,000.

SCSDC argues that the prices offered by the service provider, ENA, were below the prevailing market rates. SCSDC also asserts that the AT&T's bid to the SCSDC was actually higher than ENA's bid by $1.8 million. SCSDC states that the figures in AT&T's bid response did not include all charges for the requested services. For example, AT&T did not include installation charges in its bid pricing because it had not yet engineered, much less installed, the circuits required to render the services required by the RFP. SCSDC further proffers that the quality of service proposed by ENA was higher than that offered by AT&T as determined through analysis of the bid responses and prior experience of the consortium members with both bidders.

AT&T's bid was not higher than ENA's bid. SCSDC assumes that AT&T's bid price included the pricing from a NetTN contract referenced in AT&T's bid. Also, the evaluation forms clearly account for the costs that SCSDC claims AT&T excluded from their bid price. Further, SCSDC did not provide any documentation to support the allegation that AT&T's hypothetical "actual" bid price would be $11.1 million and therefore $1.8 million higher than ENA's bid.

The claim that ENA's bid was lower than AT&T's prices elsewhere under a state contract does not change the fact that the price of the ENA bid was $3 million more than the price of AT&T's bid. Comparing ENA's SCSDC bid to an entirely unrelated AT&T bid is not a fair comparison.

SCSDC did not provide any supporting documentation to support this assertion. Instead, SCSDC cites to a portion of the AT&T bid that describes AT&T's projected timeline for installation after the contract has been awarded. While SCSDC argues that this language excludes installation costs, this section does not mention costs associated with installation and is in direct response to SCSDC's question, "What delivery concerns do you have in performing this contract?" AT&T's response to the question, and the title of this particular section, is "AT&T has no delivery concerns in support of this contract." SCSDC has misconstrued the meaning of this portion of AT&T's bid language in its appeal.

SCSDC's arguments and assertions also fail to identify how AT&T's service offerings are of a lower quality than ENA's service offerings. SCSDC mischaracterizes the AT&T bid by stating, among other assertions, that it failed to commit to a July 1 start date, failed to identify personnel, and failed to give assurances of timely performance. AT&T's bid does not support SCSDC's characterization of AT&T's shortcomings.

SCSDC has not addressed the issue of why it selected to use the MNPS contract with ENA that included higher pricing than ENA's bid proposal to SCSDC. ENA did not reduce the pricing of the MNPS contract until December 2013, nearly a year after SCSDC submitted it FCC Form 471 application to USAC. Therefore, even relying on the ENA pricing, SCSDC did not select the most cost-effective service offering when it decided to piggyback off the MNPS contract.

SCSDC argues the consortium conducted a fair and open competitive bidding process that evaluated the bidders on price and other factors, as allowed by Commission rules. Additionally, SCSDC asserts the consortium met the Commission's competitive bidding requirements, including using price as a primary factor.

Although SCSDC asserts that it complied with the FCC's competitive bidding rules, SCSDC did not demonstrate that it selected the most cost-effective bid. SCSDC did not provide any supporting documentation to justify the selection of ENA's bid, which was $3 million more than the AT&T bid, as the most cost-effective solution. In addition, SCSDC has not explained how its decision to piggyback off the MNPS contract which had higher pricing than ENA's bid proposal to SCSDC was the most cost-effective service offering. Although ENA eventually lowered its pricing in the MNPS contract to match the pricing in the SCSDC bid proposal, this amendment was nearly a year after SCSDC submitted its FCC form 471 application.

With respect to SCSDC's arguments that the consortium will suffer significant harm if USAC does not reverse its decisions and that the denials would set a

precedent requiring schools and libraries to purchase the cheapest services, regardless of quality and other factors, USAC cannot make policy decisions.

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
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Billed Entity Number: 128277
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Form 486 Application Number: