

**Before the
Federal Communications Commission
Washington, D.C.**

In the matter of:

)	
Application for Review by the)	
Cleveland Municipal School District)	
Of a decision of the Universal Service)	
Administrative Company)	
)	
Federal State Joint Board on)) CC Docket No. 02-6
Universal Service)	
)	

Universal Service Administrative Company Decision on Appeal Dated May 8, 2003
 Letter of Appeal for Funding Commitment Denial for FY 2002
 Form 471 Number: 321819
 Funding Request Numbers: 857252, 856961, 857405
 Form 471 Number: 323210
 Funding Request Number: 865736
 Form 471 Number 323152
 Funding Request Numbers: 864964, 862588, 864400
 Billed Entity Number: 129482
 Applicant Name: Cleveland Municipal School District, f.k.a. Cleveland City School District

Application for Review

1. INTRODUCTION

The Cleveland Municipal School District, f.k.a. the Cleveland City School District, (“District”, “CMSD”) submitted to the SLD on May 8, 2003 eight letters of appeal (Attachments E, F, G, H, I, J, K, L) for three Form 471 applications with a total of nine funding requests. The District requests that the Federal Communications Commission (“FCC”, “Commission”) review the Universal Services Administrative Corporation (USAC) Schools and Libraries Division (SLD) Administrator’s

Decision regarding Funding Requests 864964, 862588, 864400, 865736, 857405, 856961, and 857252 in Form 471 Applications 321819, 323210, and 323152 for services in the Telecommunications and Internal Connections categories for funding year 2002-2003. The District contends that the Administrator improperly denied funding these requests, while granting others, despite clear evidence submitted by the District detailing the uniformity of the District's competitive bidding process as it applied to all funding requests.

The Administrator had clear direction from the FCC for processing funding denial appeals similar to those presented here and failed to follow that direction. Each FRN under appeal here is similar or identical to facts presented in FCC decisions in Ysleta¹ and Winston-Salem/Forsyth County.² In Ysleta, the FCC ordered the Administrator to allow re-bid contracts previously denied, where more than one vendor responded to the RFP. In Winston-Salem the FCC ordered that the Administrator process the application when only a single bidder responded to the RFP.

The SLD's original funding commitment decision letter stated bidding violations as the reason for all nine denials. The SLD Administrator's Decisions on the District's appeal letters, dated 12 April 2005 (nearly two years' time to decide), approved funding for two of the nine appeals, denying the other seven.

¹ Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, CC Docket Nos. 96-45 and 97-21, FCC 03-313, rel. December 8, 2003 (Ysleta Order).

² Request for Review of the Decision of the Universal Service Administrator by Winston-Salem/Forsyth County School District, CC Docket Nos. 96-45 and 97-21, FCC03-314, rel. December 8, 2003 (Winston-Salem Order).

The seven (7) funding request appeals presented to the FCC have the same basis in fact and reasoning as the two approved by the SLD Administrator. Additionally, there is an odd circumstance related to the two approved appeals that cause the District to believe that the SLD Administrator may not have exercised the requisite due diligence in the review of the District's appeal letters. Since the Administrator approved two appeals, and since the District's other seven appeals are based on the same competitive bidding process approved by the SLD for FRN 857067 and 865118, the FCC must correct the Administrator's mistake and approve the funding request appeals in this letter as well.

The District presented consistent information throughout the process, from the Selective Review through the SLD appeal letters with attached documents. The information describes the District's process for selecting service providers. There are instances in the seven FRNs under appeal where only one qualified bidder responded, as occurred for one of the approved FRNs in the SLD appeal (FRN#865118 in application 323152). A vendor selected because no others submitted a bid, or because no others submitted a bid that conformed to specifications, must have submitted the lowest bid because there are no others (*see* Winston-Salem). The SLD Administrator was inconsistent and in error in its assumptions for denial. Furthermore, the Administrator had the requisite information to make the correct decision to approve the funding decision.

The FCC should note that Josephine Farkas of the SLD telephoned Ilze Lacis on 7 April 2005 with an urgent verbal request to provide information on how the service providers were selected for two FRNs that the District had appealed: FRN 865118 and FRN 857067 for network cabling (IBM) and long distance service (Qwest) respectively. The urgency was described as "...Washington wants to get this off their desk...". The request was for Ilze Lacis to respond via fax. The faxed response reprinted the key paragraph from the appeal submitted to the SLD nearly two years previously for each of the two FRNs. Interestingly, these two FRNs were approved, while others were denied.

This illustrates inconsistent and unpredictable decision-making on the part of the SLD Administrator regarding the District's appeals. The Administrator's Decision on Appeal letters state the SLD's reasoning for the initial review of the original Funding Commitment Decision Letter. Those same Appeal Decision letters scarcely reference, and do not cite directly, either the substantial arguments contained in the District's appeal letters of May 8, 2003, or the facts contained in the supporting documents filed with the appeal letters.

In the Administrator's Appeal Decision letter for Form 471 Application Number 321819 the SLD refers to the original decision made during review of the request (Attachment A, at page 4 and page 5): *"SLD's review of your funding requests determined that price was not the primary factor when you selected your service provider. Consequently, your appeal is denied."* At this point there is no reference to language in the appeal, nor to any of the attachments to the appeal. The

Administrator continues: *“During the review process of your Form 471, the District was selected for an Item 25/Competitive Bidding Review. The District was asked to provide documentation that explained the vendor selection process. ...SLD thoroughly reviewed the documentation and determined that it was clear that price was not the primary factor in the vendor selection process. ... Therefore, the SLD properly determined that price was not the primary factor in the vendor selection process ... Review of the records and the information in your appeal letter, there is no evidence to support a reversal of the SLD decision.”*

The Administrator states the same points in all three of its Decision letters. At no point in the letter referenced above, nor the other two Administrator’s Decision on Appeal letters does the Administrator point to any specifics of any kind in any of the appeal letters the District submitted to the SLD on May 8, 2003. However, there are lengthy paragraphs that refer to the original language upon which the SLD based its initial denial of funding. The only reference to the appeal letters and its attached documents is *“Your appeal does not provide evidence to support that price was the primary factor when you selected your service provider. Consequently, your appeal is denied.”*

The District exerted care and research to provide the Administrator with ample information and documentation that the District did select the most cost effective, responsive and lowest priced service providers for the District’s funding requests. The SLD Administrator’s Appeal Decision letter has scant reference to, and no

citation of, the substantial arguments with multiple supporting documents attached to the nine SLD appeal letters of May 8, 2003 that the District submitted to the SLD.

However, the two funding requests that the Administrator approved state (Attachment A at page 2; Attachment C at page 2): *“...upon review of the supporting documentation provided during the selective appeal, it has been determined that the FRN was erroneously denied for price not being the primary factor. Your appeal has brought forward persuasive information that this portion of the appeal should be approved.”* The seven denied appeals have the same “supporting documentation” noted in the above reference. The seven denied appeals have the same “persuasive information” that caused the Administrator to approve the two funding requests. It is obvious that the SLD Administrator has erred in its appeal decision.

Given the opposite conclusions, one must conclude the SLD Administrator did not review all the appeals thoroughly. The District contends that available evidence indicates the only appeals receiving thorough review were the two appeals that were granted. If the SLD Administrator had reviewed all of the submitted documents, both for the initial review and especially for the appeal, there would have been no erroneous funding denials, nor the need to telephone the request described above that resulted in approving the two FRN appeals.

STATEMENT OF FACTS WITH DISCUSSION BY APPLICATION AND FRN

<u>Form 471 Application Numbers</u>	<u>321819</u>	<u>Telecommunications</u>
Funding Request Number (FRN) a.	857252	Arch Wireless Operating Company SPIN-143018525
b.	856961	Sprint Spectrum LP/Phillieco SPIN-143006742
c.	857405	Ameritech-Ohio <u>SPIN-143001688</u>
FCDL		March 10, 2003
USAC/SLD Administrator's Decision on Appeal Letter		April 12, 2005
Funding Year 2002		07/01/2002 – 06/30/2003
Funding Commitment Decision (originally)		Bidding Violation

Funding Request Number: 857252
SPIN SPIN-143018525
 Arch Wireless Operating Company
Services ordered: Telecommunications: Paging service

The District received two proposals in response to the paging service RFP. The two bids were less than one dollar (\$0.95) apart regarding price for a basic service. Arch Wireless Operating Company (“Arch”) was the most responsive regarding the District’s bid requirements and with the lowest cost overall. Materials and documents were provided to the SLD under the Selective Review Information Request for FY2002 including a complete set of the responding bids. However, the Selective Review did not include specific questions regarding pricing, nor were followup questions asked regarding pricing by the Selective Review(ers).

The Administrator had the necessary information to ascertain that the District *did* select the most cost effective and lowest priced paging service that complied with the service requirement specifications posted on the RFP. The SLD Administrator's Decision on the Appeal for this funding request is in error. The District did not violate bidding or procurement regulations, neither those of the SLD, nor those of the State and the District. Therefore, the FCC must approve the funding request.

Funding Request Number: 856961
SPIN SPIN-143006742
Sprint Spectrum LP/Phillieco
Services ordered: Telecommunications: Cellular service

Three service providers responded to the District's Request for Proposal (RFP) for cellular service for eligible District users: AllTel, Cingular, and Sprint. AllTel's bid was the most expensive of the three responding bids, twenty dollars (\$20.00) more expensive than Sprint's service but for fewer users and with fewer features for the price. Cingular's pricing was based solely on Cingular-to-Cingular service. This was unresponsive to the requirements, since at that time there were District departments using cellular service from other providers. Therefore, Cingular's bid was non-responsive. The third bid was from Sprint, whose cost was the lowest per the required specifications, and thus the District selected Sprint as the service provider with the lowest cost.

Funding Request Number: 857405
SPIN SPIN- 143001688
Ameritech-Ohio (SBC)
Services ordered: Telecommunications: Measured Business telephone lines

There were three respondents to the Request for Proposal (RFP) for the Measured Business Line service: Warwick Communications, Inc., XO Communications and Ameritech/SBC. Warwick Communications, Inc., price was the highest due to reselling Ameritech/SBC telephone lines and thus eliminated as a competitor. XO Communications price appears, at first glance, to be \$4,452.00 less than the Ameritech proposal. However, XO's price does not include implementation charges, which must be included in the overall price. XO's total cost to the Erate program would be as high or higher than the Warwick's bid due to the non-recurring implementation costs. This would make the funding request to the SLD \$15,000 to \$20,000 more costly than the service provider the District selected: the Ameritech/SBC bid. The Ameritech bid does not require implementation charges and thus is the lowest priced service provider. The SBC/Ameritech bid reflects the complete price and clearly is the lowest one.

<u>Form 471 Application Number</u>	<u>323152</u>	<u>Internal Connections</u>
Funding Request Number (FRN)	864964	Media, Inc. dba WVIZ/PBS (digital wireless broadcast network) SPIN-143024681
	862588	IBM Corp. (technical support) SPIN-143005607
	864400	ComWeb Technology Group (ComWeb Teaching Tool) SPIN-143005079
FCDL		March 10, 2003
USAC/SLD Administrator's Decision on Appeal Letter		April 12, 2005
Funding Year 2002		07/01/2002 – 06/30/2003
Funding Commitment Decision (originally)		Bidding Violation

Because this Form 471 was submitted and reviewed in conjunction with the Form 471 for International Business Machines (IBM), (Form 471 number 323152), we must conclude the denials resulted from the Administrator's linking of all Cleveland applications for Funding Year 2002 with IBM. As such, the denials were executed on a pro-forma basis, irrespective of the facts presented by Cleveland during review or through appeal. Vendors for the three FRNs in this section were selected in accordance with state and local procurement law and price was the primary consideration. These denials should be overturned based on the facts presented here.

Funding Request Number: 864964
SPIN SPIN-143024681
Media, Inc. dba WVIZ/PBS
Services ordered: Internal Connections: digital wireless broadcast network

The District posted a Request for Proposal for the funding year 2002-2003 for a Digital Wireless Broadcast Network. There was one respondent, and as such was the lowest bidder. Pursuant to Winston-Salem, there can be no basis for the SLD's Administrator to conclude, even in the initial review, that there was any kind of bidding violation for this funding request.

Equally disturbing is that the Administrator states in the Appeal Decision letter:

Upon review of the supporting documentation provided during the selective appeal, it was determined that the FRN was erroneously denied for price not being the primary factor. However, the funding request includes services that are deemed ineligible per SLD program rules. Hence the funding is denied.

Firstly, the District appealed the denial based on the bidding violation point, not regarding ineligible services. The Administrator determined the SLD's error and then, rather than reversing that erroneous decision, changed the original denial's reasoning without communicating the change to the District. This decision is capricious, arbitrary and, by the SLD's own admission, mistaken. By adopting this procedure, the SLD denied the District any opportunity to present a reasonable appeal addressing the issue(s) at hand. Furthermore, this shows that the SLD's

Administrator did not perform the requisite review initially, since the SLD reviewers should, at the very least, know the Erate program's own eligibility requirements.

It is unfair for the SLD to preempt the District's opportunity to respond to a denial of funding based upon entirely new rationale. The District's appeal to the FCC for FRN 864964 is based on the original denial for bidding violations and as such should be granted.

Funding Request Number: 862588
SPIN SPIN-143005607
IBM Corp.
Services ordered: Internal Connections

The District received four proposals in response to the basic maintenance and technical support RFP. Of the four, the ComWeb Technology Group, Inc.'s proposal was for support specifically limited to the company's proprietary product, which teachers use throughout the District's classrooms as a teaching aid and is appealed in the next section. Ross-Tek presented a bid that was so limited in scope of service that it completely failed to address the District's specifications. Thus, the District was obligated under local law to reject the Ross-Tek proposal as not responsive. Ameritech/SBC's proposal was incomplete and lacked pertinent details. The District asked Ameritech/SBC to provide the missing information, and

even provided the vendor an opportunity to present its proposal to the District's reviewers in person as the District was interested to know the complete specifications due to the price. The vendor's response remained incomplete; Ameritech/SBC never provided the information and deliverables that the RFP required. Therefore, Ameritech/SBC presented a non-responsive bid.

The IBM technical support proposal was the only responsive bid and as such was the lowest priced bid. This is the same situation as for FRN 865118 that the SLD Administrator approved and for which the footnote below provides the wording of the faxed information that is referenced in the Introduction section to this appeal letter.³ The District received one, and only one, responsive bid for the service referenced in FRN 862588 in this section. Based on the Administrator's decision to approve FRN 865118, there is only one option regarding FRN 862588 and that is to approve it.

Cleveland properly rejected bids from Ameritech/SBC and Ross-Tek under procurement law. As such, IBM was the only responsive bidder for this contract. In accordance with the Winston-Salem Order, the Administrator must accept the only

³ FRN #865118 was for the District's network cabling, or wiring, needs. The request for proposal asked for a complete, point-to-point service. Of the three respondents (Allied Cable, Ameritech, IBM) there was only one responding proposal that included clear specifications per the request. Thus, there was no comparative evaluation. Allied's response provided only cost per foot with few, if any, other specifications. This made the bid non-responsive, as it was impossible to determine the cost. Ameritech's proposal provided diverse pricing for various cabling categories, but gave no specific costs, making Ameritech's response incomplete per the request for proposal. IBM was the only responsive bid. It is a service the District needs, since we are currently in a 12-year District-wide rebuilding/renovating of instructional sites.

responsive bid as the most cost effective. We note here that in the Winston-Salem Order the Commission found that Winston-Salem did not issue an RFP. Rather, they simply listed desired services on the FCC Form 470.⁴ Under Cleveland procurement regulations, for a contract of this monetary value, an RFP was required.

Funding Request Number: 864400
SPIN SPIN- 143005079
ComWeb Technology Group, Inc.
Services ordered: Internal Connections

ComWeb Technology Group, Inc. (“ComWeb”) was the only respondent to this RFP. The District selected this vendor because it was found qualified to provide basic maintenance service for the product. Teachers use the tool as a teaching aid throughout the District’s classrooms. The District acquired the Classroom Network Switch using E-Rate funds in Year 3 (Funding Year 2000-2001).

The District made no bidding violations in selecting ComWeb; it is the only qualified bidder. There is no basis for the SLD to conclude "that price was not the primary factor for selecting this service provider's proposal." Therefore, the FCC must approve the funding request appeal. The District’s appeal to the SLD did

⁴ Winston-Salem at 14.

demonstrate the aforesaid regarding the selection of ComWeb. The Commission should overturn this denial in accordance with the Winston-Salem decision.

<u>Form 471 Application Numbers</u>	<u>323210</u>	<u>Internal Connections</u>
Funding Request Number (FRN)	86573	IBM Corp
FCDL	6	SPIN-143005607
USAC/SLD Administrator's Decision on Appeal Letter		March 10, 2003
Funding Year 2002		April 12, 2005
Funding Commitment Decision (originally)		07/01/2002 – 06/30/2003
		Bidding Violation

Funding Request Number: 865736
SPIN SPIN-143005607
 IBM Corp
Services ordered: Internal Connections: Wireless LANs

Five bidders responded to the wireless LAN Request For Proposal: Apple Professional Services, Smart Solutions, Ameritech/SBC, IBM Corp, and Wireless Information Networks, Inc. Apple Professional Services, Inc. (Apple) was the lowest-priced bid. However, Apple's reliance upon proprietary equipment and Apple's lack of the required specifications along with unclear deliverables relegated the bid as non-responsive to the RFP requirements. The District further notes that proprietary branding such as that proposed in the Apple bid results in "hidden costs" best avoided when possible. As the FCC mandates in its Orders, proprietary technology is not favored for Erate program funding. Therefore, the

Apple bid, although on the surface the lowest, was determined to be non-responsive and not the lowest price, due to the proprietary products it required.

The Smart Solutions proposal and the Ameritech/SBC proposal were the next lowest priced bids, respectively. Both bids were incomplete regarding specifications, lacking cost details, excluding necessary implementation costs required for a functional wireless LAN that avoids “dead” transmission locations in the District’s instructional sites. The Smart Solutions and the Ameritech/SBC bids did not include all of the requirements specified in the RFP and therefore were not responsive. The Wireless Information Networks, Inc. bid was twice the cost of the IBM proposal. Thus, although it was responsive, the Wireless Information Networks proposal was eliminated as the highest priced bid.

This left only the IBM bid as the one that incorporated the RFP’s specifications, and was the lowest priced responsive bid for the RFP. The District, in accordance with state and local procurement regulations did properly find the other bidders non-responsive to this RFP. As such and in fact, IBM was the lowest qualified responder to this RFP. The Administrator improperly denied this FRN by requiring that Cleveland consider rejected bids that failed to conform to RFP specifications. The Administrator is expressly forbidden from interjecting itself in state or local procurement law. Rather, it is charged with implementation of Commission regulations.⁵ The District complied with competitive bidding

⁵ See Title 47, Section 54.504(a): These competitive bid requirements apply in addition to state and local competitive bid requirements and are not intended to preempt such state or local requirements.

requirements stipulated in E-Rate regulations in addition to complying with state and local procurement law and regulation.

The Administrator made the wrong assumptions pertinent to any bid violation for this FRN, and the FCC must approve the funding request.

CONCLUSION

The District took special efforts to encourage vendor competition for the Request for Proposal (RFP) postings for Erate Funding Year 2002-2003. The District contends that the Cleveland Municipal School District complied with the Schools and Libraries Division bidding requirements and clearly demonstrates that no bidding violations occurred for any of the funding request appeals presented herein. The District has demonstrated in this appeal letter to the FCC that it selected the lowest responsive bid in each case appealed herein. The District is presumed, by following appropriate local statutes, policies, and regulations, to have selected the most cost-effective service provider. Ohio statutes and District policy and regulations formulated under the State's statutes require District administrators to consider price as a primary factor in the award of contracts for goods and services.

The FCC, upon full review of the attached documentation, must approve these appeals.



Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Ilze K. Lacis", is positioned above a horizontal line.

Ilze K. Lacis
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Attachments: Appeals submitted to the SLD follow below.

Attachment to FCC Appeal

For

Forms 471

321819

323210

323152

Note:

These are the appeals with their attendant attachments
originally submitted to the
Schools and Libraries Division of USAC

TO: Letter of Appeal
Schools and Libraries Division
 Universal Services Administrative Corporation
 Box 125 – Correspondence Unit
 80 South Jefferson Road
 Whippany, NJ 07981

RE: Letter of Appeal for Two Funding Commitment Denials for FY 2002

Billed Entity Number	129482	Cleveland City School District
Form 471 Application Number	321819	
Funding Request Number	857252	Paging Service
Services Ordered	Internal Connections	
Pre-Discount Amount	\$102,841.20	
SPIN	143018525	Arch Wireless Operating Company
FCDL	March 10, 2003	
Funding Year 2002	07/01/2002 – 06/30/2003	
Funding Commitment Decision	Bidding Violation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.	

Billed Entity Number	129482	Cleveland City School District
Form 471 Application Number	321819	
Funding Request Number	856961	Cellular Service
Services Ordered	Internal Connections	
Pre-Discount Amount	\$66,708.72	
SPIN	143006742	Sprint Spectrum LP/Phillieco
FCDL	March 10, 2003	
Funding Year 2002	07/01/2002 – 06/30/2003	
Funding Commitment Decision	Bidding Violation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.	

FROM: Cleveland Municipal School District
 Peter A Robertson, Chief Research and Information Officer
 1380 East 6th Street
 Cleveland Ohio 44114

E-Rate Contact: Ilze K. Lacin
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INTRODUCTION

The Cleveland Municipal School District, f.k.a. the Cleveland City School District, ("District", "CMSD") requests the Schools and Libraries Division (SLD) of the Universal Services Administrative Corporation

(USAC) to review the SLD Funding Commitment Decisions regarding Funding Request Numbers 857252 and 856961, both requested in Form 471 Application Number 321819. The SLD based the denials on alleged bidding violations, explaining that the documentation provided demonstrated that price was not the primary factor in selecting this service provider's proposal.

BACKGROUND

The District took special efforts to encourage vendor competition sending email notices to more than sixty vendors with facsimile notices and targeted advertisement placement to additional vendors. Despite those efforts, the District received only two proposals in response to the paging service RFP and three proposals for the cellular service RFP. Although the two responses to the Request for Proposal (RFP) for a paging service were only One Dollar (\$1.00) apart in pricing, Arch Wireless, Inc. was evaluated to be the most responsive. The Ameritech/SBC proposal would have required additional expense to purchase Ameritech proprietary pagers, making the true cost of Ameritech's service approximately Twenty-three Thousand Dollars (\$23,000.00) more than Arch's proposal.

Three service providers responded to the District's Request for Proposal (RFP) for cellular service for eligible District users. AllTel's bid ranged from two thousand dollars (\$2000.00) less than Sprint's to almost twice (\$126,000.00) the cost of Sprint's proposal. The Alltel bid was judged to be not responsive because it contained too many varied additional charges for features, such as long distance and roaming, making price evaluation difficult. Cingular's bid based its pricing solely on Cingular-to-Cingular service. Since there are District departments that use cellular telephones from other service providers, Cingular's proposal was also deemed non-responsive. The third bid was from the current service provider, Sprint, whose cost was evaluated to be reasonable, and whose specifications were the most responsive and responsible to District needs.

BASIS OF APPEAL

The District respectfully submits that the SLD's initial denials of Funding Request Numbers 857252 and 856961 was based on invalid assumptions since there is no information in the funding request file invalidating the District's contention that the District, in following the competitive bidding process set forth in District policy and Ohio law, selected Arch Wireless, Inc and Sprint as the most responsive, cost effective bidders to provide paging and cellular services respectively. However, the District attaches to this appeal letter certain internal District documents (detailed below) to support its appeal.

During the 2002 Performance Integrity Assurance (PIA) process, the SLD did not question, nor request documents regarding, the evaluation of price during the bidding process. While materials and documents were provided to the SLD under the Selective Review Information Request for FY2002, the Selective Review did not include specific questions regarding pricing. Accordingly, the District did not forward internal documents, such as emails and the District purchasing policy, as price priority is standard procedure for all school districts governed by Ohio law. The following documents describe District policy governing procurement, refer to discussions among District bid evaluators regarding proposed project costs, and provide supporting information in order to supplement the District's previous submittals and clarify ambiguities.⁶

OHIO LAW AND DISTRICT POLICIES AND REGULATIONS MANDATE THAT THE DISTRICT CONSIDER PRICE AS A PRIMARY FACTOR, CONSISTENT WITH FEDERAL REGULATIONS

The District is required, by both Ohio statutory law and by its own policies and regulations, to consider lowest price as a primary criterion for any purchase of goods or services, other than those services included under the definition of professional services such as architects or attorneys.

Pursuant to Ohio Revised Code Section 3311.75(B), the Board of Education of any municipal school district in Ohio must "adopt and follow procedures for the award of all contracts for supplies and services involving the expenditure of fifty thousand dollars or more in any one fiscal year after a competitive bid or request for proposal process." Although this section does except certain specific categories of

⁶ The documents include: OHIO REV. CODE § 3311.75, CLEVELAND MUNICIPAL SCHOOL DISTRICT SEALED BID PROCEDURE, various contemporaneous emails and meeting notes, and spreadsheets developed as part of the evaluation process.

contracts, maintenance of the District's internal connections is not within any of those exceptions. See Attachment A, Ohio Revised Code Section 3311.75.

Even if state law allowed an exception for this contract from the competitive bidding process, the policies adopted by the District's Board of Education, and the regulations promulgated by the District's purchasing department pursuant to those policies, make no such exception. Although state law requires competitive bidding procedures for contracts in excess of fifty thousand dollars, the District's policy is more stringent, imposing the competitive bidding process on all procurement in excess of twenty-five thousand dollars, or for consulting services in excess of ten thousand dollars. See Attachment B, Sealed Bid Procedure, at 28 (General Information).

The District's regulation of the procurement process includes multiple levels to assure low price is a primary consideration. Upon bid opening, the District's Director of Purchasing is responsible for making an initial evaluation of all bids. Based upon that evaluation, the District may reject all bids submitted if the Director of Purchasing determines that all bids include excessive prices. See *id.* at 34. Once the District's Purchasing Director has determined that responsive and responsible bids have been received, the Bid Evaluation process requires determination of the lowest responsible bid. See *id.* Purchasing Regulations state that "the award will be made to the lowest responsible bidder whose bid is most advantageous to the District." *Id.* The District respectfully submits that, although its documentation did not include a copy of its internal policy for bid evaluation, the SLD should have relied upon the existence of state and local procurement rules and practices, because such rules will generally consider cost to be a primary factor in order to select the most cost-effective bid.

ADDITIONAL SUPPORTING DOCUMENTS FOR APPEAL (Not forwarded to the SLD previously)

There is no evidence to support a determination that price was not the primary factor in selecting Arch's and Sprint's proposals for FRNs 857252 and 856961. Absent some evidence to the contrary, the District is entitled to an assumption that its local procedures and its incentive to minimize its own undiscounted share are sufficient to conclude the District has selected the most cost-effective bid for services.⁷

Price was a primary and dominant consideration for the District in evaluating proposals/bids and in making the final service provider selections. In an initial e-mail communication from the District's E-Rate manager, Ilze K. Lacis, on October 22, 2001, to her supervisors and two key MIS staff (Chief Information and Research Officer Peter A. Robertson, Interim MIS Executive Director Mark Hogan, the MIS operations director and MIS manager), Ms. Lacis states "...Price is a dominant consideration." In the same e-mail, at point number (3), Ms. Lacis again emphasized that, "The selection criteria (for the bid evaluations) is weighted with price as the dominant, but not exclusive factor." See Attachment C, email from Ilze K. Lacis dated October 22, 2001.

A day later, October 23, 2001, the chief research and information officer forwarded the same e-mail to the District's Technology Steering Committee as an agenda item for the Committee's weekly meeting, stating "the goal is to do it (the E-Rate process) right!" The intent was to inform and educate broad District sectors about E-Rate regulations and requirements. See Attachment D, email from Peter A. Robertson dated October 23, 2001.

At two broad-based brainstorming and planning sessions on October 29, 2001 and on November 7, 2001, the E-Rate manager explained pertinent information about the District's participation in the E-Rate program. At the outset of the meeting, "[p]articular attention was given to full and complete compliance with District, State and FCC/E-Rate rules and regulations for a strong and open bidding process," (Attachment F) including evaluation criteria with cost carrying the heaviest weight among the criteria. Cross-departmental District decision-makers and external participants from key academic, university, educational and civic non-profit institutions and organizations participated in the meeting. One of the principal reasons for the sessions was to develop a clear, accurate, E-Rate-compliant process for the

⁷ See *In re Tennessee Dept. of Educ.*, 14 FCC Rcd. 13734, 13739 (1999).

District's funding requests from the SLD.⁸ See Attachment E, dated October 26, 2001, and Attachment F, dated December 12, 2001.

A section of the Request for Proposal (RFP) document asked vendors to supply information or actions that the District could take to lessen the financial cost. Proposal evaluators reviewed this proposal section, and queried vendors in the evaluation/proposal presentation sessions regarding cost. See Attachment G, Request for Proposal.

The District's E-Rate office prepared a series of spreadsheets listing submitted proposals for the RFPs. The spreadsheets were used at proposal evaluation sessions to help evaluate the bids. The spreadsheet layout demonstrates that cost was a dominant and primary criterion for the discussions. It is obvious that the spreadsheets' essential and primary function was to guide evaluators regarding bidders' proposal costs, both overall and how the District's required percentage payment impacts the District's budget. Evaluators, of course, also considered other factors, such as technological merit, integration into existing infrastructure, and other criteria. The spreadsheets noted here were internal, working documents, and as such, were not forwarded to the SLD in the Selective Review process. For an example, see Attachment H, Spreadsheet for Evaluation.

Furthermore, Interim Executive Director Mark Hogan addressed the issue in an email, dated January 7, 2002, referencing evaluations for network cabling and network maintenance. The emailed notes specifically refer to cost, using percentages to illustrate differentials. See Attachment I, email from Mark Hogan dated January 7, 2002.

Attachments A, B, C, D, E, F, G, H, and I are incorporated by this reference as though fully rewritten here.

OTHER SUPPORTING INFORMATION

The District offered a bidders' conference concurrently with the posting of the RFPs. In the general remarks, the District informed the vendors regarding proposal evaluation criteria. Vendors were pointed to the SLD Web site and the location for the SLD's description about the Form 470 fair and competitive process⁹. At that time all potential service providers were informed that cost was a primary consideration for the District.

CONCLUSION

The District respectfully contends that the above documents fully support that the Cleveland Municipal School District complied with the Schools and Libraries Division bidding requirements and in particular demonstrate that price *was* a primary factor in selecting a service provider's proposal. The District is presumed, by following appropriate local statutes, policies, and regulations, to have selected the most cost-effective service provider. Ohio statutes and District policy and regulations formulated under them require District administrators to consider price as a primary factor in the award of contracts for goods and services. The documents were not forwarded to the SLD during the PIA and Selective Review process since the specific question regarding the primacy of pricing in the evaluations was not addressed in the SLD's requests for information. Without such specific requests, the District assumed the SLD understood the fundamental legal requirements for school district purchasing under Ohio law.

The District further notes that, while its procurement practices require the determination and selection of the lowest responsible bid, the District received one, and only one, responsible bid for the services referenced in this appeal. As such, there can be no basis for the SLD to conclude "that price was not the primary factor for selecting this service provider's proposal."

Respectfully submitted,


Peter A Robertson

⁸ See also Other Supporting Information, below.

⁹ <http://www.sl.universalservice.org/whatsnew/reminders-F470.asp#F470R2>

TO: Letter of Appeal
Schools and Libraries Division
 Universal Services Administrative Corporation
 Box 125 – Correspondence Unit
 80 South Jefferson Road
 Whippany, NJ 07981

RE: Letter of Appeal for Two Funding Commitment Denials for FY 2002

Billed Entity Number	129482	Cleveland City School District
Form 471 Application Number	323152	
Funding Request Number	864964	Digital Wireless Broadcast Network
Services Ordered	Internal Connections	
Pre-Discount Amount	\$2,725,000.00	
SPIN	143024681	Media, Inc. dba WVIZ/PBS
FCDL	March 10, 2003	
Funding Year 2002	07/01/2002 – 06/30/2003	
Funding Commitment Decision	Bidding Violation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.	

Billed Entity Number	129482	Cleveland City School District
Form 471 Application Number	323210	
Funding Request Number	865736	Wireless LANs
Services Ordered	Internal Connections	
Pre-Discount Amount	\$7,350,183.00	
SPIN	143005607	IBM Corporation
FCDL	March 10, 2003	
Funding Year 2002	07/01/2002 – 06/30/2003	
Funding Commitment Decision	Bidding Violation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.	

FROM: Cleveland Municipal School District
 Peter A Robertson, Chief Research and Information Officer
 1380 East 6th Street
 Cleveland Ohio 44114

ERate Contact: Ilze K. Lacis
 4966 Woodland Avenue
 Cleveland, OH 44104
 Tel: 216 432 6240
 Fax: 216 432-4632
Lacisil@cmsdnet.net

INTRODUCTION

The Cleveland Municipal School District, f.k.a. the Cleveland City School District, (“District”, “CMSD”) requests the Schools and Libraries Division (SLD) of the Universal Services Administrative Corporation (USAC) to review the SLD Funding Commitment Decision regarding Funding Request Number (“FRN”) 865736 requested in Form 471 Application Number 323210 and Funding Request Number 864964 requested in Form 471 Application Number 323152. The SLD based the denial on alleged bidding violations, explaining that the documentation provided demonstrated that price was not the primary factor in selecting these service providers’ proposals.

BACKGROUND

The two Funding Requests (865736 and 864964) appeals presented here are related within the District’s Technology Plan and have the potential to significantly affect the District’s ten-year, One Billion Dollar facilities renovation project, which is a cooperative venture with the State of Ohio. Some District schools will be replaced while others substantively renovated; each of the District’s One Hundred Twenty schools will be affected. Both these FRNs would fund technology to help the classroom teacher and District instructional support staff to continue classroom and curriculum tasks without interruption during renovation and rebuilding.

The District’s initial plans for wireless LAN (WiLAN) installations at the District’s instructional sites began with a pilot installation at three sites in E-Rate Year 3 (Fiscal Year 2000-01), followed by the SLD’s approval of a more extensive installation of 12 WiLAN’s at each of four elementary, middle, and high schools in E-Rate Year 4 (Fiscal Year 2001-02). FY 2002-2003 instructional technology plans called for expanded WiLAN installation to all District instructional sites. The WiLAN’s enable teachers to continue using technology in the classroom during periods of renovation, when wired connectivity may be disrupted.

FRN 865736 requests wireless Local Area Network (LAN) installations at eligible District instructional sites, whereas FRN 864964 requests a wireless digital District-wide network that provides CMSD digital wireless transmissions with equitable bandwidth for video and data at all eligible District sites. The District took special efforts to encourage vendor competition for all Requests for Proposal (RFP) sending email notices to more than sixty vendors, and forwarding facsimile messages and placing targeted advertisement to additional vendors.

Despite those efforts, the District received only one response for the wireless digital District-wide network RFP, but five respondents for the wireless LAN RFP. The lone respondent to the wireless digital District-wide network was Media, Inc dba WVIZ/PBS, and thus Media, Inc. was of necessity the lowest priced bidder. Of the five service providers who submitted bids for the wireless LAN RFP, the lowest-priced bid was from Apple Professional Services, Inc. (Apple). While the Apple proposal was the least costly, it was deficient in specifications and deliverables and relied upon proprietary equipment. The District wishes to avoid proprietary branding to avoid eliminating technologically viable options for future expansion or upgrade, and to avoid the possible trap of price increases based on sole or limited sources for proprietary equipment. A teleconferenced presentation of the proposal did not provide the detail or assurances the District required to fulfill the RFP’s requirements. Therefore, the Apple bid, although apparently the lowest, was determined to be unresponsive to the bid specifications.

The Ameritech/SBC and Smart Solutions proposals were also lower-end bids, but each lacked specification details, and neither included an accounting of all of the expenditures needed for a fully functional wireless LAN throughout each of the District’s instructional sites to avoid “dead” transmission locations. The Wireless Information Networks, Inc. proposal was twice the cost of the IBM proposal. Thus, although it was responsive and responsible, the Wireless Information Networks proposal was eliminated based on excessive price. Consequently, the IBM proposal, which fully incorporated the RFP’s specifications, was deemed by the evaluating committee to be the most responsive and responsible proposal.

BASIS OF APPEAL

The District respectfully submits that the SLD’s initial denials of Funding Request Numbers 865736 and 864964 were based on invalid assumptions since there is no information in the funding request file

invalidating the District's contention that the District, in following the competitive bidding process set forth in District policy and Ohio law, selected Media, Inc dba WVIZ/PBS and IBM as the most responsive, cost effective bidders to provide the services requested in the respective RFPs. However, the District attaches to this appeal letter certain internal District documents (detailed below) to support its appeal.

During the 2002 Performance Integrity Assurance (PIA) process, the SLD did not question, nor request documents regarding, the evaluation of price during the bidding process. While materials and documents were provided to the SLD under the Selective Review Information Request for FY2002, the Selective Review did not include specific questions regarding pricing. Accordingly, the District did not forward internal documents, such as emails and the District purchasing policy, as price priority is standard procedure for all school districts governed by Ohio law. The following documents describe District policy governing procurement, refer to discussions among District bid evaluators regarding proposed project costs, and provide supporting information in order to supplement the District's previous submittals and clarify ambiguities.¹⁰

OHIO LAW AND DISTRICT POLICIES AND REGULATIONS MANDATE THAT THE DISTRICT CONSIDER PRICE AS A PRIMARY FACTOR, CONSISTENT WITH FEDERAL REGULATIONS

The District is required, by both Ohio statutory law and by its own policies and regulations, to consider lowest price as a primary criterion for any purchase of goods or services, other than those services included under the definition of professional services such as architects or attorneys.

Pursuant to Ohio Revised Code Section 3311.75(B), the Board of Education of any municipal school district in Ohio must "adopt and follow procedures for the award of all contracts for supplies and services involving the expenditure of fifty thousand dollars or more in any one fiscal year after a competitive bid or request for proposal process." Although this section does except certain specific categories of contracts, maintenance of the District's internal connections is not within any of those exceptions. See Attachment A, Ohio Revised Code Section 3311.75.

Even if state law allowed an exception for this contract from the competitive bidding process, the policies adopted by the District's Board of Education, and the regulations promulgated by the District's purchasing department pursuant to those policies, make no such exception. Although state law requires competitive bidding procedures for contracts in excess of fifty thousand dollars, the District's policy is more stringent, imposing the competitive bidding process on all procurement in excess of twenty-five thousand dollars, or for consulting services in excess of ten thousand dollars. See Attachment B, Sealed Bid Procedure, at 28 (General Information).

The District's regulation of the procurement process includes multiple levels to assure low price is a primary consideration. Upon bid opening, the District's Director of Purchasing is responsible for making an initial evaluation of all bids. Based upon that evaluation, the District may reject all bids submitted if the Director of Purchasing determines that all bids include excessive prices. See *id.* at 34. Once the District's Purchasing Director has determined that responsive and responsible bids have been received, the Bid Evaluation process requires determination of the lowest responsible bid. See *id.* Purchasing Regulations state that "the award will be made to the lowest responsible bidder whose bid is most advantageous to the District." *Id.* The District respectfully submits that, although its documentation did not include a copy of its internal policy for bid evaluation, the SLD should have relied upon the existence of state and local procurement rules and practices, because such rules will generally consider cost to be a primary factor in order to select the most cost-effective bid.

ADDITIONAL SUPPORTING DOCUMENTS FOR APPEAL (Not forwarded to the SLD previously)

There is no evidence to support a determination that price was not the primary factor in selecting Media, Inc.'s and IBM's proposals for FRN's 864964 and 865736 respectively. Absent some evidence to the contrary, the District is entitled to an assumption that its local procedures and its incentive to minimize

¹⁰ The documents include: OHIO REV. CODE § 3311.75, CLEVELAND MUNICIPAL SCHOOL DISTRICT SEALED BID PROCEDURE, various contemporaneous emails and meeting notes, and spreadsheets developed as part of the evaluation process.

its own undiscounted share are sufficient to conclude the District has selected the most cost-effective bid for services.¹¹

Price was a primary and dominant consideration for the District in evaluating proposals/bids and in making the final service provider selections. In an initial e-mail communication from the District's E-Rate manager, Ilze K. Lacis, on October 22, 2001, to her supervisors and two key MIS staff (Chief Information and Research Officer Peter A. Robertson, Interim MIS Executive Director Mark Hogan, the MIS operations director and MIS manager), Ms. Lacis states "...Price is a dominant consideration." In the same e-mail, at point number (3), Ms. Lacis again emphasized that, "The selection criteria (for the bid evaluations) is weighted with price as the dominant, but not exclusive factor." See Attachment C, email from Ilze K. Lacis dated October 22, 2001.

A day later, October 23, 2001, the chief research and information officer forwarded the same e-mail to the District's Technology Steering Committee as an agenda item for the Committee's weekly meeting, stating "the goal is to do it (the E-Rate process) right!" The intent was to inform and educate broad District sectors about E-Rate regulations and requirements. See Attachment D, email from Peter A. Robertson dated October 23, 2001.

At two broad-based brainstorming and planning sessions on October 29, 2001 and on November 7, 2001, the E-Rate manager explained pertinent information about the District's participation in the E-Rate program. At the outset of the meeting, "[p]articular attention was given to full and complete compliance with District, State and FCC/E-Rate rules and regulations for a strong and open bidding process," (Attachment F) including evaluation criteria with cost carrying the heaviest weight among the criteria. Cross-departmental District decision-makers and external participants from key academic, university, educational and civic non-profit institutions and organizations participated in the meeting. One of the principal reasons for the sessions was to develop a clear, accurate, E-Rate-compliant process for the District's funding requests from the SLD.¹² See Attachment E, dated October 26, 2001, and Attachment F, dated December 12, 2001.

A section of the Request for Proposal (RFP) document asked vendors to supply information or actions that the District could take to lessen the financial cost. Proposal evaluators reviewed this proposal section, and queried vendors in the evaluation/proposal presentation sessions regarding cost. See Attachment G, Request for Proposal.

The District's E-Rate office prepared a series of spreadsheets listing submitted proposals for the RFPs. The spreadsheets were used at proposal evaluation sessions to help evaluate the bids. The spreadsheet layout demonstrates that cost was a dominant and primary criterion for the discussions. It is obvious that the spreadsheets' essential and primary function was to guide evaluators regarding bidders' proposal costs, both overall and how the District's required percentage payment impacts the District's budget. Evaluators, of course, also considered other factors, such as technological merit, integration into existing infrastructure, and other criteria. The spreadsheets noted here were internal, working documents, and as such, were not forwarded to the SLD in the Selective Review process. For an example, see Attachment H, Spreadsheet for Evaluation.

Furthermore, Interim Executive Director Mark Hogan addressed the issue in an email, dated January 7, 2002, referencing evaluations for network cabling and network maintenance. The emailed notes specifically refer to cost, using percentages to illustrate differentials. See Attachment I, email from Mark Hogan dated January 7, 2002.

Attachments A, B, C, D, E, F, G, H, and I are incorporated by this reference as though fully rewritten here.

OTHER SUPPORTING INFORMATION

The District offered a bidders' conference concurrently with the posting of the RFPs. In the general remarks, the District informed the vendors regarding proposal evaluation criteria. Vendors were pointed to the SLD Web site and the location for the SLD's description about the Form 470 fair and competitive

¹¹ See *In re Tennessee Dept. of Educ.*, 14 FCC Rcd. 13734, 13739 (1999).

¹² See also Other Supporting Information, below.

process¹³. At that time all potential service providers were informed that cost was a primary consideration for the District.

CONCLUSION

The District respectfully contends that the above documents fully support that the Cleveland Municipal School District complied with the Schools and Libraries Division bidding requirements and in particular demonstrate that price *was* a primary factor in selecting a service provider's proposal. The District is presumed, by following appropriate local statutes, policies, and regulations, to have selected the most cost-effective service provider. Ohio statutes and District policy and regulations formulated under them require District administrators to consider price as a primary factor in the award of contracts for goods and services. The documents were not forwarded to the SLD during the PIA and Selective Review process since the specific question regarding the primacy of pricing in the evaluations was not addressed in the SLD's requests for information. Without such specific requests, the District assumed the SLD understood the fundamental legal requirements for school district purchasing under Ohio law.

The District further notes that, while its procurement practices require the determination and selection of the lowest responsible bid, the District received one, and only one, responsible bid for the wireless digital District-wide broadcast network referenced in this appeal. Secondly, there only two responsive and responsible bidders for the wireless LAN RFP also referenced in this appeal, and the District selected the proposal that offered the lower price. As such, there can be no basis for the SLD to conclude "that price was not the primary factor for selecting this service provider's proposal." Therefore, the District respectfully requests the appeal be granted.

Respectfully submitted,



Peter A Robertson

¹³ <http://www.sl.universalservice.org/whatsnew/reminders-F470.asp#F470R2>

TO: Letter of Appeal
Schools and Libraries Division
Universal Services Administrative Corporation
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

RE: Letter of Appeal for Funding Commitment Denial for FY 2002

Billed Entity Number	129482	Cleveland City School District
Form 471 Application Number	323152	
Funding Request Number	864400	Tech Support for ComWeb Teaching Aid
Services Ordered		Internal Connections
Pre-Discount Amount	\$606,225.00	
SPIN	143005079	ComWeb Technology Group, Inc
FCDL	March 10, 2003	
Funding Year 2002	07/01/2002 – 06/30/2003	
Funding Commitment Decision	Bidding Violation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.	

FROM: Cleveland Municipal School District
Peter A Robertson, Chief Research and Information Officer
1380 East 6th Street
Cleveland Ohio 44114

E-Rate Contact: Ilze K. Lacin
4966 Woodland Avenue
Cleveland, OH 44104
Tel: 216 432 6240
Fax: 216 432 4632
Lacisil@cmsdnet.net

INTRODUCTION

The Cleveland Municipal School District, f.k.a. the Cleveland City School District, ("District", "CMSD") requests the Schools and Libraries Division (SLD) of the Universal Services Administrative Corporation (USAC) to review the SLD Funding Commitment Decision regarding Funding Request Number 864400 requested in Form 471 Application Number 323152. The SLD based the denial on alleged bidding violations, explaining that the documentation provided demonstrated that price was not the primary factor in selecting this service provider's proposal.

BACKGROUND

The District took special efforts to encourage vendor competition, particularly for the Network Technical Support Request for Proposal (RFP). The District sent email notices to more than sixty vendors and sent notice via facsimile to additional vendors. Despite those efforts, the District received only four proposals in response to the Technical Support RFP. ComWeb Technology Group, Inc. ("ComWeb") was one of the respondents to the District's Request for Proposal (RFP) for Technical Support. Their

response was exclusively for the ComWeb's product, the Classroom Network Switch, to provide a program of maintenance and technical support encompassing the resolution of system user and/or technical problems. Teachers use the product as a teaching aid throughout the District's instructional site classrooms. The District acquired the Classroom Network Switch using E-Rate funds from Year 3 (Fiscal Year 2000-01), and ComWeb provided technical support through Fiscal Year 2001-02 as part of the acquisition contract. The other bidders submitted proposals for the District's technology network support.¹⁴

BASIS OF APPEAL

The District respectfully submits that the SLD's initial denial of Funding Request Number 864400 was based on invalid assumptions since there is no information in the funding request file invalidating the District's contention that the District, in following the competitive bidding process set forth in District policy and Ohio law, selected ComWeb as the most responsive, cost effective bidder for supporting the ComWeb Classroom Network Switch. ComWeb, in fact, is the only service provider for the Classroom Switch, as it is proprietary technology. However, the District attaches to this appeal letter certain internal District documents (detailed below) to support its appeal.

During the 2002 Performance Integrity Assurance (PIA) process, the SLD did not question, nor request documents regarding, the evaluation of price during the bidding process. While materials and documents were provided to the SLD under the Selective Review Information Request for FY2002, the Selective Review did not include specific questions regarding pricing. Accordingly, the District did not forward internal documents, such as emails and the District purchasing policy, as price priority is standard procedure for all school districts governed by Ohio law. The following documents describe District policy governing procurement, refer to discussions among District bid evaluators regarding proposed project costs, and provide supporting information in order to supplement the District's previous submittals and clarify ambiguities.¹⁵

OHIO LAW AND DISTRICT POLICIES AND REGULATIONS MANDATE THAT THE DISTRICT CONSIDER PRICE AS A PRIMARY FACTOR, CONSISTENT WITH FEDERAL REGULATIONS

The District is required, by both Ohio statutory law and by its own policies and regulations, to consider lowest price as a primary criterion for any purchase of goods or services, other than those services included under the definition of professional services such as architects or attorneys.

Pursuant to Ohio Revised Code Section 3311.75(B), the Board of Education of any municipal school district in Ohio must "adopt and follow procedures for the award of all contracts for supplies and services involving the expenditure of fifty thousand dollars or more in any one fiscal year after a competitive bid or request for proposal process." Although this section does except certain specific categories of contracts, maintenance of the District's internal connections is not within any of those exceptions. See Attachment A, Ohio Revised Code Section 3311.75.

Even if state law allowed an exception for this contract from the competitive bidding process, the policies adopted by the District's Board of Education, and the regulations promulgated by the District's purchasing department pursuant to those policies, make no such exception. Although state law requires competitive bidding procedures for contracts in excess of fifty thousand dollars, the District's policy is more stringent, imposing the competitive bidding process on all procurement in excess of twenty-five thousand dollars, or for consulting services in excess of ten thousand dollars. See Attachment B, Sealed Bid Procedure, at 28 (General Information).

The District's regulation of the procurement process includes multiple levels to assure low price is a primary consideration. Upon bid opening, the District's Director of Purchasing is responsible for making an initial evaluation of all bids. Based upon that evaluation, the District may reject all bids submitted if the Director of Purchasing determines that all bids include excessive prices. See *id.* at 34. Once the District's Purchasing Director has determined that responsive and responsible bids have been received,

¹⁴ A separate appeal addresses the District's choice for a service provider for the network technology support service.

¹⁵ The documents include: OHIO REV. CODE § 3311.75, CLEVELAND MUNICIPAL SCHOOL DISTRICT SEALED BID PROCEDURE, various contemporaneous emails and meeting notes, and spreadsheets developed as part of the evaluation process.

the Bid Evaluation process requires determination of the lowest responsible bid. *See id.* Purchasing Regulations state that “the award will be made to the lowest responsible bidder whose bid is most advantageous to the District.” *Id.* The District respectfully submits that, although its documentation did not include a copy of its internal policy for bid evaluation, the SLD should have relied upon the existence of state and local procurement rules and practices, because such rules will generally consider cost to be a primary factor in order to select the most cost-effective bid.

ADDITIONAL SUPPORTING DOCUMENTS FOR APPEAL (Not forwarded to the SLD previously)

There is no evidence to support a determination that price was not the primary factor in selecting ComWeb’s proposal for FRN 864400. Absent some evidence to the contrary, the District is entitled to an assumption that its local procedures and its incentive to minimize its own undiscounted share are sufficient to conclude the District has selected the most cost-effective bid for services.¹⁶

Price was a primary and dominant consideration for the District in evaluating proposals/bids and in making the final service provider selections. In an initial e-mail communication from the District’s E-Rate manager, Ilze K. Lacin, on October 22, 2001, to her supervisors and two key MIS staff (Chief Information and Research Officer Peter A. Robertson, Interim MIS Executive Director Mark Hogan, the MIS operations director and MIS manager), Ms. Lacin states “...Price is a dominant consideration.” In the same e-mail, at point number (3), Ms. Lacin again emphasized that, “The selection criteria (for the bid evaluations) is weighted with price as the dominant, but not exclusive factor.” *See* Attachment C, email from Ilze K. Lacin dated October 22, 2001.

A day later, October 23, 2001, the chief research and information officer forwarded the same e-mail to the District’s Technology Steering Committee as an agenda item for the Committee’s weekly meeting, stating “the goal is to do it (the E-Rate process) right!” The intent was to inform and educate broad District sectors about E-Rate regulations and requirements. *See* Attachment D, email from Peter A. Robertson dated October 23, 2001.

At two broad-based brainstorming and planning sessions on October 29, 2001 and on November 7, 2001, the E-Rate manager explained pertinent information about the District’s participation in the E-Rate program. At the outset of the meeting, “[p]articular attention was given to full and complete compliance with District, State and FCC/E-Rate rules and regulations for a strong and open bidding process,” (Attachment F) including evaluation criteria with cost carrying the heaviest weight among the criteria. Cross-departmental District decision-makers and external participants from key academic, university, educational and civic non-profit institutions and organizations participated in the meeting. One of the principal reasons for the sessions was to develop a clear, accurate, E-Rate-compliant process for the District’s funding requests from the SLD.¹⁷ *See* Attachment E, dated October 26, 2001, and Attachment F, dated December 12, 2001.

A section of the Request for Proposal (RFP) document asked vendors to supply information or actions that the District could take to lessen the financial cost. Proposal evaluators reviewed this proposal section, and queried vendors in the evaluation/proposal presentation sessions regarding cost. *See* Attachment G, Request for Proposal.

The District’s E-Rate office prepared a series of spreadsheets listing submitted proposals for the RFPs. The spreadsheets were used at proposal evaluation sessions to help evaluate the bids. The spreadsheet layout demonstrates that cost was a dominant and primary criterion for the discussions. It is obvious that the spreadsheets’ essential and primary function was to guide evaluators regarding bidders’ proposal costs, both overall and how the Districts’ required percentage payment impacts the District’s budget. Evaluators, of course, also considered other factors, such as technological merit, integration into existing infrastructure, and other criteria. The spreadsheets noted here were internal, working documents, and as such, were not forwarded to the SLD in the Selective Review process. For an example, *see* Attachment H, Spreadsheet for Evaluation.

¹⁶ *See In re Tennessee Dept. of Educ.*, 14 FCC Rcd. 13734, 13739 (1999).

¹⁷ *See also* Other Supporting Information, below.

Furthermore, Interim Executive Director Mark Hogan addressed the issue in an email, dated January 7, 2002, referencing evaluations for network cabling and network maintenance. The emailed notes specifically refer to cost, using percentages to illustrate differentials. See Attachment I, email from Mark Hogan dated January 7, 2002.

Attachments A, B, C, D, E, F, G, H, and I are incorporated by this reference as though fully rewritten here.

OTHER SUPPORTING INFORMATION

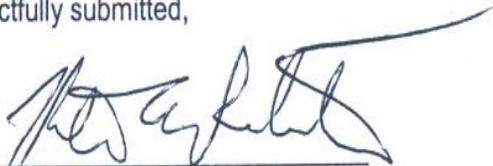
The District offered a bidders' conference concurrently with the posting of the RFPs. In the general remarks, the District informed the vendors regarding proposal evaluation criteria. Vendors were pointed to the SLD Web site and the location for the SLD's description about the Form 470 fair and competitive process¹⁸. At that time all potential service providers were informed that cost was a primary consideration for the District.

CONCLUSION

The District respectfully contends that the above documents fully support that the Cleveland Municipal School District complied with the Schools and Libraries Division bidding requirements and in particular demonstrate that price *was* a primary factor in selecting a service provider's proposal. The District is presumed, by following appropriate local statutes, policies, and regulations, to have selected the most cost-effective service provider. Ohio statutes and District policy and regulations formulated under them require District administrators to consider price as a primary factor in the award of contracts for goods and services. The documents were not forwarded to the SLD during the PIA and Selective Review process since the specific question regarding the primacy of pricing in the evaluations was not addressed in the SLD's requests for information. Without such specific requests, the District assumed the SLD understood the fundamental legal requirements for school district purchasing under Ohio law.

The District further notes that, while its procurement practices require the determination and selection of the lowest responsible bid, the District received one, and only one, responsible bid for the service referenced in this appeal. As such, there can be no basis for the SLD to conclude "that price was not the primary factor for selecting this service provider's proposal."

Respectfully submitted,



Peter A Robertson

¹⁸ <http://www.sl.universalservice.org/whatsnew/reminders-F470.asp#F470R2>

TO: Letter of Appeal
Schools and Libraries Division
Universal Services Administrative Corporation
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

RE: Letter of Appeal for Funding Commitment Denial for FY 2002

Billed Entity Number	129482
Applicant Name	Cleveland Municipal School District f.k.a. Cleveland City School District
Form 471 Application Number	323152
Funding Request Number	862588
Services Ordered	Internal Connections
Pre-Discount Amount	\$16,465,624.00
SPIN	143005607
FCDL	March 10, 2003
Funding Year 2002	07/01/2002 – 06/30/2003
Funding Commitment Decision	Bidding Violation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

FROM: Cleveland Municipal School District

Peter A Robertson, Chief Research and Information Officer
1380 East 6th Street
Cleveland Ohio 44114

E-Rate Contact: Ilze K. Lacin
4966 Woodland Avenue,
Cleveland, OH 44104
Tel: 216 432 6240;
Fax: 216 432 6240
Lacisil@cmsdnet.net

INTRODUCTION

The Cleveland Municipal School District, f.k.a. the Cleveland City School District, ("District", "CMSD") requests the Schools and Libraries Division (SLD) of the Universal Services Administrative Corporation (USAC) to review the SLD Funding Commitment Decision regarding Funding Request Number 862588, requested in Form 471 Application Number 323152. The SLD denied the bid on alleged bidding violations, explaining that the documentation provided demonstrated that price was not the primary factor in selecting this service provider's proposal.

BACKGROUND

The District took special efforts to encourage vendor competition, particularly for the Network Technical Support Request for Proposal (RFP). The District sent email notices to more than sixty vendors and sent notice via facsimile to additional vendors. Despite those efforts, the District received only four proposals in response to the Technical Support RFP. Of those four, the ComWeb Technology Group, Inc.'s proposal was for support specifically limited to the company's proprietary product, which teachers

use throughout the District's instructional site classrooms as a teaching aid.¹⁹ A second proposer, Ross-Tek, presented a bid that was so limited in scope of service that it completely failed to address the District's specifications. Thus, the District was obligated under local law to reject the Ross-Tek proposal as not responsible or responsive. Ameritech/SBC's proposal was incomplete and lacked pertinent details. The District asked Ameritech/SBC to provide the missing information by telephone, and subsequently provided the vendor an opportunity to present its proposal to the District's reviewers in person. Nevertheless, the vendor's response remained incomplete; Ameritech/SBC never provided the information and deliverables that the RFP required. This, then, left the IBM technical support proposal as the only viable and responsive proposal to consider. IBM, also, was invited to present their proposal to the evaluating committee, with a follow-up meeting to specifically discuss the costs of the proposal. The District believes that the Pre-bid Vendors' Conference and open bidding process assisted in lowering the FY 2002-2003 IBM technical support proposal cost by two million dollars (\$2,000,000.00) from the previous fiscal year.

BASIS OF APPEAL

The District respectfully submits that the SLD's initial denial of funding request 862588 was based on invalid assumptions since there is no information in the funding request file invalidating the District's contention that the District, in following the competitive bidding process set forth in District policy and Ohio law, selected IBM as the most responsive, cost effective bidder. The District attaches to this appeal letter certain internal District documents (detailed below) to support its appeal.

During the 2002 Performance Integrity Assurance (PIA) process, the SLD did not question, nor request documents regarding, the evaluation of price during the bidding process. While materials and documents were provided to the SLD under the Selective Review audit for FY2002, the Selective Review did not include questions regarding pricing specifically. Accordingly, the District did not forward internal documents, such as emails and the District purchasing policy, as price priority is standard procedure for all school districts governed by Ohio law. The following documents describe District policy governing procurement, refer to discussions among District bid evaluators regarding proposed project costs, and provide supporting information in order to supplement the District's previous submittals and clarify ambiguities.²⁰

OHIO LAW AND DISTRICT POLICIES AND REGULATIONS MANDATE THAT THE DISTRICT CONSIDER PRICE AS A PRIMARY FACTOR, CONSISTENT WITH FEDERAL REGULATIONS

The District is required, by both Ohio statutory law and by its own policies and regulations, to consider lowest price as a primary criterion for any purchase of goods or services, other than those services included under the definition of professional services such as architects or attorneys.

Pursuant to Ohio Revised Code Section 3311.75(B), the Board of Education of any municipal school district in Ohio must "adopt and follow procedures for the award of all contracts for supplies and services involving the expenditure of fifty thousand dollars or more in any one fiscal year after a competitive bid or request for proposal process." Although this section does except certain specific categories of contracts, maintenance of the District's internal connections is not within any of those exceptions. See Attachment A, Ohio Revised Code Section 3311.75.

Even if state law allowed an exception for this contract from the competitive bidding process, the policies adopted by the District's Board of Education, and the regulations promulgated by the District's purchasing department pursuant to those policies, make no such exception. Although state law requires competitive bidding procedures for contracts in excess of fifty thousand dollars, the District's policy is more stringent, imposing the competitive bidding process on all procurement in excess of twenty-five thousand dollars, or for consulting services in excess of ten thousand dollars. See Attachment B, Sealed Bid Procedure, at 28 (General Information).

¹⁹ The ComWeb proposal was the subject of a separate FRN.

²⁰ The documents include: OHIO REV. CODE § 3311.75, CLEVELAND MUNICIPAL SCHOOL DISTRICT SEALED BID PROCEDURE, various contemporaneous emails and meeting notes, and spreadsheets developed as part of the evaluation process.

The District's regulation of the procurement process includes multiple levels to assure low price is a primary consideration. Upon bid opening, the District's Director of Purchasing is responsible for making an initial evaluation of all bids. Based upon that evaluation, the District may reject all bids submitted based on excessive price. *See id.*, at 34. Once the District's Purchasing Director has determined that responsive and responsible bids have been received, the Bid Evaluation process requires determination of the lowest responsible bid. *See id.* Purchasing Regulations state that "the award will be made to the lowest responsible bidder whose bid is most advantageous to the District." *Id.* The District respectfully submits that, although its documentation did not include a copy of its internal policy for bid evaluation, the SLD should have relied upon the existence of state and local procurement rules and practices, because such rules will generally consider cost to be a primary factor in order to select the most cost-effective bid.

ADDITIONAL SUPPORTING DOCUMENTS FOR APPEAL (Not forwarded to the SLD previously)

There is no evidence to support a determination that price was not the primary factor in selecting IBM's proposal for FRN 862588. Absent some evidence to the contrary, the District is entitled to an assumption that its local procedures and its incentive to minimize its own undiscounted share are sufficient to conclude the District has selected the most cost-effective bid for services.²¹

Price was a primary and dominant consideration for the District in evaluating proposals/bids and in making the final service provider selections. In an initial e-mail communication from the District's E-Rate manager, Ilze K. Lacis, on October 22, 2001, to her supervisors and two key MIS staff (Chief Information and Research Officer Peter A. Robertson, Interim MIS Executive Director Mark Hogan, the MIS operations director and MIS manager), Ms. Lacis states "...Price is a dominant consideration." In the same e-mail, at point number (3), Ms. Lacis again emphasized that, "The selection criteria (for the bid evaluations) is weighted with price as the dominant, but not exclusive factor." *See* Attachment C, email from Ilze K. Lacis dated October 22, 2001.

A day later, October 23, 2001, the chief research and information officer forwarded the same e-mail to the District's Technology Steering Committee as an agenda item for the Committee's weekly meeting, stating that "...the goal is to do it (the E-Rate process) right!" The intent was to inform and educate broad District sectors about E-Rate regulations and requirements. *See* Attachment D, email from Peter A. Robertson dated October 23, 2001.

At two broad-based brainstorming and planning sessions on October 29, 2001 and on November 7, 2001, the E-Rate manager explained pertinent information about the District's participation in the E-Rate program. At the outset of the meeting, "[p]articular attention was given to full and complete compliance with District, State and FCC/E-Rate rules and regulations for a strong and open bidding process," (Attachment F) including evaluation criteria with cost carrying the heaviest weight among the criteria. Cross-departmental District decision-makers and external participants from key academic, university, educational and civic non-profit institutions and organizations participated in the meeting. One of the principal reasons for the sessions was to develop a clear, accurate, E-Rate-compliant process for the District's funding requests from the SLD.²² *See* Attachment E, dated October 26, 2001, and Attachment F, dated December 12, 2001.

A section of the Request for Proposal (RFP) document asked vendors to supply information or actions that the District could take to lessen the financial cost. Proposal evaluators reviewed this proposal section, and queried vendors in the evaluation/proposal presentation sessions regarding cost. *See* Attachment G, Request for Proposal.

The District's E-Rate office prepared a series of spreadsheets listing submitted proposals for the RFPs. The spreadsheets were used at proposal evaluation sessions to help evaluate the bids. The spreadsheet layout demonstrates that cost was a dominant and primary criterion for the discussions. It is obvious that the spreadsheets' essential and primary function was to guide evaluators regarding bidders' proposal costs, both overall and how the Districts' required percentage payment impacts the District's budget. Evaluators, of course, also considered other factors, such as technological merit,

²¹ *See In re Tennessee Dept. of Educ.*, 14 FCC Rcd. 13734, 13739 (1999).

²² *See also Other Supporting Information, below.*

integration into existing infrastructure, and other criteria. The spreadsheets noted here were internal, working documents, and as such, were not forwarded to the SLD in the Selective Review process. For an example, *see* Attachment H, Spreadsheet for Evaluation.

In an email dated January 7, 2002, to IBM, Ilze Lacis responded to a service provider (IBM) with some of the questions that evaluators would consider/ask at the vendors' presentation session. The first item noted is cost. The District was clear to all participating bidders, via the bidders' conference (*see* below), that cost was a primary consideration for the District. *See* Attachment I, email from Ilze Lacis dated January 7, 2002. The Interim Executive Director Mark Hogan responded via email, dated January 7, 2002, with evaluations for network cabling and network maintenance. The emailed notes specifically refer to cost, using percentages to illustrate differentials. *See* Attachment J, email from Mark Hogan dated January 7, 2002.

Attachments A, B, C, D, E, F, G, H, I, and J are incorporated by this reference as though fully rewritten here.

OTHER SUPPORTING INFORMATION

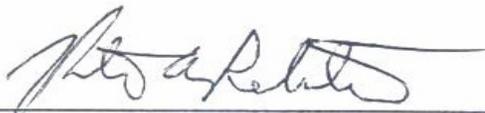
The District offered a bidders' conference concurrently with the posting of the RFPs. In the general remarks, the District informed the vendors regarding proposal evaluation criteria. Vendors were pointed to the SLD Web site and the location for the SLD's description about the Form 470 fair and competitive process²³. At that time all potential service providers were informed that cost was a primary consideration for the District.

CONCLUSION

The District respectfully contends that the above documents fully support that the Cleveland Municipal School District complied with the Schools and Libraries Division bidding requirements and in particular demonstrate that price *was* a primary factor in selecting a service provider's proposal. The District is presumed, by following appropriate local statutes, policies, and regulations, to have selected the most cost-effective service provider. Ohio statutes and District policy and regulations formulated under them require District administrators to consider price as a primary factor in the award of contracts for goods and services. The documents were not forwarded to the SLD during the PIA and Selective Review process since the specific question regarding the primacy of pricing in the evaluations was not addressed in the SLD's requests for information. Without such specific requests, the District assumed the SLD understood the fundamental legal requirements for school district purchasing under Ohio law.

The District further notes that, while its procurement practices require the determination and selection of the lowest responsible bid, the District received one, and only one, responsible bid for the service referenced in this appeal. As such, there can be no basis for the SLD to conclude "that price was not the primary factor for selecting this service provider's proposal."

Respectfully submitted,



Peter A Robertson

²³ <http://www.sl.universalservice.org/whatsnew/reminders-F470.asp#F470R2>

TO: Letter of Appeal
Schools and Libraries Division
Universal Services Administrative Corporation
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

RE: Letter of Appeal for Funding Commitment Denial for FY 2002

Billed Entity Number	129482	Cleveland City School District
Form 471 Application Number	321819	
Funding Request Number	857405	Measured Business Telephone Lines
Services Ordered	Telecommunications	
Pre-Discount Amount	\$55,452.00	
SPIN	143001688	Ameritech-Ohio
FCDL	March 10, 2003	
Funding Year 2002	07/01/2002 – 06/30/2003	
Funding Commitment Decision	Bidding Violation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.	

FROM: Cleveland Municipal School District

Peter A Robertson, Chief Research and Information Officer
1380 East 6th Street
Cleveland Ohio 44114

E-Rate Contact: Ilze K. Lacis
4966 Woodland Avenue
Cleveland, OH 44104
Tel: 216 432 6240
Fax: 216 432 4632
Lacisil@cmsdnet.net

INTRODUCTION

The Cleveland Municipal School District, f.k.a. the Cleveland City School District, ("District", "CMSD") requests the Schools and Libraries Division (SLD) of the Universal Services Administrative Corporation (USAC) to review the SLD Funding Commitment Decision regarding Funding Request Number 857405 requested in Form 471 Application Number 321819. The SLD based the denial on alleged bidding violations, explaining that the documentation provided demonstrated that price was not the primary factor in selecting this service provider's proposal.

BACKGROUND

The District has a number of telephone lines that are not integral to the District's Centrex system. The service provider for these Measured Business Lines has been Ameritech/SBC, who owns the local voice lines. The District took special efforts to encourage vendor competition for the Measured Business Lines Request for Proposal, sending email notices to more than sixty vendors, facsimile notification to additional vendors, along with targeted advertisement placement. Despite those efforts, there were only

three respondents to the Request for Proposal (RFP) for the Measured Business Line service. One of the bidders, Warwick Communications, Inc., was eliminated because of its price was based upon reselling telephone lines Warwick leased from Ameritech/SBC; the added cost made the bid noncompetitive. The second bidder, XO Communications, offered a price \$4,452.00 less than the Ameritech proposal. XO's apparent low bid did not, however, account for the additional expense to audit the District's existing measured business lines that would be necessary in order to change vendors.²⁴ That expense would range from \$15,000 to \$20,000, based on the District's prior evaluation. Furthermore, the District had begun discussions with Ameritech/SBC regarding moving the Measured Lines into the District's existing Centrex system. Therefore, the District's evaluating committee selected the current provider, SBC/Ameritech, because all expenses were reflected in the bid price, and the price reflected the best value to the District for the amount expended.

BASIS OF APPEAL

The District respectfully submits that the SLD's initial denial of Funding Request Number 857405 was based on invalid assumptions since there is no information in the funding request file invalidating the District's contention that the District, in following the competitive bidding process set forth in District policy and Ohio law, selected Ameritech/SBC as the most responsive, cost effective bidder to provide service for the District's Measured Business Lines. However, the District attaches to this appeal letter certain internal District documents (detailed below) to support its appeal.

During the 2002 Performance Integrity Assurance (PIA) process, the SLD did not question, nor request documents regarding, the evaluation of price during the bidding process. While materials and documents were provided to the SLD under the Selective Review Information Request for FY2002, the Selective Review did not include specific questions regarding pricing. Accordingly, the District did not forward internal documents, such as emails and the District purchasing policy, as price priority is standard procedure for all school districts governed by Ohio law. The following documents describe District policy governing procurement, refer to discussions among District bid evaluators regarding proposed project costs, and provide supporting information in order to supplement the District's previous submittals and clarify ambiguities.²⁵

OHIO LAW AND DISTRICT POLICIES AND REGULATIONS MANDATE THAT THE DISTRICT CONSIDER PRICE AS A PRIMARY FACTOR, CONSISTENT WITH FEDERAL REGULATIONS

The District is required, by both Ohio statutory law and by its own policies and regulations, to consider lowest price as a primary criterion for any purchase of goods or services, other than those services included under the definition of professional services such as architects or attorneys.

Pursuant to Ohio Revised Code Section 3311.75(B), the Board of Education of any municipal school district in Ohio must "adopt and follow procedures for the award of all contracts for supplies and services involving the expenditure of fifty thousand dollars or more in any one fiscal year after a competitive bid or request for proposal process." Although this section does except certain specific categories of contracts, maintenance of the District's internal connections is not within any of those exceptions. See Attachment A, Ohio Revised Code Section 3311.75.

Even if state law allowed an exception for this contract from the competitive bidding process, the policies adopted by the District's Board of Education, and the regulations promulgated by the District's purchasing department pursuant to those policies, make no such exception. Although state law requires competitive bidding procedures for contracts in excess of fifty thousand dollars, the District's policy is more stringent, imposing the competitive bidding process on all procurement in excess of

²⁴ An audit of existing service would be needed because measured business lines, although they might remain physically in place, are not always in service. The audit would determine the actual number of lines in service and thus the actual cost to the District. The RFP specified a per-line bid based on 200 measured business lines in service.

²⁵ The documents include: OHIO REV. CODE § 3311.75, CLEVELAND MUNICIPAL SCHOOL DISTRICT SEALED BID PROCEDURE, various contemporaneous emails and meeting notes, and spreadsheets developed as part of the evaluation process.

twenty-five thousand dollars, or for consulting services in excess of ten thousand dollars. *See* Attachment B, Sealed Bid Procedure, at 28 (General Information).

The District's regulation of the procurement process includes multiple levels to assure low price is a primary consideration. Upon bid opening, the District's Director of Purchasing is responsible for making an initial evaluation of all bids. Based upon that evaluation, the District may reject all bids submitted if the Director of Purchasing determines that all bids include excessive prices. *See id.* at 34. Once the District's Purchasing Director has determined that responsive and responsible bids have been received, the Bid Evaluation process requires determination of the lowest responsible bid. *See id.* Purchasing Regulations state that "the award will be made to the lowest responsible bidder whose bid is most advantageous to the District." *Id.* The District respectfully submits that, although its documentation did not include a copy of its internal policy for bid evaluation, the SLD should have relied upon the existence of state and local procurement rules and practices, because such rules will generally consider cost to be a primary factor in order to select the most cost-effective bid.

ADDITIONAL SUPPORTING DOCUMENTS FOR APPEAL (Not forwarded to the SLD previously)

There is no evidence to support a determination that price was not the primary factor in selecting Ameritech/SBC's proposal for FRN 857405. Absent some evidence to the contrary, the District is entitled to an assumption that its local procedures and its incentive to minimize its own undiscounted share are sufficient to conclude the District has selected the most cost-effective bid for services.²⁶

Price was a primary and dominant consideration for the District in evaluating proposals/bids and in making the final service provider selections. In an initial e-mail communication from the District's E-Rate manager, Ilze K. Lacis, on October 22, 2001, to her supervisors and two key MIS staff (Chief Information and Research Officer Peter A. Robertson, Interim MIS Executive Director Mark Hogan, the MIS operations director and MIS manager), Ms. Lacis states "...Price is a dominant consideration." In the same e-mail, at point number (3), Ms. Lacis again emphasized that, "The selection criteria (for the bid evaluations) is weighted with price as the dominant, but not exclusive factor." *See* Attachment C, email from Ilze K. Lacis dated October 22, 2001.

A day later, October 23, 2001, the chief research and information officer forwarded the same e-mail to the District's Technology Steering Committee as an agenda item for the Committee's weekly meeting, stating "the goal is to do it (the E-Rate process) right!" The intent was to inform and educate broad District sectors about E-Rate regulations and requirements. *See* Attachment D, email from Peter A. Robertson dated October 23, 2001.

At two broad-based brainstorming and planning sessions on October 29, 2001 and on November 7, 2001, the E-Rate manager explained pertinent information about the District's participation in the E-Rate program. At the outset of the meeting, "[p]articular attention was given to full and complete compliance with District, State and FCC/E-Rate rules and regulations for a strong and open bidding process," (Attachment F) including evaluation criteria with cost carrying the heaviest weight among the criteria. Cross-departmental District decision-makers and external participants from key academic, university, educational and civic non-profit institutions and organizations participated in the meeting. One of the principal reasons for the sessions was to develop a clear, accurate, E-Rate-compliant process for the District's funding requests from the SLD.²⁷ *See* Attachment E, dated October 26, 2001, and Attachment F, dated December 12, 2001.

A section of the Request for Proposal (RFP) document asked vendors to supply information or actions that the District could take to lessen the financial cost. Proposal evaluators reviewed this proposal section, and queried vendors in the evaluation/proposal presentation sessions regarding cost. *See* Attachment G, Request for Proposal.

The District's E-Rate office prepared a series of spreadsheets listing submitted proposals for the RFPs. The spreadsheets were used at proposal evaluation sessions to help evaluate the bids. The spreadsheet layout demonstrates that cost was a dominant and primary criterion for the discussions. It

²⁶ *See In re Tennessee Dept. of Educ.*, 14 FCC Rcd. 13734, 13739 (1999).

²⁷ *See also* Other Supporting Information, below.

is obvious that the spreadsheets' essential and primary function was to guide evaluators regarding bidders' proposal costs, both overall and how the Districts' required percentage payment impacts the District's budget. Evaluators, of course, also considered other factors, such as technological merit, integration into existing infrastructure, and other criteria. The spreadsheets noted here were internal, working documents, and as such, were not forwarded to the SLD in the Selective Review process. For an example, *see* Attachment H, Spreadsheet for Evaluation.

Furthermore, Interim Executive Director Mark Hogan addressed the issue in an email, dated January 7, 2002, referencing evaluations for network cabling and network maintenance. The emailed notes specifically refer to cost, using percentages to illustrate differentials. *See* Attachment I, email from Mark Hogan dated January 7, 2002.

Attachments A, B, C, D, E, F, G, H, and I are incorporated by this reference as though fully rewritten here.

OTHER SUPPORTING INFORMATION

The District offered a bidders' conference concurrently with the posting of the RFPs. In the general remarks, the District informed the vendors regarding proposal evaluation criteria. Vendors were pointed to the SLD Web site and the location for the SLD's description about the Form 470 fair and competitive process²⁸. At that time all potential service providers were informed that cost was a primary consideration for the District.

CONCLUSION

The District respectfully contends that the above documents fully support that the Cleveland Municipal School District complied with the Schools and Libraries Division bidding requirements and in particular demonstrate that price *was* a primary factor in selecting a service provider's proposal. The District is presumed, by following appropriate local statutes, policies, and regulations, to have selected the most cost-effective service provider. Ohio statutes and District policy and regulations formulated under them require District administrators to consider price as a primary factor in the award of contracts for goods and services. The documents were not forwarded to the SLD during the PIA and Selective Review process since the specific question regarding the primacy of pricing in the evaluations was not addressed in the SLD's requests for information. Without such specific requests, the District assumed the SLD understood the fundamental legal requirements for school district purchasing under Ohio law.

The District further notes that, while its procurement practices require the determination and selection of the lowest responsible bid, the District received one, and only one, responsible bid for the service referenced in this appeal. As such, there can be no basis for the SLD to conclude "that price was not the primary factor for selecting this service provider's proposal."

Respectfully submitted,



Peter A. Robertson

²⁸ <http://www.sl.universalservice.org/whatsnew/reminders-F470.asp#F470R2>

BALDWIN'S OHIO REVISED CODE ANNOTATED
TITLE XXXIII. EDUCATION--LIBRARIES
CHAPTER 3311. SCHOOL DISTRICTS
MUNICIPAL SCHOOL DISTRICTS UNDER FEDERAL COURT ORDERS

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Current through 3/30/03, including File 1 of the 125th GA (2003-2004),
apv. 3/7/03

3311.75 SCHOOL DISTRICT AND MUNICIPAL POWERS, PROPERTY, BUDGETS, AND FUNDS
TO BE KEPT SEPARATE; COMPETITIVE BIDDING REQUIREMENTS

(A) A board of education appointed by the mayor pursuant to division (B) or (F) of section 3311.71 of the Revised Code shall have no right, title, or interest in the funds or property of any municipal corporation. The budgets of the municipal school district and the municipal corporation shall be estimated, planned, and financed separately. At no time shall any funds of the school district and the municipal corporation be commingled in any manner and all school district funds and accounts shall be maintained and accounted for totally independently of any funds and accounts of the municipal corporation.

(B) The board of a municipal school district shall adopt and follow procedures for the award of all contracts for supplies or services involving the expenditure of fifty thousand dollars or more in any one fiscal year after a competitive bid or request for proposal process. This division is supplemental to section 3313.46 of the Revised Code. This division does not apply to contracts of employment or to contracts for professional services; to contracts for the security and protection of school property; in cases of urgent necessity as determined by two-thirds vote of the board; or in any of the situations described in division (B) of section 3313.46 of the Revised Code to which the bid process of division (A) of that section does not apply.

CREDIT(S)

(1997 H 269, eff. 11-12-97)

<General Materials (GM) - References, Annotations, or Tables>

R.C. § 3311.75

OH ST § 3311.75

END OF DOCUMENT

SECTION VII

SEALED BID PROCEDURE

REQUEST FOR BIDS (Formal Bidding)

- General Information
- Preparation of a Request for Bids Packet
- Distribution of Request for Bids Packet
- Bidders Key Submissions
- Receiving Bids
- Opening of Bids
- Determination of Responsive Bids
- Rejection of all Bids
- Evaluation of Bids
- Determination of Responsive Bidder
- Single Bid
- Tied Bids
- Bid Review Committee
- The Bid Award Process
- Contract Execution
- Contract Administration
- Summary of Actions and Responsibilities for Request for Bids

EXHIBITS

- RFB-1 Insurance Accord Form
- RFB-2 Bidder Qualification Form
- RFB-3 Non-Collusion Affidavit

REQUEST FOR BIDS (Formal Bidding)

Attachment B – Page 2

GENERAL INFORMATION

Pursuant to Board policy and administrative regulations, formal competitive bidding shall be used for purchases estimated to cost \$25,000 or more, and \$10,000 for consultants.

** H.B. 269 specifies that the newly created board is to establish procedures for all contracts for supplies or services involving the expenditure of \$50,000 or more in any fiscal year. **

Affirmative answers to the following criteria will determine if the competitive sealed bidding procedure (Request for Bids) will be used.

1. Can the desired product or service be easily defined? Can a complete, adequate and realistic set of specifications be developed?
2. Is there more than one responsive vendor willing and able to compete for the bid?
3. Can the selection of the product or service be made principally on the basis of price?
4. Is the purchase within the categories regulated and prescribed by Federal Regulations, Ohio Revised Code, Board policy and administrative regulations?
5. Is the purchase of the product or service planned for a specific operations period, such as a school year? or for a specified task?
6. Is the anticipated total value of the product or service from a single supplier \$25,000 or more?

If the "Request for Bids" procedure is used for a purchase, the following requirements shall apply?

1. The "Request for Bids" shall be publicly advertised.
2. Bids shall be solicited from a minimum of three (3) or more suppliers.
3. A minimum of 28 consecutive days excluding holidays shall be allowed from the date the advertisement first appears to the date the bids are due and publicly opened.
4. The "Request for Bids" shall clearly define the products or services needed.
5. All bids shall be opened publicly at the time, date and place specified in the "Request for Bids". All vendors participating in the bidding are invited to attend the bid opening.
6. Any bid may be withdrawn prior to the opening of bids; any bid received after the time and date specified shall not be considered.
7. A purchase agreement or contract award shall be made by written notice to the successful responsible bidder whose bid conforms to the bidding documents and is lowest in price.
8. The Board of Education reserves the right to waive any informality, to accept or reject any or all bids in the best interest of the District when there is sound reasons to do so.

REQUEST FOR BIDS PACKET

Attachment B Page 3

Bidding documents for the purchase of goods, equipment or services costing \$25,000 or more must be prepared in the following format:

1. **Title Page** - The first page of the Bid packet will designate a formal name for the product or service to be bid. The format for the Title Page will always be the same, except the name of the product/service will change.
2. **Table of Contents** - A listing by page number of the main documents in the bid packet will constitute the Table of Contents.
3. **Legal Advertisement** - A copy of the formal newspaper advertisement announcing the Request for Bids, specifying what is bid and the bid opening date. In order to establish a firm bid opening date, the dates when the legal advertisement is to appear in the newspaper must first be determined. The advertisement for bids must appear at least once a week during a 28-day period in at least two newspapers having a general circulation in the district.
4. **Letter to Potential Suppliers** - Includes Invitation to Pre-Bid Conference.

In order to maintain contact with current vendors and attract new vendors, the Purchasing Division shall conduct bidders' conferences for each formal bid. The conference will serve to give all interested vendors an opportunity to better understand what is required of them and the expectations of the Cleveland Municipal Schools from the successful bidder. The conference will inform vendors as to how bid specifications are developed, explain evaluation and selection criteria, bond requirements and contract award procedures. All this taken into consideration, the bidders' conference should yield better and more responsible bid submissions.

The pre-bid conference is an important part of the formal bidding process. The conference will be scheduled around the midpoint of the 28-day advertisement period, during normal business hours.

A record shall be made of all bidders (and their organization) who attend the conference.

Any changes or clarification to the specifications, bid opening date, general instructions, etc., shall be accomplished by an addendum to the Request for Bids. All prospective bidders who received a Request for Bids shall be sent an addendum. The addendum will become a part of the Request for Bids packet.

5. **Instructions to Bidders** - This section of the Request for Bids packet will contain the general requirements for bids to be responsive. This section will explain the documents to be completed by the bidder, delivery and payment terms, adherence to Diversity and vendor contract compliance requirements and a sample of an agreement and how the bid will be awarded.
6. **Bid Form** - The Bid Form is a form, which the bidder completes and signs to acknowledge understanding and agreement with the terms, conditions and specifications, etc., of the bid. It also includes a section for the bidder to record his/her bid.

7. **Specifications** - Specifications is a detailed description of the item or service to be bid upon. Specifications are usually prepared by the requisitioner. If specifications are prepared by Purchasing, the requisitioner must approve them.

Statements of specifications describing the items or services needed are the most important ingredients in establishing clear communications with vendors, leading to a competitive bidding climate that benefits both vendor and District.

8. **Sample Submission** - If samples will be required to fully evaluate a bid and its product, a notation will be made in the bid specifications detailing whose attention the sample is to be sent and to which location.

9. **Bid Bond and Performance Bond Requirements**

- A. Bid Bond-A Bid Bond is intended to guarantee any financial loss to the district if the successful bidder does not actually sign and/or enter into the proposed contract. The standard amount of the District bid bond is 10% of the bid, not to exceed \$100,000. However, this amount can be adjusted for certain bids, i.e. major construction projects.

Each vendor's bid shall be accompanied by a bid bond: certified check; cashier's check; or letter of credit, made payable to the Treasurer of the Cleveland Municipal School District, for not less than 10% of the total amount bid as guarantee, that if the bid is accepted, a contract will be entered into.

- I. Said bond or check shall be satisfactory to the Treasurer. Its amount shall be the measure of damages, which the District will sustain by the failure, neglect or refusal of the bidder to execute and deliver the contract. The successful bidder will provide a performance bond within fifteen days after written notification, from the Director of Purchasing of the contract award.
- II. The check shall become the property of the District if the successful bidder fails to execute the contract within fifteen days, as described above. However, if a proposal is not accepted within sixty (60) days after the proposal submission date, the check shall be returned.
- III. The District shall retain the bid bonds and/or certified checks of the successful and second lowest and responsible bidder until the bidder selected executes and delivers a contract. Should the selected bidder default, the contract shall be awarded to the next lowest and responsible bidder, or new bids shall be called for at the discretion of the Director of Purchasing.

B. Performance Bond

A performance Bond is a guarantee against financial loss due to the vendor's failure to complete the terms of the contract.

The surety that issued the bid bond will normally issue a Performance Bond. The performance Bond should reflect the maximum financial loss the District may incur if the contractor fails to complete the contract. While a bond of 100% of the bid amount provides maximum guarantee, a lesser amount may be realistic in many situations.

For a repair/construction related contract, the Bond shall consist of a "Performance Bond" and a "Labor and Materials Payment Bond".

The successful contractor shall furnish a Performance Bond in the amount of 100% of the contract amount for repair/construction related contracts; 10% for all other contracts (i.e., supplies, materials, etc.) for full and faithful performance of the work herein specified.

Bid and Performance Bonds shall be with a surety licensed to do business in the State of Ohio and financially acceptable to the Treasurer, or if certified check, a financial institution acceptable to the Treasurer.

Performance and/or bid bonds waivers may be granted by the Diversity Officer, in consultation with the Chief Operating Officer to certified minority businesses.

10. **Liability Insurance Requirements** - The following general liability insurance requirement shall apply for vendors, contractors, service organizations or similar suppliers of services or materials, doing business with the Cleveland Board of Education and/or having personnel, equipment or vehicles on Board premises. These are basic requirements and are intended to protect the District. Should contracts involve special or unusual circumstances or provisions, the Insurance Department should be contacted for possible changes or alternative specifications.

- A. Comprehensive General Liability - \$1,000,000 (or more) limit of liability including products and completed operations (per occurrence limits).

All contracts involving maintenance, construction, erection or demolition must have XCU (explosion, collapse, and underground work) exclusion eliminated.

- B. Auto Liability - \$1,000,000 limit of liability, including non-owned vehicles (per occurrence limits).

The vendor awarded a specific contract may meet these requirements by providing a certificate of insurance (standard Acord Form - Exhibit RFB-1) indicating at least the above limits with the District as an additional insured with a sixty (60) day notice of cancellation provision.

Above insurance must be provided by a company licensed in the State of Ohio and/or must be financially acceptable to the Treasurer.

The above specifications will provide reasonable and adequate insurance protection for the District in the majority of purchase contract agreements. However, it can be anticipated there are situations that do not fit the “usual”, and adjustments to the standard insurance requirements are appropriate:

- I. *Certain consulting or professional service contracts should include a requirement for evidence of professional liability insurance.*
- II. *Vendors providing consumable food products are required to provide high limits of liability (\$5,000,000).*
- III. *Major construction contracts may require that builders risk insurance be provided or similar special provisions.*

Any department preparing bid or proposal specifications and having any questions pertaining to insurance matters, should contact the Treasurer’s Department prior to finalizing specifications.

11. **Bidder Qualification Form**-The Bidder Qualification Form contains a series of questions that the prospective bidder must answer or explain. The questions deal with the bidder’s financial status, work experience, stability and business qualifications.
12. **Diversity Business Enterprise Forms**-All prospective bidders must complete the Diversity Business Enterprise Forms contained in the bid packet. The prospective non-DBE bidder must indicate minority participation in the submitted bid. (See Section XII).
13. **Equal Employment Opportunity Forms**-All vendors and contractors who provide goods, equipment and services to the District must afford their employees equal employment opportunity and must comply with the guidelines and procedures of the District’s Vendor Contract Compliance Program. (See Section XII).
14. **Sample Contract or Term Agreement**-A sample Contract or Term Agreement form must be included in each bid packet to make prospective bidders aware of terms and conditions of the agreement they will be required to sign if they become a successful bidder.
15. **Non-Collusion Affidavit**-The non-collusion affidavit is a document signed by the bidder which declares that the bid submitted is an honest one based on the bidder’s sole ability to develop a competitive bid without collusion with another person or bidder.

DISTRIBUTION OF REQUEST FOR BIDS PACKETS

Legal Ads will be sent to all prospective bidders who appear on the Bidder's List, bidders recommended by the requisitioner, and DBE vendors with the District.

All vendors/prospective bidders who respond will be mailed a "Request for Bid" packet. Any request from the public advertisement will also be mailed a bid packet. Bid packets will also be available for pick up from the Purchasing Division.

BIDDERS' KEY SUBMISSIONS

Key actions required of all bidders include the submission of the original and copies of the following bid documents:

1. Completed Bid Form.
2. Ten percent (10%) Bid Bond, certified check or cashiers check.
3. Completed and notarized Bidder's Qualification Form.
4. Completed and notarized Non-Collusion Affidavit.
5. Completed and notarized DBE/AA Vendor Contract Compliance Forms.

Failure to include any of the above documents will result in a non-responsive bid. Failure to submit samples, if required, will also be grounds for considering a bid to be non-responsive.

RECEIVING BIDS

All bids shall be directed to the Treasurer's Office where they will be kept in a secure place prior to the bid opening. Any sealed bids opened by mistake, or opened as a result of poor identification of a bid packet shall be immediately resealed by the opener. The opener shall write an explanation (on the envelope) why it was opened, sign his/her name and deliver the bid packet to the Treasurer's Office.

OPENING OF BIDS

The Purchasing Director or his designee shall preside over the bid opening session, they shall publicly open and read aloud the bids.

The Purchasing Director or his designee, the requisitioner, or other District officials present at the bid opening shall complete Bid Tabulation Sheets.

DETERMINATION OF RESPONSIVE BIDS

In order to be considered as a responsible bid, the bid must first be determined to be responsive. In general, the bid must conform to the technical and legal requirements contained in the Request for Bid documents. The bid must include a bid guarantee, properly executed DBE/AA forms and must meet the requirements contained in the Information for Bidders section. Any conditions imposed by the bidder which change the bid requirements shall be just cause to reject the bid.

TABULATION OF BIDS

The Purchasing Director, or his designee is responsible to tabulate all responsive bids as soon as possible after the bid opening. The tabulation sheet and a copy of all individual bid documents shall be sent to the Purchasing Division for bid analysis/evaluation and recommendation for award. One original of all bids will remain in the Treasury Department files.

REJECTION OF ALL BIDS

All bids may be rejected upon recommendation of the Purchasing Director, if after analysis of the bids it is determined that:

1. All bids are unreasonable priced.
2. There is evidence of collusion or bad faith on part of the individual vendor(s).
3. If only one bid is submitted and the price submitted is questionable as to being a reasonable price.

All bidders must be notified of the rejection of bids and the necessity to re-bid if this is determined by the Purchasing Director.

If the bid is for an item/service that is on an existing but expiring contract, and time constraints will not permit re-bidding before the old contract expires, the Purchasing Director must seek an extension of the old contract until such time a the new Request for Bids goes through the re-bid process. If the extension cost is for \$10,000 or more, the CFO must approve the extension.

EVALUATION OF BIDS

Immediately following receipt of the tabulation of bids and the bid documents from the Treasurer's Office, the Purchasing Division shall distribute copies of same to the following persons to review their parts of the bids in the evaluation process:

1. Requisitioner shall review bids for their responsiveness to the specifications contained in the bid packet.
2. Diversity Officer shall review bids for their compliance with the Diversity Business Enterprise Program and the AA/Vendor Contract Compliance Program.
3. Vendors determined to be in noncompliance with the District's DBE and/or affirmative action regulations will not be awarded contracts unless waivers are granted by the Diversity Officer, in consultation with the Chief Operations Officer.
4. The Insurance Manager shall review bids for their bond guarantees.
5. Procurement Officer shall review bids for their technical and document requirements and price analysis.

They shall make written reports of their findings to the Purchasing Director who has the primary responsibility to evaluate the bids to determine the lowest responsible bidder, and to make the recommendation for the bid award. In the final analysis, the award will be made to the lowest responsible bidder whose bid is the most advantageous to the District.

DETERMINATION OF RESPONSIBLE BIDDER

Attachment B Page 9

The award of public contracts is of vital interest to the taxpayers and citizens. Many state laws provide for award to the lowest responsible bidder in order to avoid favoritism and its concomitant evils. It would be unfair to bidders, who have expended time and money in the preparation of bids, to be denied equal consideration.

The basis of making awards to the lowest responsible bidder has been adopted with the view of enabling a public body to enter into contracts with efficiency and economy. This beneficial result cannot always be obtained when the award goes to the lowest bidder. Definite specifications must be adopted to enable all bidders to make intelligent bids. This establishes a common standard by which to measure the respective bids to determine the lowest responsible bidder.

The following criteria will be considered in determining the lowest responsible bidder:

1. Financial or procuring ability to complete the contract.
2. Integrity and trustworthiness.
3. Skills (technical and business).
4. Judgement.
5. Ability to perform faithful and conscientious work.
6. Promptness (deliveries and completion of work).
7. Experience.
8. Previous performance of satisfactory work.
9. Other essential factors which may be depending upon the type and kind of contract involved.

On opening and tabulating the bids, the Purchasing Director must determine two things to make a valid award:

1. The responsibility of the bidders.
2. Which of the responsible bidders has submitted the lowest responsive overall bid.

Awarding a contract required to be let to the lowest responsible bidder is mandatory and no authority, except by statute, authorizes the official to accept any other bidder.

Determination of the responsibility of a bidder by the Purchasing Director requires the exercise of judgement and discretion in favor of the District. This discretion must be exercised honestly and fairly, not arbitrarily nor capriciously. The decision must be based on facts obtained after investigation into the responsibility of the bidders which show that the lowest bidder to whom the award was not made was not a responsible bidder. Failure to make such an investigation vitiates the contract award and such award will not be upheld.

THE BID AWARD PROCESS

Attachment B Page 10

The award must be made to the successful bidder within the 60-day period specified in the bid documents.

If the bid award is to be delayed for administrative or other reasons and will not be able to be made within the specified acceptance period, bidders should be requested to extend the bid acceptance period to avoid the need for re-advertising and a re-bid. The request must be made before the expiration of the 60-day period. The bidders sureties should also be notified and their consent requested for the delay.

If the award is to be made to other than the low bidder, a full justification must be made and put into the contract file. The justification may be derived from a consensus of the Bid Review forms. The justification documentation should include the following:

1. The bid of the proposed awardees.
2. The bids of all those who were lower than the awardees.
3. A list of all bids received.
4. A copy of the Request for Bids document.
5. A summary of the Bid Review forms explaining the basis for selection of the awardees.
6. A price analysis used for determining that the price is fair and reasonable.
7. Legal opinion that the proposed award meets requirements of federal, state, and local law, if applicable.
8. An explanation of how the apparent low bidder was not responsive or responsible.

Unsuccessful bidders may request a copy of the Board Resolution to review their bid standing.

BID PROTEST PROCEDURE

The purpose of this policy is to provide clear instruction as to the procedure in which suppliers are to follow to formally protest the awarding of a contract.

If a supplier wishes to make a formal complaint regarding a bid, quote or proposal they must provide a written statement to the Director of Purchasing, stating the reason(s) for their protest.

The letter must be received in the office of the Director of Purchasing by the close of business, within three (3) business days of the bid opening.

The Director of Purchasing will investigate the complaint to determine its legitimacy, and respond to the supplier within ten (10) days from receipt of the complaint.

If the supplier is not satisfied with the justification provided by the Purchasing Director, the supplier may submit a letter to the Chief Financial Officer: stating the basis of the protest.

The Chief Financial Officer will review the complaint and make a final determination as to the legitimacy of the protestor's complaint.

The Chief Financial Officer may recommend that the Purchasing Director reject all bids received and re-bid the requirement or support the decision of the Purchasing Director, or recommend in favor of the protestor.

All decisions made by the Chief Financial Officer are final.

CONTRACT EXECUTION

As soon as possible after District approval, a contract packet or Purchase Order will be prepared by the Purchasing Division.

The District resolution will clearly indicate if a contract or Purchase Order will be the purchasing document.

A written contract incorporating the terms and conditions of the Request for Bids will be prepared. The contract packet will not be submitted for signatures before a final review of the entire contract packet by the Law Department.

The contract packet will include the following documents:

1. Letter of Notification of Award (copy)
2. Bid Specifications (copy)
3. Certified Copy of Authorizing Resolution
4. Certificate of Adequate Revenues (original)
5. Bidder Qualification Forms (original)
6. DBE Forms (original)
7. AA Forms (original)
8. Bid Form (original)
9. Certificate of Insurance (original)
10. Performance Bond (original)
11. Contract (original)
12. Tax Exempt Certificate (original)

A second contract packet containing copies of all documents will be prepared for the vendor/contractor.

After signatures have been applied to the contract documents, the executed packet with the original documents will be filed in the CFO's Office. The vendor/contractor will receive the second executed contract. The Purchasing Division will maintain a copy of the contract in their files.

CONTRACT ADMINISTRATION

Attachment B – Page 12

After the execution of the basic contract, the Purchasing Director and the Project Manager (requisitioner/originator) shall assume joint responsibility to administer the contract through to its completion.

The responsibilities of the Project Manager are as follows:

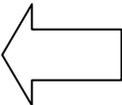
1. Provides technical direction to the contractor.
2. Responds to correspondence from the contractor.
3. Reviews progress of work or service on a periodic basis.
4. Reviews invoice for accuracy and recommends approval for payment.
5. Processes change orders.
6. Attends progress meetings between District personnel and contractor.
7. Assures that the contractor performs the contracted work or provides the service as stated in the contract specifications.
8. Monitors the quality of the contractor's work or service.
9. Reports in writing and orally to the Purchasing Director of the status of the contract.
10. Performs contract closeout requirements.
11. Notifies the CFO to release bid or performance.

The responsibilities of the Purchasing Director are as follows:

1. Provides direction to the contractor on contractual matters.
2. Attends progress meetings, if necessary, between District staff and contractor.
3. Maintains master contract files.
4. Directs other purchasing staff to monitor technical aspects of contract.
5. Communicates with the Legal Department on legal problems in contract execution and contractor performance.
6. Assists Project Manager in closeout of contract.
7. Request the CFO to release bid and/or performance bond.

Timeframe for RFPs (the timeline below gives us a one-month, very tight "wiggle room"):

Start Date	Due Date	Proposed CMSD Action	Comments
10/29/01	11/09/01	Convene planning groups to develop RFP interests; include diverse CMSD staff, vendors (see below)	(1) Evaluate current capabilities; (2) Recommend areas/projects for which the District would like proposals/bids in the telecom, Internet Access, and Internal Connections categories.
11/05/01	11/12/01	Recommend projects/areas for RFPs	Evaluate recommendations to reflect CMSD vision, current and future needs/plans. The District MUST control the bidding process for project integrity.
11/05/01	11/15/01	Write and Post RFPs	Begin RFP review concurrently with posting
11/15/01	12/14/01	Maintain RFP Postings minimum of 28 days	
11/15/01	12/28/01	Begin RFP review concurrently with posting	RFP review must be documented for audit purposes. Price is dominant consideration.
01/02/02	01/10/02	Secure and review vendor contracts	
01/15/02	01/15/02	Sign and send funding request Form(s) 471 to SLD	Final project funding request(s) submittal. <i>This is an APPROXIMATED date. It could be a few days earlier or a few days later. The final deadline for the window for 471 submittals has not been posted.</i>



Suggested Participants: District

ITSME	Frank DeTardo, Fred Weber, Lois Klamar
CAO	Myrna Elliott-Lewis
Regional Superintendent(s)	Lincoln Haughton
Professional Development	Sherry Ulery
Purchasing	Keith Miles
OREA	Peter Robertson
MIS	Mark Hogan
Special Education	Bob Hacking and/or Jocelyn Jeter
Others?	

Suggested Participants: Vendors

* The asterisk'ed vendors responded to last year's RFP postings. I do not have documentation regarding the extent of the consideration given their responses. However, I checked out their Web sites, and recommend we meet with Broadwing and the Dietrich Lockard Group. The latter (Dietrich Lockard) has networked the St. Louis public schools (108 school sites) and managed the sixth largest eRate funding for Year 3. Broadwing had sent an electronic Powerpoint presentation, which I can forward.

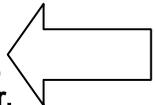
IBM	Broadwing*
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SBC/Ameritech	Cingular
Avaya	CustomFit, Inc.*
AT&T	Dietrich Lockard Group*
Weblink Wireless*	Compaq

Background:

(1) The eRate window for submitting Form(s) 471 (i.e. funding requests) is from mid-November to mid-January, i.e. 11/15/01 – 01/15/02 *Dates are approximated, since the SLD has not notified the specific “window” for RFP posting and Form 471 submittals. However, the traditional time period is as noted above.*

(2) Prior to Form 471 we must post RFPs (Form 470) for proposed projects for a minimum of 28 days prior to signing a contract with any given vendor. The Form 470, posted on the SLD Web site, provides guidance to interested vendors how to contact the school district.

(3) A TOP PRIORITY of the SLD is PROGRAM INTEGRITY. The SLD has begun to audit entities receiving eRate funding. The RFP process, i.e. the timely posting of the Form(s) 470, is a critical element of the program. The District **MUST** control vendor bidding throughout the process. Vendors may supply expertise, information and data as the District may request, but the District must be the final decision-maker. The selection criteria is weighted with price as the dominant, but not exclusive, factor. To give us some time to reflect on the proposals, **we should post our RFPs by mid-November.** 

I propose we convene an internal group to sketch out our "wish list"; then bring in vendors to help scope out the RFPs. Vendor(s) would be brought in judiciously. The SLD understands, and expects, that applicants use vendor expertise to formulate their "wish lists". The Form 470 in no way commits the district to any project whatsoever. The decision for funding requests is made on the 471 with the due date in mid-January (see below). We should set the first meeting ASAP.

Mark and Peter -- please comment ASAP.

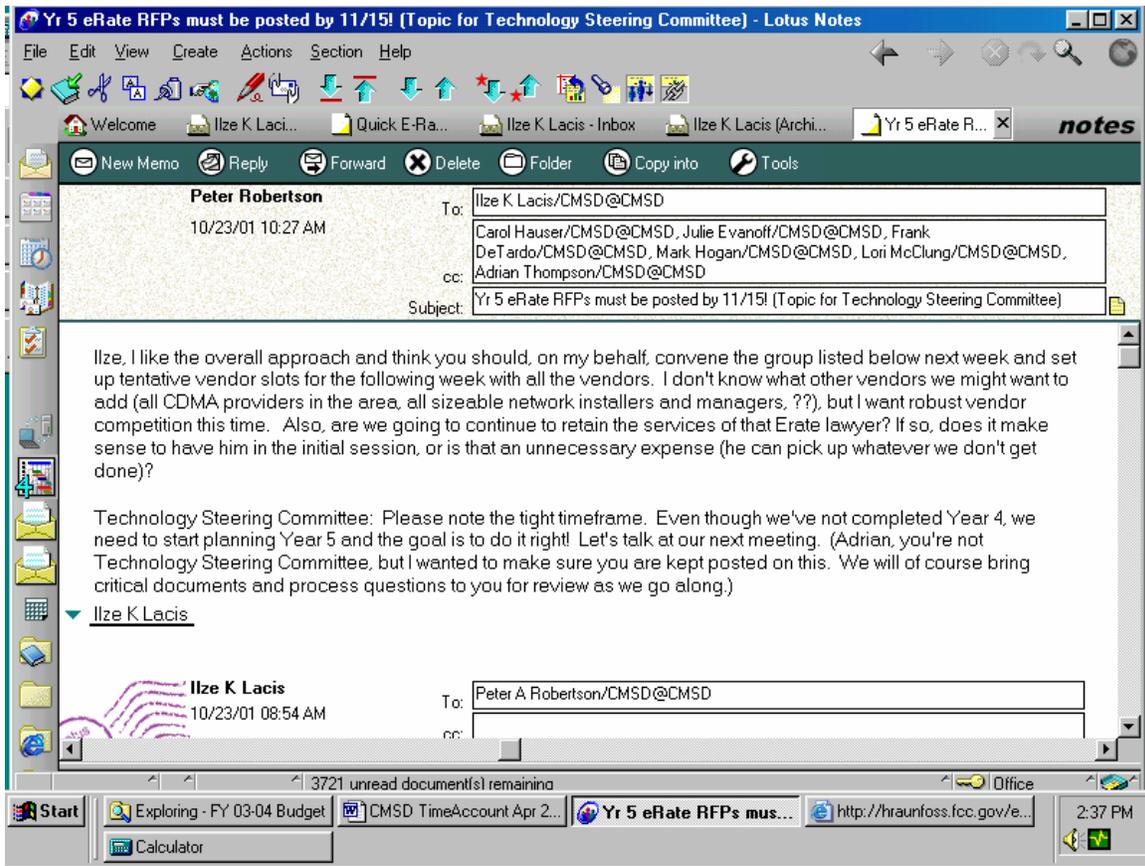
Regards, Ilze

Ilze Kalnina Lacis
Cleveland Municipal School District
Interim Manager, eRate Program
Tel: 216 432 6240
Fax: 216 431 4398
Pgr: 216 388 1303

See Attachment D – see page 2

“... and the goal is to do it right!”

“...Price is dominant consideration...”



Peter Robertson

10/23/01 10:27 AM

To: Ilze K Lacis/CMSD@CMSD
 cc: Carol Hauser/CMSD@CMSD, Julie Evanoff/CMSD@CMSD, Frank DeTardo/CMSD@CMSD, Mark Hogan/CMSD@CMSD, Lori McClung/CMSD@CMSD, Adrian Thompson/CMSD@CMSD
 Subject: Yr 5 eRate RFPs must be posted by 11/15! (Topic for Technology Steering Committee)

Attachment D – page 2

Ilze, I like the overall approach and think you should, on my behalf, convene the group listed below next week and set up tentative vendor slots for the following week with all the vendors. I don't know what other vendors we might want to add (all CDMA providers in the area, all sizeable network installers and managers, ??), but I want robust vendor competition this time. Also, are we going to continue to retain the services of that Erate lawyer? If so, does it make sense to have him in the initial session, or is that an unnecessary expense (he can pick up whatever we don't get done)?

Technology Steering Committee: Please note the tight timeframe. Even though we've not completed Year 4, we need to start planning Year 5 and the goal is to do it right! Let's talk at our next meeting. (Adrian, you're not Technology Steering Committee, but I wanted to make sure you are kept posted on this. We will of course bring critical documents and process questions to you for review as we go along.)

Ilze K Lacis

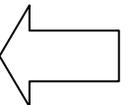
10/23/01 08:54 AM

To: Peter A Robertson/CMSD@CMSD
cc:
Subject: RESENT - Yr 5 eRate RFPs

It is imperative we begin the eRate Year 5 process ASAP.

Timeframe for RFPs (the timeline below gives us a one-month, very tight "wiggle room"):

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Attachment D – page 3

Suggested Participants: District

ITSME	Frank DeTardo, Fred Weber, Lois Klamar
CAO	Myrna Elliott-Lewis
Regional Superintendent(s)	Lincoln Haughton
Professional Development	Sherry Ulery
Purchasing	Keith Miles
OREA	Peter Robertson

MIS
Special Education
Others?

Mark Hogan
Bob Hacking and/or Jocelyn Jeter

Suggested Participants: Vendors

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Attachment D – page 4

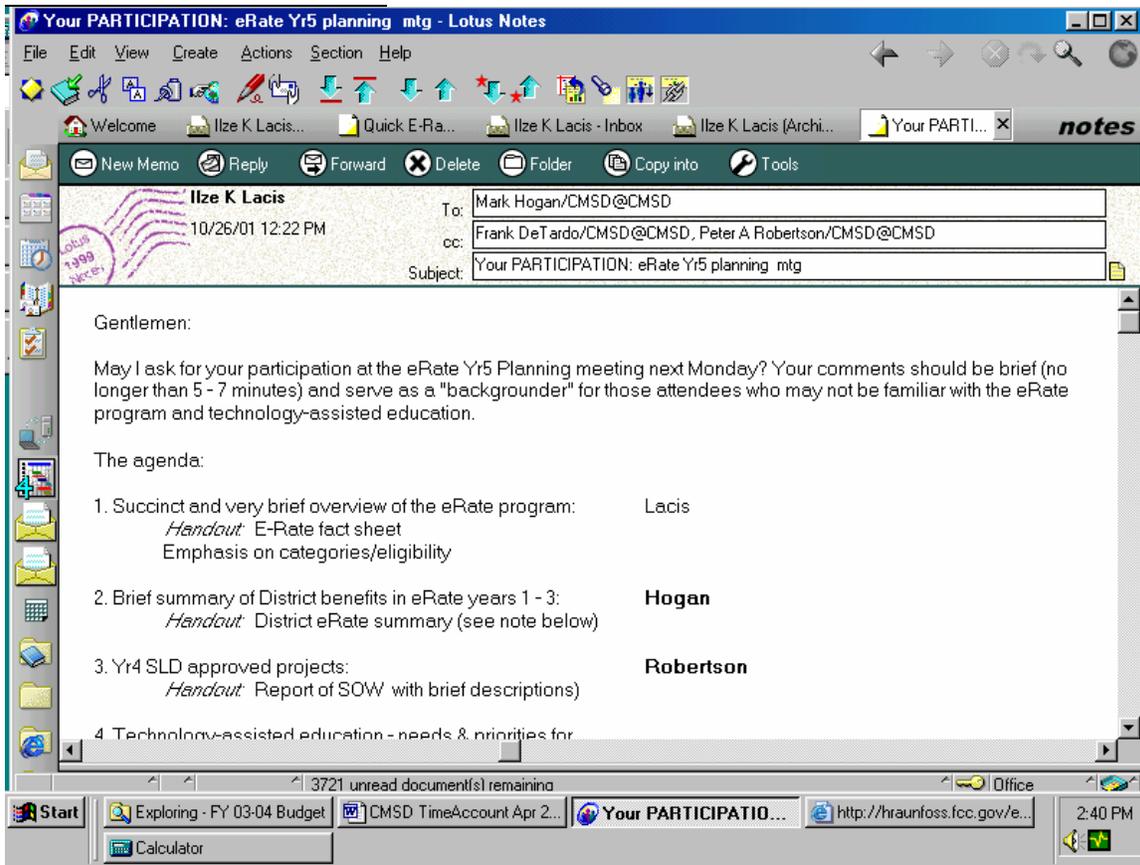
Mark and Peter -- please comment ASAP.

Regards, Ilze



Ilze Kalnina Lacis
Cleveland Municipal School District
Interim Manager, eRate Program
Tel: 216 432 6240
Fax: 216 431 4398
Pgr: 216 388 1303

Attachment E – page 1



Ilze K Lacis

10/26/01 12:22 PM

To: Mark Hogan/CMSD@CMSD

cc: Frank DeTardo/CMSD@CMSD, Peter A Robertson/CMSD@CMSD

Subject: Your PARTICIPATION: eRate Yr5 planning mtg

Gentlemen:

May I ask for your participation at the eRate Yr5 Planning meeting next Monday? Your comments should be brief (no longer than 5 - 7 minutes) and serve as a "backgrounder" for those attendees who may not be familiar with the eRate program and technology-assisted education.

The agenda:

1. Succinct and very brief overview of the eRate program
Handout: E-Rate fact sheet
Emphasis on categories/eligibility
2. Brief summary of District benefits in eRate years 1 - 3:
Handout: District eRate summary (see note below)
3. Yr4 SLD approved projects:
Handout: Report of SOW with brief descriptions)

Attachment E – page 2

Cost was included in

CMSD's financial responsibility.

Hogan

Robertson

4. Technology-assisted education - needs & priorities for
Yr 5/future to begin the brainstorming and discussion:

DeTardo

Note: I will have a copy of the handouts by Monday morning for your review. (I need to leave at 12:30 today).

Mark: For the Yrs 1-3, I will have the schematics we used previously, compiled on one sheet (probably legal size) with total dollars, dollars paid by SLD, and dollars paid by CMSD, rounded off to the M or K mark. Your comments could probably stress the capabilities the infrastructure gives.

Peter: Year 4 will be a straightforward list/report with brief descriptions by eRate category.

Thank you! Ilze

PS -- Meeting responses have been coming back in this morning!

Ilze Kalnina Lacis
Cleveland Municipal School District
Manager, eRate Program
Tel: 216 432 6240
Fax: 216 431 4398
Pgr: 216 388 1303

Mark Hogan

10/26/01 09:02 AM

To:

cc:

DeTardo/CMSD@CMSD, Peter A Robertson/CMSD@CMSD

Subject:

Ilze K L

Frank

Re: eRa

Ilze,

I will make it a priority to attend the meeting whenever you schedule it. I will be there.
That being said, the Monday meeting time looks okay to me.

Thanks,

Mark

Mark J. Hogan
Interim Executive Director
Management Information Services
Cleveland Municipal School District
ph. 216.858.1254
fax 216.274.9113
<http://www.cmsdnet.net>

Attachment E – page 3

Ilze K Lacis

10/25/2001 02:23 PM

To: Peter A
Robertson/CMSD@CMSD, Mark Hogan/CMSD@CMSD
cc: Frank
DeTardo/CMSD@CMSD
Subject: eRate Yr

Peter and Mark,

I need your advice: I am having difficulties pinning down an optimum time for our first meeting. It is very important that a truly representative decision-maker group be present for the initial discussion. Monday afternoon (10/29/01 - 2:30 - 4:30) appears to be a good time for most (per my inquiry telephone calls). I have reserved the Board Library. Peter and Mark -- how are your schedules? (Mark -- may apologies, I gave you a heads up on the Tuesday morning time, which needed to be changed.) On the other hand, later in the week may give a better turnout, but may slow down the process - and time is critical. Please give me feedback. I'd like to go ahead and issue the meeting invite for this coming Monday, so I can follow up with a 'phone call reminder prior to the meeting tomorrow and Monday morning.

(I need to leave by 4:00 p.m. today, but will be back later this evening to check my e-mails and, per your ok, send the e-mail invites)

Below is the proposed invitees list (internal and external), agenda, and handout listing. We can add participants to the smaller work groups, which I want to begin towards the end of next week.

Process:

- Week of 10/29 District staff meet internally to brainstorm, discuss potential, possibilities, "wish lists"
- Begin 11/01 Smaller "work" groups meet with individual vendor(s) regarding possible projects, i.e. more specific, focused discussion
- 11/12-14/01 Vendors provide assistance to compile/write specifications for projected RFPs.

Attachment E – page 4

District invitees

ITSME: Frank DeTardo, Fred Weber, Lois Klamar, Bill Bauer, Jonathan Evans, Glenn Popil

Regional Superintendents: One rep from superintendents' office (looks like Lincoln Haughton or Elaine Davis; Dick Larrabee is not available that day)

Purchasing – Keith Miles

OREA: Peter Robertson, Jason Lucas? Paulette Poncelet?

MIS: Mark Hogan, Anne Geary, Cal Kennedy, Ilze Lacis

Special Education: Joycelyn Jeter, Bob Hacking, Hank Long

Academic Affairs? – Multilingual?, Curriculum??

Health and Human Services: James Wingo, Marianne Lax

External invitees (Mark is inviting and I will follow up with reminder):

Barry Doggett – Cleveland Tomorrow

Deborah Howard – Cleveland Education Fund
Representative – Cleveland Scholarship Program
?Federation for Community Planning?

Agenda

1. Extremely succinct background of eRate program in general
2. Very brief overview of eRate funded District implementation to date
3. Brainstorming/discussion regarding potential needs and possibilities

Handouts

District Vision statement
E-Rate fact sheet (general)
E-Rate fact sheet (District - previous three years; total \$, schematic of infrastructure to date)
Yr 4 approved (but not yet committed) projects (i.e. Scope of Work, brief description, tied to Vision item(s))

Thank you!
Ilze

Ilze Kalnina Lacis
Cleveland Municipal School District
Interim Manager, eRate Program
Tel: 216 432 6240
Fax: 216 431 4398
Pgr: 216 388 1303

Attachment F

See arrow at right
below.

Management Information Services

4966 Woodland Avenue, Cleveland, Ohio 44104 • 216-426-3910 • Fax 216-431-4398 • www.cmsdnet.net

eRate Program

December 12, 2001

Year 5 eRate Status To-Date

Stage 1/ October 15 – November 9: Plan and Brainstorm

The initial steps to develop eRate Year 5 (07/01/2002 – 06/30/2002) encompassed two broad-based brainstorming and planning sessions on October 29 (cross-departmental District decision-makers) and November 7 (external participants from key academic/university, educational and civic non-profit institutions and organizations). The sessions were also used to introduce, explain and provide pertinent information about the District's participation in the eRate program and the benefits the District has received thus far. A cross-departmental working relationship was established with ITSME and the Purchasing Division.

Stage 2/ November 12 –December 7: Develop/Write/Post Requests for Proposal

Particular attention was given to full and complete compliance with District, State and FCC/eRate rules and regulations for a strong and open bidding process. A total of 19 requests for proposal have been posted on the District Web site, and submitted to the Schools and Libraries Division on the requisite Forms 470.

Primacy of cost and District financial responsibility emphasized.

Stage 3/ December 12: Vendors' Conference

A very successful Vendor Conference on Wednesday, December 12, 2001 capped the initial planning and RFP posting for Year 5 (07/01/2002- 06/30/2003) eRate funding projects.

Conceived in response to vendor queries about the posted RFPs, the vendor conference was organized to answer vendor questions in a fair, equitable and open forum. A total of 29 different companies were represented with a total of 65 persons attending the three two-hour block sessions for Telecommunications, Internal Connections and Internet Access, and Web-based project RFP groupings.

Vendors responded positively, asking many questions, to which written responses will be provided by Friday, December 14th, including pertinent schematic drawings for one average school each in the elementary, middle and high schools to provide vendors with substantive data on which to base their proposals.

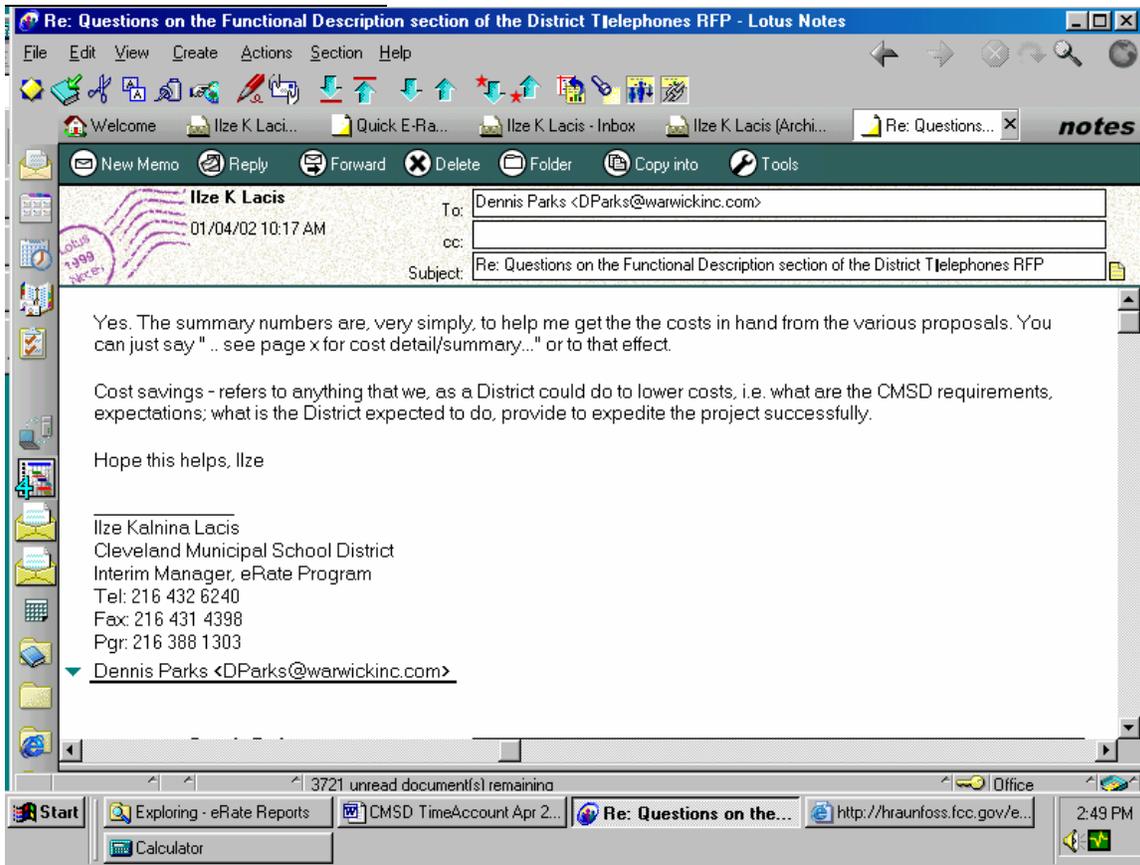
Next Steps:

- 12/14 – 12/21/2001 Select and secure participants for the Proposal Evaluation Committee.
- 12/14 – 12/21/2001 Establish evaluation criteria and develop evaluation process.
- 12/26 – 07/2002 Evaluate submitted proposals.
- 01/03 – 01/11/2002 Invite selected vendors for detailed proposal presentations and contract discussions.
- 01/07 – 01/11/2002 Select proposals to be submitted for eRate funding.
- 01/08 – 01/15/2002 Submit requisite eRate forms with necessary supporting documents for selected projects for Year 5.

Attachment G – page 1

See arrow below on page 1

“...Cost savings - refers to anything that we, as a District could do to lower costs...”



Ilze K Lacis

01/04/02 10:17
AM

To: Dennis Parks <DParks@warwickinc.com>

cc:

Subject: Re: Questions on the Functional Description section of the District Telephones RFP

Yes. The summary numbers are, very simply, to help me get the the costs in hand from the various proposals. You can just say "... see page x for cost detail/summary..." or to that effect.

Cost savings – refers to anything that we, as a District could do to lower costs, i.e. what are the CMSD requirements, expectations; what is the District expected to do, provide to expedite the project successfully.

Hope this helps, Ilze

Ilze Kalnina Lacis
Cleveland Municipal School District
Interim Manager, eRate Program
Tel: 216 432 6240
Fax: 216 431 4398
Pgr: 216 388 1303

Attachment G – page 2

Dennis
Parks
<DParks@
warwickinc
.com>

To: "'Lacisll@cmsdnet.net'" <Lacisll@cmsdnet.net>
cc:
Subject: Questions on the Functional Description section of the District
Telephones RFP

01/03/02
03:49 PM

Hi Ilze,

I am writing about two sections in the Functional Description of the District Telephone RFP

One Section says:

Price/Costs

Service Items Summary/per month -----

Service items Summary/per month -----

What goes in these sections? Do you want the total cost of the whole district telephone system in the first item. If so, what goes in the second? Most of our pricing will be listed in a spreadsheet format. Can we fill that out and leave these service line items blank?

Secondly,

In the Cost Savings Section, what cost savings are you looking for? Could you give me a little more detail as to what you want in this section.

Thanks you once again for all of your help!!

Thanks,

Dennis Parks

Warwick Communications, Inc.

Direct: (216) 830-8508

Fax: (216) 830-8512

www.warwickinc.com

R F P#	RFP Name	Vendor	Details re cost	Full Cost/Yr	CMSD/Yr	Issues	Comments
1	Cellular Service	AIITel Cingular	500 min/mo for 150 cells=\$5400.00/mo; plan at \$69.95/mo x150 cells=\$10,492.50x12 mos=\$125,910.00 500 min/\$4.99/mo/cell	\$64,800 to \$125,910 depending on plan	\$6,480 or \$12,591	Pricing in proposal is based on Cingular to Cingular minutes only; no pricing for a total "package" per cellular.	Additional charges for long distance, extended long dist, roaming charges; probably would come to similar cost as current provider. The \$69.95 plan includes long distance charges and other benefits.
2	Internet Access	IBM	600 pooled min @ \$49.99/cell; 200 phones	\$67,200.00	\$6,720.00	Many complaints, poor reception; current vendor	Current contract; total cost including inelig = \$120,00.00; Elig only = \$67,200.00; full district cost for inelig = \$57,800 (+6,720) = \$59,520 N/A - no funding request
3	Long Distance	Qwest Teletronics					\$.042/minute; State Term pricing / rates per minute \$.055/minute
4	Paging Service	Arch Wireless Ameritech	\$29.95/unit/month				Current vendor Need to purchase paging units @ \$115 up front charges (inelig eRate cost) x 200 = \$23K.
5	Tech Support	Ameritech ComWeb		\$9,870,740.00 \$606,225.00	\$987,074.00 \$60,622.50	Have not sent in the promised detail for the SOW.	ONLY for ComWeb installations

RFP P#	RFP Name	Vendor	Details re cost	Full Cost/Yr	CMSD/Yr	Issues	Comments
		IBM		\$8,102,400.00	\$810,240.00	Note the two prices; taken together = ~\$16M	
		Ross-Tek		\$274,992.00	\$27,499.20		Approx \$2M less than last year.
7	Internet Knowledge Mgmt & Comm'n	ComWeb		\$250,000.00	\$25,000.00		Site license for entire school district for up to 100 teachers and 5000 students per Web server; or \$3,750,000 for 77,000 students.
		IBM		\$17,324,054.00	\$1,732,405.40		
		WVIZ-TV		\$5,821,804.00	\$582,180.40		One of three RFPs in a package cost
8	Web-based E-mail	Apple Professional Services		\$614,799.00	\$61,479.90		System HW/Software Support=\$67,521; Prof'l Serv=\$457,299
		eChalk		\$943,000.00	\$94,300.00	Service; we would not own any equipment; has e-mail and Web development; in many schools now; have track record	Subsequent annual total cost=\$687,000
		eChalk					
		Fathom Interactive Solutions		\$15,200.00	\$1,520.00	Has a stellar reputation.	\$.38 per account w/minimum of 40,000 (=\$15,200)
		Gaggle, Inc.		\$55,860.00	\$5,586.00		Basic Subscription Service; Premium Service = \$209,916 per year.

RFP P#	RFP Name	Vendor	Details re cost	Full Cost/Yr	CMSD/Yr	Issues	Comments
		Gaggle, Inc.		\$209,916.00	\$20,991.60		Gaggle is used in two District schools: Marion Selzter and Patrick Henry. First month= \$3,635,652 for server upgrade, software tools, services.
		IBM		\$6,846,662.00	\$684,666.20		For 82,500 end-users
		Meritage/option 1		\$2,231,045.00	\$223,104.50	Notes/Dominos platform	For 5500 end-users
		Meritage/option 2		\$184,217.00	\$18,421.70	Notes/Dominos platform	
		Netforce Development Inc		\$430,800.00	\$43,080.00	Uses logic of classroom instruction as primary guide; easy teacher navigation; strong control of student content; Access to broad content available; modifications would be needed; has SW issues re eRate	Includes initial costs to own servers (\$112K); monthly cos\$33,284; yearly maintenance=\$15,7K
		WVIZ-TV		\$916,710.00	\$91,671.00		One of three RFPs in a package cost
9		ComWeb		\$250,000.00	\$25,000.00		Site license for entire school district for up to 100 teachers and 5000 students per Web server
		Fathom Interactive Solutions		\$493,660.00	\$49,366.00		Service/month=\$8500; HW/SW items /month=\$137,661
	Web Page Development	IBM		\$11,950,881.00	\$1,195,088.10		First month=\$5,224,557 (server upgr,software tools, services; months 2-12 services=\$611,484
		Netforce Development Inc		\$1,077,875.00	\$107,787.50		For 5500 teachers/en-users
		WVIZ-TV		\$5,285,554.00	\$528,555.40		One of three RFPs in a package cost

RFP P#	RFP Name	Vendor	Details re cost	Full Cost/Yr	CMSD/Yr	Issues	Comments
	Combined	WVIZ-v2		\$7,252,304.00	\$725,230.40	Should District be the guinea pig when there are many other unresolved educational/technology issues? Untried technology world-wide; 3G technology not begun yet in Europe or Japan; will begin in next 6 months; Europe/Japan currently using 2G; some 2.5 G will start in US soon.	
10	Digital Wireless Broadcast Network	WVIZ-TV		\$2,725,000.00	\$272,500.00		
11	Fiber Optic Cabling	Allied Cable Corp. IBM		\$43,320.00	\$4,332.00		Costs are noted per foot/per man-hour Response is broad, but company can "... narrow down the scope of work (to be a) ... sharp pencil quote." The \$3610.00 cost is per bldg/month (x 12mos. X 130 sites) = \$5.6M; Yrs2-3=\$1705 per bldg/month Yr1=\$3610/bldg/mo; Yr2=\$1705/bldg/mo=\$2.8M (=CMSD@10% \$288K/per yr
12	Bandwidth	Ameritech		\$366,240.00	\$36,624.00		T-1 line to each instructional site.
13	Network Upgrade	Ameritech IBM		\$820,982.00 \$582,754.15	\$82,098.20 \$58,275.42		
14	Measur	Ameritech		\$55,452.00	\$5,545.20		\$4621/month

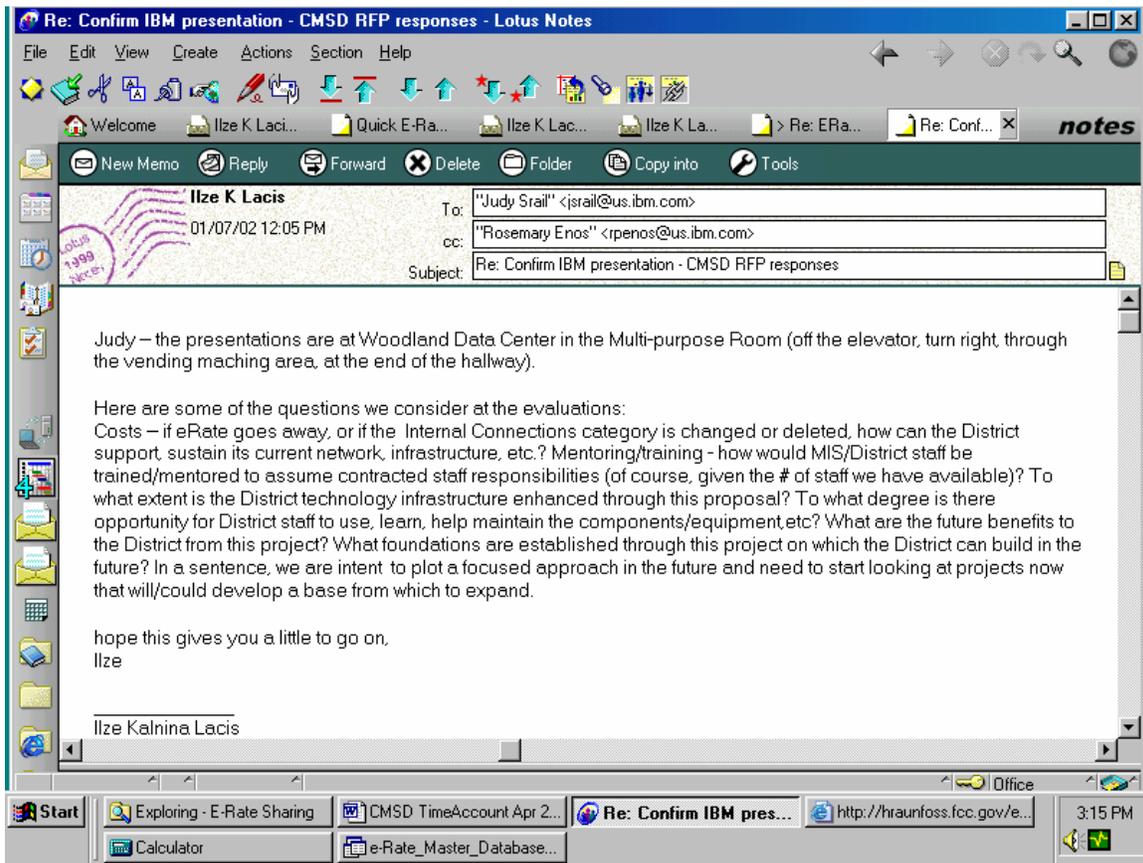
RFP #	RFP Name	Vendor	Details re cost	Full Cost/Yr	CMSD/Yr	Issues	Comments
	ed Telephone Lines	Warwick Communications, Inc.		\$72,624.00	\$7,262.40		Costs vary if lines are rolled into a Centrex and/or uses an ISDN line; <i>Monthly cost estimated by eRate office based on 200 lines</i>
		XO Communications		\$51,000.00	\$5,100.00		\$21.25/line/month (all quotes based on 200 lines)
		Ameritech		\$1,843,481.00	\$184,348.10		
		Apple Professional Services		\$452,400.00	\$45,240.00		\$4K=128 school sites; or \$4000 per building cost.
15	Wireless LAN	IBM		\$6,639,402.00	\$663,940.20		Small school @ \$38K ea; middle sch @ \$49K ea; large sch @ \$60K ea.
		Smart Solutions		\$1,362,647.34	\$136,264.73	Do they have a full grasp of what's involved, particularly w/long view?	
		Wireless Information Networks, Inc		\$13,952,474.00	\$1,395,247.40		82 elem sch@\$98K ea; 29 middle sch @ \$123K ea.; \$12 high sch @ \$167K ea. (pricing includes 13 admin sites)
16	Distance Learning Service	Ameritech		\$31,583,331.96	\$3,158,333.20	We have not used the service from Yr4 as yet. Also, securing District cost of service is significant. Is it worth it? We would own equipment (under Internal Connections); but don't have the video project done yet - how will this interact with the video, etc?	Cost equals that of Yr4 approved service.
		IBM		\$9,798,500.00	\$979,850.00		

RFP #	Vendor	Details re cost	Full Cost/Yr	CMSD/Yr	Issues	Comments
17	Internal Wiring Ameritech	\$38/man-hr; 3-Cat5E/1-coax=\$550ea or 2-Cat5E/2-fiber optic=\$550ea Materials=\$1.3M; Coax extensions=\$5.0M (face plates, couplers, other); 3Cat5=\$1,517.00; 2Cat5=\$1751	\$6,731,410.00	\$673,141.00		Can be costed out by foot; proposal notes cost savings per existing conduits, existing racks, etc on TBD basis; difficult to note total cost re all needed materials; room survey re needs, etc. Diverse price per Cat3/Cat5 - from Demarc to I/MDFs.
18	eLearning Capabilities ComWeb		\$14,500.00	\$1,450.00		Includes surveys, costs out media ctrs/labs, classrms, includes all materials Cost is per one classroom
19	District Telephones Mitel Sprint Teletronics Warwick Communications		\$1,942,556.60 \$120,242.28 \$1,232,804.67	\$194,255.66 \$12,024.23 \$123,280.47		Difficult to calculate total sum, since prices are itemized by student and per port; maintenance cost is \$275K. Difficult to calculate total sum, since prices are itemized. Labor & materials only; excludes PBX consoles, which may be eligible; excludes analog and/or digital phone set costs.

RFP P#	RFP Name	Vendor	Details re cost	Full Cost/Yr	CMSD/Yr	Issues	Comments
20	Gigabit Ethernet Metropolitan Area Network Multi-point Conferencing Service Equipment Fiber	Ameritech		\$509,600.00	\$50,960.00		
21	Conferencing Service Equipment Fiber	Ameritech		\$500,000.00	\$50,000.00		
22	Equipment Fiber	IBM		\$1,196,060.00	\$119,606.00		
23	IVR	No responses					

See arrow on page 2:

“ ... Here are some of the questions we consider at the evaluations:
Costs...”



Ilze K Lacis

01/07/02 12:05 PM

To: "Judy Srail" <jsrail@us.ibm.com>

cc: "Rosemary Enos" <rpenos@us.ibm.com>

Subject: Re: Confirm IBM presentation - CMSD RFP responses

Judy -- the presentations are at Woodland Data Center in the Multi-purpose Room (off the elevator, turn right, through the vending machine area, at the end of the hallway).

Here are some of the questions we consider at the evaluations:

Costs -- if eRate goes away, or if the Internal Connections category is changed or deleted, how can District support, sustain its current network, infrastructure, etc.? Mentoring/training - how would MIS/District staff be trained/mentored to assume contracted staff responsibilities (of course, given the # of staff we have available)? To what extent is the District technology infrastructure enhanced through this proposal? To what degree is there opportunity for District staff to use, learn, help maintain the components/equipment, etc? What are the future benefits to the District from this project? What foundations are established through this project on which the District can build in the future? In a sentence, we are intent to plot a focused approach in the future and need to start looking at projects now that will/could develop a base from which to expand.

hope this gives you a little to go on,
Ilze

Ilze Kalnina Lacis
Cleveland Municipal School District
Interim Manager, eRate Program
Tel: 216 432 6240
Fax: 216 431 4398
Pgr: 216 388 1303

"Judy Srail"
<jsrail@us.ibm.com>

01/07/02 10:03 AM

To: Lacisll@cmsdnet.net
cc: "Rosemary Enos" <rpenos@us.ibm.com>
Subject: Re: Confirm IBM presentation - CMSD RFP responses

Good morning, Ilze,

Please confirm IBM for Friday, 1/11 from 8:30 - 10:30. I would be interested in knowing to whom we will be presenting and any areas which CMSD would like specifically highlighted. Also, where will the meeting be held? We will block off the day if there is a desire to review additional IBM RFP responses. As I indicated in our conversation, IBM is responding (has responded) to the following CMSD RFP's:

Technical Support Services (RFP # 05-0203)
Equipment to Terminate Fiber WAN (RFP # 22-0203)
Fiber Optic Cabling (RFP # 11-0203)
Internal Wiring (RFP # 17-0203)
Internet Access (RFP # 02-0203)
Multi-Point Conferencing (RFP # 21-0203)
Network Upgrade (RFP # 13-0203)
Web-Based e-mail (RFP # 08-0203)
Web-Page Development (RFP # 09-0203)
Internet Knowledge Management (RFP # 07-0203)

Wireless LAN (RFP # 15-0203)
Distance Learning (RFP #16-0203)

Judy Srail, Principal and Certified Project Executive
IT Consulting and Implementation Services
IBM Global Services
1300 E. 9th Street, 7th Floor
Cleveland, OH 44114
216-664-7102 (Phone)
JSRAIL@US.IBM.COM

LacisIl@cmsdnet.net on 01/06/2002 06:02:55 PM

To: Judy Srail/Cleveland/IBM@IBMUS, Rosemary
Enos/Charleston/IBM@IBMUS
cc: Timothy Baylor/Cleveland/IBM@IBMUS
Subject: Confirm presentation

Judy and Rosemary:

This is to confirm Friday, January 11 for IBMs presentation of
RFP#05-0203
"Technical Support" from 8:30 a.m. to 10:30 a.m..

I am keeping the rest of the day clear for any other RFPs that
the Eval.
Cmte. will wish to see from IBM . However, I wanted to start the
day early
and I hope that's ok with your schedules.

Thanks, Ilze

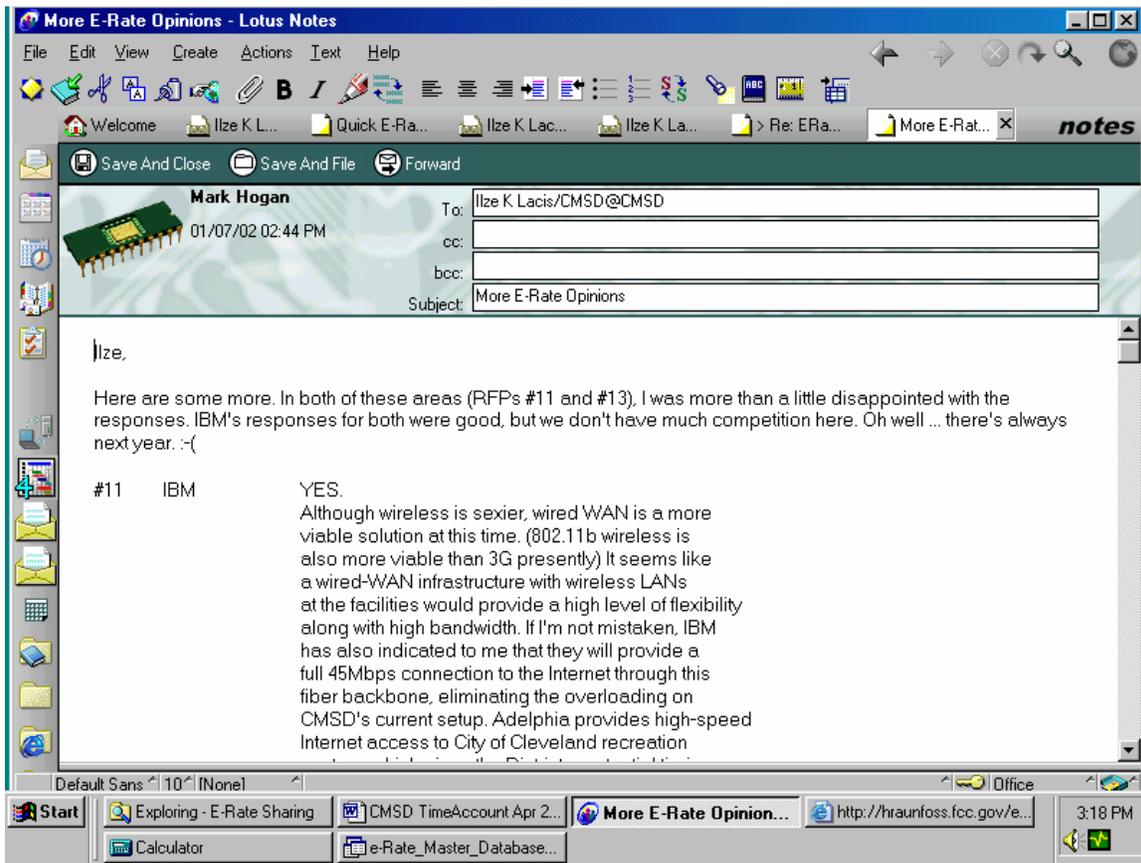
PS -- The eval cmte will meet late Monday to evaluate the next
group of
RFPs that have come in. I should have an answer by early morning
on Tuesday
for you.

PPS -- Judy -- Q: Why are we working on a Sunday afternoon, when
curling up
by a fire with the Times would be far preferable?.....

Ilze Kalnina Lacis
Cleveland Municipal School District
Interim Manager, eRate Program
Tel: 216 432 6240
Fax: 216 431 4398
Pgr: 216 388 1303

See arrows on page 2

“ ... cost is approximately 40% higher...
 ... Cost is lower than ...
 ... response was incomplete and did not contain even a price estimate ...



Mark Hogan

01/07/02 02:44 PM

To: Ilze K Lacis/CMSD@CMSD

cc:

bcc:

Subject: More E-Rate Opinions

Ilze,

Here are some more. In both of these areas (RFPs #11 and #13), I was more than a little disappointed with the responses. IBM's responses for both were good, but we don't have much competition here. Oh well ... there's always next year. :-("

#11 IBM

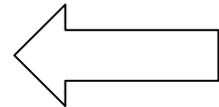
YES.

Although wireless is sexier, wired WAN is a more viable solution at this time. (802.11b wireless is also more viable than 3G presently) It seems like a wired-WAN infrastructure with wireless LANs at the facilities would provide a high level of flexibility

along with high bandwidth. If I'm not mistaken, IBM has also indicated to me that they will provide a full 45Mbps connection to the Internet through this fiber backbone, eliminating the overloading on CMSD's current setup. Adelphia provides high-speed Internet access to City of Cleveland recreation centers, which gives the District a potential tie-in as well. Downsides are the customary IBM issue with cost. At almost \$12M, this is a significant investment in a "service" that CMSD would not own and would lose if E-Rate went away.

#11 Allied Cable

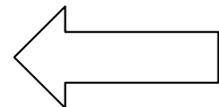
NO.
The Allied Cable response was incomplete and did not contain even a price estimate. Although I understand that the RFP was somewhat vague, Allied should have made more of an attempt to find out enough information to make at least a rough estimate. While the IBM approach was for a solution, Allied appears to have approached the RFP solely from a cabling perspective. This isn't a strong NO, but my gut check is that Allied probably doesn't have the services experience or the vision to do what I think we're looking for.



ILZE ... PLEASE REMIND ME WHY WE PUT RFP #13 ON THE STREET. WHY DO WE WANT THE EQUIPMENT IN THE SCHOOLS TO TERMINATE ADDITIONAL T1 LINES? WHAT ARE THE ADDITIONAL T1 LINES FOR? IS THIS RELATED TO THE CORE UPGRADE?

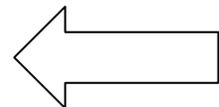
#13 Ameritech

NO.
I can't tell if Ameritech is overconfident or just sloppy, but as with their other proposal, I can't find any actual substance to this. On top of that, I am listed as a reference for the company, and was not asked if I would be willing to be so listed. (I would not be so willing.) Cost is also an issue, as Ameritech's proposed cost is approximately 40% higher than IBM's proposed cost!



#13 IBM

YES.
Cost is lower than Ameritech's and the proposal is considerably more detailed. On top of that, as it appears likely that CMSD will use IBM for technical support for another year, network installation services will be FOC (or at least of ADDITIONAL charge).



Mark

Mark J. Hogan
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Management Information Services
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