

BUCKET FILE COPY ORIGINAL

Lohn Independent School District

P. O. Box 277
Lohn, Texas 76852
(325)344-5749 or 344-5755
Fax: (325)344-5789

Leon Freeman, Superintendent
Heidi Gardner, Principal
www.centex-edu.net/lohn

November 9, 2007

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

RECEIVED & INSPECTED

NOV 26 2007

FCC - MAILROOM

RE: CC Docket No. 02-06

Entity appealing:

CC: 02-6

Lohn ISD
Billed Entity Number: 141164
Contact: Leon Freeman PO Box 277 Lohn, Texas 76852
Phone: 325-344-5749
Fax: 325-344-5789
Email: lfreeman@lohnisd.centex-edu.net

Decision appealed:

Administrator's Decision On Appeal – Funding Year 2003-2004
Date of document: 09/24/2007
471 Application # 342069
FRN's: 941565, 941580 & 941593

Lohn ISD is seeking a Request for Review from the FCC.

Regarding funding year 2003-2004--FRN's 941565, 941580 & 941593 were approved in full. However, approximately four years passed and Lohn ISD received a Notification of Commitment Adjustment Letter dated May 11, 2007. This letter stated that Lohn ISD failed to post a new FCC Form 470 before extending its existing contract and failed to comply with the competitive bidding requirements; therefore, funding for FRN's 941565, 941580 & 941593 is being rescinded. Follow-up letters from USAC dated July 30, 2007, and August 23, 2007, stated that Lohn ISD did not post for the requested category of service (Internet Access).

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List ABCDE

In response to the USAC letters, Lohn ISD submitted three letters dated June 28, 2007; August 13, 2007; and September 6, 2007. These letters clearly outline and document how Lohn ISD posted a new FCC 470, requested a category of service for Internet Access Service and complied with competitive bidding requirements. However, we received a denial letter on September 24, 2007, regarding our appeal which was followed by a Demand Payment Letter. Lohn ISD has paid \$2,964.32, which is the full amount requested in the Demand Payment Letter.

Please realize that Lohn ISD has shown a good-faith effort to comply with all competitive bidding requirements. Our situation is not a case of waste, fraud or abuse, but rather, a clerical error. For that reason Lohn ISD is respectfully requesting that the FCC to review the attached documents and direct USAC to restore full funding for FRN's 941565, 941580 & 941593. Additionally, we request that USAC reimburse Lohn ISD for our payment of \$2,964.32 as requested by USAC's Demand Payment Letter.

Questions concerning this request can be directed to Leon Freeman at 325-344-5749.

Sincerely,

A handwritten signature in cursive script that reads "Leon Freeman".

Leon Freeman
Superintendent
Lohn ISD

Attachments: Form 470, Block 2 Item #8
Form 471, Block 5
Response letters to USAC dated June 28; 2007; August 13, 2007 and September 6, 2007.

City Kerrville	State TX	Zip Code 5Digit 78028	Zip Code 4Digit
<input type="radio"/> 6c. Telephone Number (10 digits + ext.) (830) 895- 5711			
<input type="radio"/> 6d. Fax Number (10 digits) (830) 895- 1584			
<input type="radio"/> 6e. E-mail Address (50 characters max.) jobenson@ktc.com			

Block 2: Summary Description of Needs or Services Requested

7 This Form 470 describes (check all that apply):

a. Tariffed services - telecommunications services, purchased at regulated prices, for which the applicant has no signed, written contract. A new Form 470 must be filed for tariffed services for each funding year.

b. Month-to-month services for which the applicant has no signed, written contract. A new Form 470 must be filed for these services for each funding year.

c. Services for which a new written contract is sought for the funding year in Item 2.

d. A multi-year contract signed on or before 7/10/97 but for which no Form 470 has been filed in a previous program year.

NOTE: Services that are covered by a qualified contract for all or part of the funding year in Item 2 do NOT require filing of Form 470. A qualified contract is a signed, written contract executed pursuant to posting a Form 470 in a previous program year OR a contract signed on/before 7/10/97 and reported on a Form 470 in a previous year as an existing contract.

8 Telecommunications Services
Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?

a YES, I have an RFP. Choose one of the following: It is available on the Web at _____ or via the Contact Person in Item 6 or the contact listed in Item 11.

b NO, I do not have an RFP for these services.

If you answered NO, you must list below the Telecommunications Services you seek. Specify each service or function (e.g., local voice service) and quantity and/or capacity (e.g., 20 existing lines plus 10 new ones). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Telecommunications Services, and remember that only common carrier telecommunications companies can provide these services under the universal service support mechanism. Add additional lines if needed.

Service or Function:	Quantity and/or Capacity:
POTS and Long Distance Service	6 existing lines w/key system & at least 2 additional lines
Internet Access Service	1 existing T-1 line & 0 additional needed
Distance Learning Service	1 existing T-1 line & 0 additional needed

9 Internet Access
Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?

a YES, I have an RFP. Choose one of the following: It is available on the Web at _____ or via the Contact Person in Item 6 or the contact listed in Item 11.

b NO, I do not have an RFP for these services.

21. Attachment #: LOH0601	22. Block 4 Entity Number: 88292
23a. Monthly Charges: \$3,068.56	23b. Ineligible monthly amt.: \$0.00
23c. Eligible monthly amt.: \$3,068.56	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$36,822.72	
23f. Annual non-recurring (one-time) charges: \$0.00	23g. Ineligible non-recurring amt.: \$0.00
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$36,822.72	
23j. % discount (from Block 4): 90	
23k. Funding Commitment Request (23i x 23j): \$33,140.45	

FRN: 941524 FCDL Date:	
11. Category of Service: Telecommunications Service	12. 470 Application Number: 920740000020176
13. SPIN: 143004099	14. Service Provider Name: Central Texas Communications, Inc.
15. Contract Number: N/A	16. Billing Account Number: 915-344-5749
17. Allowable Contract Date: 03/10/1998	18. Contract Award Date: 04/02/1998
19a. Service Start Date: 07/01/2003	19b. Service End Date:
20. Contract Expiration Date: 06/30/2004	
21. Attachment #: LOH0602	22. Block 4 Entity Number: 88292
23a. Monthly Charges: \$268.86	23b. Ineligible monthly amt.: \$0.00
23c. Eligible monthly amt.: \$268.86	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$3,226.32	
23f. Annual non-recurring (one-time) charges: \$0.00	23g. Ineligible non-recurring amt.: \$0.00
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$3,226.32	
23j. % discount (from Block 4): 90	
23k. Funding Commitment Request (23i x 23j): \$2,903.69	

FRN: 941565 FCDL Date:	
11. Category of Service: Internet Access	12. 470 Application Number: 978240000296587
13. SPIN: 143004099	14. Service Provider Name: Central Texas Communications, Inc.
15. Contract Number: N/A	16. Billing Account Number: 915-344-5754
17. Allowable Contract Date: 10/24/2000	18. Contract Award Date: 12/18/2000
19a. Service Start Date: 07/01/2003	19b. Service End Date:
20. Contract Expiration Date: 06/30/2004	
21. Attachment #: LOH0602	22. Block 4 Entity Number: 88292
23a. Monthly Charges: \$300.00	23b. Ineligible monthly amt.: \$0.00
23c. Eligible monthly amt.: \$300.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$3,600.00	
23f. Annual non-recurring (one-time) charges: \$0.00	23g. Ineligible non-recurring amt.: \$0.00

23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00
23i. Total program year pre-discount amount (23e + 23h): \$3,600.00
23j. % discount (from Block 4): 90
23k. Funding Commitment Request (23i x 23j): \$3,240.00

FRN: 941580 FCDL Date:	
11. Category of Service: Internet Access	12. 470 Application Number: 978240000296587
13. SPIN: 143004099	14. Service Provider Name: Central Texas Communications, Inc.
15. Contract Number: N/A	16. Billing Account Number: 915-344-5754
17. Allowable Contract Date: 10/24/2000	18. Contract Award Date: 12/18/2000
19a. Service Start Date: 07/01/2003	19b. Service End Date:
20. Contract Expiration Date: 06/30/2004	
21. Attachment #: LOH0602	22. Block 4 Entity Number: 88292
23a. Monthly Charges: \$18.95	23b. Ineligible monthly amt.: \$0.00
23c. Eligible monthly amt.: \$18.95	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$227.40	
23f. Annual non-recurring (one-time) charges: \$0.00	23g. Ineligible non-recurring amt.: \$0.00
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$227.40	
23j. % discount (from Block 4): 90	
23k. Funding Commitment Request (23i x 23j): \$204.66	

FRN: 941593 FCDL Date:	
11. Category of Service: Internet Access	12. 470 Application Number: 978240000296587
13. SPIN: 143004099	14. Service Provider Name: Central Texas Communications, Inc.
15. Contract Number: N/A	16. Billing Account Number: 915-111-0102
17. Allowable Contract Date: 10/24/2000	18. Contract Award Date: 12/18/2000
19a. Service Start Date: 07/01/2003	19b. Service End Date:
20. Contract Expiration Date: 06/30/2004	
21. Attachment #: LOH0602	22. Block 4 Entity Number: 88292
23a. Monthly Charges: \$22.00	23b. Ineligible monthly amt.: \$0.00
23c. Eligible monthly amt.: \$22.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$264.00	
23f. Annual non-recurring (one-time) charges: \$0.00	23g. Ineligible non-recurring amt.: \$0.00
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$264.00	
23j. % discount (from Block 4): 90	
23k. Funding Commitment Request (23i x 23j): \$237.60	

June 28, 2007

Letter of Appeal
Schools and Libraries Division
Dept. 25 – Correspondence Unit
100 South Jefferson Road
Whippany, NJ 07981

RE: Appeal

Entity appealing:

Lohn Independent School District
BEN: 141164
Leon Freeman
PO Box 277
Lohn, Texas 76852
Phone: 325-344-5749
Fax: 325-344-5789
Email address: lfreeman@lohnisd.centex-edu.net

Decision appealed:

Funding Commitment Adjustment Letter
Date of Document: May 11, 2007
Funding Year 2003
471 Application #: 342069
FRN: 941565, 941580 & 941593
SPIN: 143004099

Subject of the Appeal:

According to the Commitment Adjustment Letter, FRN's 941565, 941580 & 941593 are rescinded because Lohn ISD failed to post a new FCC Form 470 before voluntarily renewing or extending its existing contract and therefore failed to comply with the competitive bidding requirements.

Explanation:

The explanations and documents presented below clearly show the intent and good faith effort of Lohn ISD and our E-rate consultant to comply with all rules and guidelines for Funding Year 2003.

It is the opinion of Lohn ISD that we clearly:

- (1) Established an Internet Access contract in Funding Year 2001 that would be renewed annually;
- (2) Cited our intent for Internet Access services by posting a new Form 470 for Funding Year 2003 before extending the existing contract;

(3) Complied with competitive bidding requirements, and

(4) Cited our intent to renew the existing Internet Contract by referencing the establishing Form 470 Application Number 978240000296587 on Form 471 Block 5 for Funding Year 2003 FRN's 941565, 941580 & 941593.

The above-mentioned explanations are supported by the following Form 470 & Form 471 facts:

Funding Year 2001

For Funding Year 2001 the E-rate consultant on behalf of Lohn ISD posted a Form 470 (Application # 978240000296587) on 09/26/2000 on the USAC website and, after waiting 28 days, Lohn ISD entered into a contract for Internet Access with Central Texas Communications (SPIN 143004099). According to the contract, "the term will be from July 1, 2001 and continue through June 30, 2002 and will be renewed annually." Specifically, the contract will be renewed for another year and does not convert to a month-to-month contract. Furthermore, according to the Lohn E-rate consultant, this is the establishing Form 470 for Internet Access and is to be referenced on future Forms 471 until a new contract is signed. It is important to note that no new contract was signed during the 2001-2006 E-rate Funding Years.

Funding Year 2003

For Funding Year 2003 the E-rate consultant on behalf of Lohn ISD posted a new Form 470 Application Number 974270000422723 on 10/28/2002.

Form 470 Block 2, Item #7:

- The Lohn E-rate consultant read this statement: "*Note: Services that are covered by a signed, written contract executed pursuant to posting of a Form 470 in a previous program year OR a contract signed on/before 7/10/97 and reported on a Form 470 in a previous year as an existing contract do NOT require filing of a Form 470*" and interpreted it to mean that no new contract was needed because a contract for Internet Access was previously executed pursuant to posting of new a Form 470 and an existing contract was in place and is to be renewed annually.
- Specifically, The contract extension was not reported on Block 2 Item #7 because a signed, written contract executed pursuant to posting of a Form 470 in a previous program year (specifically Funding Year 2001) was in place AND the Funding Year 2003 Form 470 did NOT list multi-year or voluntary extensions as an option for the applicant to check (✓). As a result, Lohn was not able to cite voluntary contract extensions for Funding Year 2003 on Form 470.

Form 470 Block 2 Item #8:

- The establishing contract as cited on Form 470 Application Number 978240000296587 was extended each year for an additional year with the extension being indicated on the cited Funding Year 2003 Form 470 Block 2 Item

#8 as the E-rate consultant listed Internet services. Lohn then waited 28 days to comply with competitive bidding requirements before they submitted Form 471.

Form 471 Application Number 342069 was submitted and cited the establishing Form 470 Application Number 978240000296587 for Internet access on the following Block 5's.

- Block 5, FRN: 941565
 - Category of Service: Internet Access
 - 470 Application Number: 978240000296587
 - Contract Award Date: 12/18/2000
 - Service State Date: 07/01/2003
 - Contract Expiration Date: 06/30/2004

- Block 5, FRN: 941580
 - Category of Service: Internet Access
 - 470 Application Number: 978240000296587
 - Contract Award Date: 12/18/2000
 - Service State Date: 07/01/2003
 - Contract Expiration Date: 06/30/2004

- Block 5, FRN: 941593
 - Category of Service: Internet Access
 - 470 Application Number: 978240000296587
 - Contract Award Date: 12/18/2000
 - Service State Date: 07/01/2003
 - Contract Expiration Date: 06/30/2004

It is important to note that Lohn ISD established a pattern of referencing the establishing Form 470 Application number for Internet Access on Form 471 Block 5 for these consecutive Funding Years: 2001, 2002, 2003, 2004, 2005 and 2006.

The following forms are attached to support the above-mentioned statements.

- Copy of the original contract establishing Internet Access with Central Texas Communications is attached which clearly documents the language that the contract will be renewed annually.
- Copy of the Funding Year 2001 Form 470 (Application Number 978240000296587) which clearly documents this form as the establishing Form 470 for the Internet Access contract.
- Copy of Form 470 & Form 471 for Funding Year 2003 to support and document the intent and good faith effort of Lohn ISD to post a new Form 470 and cite the request for Internet access on Form 470 before extending the existing contract; comply with bidding requirements; and to reference the establishing Form 470 Application Number on Form 471 Block 5 for FRN's 941565, 941580 & 941593.

Request to Dismiss Funding Commitment Adjustments:

Because these documents show that Lohn ISD posted a new FCC Form 470 before extending the existing contract; we referenced the establishing Form 470 for the Internet Access and complied with the competitive bidding requirements, Lohn ISD is respectfully requesting USAC to dismiss the Funding Commitment Adjustments for FRN's 941565, 941580 & 941593.

Sincerely,



Leon Freeman
Superintendent
Lohn ISD

Lohn Independent School District

P. O. Box 277
Lohn, Texas 76862
(325)344-6749 or 344-6755
Fax: (325)344-6789

Leon Freeman, Superintendent

www.centex-edu.net/lohn

August 13, 2007

Jose Diaz 973-599-6525
Associate Manager Program Compliance Unit

RE: Lohm ISD, Application Number: 342069, FRN's 941565, 941580, & 941593

Lohn ISD posted Form 470 #974270000422723 to extend an existing Internet Contract. We cited the intent for Internet Access on FY 2003 Form 470 #974270000422723 by listing Internet Access on Block 2, Item #8 under the Telecommunications Services category of Service. In compliance with competitive bidding requirements, we waited 28 days before we submitted our Form 471.

Attached is the October 18, 2002 archived document that lists the eligible services for Funding Year 2003. Please refer to the Telecommunication Services Section, page 6. Please note that Internet Access is listed as an eligible service under the Telecommunications Services category of service.

Also, attached is page 2 of FY 2003 Form 470 #974270000422723 which clearly documents the request for Internet Access under the category of Telecommunications Services.

It is the opinion of Lohm ISD that we clearly documented our intent to extend an existing Internet Access contract by posting a new Form 470 for FY 2003 and requesting Internet Access under the service category of Telecommunications Service on Block 2, #8 in compliance with competitive bidding requirements.

We respectfully request that our appeal be approved.

Sincerely,



Leon Freeman
Superintendent

Lohn Independent School District

**P. O. Box 277
Lohn, Texas 76852
(325)344-5749 or 344-5756
Fax: (325)344-5789**

**Leon Freeman, Superintendent
Mike Duke, Principal
www.centex-edu.net/lohn**

September 6, 2007

Jose Diaz 973-599-6525
Program Compliance Unit

RE: Lohm ISD, Application Number: 342069, FRN's 941565, 941580 & 941593

Lohn ISD complied with competitive bidding requirements as demonstrated by the following:

- *Lohn ISD opened a competitive bidding process for funding Year 2003 when we posted Form 470 application #974270000422723;
- *Lohn ISD then described specific services for support. For example, we listed Internet Access as a service requested for Funding Year 2003;
- *Lohn ISD then identified the Telecommunications category of service and listed Internet Access under this category of service;
- *Internet Access is an eligible service under the Telecommunications category of service;
- *Lohn ISD identified all recipients of services for support;
- *Lohn ISD followed all applicable state and local procurement laws; and
- *Lohn ISD waited 28 days after the Form 470 was posted to the USAC website before we selected a vendor.

It is important to note that Lohn ISD did not receive a single bid in response to posting Funding Year 2003 Form 470 for any of the services requested. The most likely reason that we received no bids is because we are located in a rural part of Texas in which there is no competition for telecommunication services such as basic phone service and Internet access. Central Texas Telephone is the one and only provider for local phone service in Lohn, and Central Texas Communications is the one and only provider for Internet Access in Lohn.

Lohn ISD Requested a Category of Service

When Lohn ISD posted Funding Year 2003 Form 470 application #974270000422723, we specified Internet Access as a Telecommunications category of service; however, FRN's 941565, 941580 & 941593 on Block 5 of Form 471 listed Internet Access as the Service Category for the internet access service. We concede that one can contend that the change in category of service for Internet Access makes it appear that a category of service was not posted for Internet Access; however, Internet Access was indeed posted on Form 470 under the Telecommunications category of Service. It is important to note that according to Step 8 regarding Form 471—"If applicants make errors in specifying the proper category of service, USAC may adjust the category." In this situation with Internet Access having been posted on Form 470 and Form 471, and with Item 21 attachments for FRN'S 941565, 941580 & 941593, it seems logical that the USAC reviewers could have adjusted the category of service.

Request Approval of Appeal

It was our error that Internet Access is listed under the Telecommunications category of service on Form 470 then is specified as an Internet Access category of service on Form 471 Application #342069. This clerical mistake (which we believe the USAC reviewers had the authority to correct) does not warrant the denial of the three FRN's when it is clear that we posted a Form 470 for internet access, we requested Internet Access service on Form 471 for 941565, 941580 & 941593, and we provided supporting Item 21 attachments. The fact that we posted the service category for Internet Service on both our Form 470 and our Form 471 shows our intent to request and receive discounts on Internet Access services. This is not a case of fraud or abuse, rather, we made a clerical error. Lohn ISD requests that you reverse your denial of FRN's 941565, 941580 & 941593.

Sincerely,



Leon Freeman
Superintendent
Lohn ISD