



*Administrator's Decision on Rural Health Care Program Appeal*

*Via Electronic and Certified Mail*

February 25, 2013

Mr. Michael Gross  
Ozark Guidance Center  
2400 South 48<sup>th</sup> Street  
Springdale, AZ 72766

Re: Request for Reconsideration of Denial  
Ozark Guidance Center, HCP #13825, Packet ID 113865;  
HCP #13826, Packet ID 113762; HCP #22247, Packet ID 113871

Dear Mr. Gross:

The Universal Service Administrative Company (USAC) has completed its review of the appeal, dated October 29, 2012, you submitted on behalf of Ozark Guidance Center (Ozark). You request that USAC reconsider the USAC Rural Health Care Division's (RHCD) denial of funding for Funding Year 2011 for the health care providers (HCPs) and packets captioned above. USAC's funding denial was based on its determination that Ozark did not comply with Rural Health Care Support Mechanism competitive bidding rules set forth in section 54.603 of the Federal Communications Commission's (FCC) rules.<sup>1</sup>

Decision on Appeal and Explanation: Denied.

Prior to seeking support for services in the Rural Health Care (RHC) program, an applicant must post an FCC Form 465 *Description of Services Requested & Certification Form* (Form 465) 28-days prior to selecting a telecommunications carrier.<sup>2</sup> During that time, carriers may bid to provide services. HCPs are prohibited from entering into any agreement during the 28-day competitive bidding period.<sup>3</sup>

Ozark posted its FCC Form 465s between December 14, 2011 and January 6, 2012. On line 29 of the Form 465, which asks applicants to describe their telecommunication or Internet needs, the HCP stated that it needs to "connect to the existing MPLS network."<sup>4</sup> On March 19, 2012, Ozark submitted its FCC Form 466 *Funding Request and Certification Forms* (Form 466) for

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<sup>1</sup> 47 C.F.R. § 54.603.

<sup>2</sup> 47 C.F.R. § 54.603(b).

<sup>3</sup> Instructions to FCC Form 465, 1 (2008).

<sup>4</sup> Ozark FCC Form 465, Application Number 50886, Line 29 (Dec. 14, 2011).

Funding Year 2011. All of the funding requests stated that Ozark signed a contract with Windstream.<sup>5</sup> Ozark met the 28-day posting requirement for all packets in question.

On Line 45 of the Form 466s, which asks if the applicant had received bids in response to the Form 465,<sup>6</sup> the applicant wrote, "Yes."<sup>7</sup> While processing the funding request, RHCD requested information about the bids received.<sup>8</sup> You stated in an email: "I had received phone calls and email from other carriers but once I told them we were under contract, they were no longer interested in offering a bid."<sup>9</sup> As a result, Ozark did not receive any competing bids for the upgraded services. Because Ozark told potential bidders that it was under contract, and did not receive any competing bids as a result, RHCD denied the bidding requests for failure to meet the competitive bidding requirements.

The FCC has stated the purpose of competitive bidding is to minimize the universal service support required by the HCP by ensuring that the HCP is aware of cost-effective alternatives.<sup>10</sup> You stated in the appeal, "I allowed 28 days to pass before signing a new contract with Windstream on 2/16/2012. During the 28 day waiting period, I receive [sic] phones calls and emails from other vendors and all of them asked me had I received any bids. I told them that Windstream was our existing carrier and they had sent me one. Once I told them that we were currently using Windstream, they all told me that they could not provide a competitive bid."<sup>11</sup>

Line 46 of the Form 466 states, "I certify that the above named entity has considered all bids received and selected the most cost-effective method of providing the requested service or services..."<sup>12</sup> Because the applicant discouraged prospective service providers from submitting bids, it could not have been aware of competing offers, and therefore could not have selected the most cost-effective bid. Ozark was required to competitively bid its request for services; and failure to do so violated RHC Program rules.<sup>13</sup> Therefore, this appeal is denied.

If you wish to appeal this decision, you may file an appeal pursuant to 47 C.F.R. Part 54, Subpart I. Detailed instructions for filing appeals are available at:

[www.usac.org/rhc/about/program-integrity/appeals.aspx](http://www.usac.org/rhc/about/program-integrity/appeals.aspx)

Sincerely,

//s// USAC

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<sup>5</sup> FCC Form 466, ID #s 63865, 63762, and 63871, Line 21.

<sup>6</sup> FCC Form 466, Line 45 (2008).

<sup>7</sup> See FCC Form 466, Line 45, submitted by Ozark Guidance Center, March 19, 2012.

<sup>8</sup> Email from USAC to Frank Woods, Ozark (July 12, 2012, 8:58 a.m.).

<sup>9</sup> Email from Michael Gross to USAC (July 18, 2012, 10:58 a.m.).

<sup>10</sup> See *In the Matter of Federal State Join Board on Universal Service*, CC Docket 96 45, Report and Order, FCC 97 157, 12 FCC Rcd 8776, ¶688 (1997).

<sup>11</sup> Letter of appeal, at 1.

<sup>12</sup> FCC Form 466, Line 46 (2008).

<sup>13</sup> 47 C.F.R. § 54.603.