Waiver Request to the FCC

Anthony ISD

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Letter of Agency

Anthony ISD and E-Rate Consulting Services

RECEIVED
JAN 29 2014
ESC

E-Rate Consulting
Region 12

E-Rate Consulting Contract Agreement

The Education Service Center Region 12 E-Rate Consulting, ("ESC12E-Rate") and **Anthony ISD** ("Applicant") each agree to perform the obligations listed in this Agreement which includes a Letter of Agency and Exhibit A.

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

The Applicant will (1) be listed as the contact person on the above referenced FCC forms, unless otherwise agreed upon; (2) sign any and all of said FCC Forms, unless otherwise agreed upon; (3) sign any and all additional FCC Forms which might become necessary to obtain discounts or stay within FCC Program rules, unless otherwise agreed upon; and (4) order services listed on the application. The Applicant understands that they are liable for any and all certifications and representations made on FCC Forms concerning the E-Rate program.

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

Signing below also indicates that both parties agree to every provision of the Agreement and Exhibit A. This Agreement is valid from the time both the applicant and ESC12E-Rate validates the contract with a signature until discontinuation of services is requested by Applicant, which must be provided to ESC12ERate in writing at least thirty (30) days prior to July 1 of the following Program Year.

This Agreement and Exhibit A contain the entire agreement of the parties relative to the purposes of the Agreement. In the event of a conflict between this Agreement and Exhibit A, Exhibit A shall control.

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

By signing this Agreement, Applicant makes the following certifications:

a) Applicant certifies that the schools in its system meet the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. Secs. 7801(18) and (38), do not operate as for-profit businesses and do not have endowments exceeding $50 million.

b) Applicant certifies that its schools has/have secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. Applicant recognizes that some of the aforementioned resources are not eligible for support. Applicant certifies that to the extent that the Applicant is passing through the non-discounted charges for the services requested under this Agreement, that the Applicant represented has secured access to all of the resources to pay the nondiscounted charges for eligible services from funds to which access has been secured in the current funding year.

c) Applicant certifies that, if required by Commission rules, all of its schools is/are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, and an SLD-certified technology plan approver, prior to the commencement of E-Rate service.

d) Applicant certifies that it will post Form 470 and (if applicable) make the RFP available for at least 28 days before considering all bids received and selecting a service provider. Applicant certifies that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the most heavily weighted factor.

e) Applicant certifies that the services the school or district purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. Sec. 54.500(k).

f) Applicant certifies that its schools have complied with all program rules and acknowledges that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. Applicant acknowledges that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.

g) Applicant certifies that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools that are treated as sharing in the service, receive an appropriate share of benefits from those services.

h) Applicant certifies that it will retain required documents for a period of at least five (5) years after the last day of E-Rate service delivered. Applicant certifies that it will retain all documents necessary to demonstrate compliance with the Telecommunications Act of 1996 and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, it will make such records available to ESC Region 12. Applicant acknowledges that it may be audited pursuant to participation in the schools and libraries program.

i) Applicant certifies that it is authorized to order telecommunications and other supported services for the eligible entity(ies) covered by this Agreement. The Applicant certifies that it is authorized to make this request on behalf of the eligible entity(ies) covered by this Agreement, the Applicant has examined this Agreement, that all of the information on this Agreement is true and correct to the best of the Applicant's knowledge, that the entities that will be receiving discounted services under this Agreement pursuant to Applicant's application have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001 and civil violations of the False Claims Act.

j) Applicant acknowledges that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. Applicant will institute reasonable measures to be informed, and will notify USAC should Applicant be informed or become aware that Applicant or any of the entities, or any person associated in any way with the entity and/or the entities, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.

k) Applicant certifies, on behalf of the entities covered by this Agreement, that any funding requests for internal connections services, except basic maintenance services, applied for in the resulting FCC Form 471 application are not in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five (5) funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. Sec. 54.506(c).

l) Applicant certifies that, to the best of the Applicant's knowledge, the non-discount portion of the costs for eligible services will not be paid by the service provider. Applicant acknowledges that the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product, constitutes a rebate of some or all of the cost of the supported services.

m) Applicant certifies that Applicant is authorized to sign this Agreement and, to the best of the Applicant's knowledge, information, and belief, all information provided to ESC12E-Rate for E-Rate submission is true.

Responsibilities and Obligations of the Applicant

1. The Applicant agrees to thoroughly complete the Client Questionnaire in the ESC12E-Rate online management system within **10 Applicant business days after new client orientation has been completed** unless other arrangements have been agreed upon by both parties.
2. The Applicant agrees to inform ESC12E-Rate of any state or local bidding restrictions and/or regulations before filing of FCC Form 470. These restrictions or regulations include, but are not limited to, bonding requirements and media or public notification requirements.
3. The Applicant understands that during the 28 day bidding cycle the Applicant must allow potential vendors equal opportunity to bid on the proposed services listed on FCC Form 470. The Applicant may choose to place qualifications on the bidding process, but any vendor who meets such qualifications must be allowed the opportunity to place a bid within the specified time period.
4. The Applicant agrees to notify ESC12E-Rate of any products or services to be included on the Application that are, or will be, purchased or governed by a contract.
5. The Applicant understands that all contracted services or products (that is, services or products that are purchased or governed by a contract) to be listed on the Application for discounts must be covered under a contract executed in the proper time period (after the 28 day bidding cycle is over, but before the submission of the FCC Form 471). The Applicant further understands that funding for services contracted before the allowable 28 day bidding has ended, or after the 471 Application is submitted, may not be funded.
6. Applicant agrees to document the bid evaluation process (a list of evaluation factors and how many points each bid received for each factor) for any service requested for which one or more bid(s) is received. **All bids received in accordance with applicable laws and Applicant's policies and procedures must be evaluated.**
7. The Applicant agrees to provide ESC12E-Rate copies of an average month's bill for any services not covered under a contract and to be included on the Application. This may include, but is not limited to, monthly phone bills, cell phone bills, paging bills, Internet access bills, and circuit bills.
8. The Applicant agrees to include and describe, in the Applicant's Technology Plan, any purchases of equipment to be included on the Application. The Applicant agrees to have a written technology plan for the relevant funding year before authorizing ESC12E-Rate to file FCC Form 470. The Applicant understands that this description should include budget information as to how the Applicant will pay for said equipment. The Applicant agrees to include and describe any additional services in the Applicant's Technology Plan at the direction of ESC12 E-Rate, including Budget information.
9. The Applicant agrees to have its Technology Plan approved by the appropriate agency (which is usually the Texas Education Agency for Texas public and charter schools) no later than June 30th of the funding year prior to the start of services. The Applicant also agrees to have all of the purchases of equipment and services indicated by ESC12E-Rate, to be included and described (including budget information) in this approved Technology Plan.
10. The Applicant agrees to provide any information necessary to file any FCC form to ESC12E-Rate upon request, **within five (5) Applicant business days** unless otherwise agreed upon by both parties. This includes, but is not limited to, free and reduced lunch information, monthly bills, copies of

contracts, and letters that authorize ESC12E-Rate to obtain account information. **Failure to do so may result in delay of funding and/or denial of funding.**

11. The Applicant agrees to forward to ESC12E-Rate any request for information originated from the SLD or USAC within **three (3) Applicant business days**. **Failure to do so may result in delay of funding and/or denial of funding.**
12. The Applicant agrees to provide an authorized signature and date for any necessary FCC Form that has been prepared by ESC12E-Rate upon review and approval of the FCC form by Applicant.
13. The Applicant understands that it is the sole responsibility of the Applicant to follow and adhere to any and all relevant FCC, USAC, or SLD rules and regulations, as well as any applicable federal, state, or local laws.

Responsibilities and Obligations of ESC12E-Rate

1. ESC12E-Rate agrees to complete on behalf of the Applicant any necessary FCC Form, including, but not limited to, FCC Forms 470, 471, 486, 472, 500, and any other relevant FCC forms, Service Provider Identification Number Change Letters, and Service Substitution Letters, during the length of this Agreement. **Any additional services for which the Applicant desires to pursue, such as appeals, will be provided at an additional charge for rates listed in the payment terms section of this Agreement.**
2. ESC12E-Rate agrees to notify the Applicant of relevant program rule changes within a reasonable time period during the length of this Agreement.
3. If desired by the Applicant, ESC12E-Rate agrees to assist the Applicant to determine the scope and details of the types of services or products to be included in the competitive bidding process. These services/products will be listed on FCC Form 470 and must undergo a minimum 28-day competitive bidding cycle.
4. ESC12E-Rate agrees to notify Applicant of relevant deadlines for the submission of completed FCC Forms 470 and 471 to the SLD.
5. ESC12E-Rate will provide assistance with any question or inquiry regarding the E-Rate Program or the services to be provided by ESC12E-Rate hereunder from the Applicant, the SLD, USAC, or any other such federal or state administrative agency.
6. ESC12E-Rate agrees to provide on-going E-Rate support to the Applicant, as generally described above, and including providing reminders about upcoming deadlines for a period starting no earlier than the execution date of this Agreement and ending no earlier than the end of this Agreement.
7. ESC12E-Rate agrees to provide support in the event of a Selective Review during this Agreement or for any on-site audit conducted by the SLD or their representatives covering an application filed by ESC12E-Rate during this Agreement.
8. ESC 12E-Rate agrees to perform all tasks and the scope of work detailed in Exhibit A.

This Agreement is effective to act on your behalf for the following years:

July 1, 2005 - June 30, 2006
July 1, 2006 - June 30, 2007
July 1, 2007 - June 30, 2008
July 1, 2008 - June 30, 2009
July 1, 2009 - June 30, 2010
July 1, 2010 - June 30, 2011
July 1, 2011 - June 30, 2012
July 1, 2012 - June 30, 2013
July 1, 2013 - June 30, 2014
July 1, 2014 - June 30, 2015
July 1, 2015 - June 30, 2016

LIABILITY

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

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

Alex Ramirez Name of Applicant	Education Service Center Region 12 Name of Service Provider
Applicants Authorized Signature	Sharon Henson ESC's Authorized Signature
1-22-2014 Date	1/31/14 Date
Alex Ramirez Printed Name	Sharon Henson Printed Name
Network Administrator Title or Position	Deputy Director Title or Position