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To: Hartzler, Kirt <[hartzler.kirt@unionps.org](mailto:hartzler.kirt@unionps.org)>

Subject: District Broadband Funding-OUSF

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This message is from the Public Utility Division of the Oklahoma Corporation Commission. The following suggestions pertain to Oklahoma Universal Service Fund (OUSF) Funding.

#### Overview

For E-rate bidding, some recently posted Oklahoma FCC Form 470s or RFPs have required the WAN provider and the Internet provider to be the same carrier. This effectively bars any carrier not capable of bidding both services from bidding. This can also make the 470/RFP appear to favor certain bidders, which is not in the public interest (17 O.S. 139.109(e)). If a 470/ RFP has conditions that would reduce the number of bids received from OUSF-eligible carriers, the Administrator will submit a determination that funding is not in the public interest. The applicant would then need to file for reconsideration and a hearing before the Commission.

#### Action

- If your FCC Form 470 or RFP have a requirement that your WAN provider and Internet provider are the same carrier, you may wish to repost. Issue a new FCC Form 470, with an updated RFP if used, with any requirements removed that might restrict the ability of OUSF-eligible carriers to bid.
- If your 470/RFP has any requirements that would restrict bids from OUSF-eligible carriers, you will also wish to issue a new form 470/RFP.

#### Additional Information

##### Closing date:

Your Form 470/ RFP must be open for a minimum of 28 days. However, potential bidders may request that you extend the closing date. It is in the public interest to extend the closing date unless there is good cause not to do so. If you get such a request and do not believe you can honor the request, please contact the Public Utility Division to discuss the issue. You may also elect to set a closing date later than 28 days, such as 42 days, which would potentially reduce the number of requests for extensions.

##### Minimum Requested Bandwidth:

For full OUSF funding, be prepared to explain to the OUSF administrator the reason for selecting any bandwidth level that is more than the minimum specified in the form 470 or RFP. For instance, if you are bidding your current level of service as the minimum level of service because you are concerned that you will not get any bids for a higher level of service, then state that:

- the current XXX Mbps service is being bid to ensure that there are bids for the current level of service and;
- the current level of service is insufficient to meet the needs of the school;
- bids for the current level of service will only be considered if there are no bids for the higher level of service required to meet the needs of the school.

Place a reasonable cap on the top amount of bandwidth for which you are seeking bids so the carriers can make their best bidding decisions. Also, be prepared to articulate to the OUSF Administrator, if asked, why a service level was selected if it is not the lowest cost for a level of service that exceeds the current bandwidth.

Suggestions for 470s and RFP:

In addition to the terms and conditions that districts normally add to their 470/RFP, consider adding the following if determined to apply in a situation:

- A requirement that bidders be eligible to receive OUSF funding in the exchange in which services are to be delivered. (Not being able to receive OUSF funding is a disqualification criterion.)
- A requirement that all costs be on the bid. (Not having all costs is a disqualification criterion.)
- A requirement for the successful bidder to file for OUSF –eligible services within 90 days of starting service.
- A requirement that monthly recurring charges be devoid of construction costs.

Any of the items that will be used to evaluate bids should be explicitly requested, e.g.:

- Service Level Agreement expectation.
- o Uptime Statistics.
- o Service Call Response Time.
- o Case Escalation criteria.
- Installation date and service cutover date.
- Any other factors used for evaluation.

Multiyear contracts:

Schools in almost all situations may only commit funds for the current year. However, schools may enter into agreements that provide prices over several years. Such contracts require annual renewal by the school board to encumber funds. If you decide to accept a contract that has an annual renewal, consider adding the following requirements to your 470/RFP as neither E-rate nor OUSF pay for non-renewal charges, liquidated damages, or contract termination fees.

- No non-renewal charges on the first year or renewals.
- No liquidated damages clauses on the renewals.
- Ability to cancel with 30 (or 60) day notice with no charges after the first year.

If you have questions, please contact Derrel Fincher or Jim Jones in the Public Utility Division of the Oklahoma Corporation Commission at (405) 521-4114.

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