

**BEFORE THE CORPORATION COMMISSION OF OKLAHOMA**  
CLARK MARK'S OFFICE - OKC  
CORPORATION COMMISSION  
OF OKLAHOMA

IN THE MATTER OF A PERMANENT )  
RULEMAKING OF THE OKLAHOMA ) CAUSE NO. RM 201400006  
CORPORATION COMMISSION )  
AMENDING OAC 165:59, OKLAHOMA )  
UNIVERSAL SERVICE )

**Proposed Rules of**  
**Kellogg & Sovereign<sup>®</sup> Consulting, LLC<sup>1</sup>**  
**Oklahoma Technology Association<sup>2</sup>**  
**Public School Districts of Oklahoma<sup>3</sup>**

The rule below is proposed as an alternative to the rule proposed by the PUD. The text highlighted in yellow reflects changes to the February 25, 2015 rules proposed by PUD.

**165:59-7-1. Reimbursement from the OUSF for Special Universal Service**

(a) A provider of Special Universal Services may be eligible to receive funding from both the OUSF and other state or federal funds; however, in no instance will there be a double recovery. If the provider of Special Universal Services receives funding from another state or federal fund for an investment or expense already reimbursed by the OUSF, the provider shall reduce the amount of its prospective funding from the OUSF by an equivalent amount. The recipient of Special Universal Services shall make every reasonable effort to obtain funding from another state and/or federal fund designated to support special universal service; however, such efforts shall not delay or affect the provider's ability to receive funding from the OUSF pursuant to the provisions of this Chapter and the Oklahoma Telecommunications Act of 1997. Recipients shall provide the Commission with information regarding the recipient's request for funding from government sources designed to support the provisioning of telemedicine the Special Universal Service, i.e. the federal schools and libraries program or federal rural health care program, or an explanation why such funding is not available or why the recipient of the Special Universal Service did not request such funding. Failure to provide such documentation regarding telemedicine Special Universal Service may result in the Commission denying the request for telemedicine Special Universal Service funding from the OUSF.

(b) A provider of the free-of-charge telecommunications services identified in this Chapter and 17 O.S. § 139.109 as Special Universal Services, shall be reimbursed from the OUSF for the provisioning of said Special Universal Services, if requested.

(c) A provider of Special Universal Services seeking reimbursement from the OUSF for

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<sup>2</sup> Oklahoma Technology Association, Greg Kasbaum, Executive Director

<sup>3</sup> Oklahoma Public School Districts as listed in Appendix A of comments submitted by Colin Webb, M.Ed.



the tariffed rate or charge for any Special Universal Service provided must make its request for reimbursement pursuant to OAC 165:59-3-62, in the same manner that an eligible telecommunications carrier requests funds from the OUSF for purposes other than the provisioning of Special Universal Services. The requesting provider shall submit information and testimony with its Request for OUSF Funding that identifies where and to whom the services are were provided, along with documentation supporting the requested level of funding. The information shall include the applicable tariffed rate or charges for providing the services.

(d) Upon receipt of a Request for OUSF Funding, the Administrator of the OUSF or the contracted agent shall review the Request and, if appropriate, reimburse the provider of the Special Universal Services, consistent with the Oklahoma Telecommunications Act of 1997.

(e) The Commission will utilize the following procedures when evaluating a request for OUSF funding for internet access to a public school or public library:

(1) Competitive bidding should be used for all services where OUSF funding will be sought, including costs for internet access to schools and libraries for the balance not paid by E-Rate, up to the eligible 1.5 Mbps building credit equivalent.

(A) All OUSF funding shall be based on "lowest and best" criteria. Lowest and best means a determination based on the following:

- (i) The lowest total purchase price for eligible services;
- (ii) The ability of the carrier to provide the services bid;
- (iii) The ability of the carrier to meet installation and in-service dates, and
- (iv) The documented overall costs associated with a carrier switch.

(B) In no instance shall the Administrator recommend funding a bid at a level that is greater than 20% of the next bid without a full hearing on the merits.

(C) Bids may be disqualified as unreasonable if any of the following criteria is documented:

- (i) A carrier's inability to provide or document the ability to supply the requested services;
- (ii) A carrier's inability to meet the requested timeframes;
- (iii) Documented service problems with the bidding carrier for the same services;
- (iv) A carrier's inability to receive OUSF funding pursuant to Commission rules.

(D) The following items will not be considered by the Administrator in making recommendations for the OUSF funding:

- (i) Location of the service provider;
- (ii) Prior non-OUSF relationships;
- (iii) Any items included in the bid that are not eligible for recovery from the OUSF, including but not limited to:
  - (a) Internet subscriber fees;
  - (b) Internet monitoring services;



- (c) On site maintenance of customer owned or leased premise equipment;
- (d) Email hosting;
- (e) Firewall services;
- (f) Quality of service/class of service;
- (g) IP addresses; and
- (h) Internet Maintenance.

(A) An affidavit will be required from the public school or public library that the bid information submitted to the Administrator for review contains all the bids received by the school or library.

(2) The OUSF will not reimburse charges for redundant service(s).

(3) The provider of the LAN/WAN will be given 30 days notice prior to their reimbursement being reduced due to the funding going to the internet access provider first, unless the reduction in funding is caused by an increase in the rate of the LAN/WAN provider.

(4) Funding from the OUSF will be provided to the incumbent carrier until the date of disconnection or thirty (30) days after the end-user provides the notice to disconnect to the incumbent carrier; whichever occurs first.

(5) In instances where the provider has not filed or submitted a 1.5-Mbps tariff to the Commission, the OUSF will calculate the 1.5-Mbps building credit using the amount established for a 1.5-Mbps credit by Commission Order.

(6) For applications that include funding for the internet access and for LAN/WAN systems, the OUSF will reimburse distance sensitive mileage for the internet access for the "first building" credit when the carrier's tariff has a mileage sensitive component. Each subsequent building credit will not include distance sensitive mileage.

(7) For applications that include funding for LAN/WAN only, the OUSF will not fund distance sensitive mileage in any building credit unless more than one Central Office is involved to provision internet access. In the latter case, distance sensitive mileage will be allowed for only one (1) building credit per central office.

(8) In the event a school uses multiple service providers for the Internet and LAN/WAN connection, available building credits will be utilized to first fund the Internet service provider, and then the LAN/WAN service provider will be funded based upon remaining available building credits.

(9) The OUSF will fund reasonable installation charges. Installation charges may be amortized over a reasonable period of time to avoid excessive switching, reduced quality of service and excessive burden on the OUSF caused by untimely carrier changes.

(10) The OUSF will not reimburse monthly fees or hardware related to optional services, such as managed routers. The OUSF may pay a one-time cost for the installation charge associated with configuring the router.

(11) One (1) building credit is available for each building which contains classrooms wherein students in pre-kindergarten through twelfth grades receive internet based coursework. Buildings with a physical firewall would qualify for a building credit for each section of the building that is separated by a physical functional firewall.



(12) A building that is the point of service, but which fails to otherwise qualify as a public school building in which classrooms are contained, does not qualify as a building for the purpose of calculating building credits.

(13) Building credits will only be allowed for buildings with classrooms that have active student instructional/testing internet sessions or use the building for state mandated testing that uses internet access. In instances where the internet usage is limited to student testing, the school must demonstrate that alternative locations or methods for testing are not available.

(14) The OUSF will not fund internet access to a building for more than 60 days during the construction phase or any remodeling/out-of-service timeframes that occur over an extended period.

(15) Once an Order regarding OUSF reimbursement has been issued, the Telecommunications Carrier should submit true-up reports to the OUSF manager on a monthly basis. Payment will be limited to ninety (90) days of true-up; other than for the initial true-up filed after the final Order is issued. After the initial true-up request, a new application must be filed to recover any true-up amount that exceeds ninety (90) days of service, unless otherwise agreed to by the Administrator.

(16) True-up reports must be received in the form and content prescribed by the OUSF Administrator.

(a) The carrier must provide a copy of the true-up report to the affected school or library entity within (5) days of the same being approved by the OUSF Administrator.

(17) True-up monthly recurring amounts or other funding related changes (i.e. number of buildings or level of bandwidth) will not be increased from the ordered amount without supporting documentation being made available to the OUSF Administrator.

(18) Increases in cost caused by the expiration of a contract will not be permitted via true-up when the new cost is higher than 10% of the expired contract and when there is no new contract in place. A new application will need to be filed in the Court Clerk's office to recover any difference in prices that exceed 10% of the expired contract price.

(19) Any additional service above and beyond the internet access line on contracts and invoices will be denied, unless good cause is shown for reasonable pricing and public interest. Invoices provided to request recovery from the OUSF must contain a breakdown of non-eligible expenses such as additional Internet Maintenance service, Quality of Service product, firewall, email packages, domain registration, etc.

(f) The Commission will utilize the following procedures when evaluating a request for OUSF funding for a telemedicine line:

(1) Competitive bidding should be used for all services where OUSF funding will be sought.

(A) All OUSF funding shall be based on "lowest and best" criteria. Lowest and best means a determination based on the following:

(i) The lowest total purchase price for eligible services;



(ii) The ability of the carrier to provide the services bid;

(iii) The ability of the carrier to meet installation and in-service dates, and

(iv) The documented overall costs associated with a carrier switch.

(B) In no instance shall the Administrator recommend funding a bid at a level that is greater than 20% of the next bid without a full hearing on the merits.

(C) Bids may be disqualified as unreasonable if any of the following criteria is documented:

(i) A carrier's inability to provide requested services;

(ii) A carrier's inability to meet the requested timeframes;

(iii) Documented service problems with the bidding carrier for the same services;

(iv) A carrier's inability to receive OUSF funding pursuant to Commission rules.

(D) The following items will not be considered by the Administrator in making recommendations for the OUSF funding:

(i) Location of the service provider;

(ii) Prior non OUSF relationships;

(iii) Any items included in the bid that are not eligible for recovery from the OUSF, include but not limited to:

(a) Internet subscriber fees;

(b) Internet monitoring services;

(c) On site maintenance of customer owned or leased premise equipment;

(d) Email hosting;

(e) Firewall services;

(f) Quality of service/class of service;

(g) IP addresses; and

(h) Internet Maintenance;

(i) Router Configuration

(A) An affidavit will be required from the telemedicine entity that the bid information submitted to the Administrator for review contains all the bids received by the telemedicine entity.

(2) The OUSF will not reimburse charges for redundant service(s).

(3) Funding from the OUSF will be provided to the incumbent carrier until the date of disconnection or thirty (30) days after the end-user provides the notice to disconnect to the incumbent carrier; whichever occurs first.

(4) The OUSF will fund reasonable installation charges. Installation charges may be amortized over a reasonable period of time to avoid excessive switching, reduced quality of service and excessive burden on the OUSF caused by untimely carrier changes.

(5) The OUSF will not reimburse monthly fees or hardware related to optional services, such as managed routers or maintenance.

(6) Once an Order regarding OUSF reimbursement has been issued, the Telecommunications Carrier should submit true-up reports to the OUSF manager on a monthly basis. Payment will be limited to ninety (90) days of true-up; other than for the initial true-up filed after the final Order is issued. After the initial true-up request, a new application must be filed to recover any true-up amount that exceeds ninety (90) days of service, unless otherwise agreed to by the Administrator.

(7) True-up reports must be received in the form and content prescribed by the OUSF Administrator.

(a) The carrier must provide a copy of the true-up report to the affected telemedicine entity within (5) days of the same being approved by the OUSF Administrator.

(8) Changes to the funding level may not be done by true-up unless expressly authorized by the OUSF Administrator after review of changes to the bandwidth needs of the eligible healthcare entity. True-up monthly recurring amounts or other funding related changes (i.e. level of bandwidth) will not be increased from the ordered amount without supporting documentation being made available to the OUSF Administrator.

(9) Increases in cost caused by the expiration of a contract will not be permitted via true-up when the new cost is higher than 10% of the expired contract and when there is no new contract in place. A new application will need to be filed in the Court Clerk's office to recover any difference in prices caused by an expired contract.

(10) Any additional service above and beyond the telemedicine line on contracts and invoices will be denied, unless good cause is shown for reasonable pricing and public interest. Invoices provided to request recovery from the OUSF must contain a breakdown of non-eligible expenses, such as additional Internet Maintenance service, Quality of Service product, firewall, email packages, domain registration, etc.