

December 3, 2010

## FCC Grants Waiver of Voluntary Extension Notification Requirement

The Commission has granted a waiver of the requirement that applicants wishing to take advantage of voluntary extensions on their contracts so indicate on their FCC Form 470. The California State Department of Technology Services (“DTS”) posted a Request for Proposals for contracts for a five-year term with options for two one-year voluntary extensions. After DTS signed a Statewide Master Contract, it indicated on FCC Form 470 that it sought a multi-year contract but failed to indicate that its contract would feature voluntary extensions.

The Commission found that DTS had, through its efforts, effectively communicated the type of contract it sought, and, thereby, complied with the competitive bidding rules. The Commission also noted the hardship that California would experience if its 1,000 school districts were forced to seek new bids for E-Rate eligible services. Not only would the districts be forced to undertake a timely (and, given the timing of this appeal, expedited) application process, they would also be denied the benefit of lower state contract pricing. Due to these factors, and because the Commission is in the process of revamping FCC Form 470 in order to remedy the prevalence of comparable problems, the Commission found good cause to waive this procedural requirement. As the result of this waiver, DTS’s districts may take advantage of two one-year options effective at the end of the initial contract term, on January 29, 2012.

This decision is the most recent in a line of cases evidencing applicants’ confusion resulting from the current Form 470. The Commission explained in the *Sixth Report and Order* that it is redesigning the Form 470 to address this confusion and make the application process easier in the future. To avoid funding denials and the attendant costly and timely appeals, it remains crucial that applicants complete all forms, especially the current Form 470, in a thorough and timely manner.

If you have any questions, please contact [Mark Palchick](#), [Sarah Miller](#), or one of our other Womble Carlyle [Telecommunications](#) professionals.

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