



# GOBIERNO DE PUERTO RICO



## DEPARTAMENTO DE EDUCACIÓN

Oficina de Sistemas de Información y Apoyo Tecnológico a la Docencia

November 15, 2019

Sent via Electronic Mail to [Catriona.Ayer@usac.org](mailto:Catriona.Ayer@usac.org)

Ms. Catriona Ayer  
Vice President, Schools and Libraries Division  
Universal Service Administrative Company  
700 12<sup>th</sup> Street, NW, Suite 900  
Washington, DC 20005

Re: PRDE RESPONSE TO 10/16/19 USAC REQUEST FOR INFORMATION AND DOCUMENTS

Dear Catriona:

This letter and accompanying records are in response to your request for additional information and documentation pertaining to selected Puerto Rico Department of Education (the "Department" or "PRDE") FY2017, FY2018 and FY2019 E-Rate applications. A master list of the documentation (the "Master Document List") is attached to the cover email for this letter. The Master Document List is divided into the following five (5) Tabs:

First Tab: FY2019 WAN and Internet  
Second Tab: FY2017 and FY2018 WAN and Internet  
Third Tab: FY2017, FY2018 and FY2019 MIB  
Fourth Tab: FY2018 and FY2019 BMIC  
Fifth Tab: FRN List and Funding

Each request from USAC is restated below, followed by the Department's response, and all documentation has been posted in the Department's SharePoint account and can be accessed by USAC at <http://intraedu.dde.pr/20182019USACRequest/2018%20%202019%20USAC%20Request/>.

**1. PLEASE PROVIDE DOCUMENTATION OF ANY REVIEWS THAT PRDE HAVE COMPLETED TO DETERMINE THAT THE ACTIONS THAT LED TO MS. KELEHER'S INDICTMENT DID NOT AFFECT ANY E-RATE FUNDING.**

PRDE Response:

The Department's E-Rate program is managed by the Office of Technology ("OSIATD") in accordance with E-Rate Procurement Guidelines ("Guidelines") put in place by OSIATD in 2012. The Guidelines are to ensure the Department complies with both E-Rate competitive bidding and local procurement



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rules and regulations. Both E-Rate and our local laws require open, fair and transparent bidding and vendor selection processes. The Puerto Rico Secretary of Education's involvement in the Department's E-Rate program is limited to (a) approving the requested designation of Evaluation Committee members upon request of the CIO, (b) execution of Notices of Award to the vendor(s) recommended by vote of Evaluation Committees, and (c) execution of E-Rate contracts and amendments as required by Puerto Rico law (e.g., annual appropriation of funds, exercise of options to renew, etc.).

The E-Rate Procurement Guidelines have been followed with regard to each of the funding requests under review, except for the FY2018 BMIC solicitation, which was conducted by invitation, in addition to the posting of an RFQ and Form 470 in the USAC EPC portal. An RFQ was used for the BMIC FY2018 solicitation pursuant to the E-Rate Emergency Procurement Declaration approved by then Secretary Keleher, following Hurricanes Irma and Maria. A copy of the Emergency Declaration is included with the FY2018 and FY2019 BMIC documentation posted in SharePoint.

With regard to the FRNs in question, please note the following safeguards that were in place to preserve the integrity of the process:

- The Law Department reviewed and approved all E-Rate solicitations, award letters and contracts, as well as the Emergency Declaration approved by Julia Keleher for post-hurricane solicitations.
- Our E-Rate consultant worked with OSIATD, Budget, Procurement, Federal Affairs, and Law to ensure we remained in compliance with both E-Rate and local competitive, contract and procurement rules and regulations.

Former Secretary Keleher did not attempt to influence the competitive bidding process or vendor contract awards pertaining to any of the Department's FY2017, FY2018 or FY2019 funding requests.

**2. PLEASE EXPLAIN ANY INTERNAL CONTROLS CHANGES PRDE HAVE MADE IN RESPONSE TO THESE EVENTS.**

PRDE Response:

As outlined in this response, the Department's E-Rate program is managed strictly by E-Rate and local procurement guidelines under the direction of the CIO, and with advice and instruction from our Law Department, Procurement Department and E-Rate consultant. After reviewing all records pertaining to the FY2017, FY2018 and FY2019 competitive bidding and contract awards, we find that the entire process was conducted in full compliance with E-Rate program rules. As a result, no new control changes have been implemented. We would like to note however, that the Department is in the process of hiring a Third Party Fiduciary Agent to provide independent oversight, management and administration of the Department's funds from the US Department of Education. Although the E-Rate program managed by OSIATD will not be subject to said oversight, the best practice methodologies and practices instituted by the Third Party Fiduciary Agent will be shared with offices receiving other federal funds, such as E-Rate, for implementation as appropriate.

**3. PLEASE DESCRIBE JULIA KELEHER'S INVOLVEMENT IN PRDE'S E-RATE APPLICATION PROCESS, INCLUDING THE COMPETITIVE BIDDING AND BID EVALUATION PROCESS. THIS EXPLANATION SHOULD COVER ALL OF THE FUNDING REQUESTS THAT WERE IN PLACE DURING HER TENURE.**

PRDE Response:

OSIATD is responsible for network infrastructure, Internet access and ineligible telecommunications services. With regard to these services, OSIATD and our technical staff and contractors, along with our E-Rate consultant, manage all aspects of our E-Rate program, without involvement or direction from the Secretary's Office. This work includes the following:

- RFP drafting, including identifying needed services and equipment, drafting technical specifications and outlining submittal requirements
- Hosting of pre-proposal vendor conferences
- Publishing written responses to vendor questions
- Conducting vendor oral presentations and product demonstrations
- Recommendations for Evaluation Committee Members (the Secretary appoints the member to ensure their participation)
- Selection of Evaluation Criteria and Weights
- Determination of required bid bond and performance bonds (with advice and direction from Procurement, Budget and Law)
- Preparation and filing E-Rate forms, including Form 470 and Form 471
- Determining the eligibility of products and services
- Determining the eligibility of sites
- Drafting Scopes/Statements of Work
- Drafting Service Level Agreements
- Preparation of Award Notices based on Evaluation Committee Vote

The selection of service providers is made by Evaluation Committee vote. No one from the Secretary's Office serves on E-Rate Evaluation Committees, and the CIO does not participate in the evaluation process, in order to preserve the autonomy and objectivity of the Committee. Moreover, no Secretary of Education, including Julia Keleher, ever questioned or attempted to influence or direct the awards recommended by the Evaluation Committees appointed with regard to the FY2017, FY2018 and FY2019 E-Rate FRNs in question. The extent of the former Secretary's involvement was limited to directing requested Evaluation Committee members to dedicate time to participate in the review process, and to signing award notices and contracts (including amendments).

The Master Document List identifies the individual(s) responsible for key actions involved with the competitive bidding, evaluation and contract awards for each of the funding requests in question. Please refer to the Master List for the comprehensive list. In addition, a summary of Julia Keleher's involvement with each Funding Request Number ("FRN") is attached hereto as EXHIBIT A.

**4. PLEASE PROVIDE ANY DOCUMENTATION AND CORRESPONDENCE BETWEEN JULIA KELEHER AND ANY E- RATE-PARTICIPATING SERVICE PROVIDERS.**

PRDE Response:

Because the Secretary's involvement with E-Rate is limited, we found very few communications between Julia Keleher and contracted service providers. Copies of the communications with service providers during her tenure are included in SharePoint for your review. The copies of the communications have been provided to us by the service providers to ensure we have all communications between the them and the former Secretary, because we otherwise do not have access to communications conducted by Julia Keleher using Telegram or cell phone texts. See the Master Document List for the reference number and location of the communications.

During the competitive bidding process, interested vendors are prohibited from communicating with decision-makers in the Department and must submit signed Anti-Collusion Affidavits with their proposals. In FY2019, the Department also instituted a "Cone of Silence" during the E-Rate bidding period to further protect the integrity of the process. The applicable language is set forth in Section 1.8 of the FY2019 WAN and Internet RFP, which provides as follows:

1.8 CONE OF SILENCE

The following communications related to this RFP between the persons indicated below shall be prohibited:

- A. A potential Proposer, service provider, Proposer, lobbyist, or consultant of a Proposer or potential Proposer or Proposer and the Department's professional staff. The professional staff includes, but is not limited to, the Secretary and the Secretary's staff.
- B. A potential Proposer, service provider, lobbyist, or consultant of a Proposer or potential Proposer or potential Proposer and any member of the Evaluation Committee for this RFP.
- C. EXCEPTIONS: Unless specifically provided otherwise in this RFP, the Cone of Silence does not apply to the following:
  - A. Communications with the Department Legal Division and its staff.
  - B. Oral communications at pre-bid conferences.
  - C. Oral presentations before the Evaluation Committee meetings.
  - D. Contract negotiations.

**5. PLEASE PROVIDE COPIES OF PRDE'S PROCUREMENT POLICIES AND PROCEDURES THAT WERE IN PLACE DURING JULIA KELEHER'S TENURE AS SECRETARY OF EDUCATION.**

PRDE Response:

Copies of the Department's E-Rate Procurement Guidelines and the E-Rate Procurement Declaration of Emergency for FY2018 are posted in SharePoint. See the Master Document List for the reference number and location of each document.

**6. FOR THE FRNS LISTED IN THE TABLE BELOW, WE SEEK ADDITIONAL DOCUMENTATION RELATED TO THE COMPETITIVE BIDDING PROCESS. THIS ADDITIONAL DOCUMENTATION SUPPLEMENT COMPETITIVE BIDDING REVIEW THAT USAC HAS ALREADY CONDUCTED ON OTHER PRDE FUNDING REQUESTS FOR THE SAME FUNDING YEARS.**

**BEN: 157779 - PUERTO RICO DEPARTMENT OF EDUCATION, PR**

Fund Year	471 App #	FRN	Service Type	Discount Rate	FRN Commitment Status	Requested Dollars	Service Provider Name
2017	171047725	1799108906	Managed Internal Broadband Services	85	Funded	\$8,020,189.21	Puerto Rico Telephone Company Inc
2017	171049948	1799113568	Managed Internal Broadband Services	85	Funded	\$3,150,130.22	Puerto Rico Telephone Company Inc
2018	181038811	1899075282	Basic Maintenance of Internal Connections	85	Pending	\$2,454,399.62	Truenorth Corporation
2018	181040915	1899079627	Managed Internal Broadband Services	85	Pending	\$5,810,314.43	Puerto Rico Telephone Company Inc
2019	191031803	1999055007	Basic Maintenance of Internal Connections	85	Pending	\$2,653,687.65	Truenorth Corporation
2019	191032667	1999058036	Data Transmission and/or Internet Access	90	Pending	\$10,364,724.00	Puerto Rico Telephone Company Inc
2019	191032667	1999058438	Data Transmission and/or Internet Access	90	Pending	\$516,672.00	Puerto Rico Telephone Company Inc

Fund Year	471 App #	FRN	Service Type	Discount Rate	FRN Commitment Status	Requested Dollars	Service Provider Name
2019	191032949	1999058981	Managed Internal Broadband Services	85	Pending	\$4,947,739.30	Puerto Rico Telephone Company Inc

PRDE Response:

Although you did not request documentation pertaining to the Department's FY2017 and FY2018 WAN and Internet applications, we are including applicable records, because former Secretary Keleher signed several amendments, including the amendment exercising the Department's option to renew the contract for one (1) additional year, from FY2018 to FY2019. We are including this documentation, because the FY2018 WAN and Internet funding requests associated with this contract are still in review.

- a. **Contracts and/or other agreements: Signed and dated copies of any and all agreements related to each of the FCC Form 471 funding request(s), including any and all contracts, agreements, Statements of Work, etc.**

PRDE Response: Copies of signed and dated notices of awards, contracts and scopes of work are posted in SharePoint. See the Master Document List for the reference number and location of each document.

- b. **Requests for Proposal (RFPs): Copies of any and all requests for proposals (RFPs), invitations to bid, requests for bids, or other documentation of bid requests for services and/or products requested, or other solicitations in any way associated with the applicant's funding request(s) and/or the selection of the service provider(s) that appear(s) on the applicant's funding request(s). Be sure to include any and all amendments made to the original RFP. All RFPs should indicate when they were first made available to service providers, i.e., release and posting date as well as the due date for which bids must be submitted. If you issued any addendums to the RFP, please provide a copy of that addendum.**

PRDE Response: Copies of RFPs (including Addenda) and invitations to bid for each RFP are posted in SharePoint. See the Master Document List for the reference number and location of each document.

- c. **Bid Responses: Indicate the number of bids/proposals received for all funding requests and provide complete copies of any and all proposals, bid responses, etc., received in response to the FCC Form 470, and/or any RFP, or other solicitation in any way associated with the applicant's funding request and/or with the selection of the service provider that appears on the applicant's funding requests. This information should be provided for all funding requests including tariff, month-to-month and contracted services.**

PRDE Response: Copies of proposals for all FRNs in question are posted in SharePoint. See the Master Document List for the reference number and location of each document.

- d. **Vendor Selection Process: Please provide your bid evaluation matrix that was used to select your vendor. Include all bids that you received and any other bid documentation such as attendance sheets, correspondences to and from the bidding vendors or and a description of your bid evaluation process.**

PRDE Response: Copies of Evaluation Committee designations, Evaluation Committee Voting Matrices, pre-proposal attendee logs, and vendor questions and answers are posted in SharePoint. See the Master Document List for the reference number and location of each document.

- e. **Correspondence: Provide a copy of all correspondence between PR DOE and PR DOE's service providers regarding the competitive bidding process and the application process for each of the FRNs.**

PRDE Response: Copies of notices of award, vendor question and answer logs, and the email log implemented for FY2019 are posted in SharePoint. See the Master Document List for the reference number and location of each document.

We have attempted to respond fully to each request, but if you require clarification or additional information, please do not hesitate to let us know. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marie Ortiz Sánchez', written over a horizontal line.

Marie Ortiz Sánchez  
PRDE E-Rate Contact

EXHIBIT A: Summary of Actions Taken by Julia Keleher for Listed FRNs

**EXHIBIT A**  
**SUMMARY OF JULIA KELEHER'S ACTIONS REGARDING LISTED FRNS**

FY	FORM 471	FRN	SERVICE	ACTIONS TAKEN BY JULIA KELEHER FOR ALL LISTED FRNS	DATE
2019	191032667	1999058036	WAN	1 SIGNED EVALUATION COMMITTEE DESIGNATION MEMO	03/18/19
2019	191032667	1999058438	INTERNET	2 SIGNED AWARD NOTIFICATION AND ACCEPTANCE COMMITMENT	03/26/19

**NOTE:** The FY2019 WAN and Internet RFP was approved by then CIO Antonio Sisco. The contract with the annual appropriation was signed by current Secretary Eligio Hernandez Perez.

FY	FORM 471	FRN	SERVICE	ACTIONS TAKEN BY JULIA KELEHER FOR ALL LISTED FRNS	DATE
2017	171046585	1799106706	WAN	1 SIGNED CONTRACT AMENDMENT D (APPROPRIATION EXTENSION)	06/30/17
2017	171049949	1799113631	WAN (Hurricane App) HURRICANE	2 SIGNED CONTRACT AMENDMENT E (APPROPRIATION EXTENSION)	07/31/17
2017	171049949	1799113700	WAN (Hurricane App)	3 SIGNED CONTRACT AMENDMENT F (EXERCISE OPTION TO RENEW)	03/21/18
2018	181039479	1899078382	WAN	4 SIGNED CONTRACT AMENDMENT G (APPROPRIATION EXTENSION)	06/28/18
2017	171046585	1799106281	INTERNET	5 SIGNED CONTRACT AMENDMENT H (APPROPRIATION EXTENSION)	07/31/18
2018	181039479	1899078736	INTERNET	6 SIGNED CONTRACT AMENDMENT I (APPROPRIATION EXTENSION)	08/31/18

**NOTES:** The original RFP and Notice of Award and Acceptance Agreement were approved in 2014 by former CIO Maribel Pico. The 4-year contract was signed in 2014 by then Secretary Roman Melendez (along with subsequent Amendments A, B and C). Amendments J and K were signed by current Secretary Eligio Hernandez Perez in 2019.

FY	FORM 471	FRN	SERVICE	ACTIONS TAKEN BY JULIA KELEHER FOR ALL LISTED FRNS	DATE
2017	171047725	1799108906	MIB/WIFI	1 SIGNED CONTRACT AMENDMENT C (ANNUAL APPROPRIATION)	06/30/17
2017	171049948	1799113568	MIB/WIFI (Hurricane App)	2 SIGNED CONTRACT AMENDMENT D (ANNUAL APPROPRIATION)	07/31/17
2018	181040915	1899079627	MIB/WIFI	3 SIGNED CONTRACT AMENDMENT E (APPROPRIATION EXTENSION)	06/28/18
2019	191032949	1999058981	MIB/WIFI	4 SIGNED CONTRACT AMENDMENT F (APPROPRIATION EXTENSION)	07/31/18
				5 SIGNED CONTRACT AMENDMENT G	08/31/18
				6 SIGNED CONTRACT AMENDMENT H (EXERCISE OPTION TO RENEW)	03/26/19

**NOTES:** The original WIFI RFP and Notice of Award were approved by then CIO Maribel Pico in 2015. The 4-year contract was signed by then Secretary Rafael Roman Melendez in 2015 (and subsequent Amendment A and Amendment B).



FY	FORM 471	FRN	SERVICE	ACTIONS TAKEN BY JULIA KELEHER	DATE
2018	181038811	1899075282	BMIC	1 SIGNED CONTRACT WITH PRTC (2018-2019; 2 1-YR OPTIONS TO RENEW)	03/21/18
2019	191031803	1999055007	BMIC	2 SIGNED CONTRACT AMENDMENT A (ANNUAL APPROPRIATION)	06/29/18
				3 SIGNED CONTRACT AMENDMENT B (APPROPRIATION EXTENSION)	07/31/18
				4 SIGNED CONTRACT AMENDMENT C (APPROPRIATION EXTENSION)	08/31/18
				5 SIGNED CONTRACT AMENDMENT D (APPROPRIATION EXTENSION)	09/25/18
				6 SIGNED CONTRACT AMENDMENT E (EXERCISE 1ST OPTION TO RENEW)	03/26/19
The original BMIC RFQ and Notice of Award and Acceptance Letter were approved by then CIO Marie Ortiz. The FY2019 annual appropriation Amendment F was signed by current Secretary Eligio Hernandez Perez.					