

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1676

By: Thomsen

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5  
6 AS INTRODUCED

7 An Act relating to telecommunications; amending  
8 Section 6, Chapter 270, O.S.L. 2016 (17 O.S. Supp.  
9 2016, Section 139.109.1), which relates to Special  
10 Universal Services; clarifying language; and  
11 providing an effective date.

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY Section 6, Chapter 270, O.S.L.  
14 2016 (17 O.S. Supp. 2016, Section 139.109.1), is amended to read as  
15 follows:

16 Section 139.109.1 A. The following services are hereby  
17 declared to be Special Universal Services:

18 1. Each eligible healthcare entity in this state as defined in  
19 Section 139.102 of ~~Title 17 of the Oklahoma Statutes~~ this title  
20 shall be eligible to receive Special Universal Services for  
21 telemedicine providers. Special Universal Services for telemedicine  
22 providers shall include the provision of bandwidth per standards as  
23 recommended by the Federal Communications Commission sufficient for  
24 providing telemedicine services including the telemedicine line,

1 reasonable installation and network termination equipment owned and  
2 operated by the eligible provider that is necessary to provide the  
3 eligible telemedicine service;

4 2. Each public school as defined in Section 139.102 of ~~Title 17~~  
5 ~~of the Oklahoma Statutes~~ this title shall be eligible to receive  
6 Special Universal Services for schools. Special Universal Services  
7 for schools shall include the E-rate Eligible Services List (ESL)  
8 for Category One services as determined by the FCC for the  
9 applicable funding year or, in the absence of such a list, as  
10 published by the Universal Services Administrative Company. In the  
11 event no ESL is available from the FCC or USAC for the applicable  
12 funding year, eligible services will be those on the ESL for the  
13 last funding year for which an ESL was available. Special Universal  
14 Services shall include the provision of bandwidth sufficient for  
15 providing educational services not to exceed, without good cause  
16 shown, the standards established for the relevant funding year by  
17 the State Educational Technology Directors Association (SETDA) or  
18 successor educational broadband standard including Internet access  
19 lines, WAN connections, reasonable installation, and network  
20 termination equipment owned and operated by the eligible provider as  
21 defined by the ESL that is necessary to provide the eligible  
22 service. Student counts as reported to the State Department of  
23 Education in October of the year prior to the relevant funding year  
24 shall be utilized for the purpose of determining bandwidth

1 recommendations established by SETDA for purposes of this paragraph.  
2 In the absence of standards prescribed for the applicable funding  
3 year, the standards for the next prescribed funding year shall be  
4 used. Special Universal Services shall not include voice services  
5 that use separate lines or have allocated bandwidth. The Commission  
6 may modify the service considered to be Special Universal Services  
7 pursuant to rule, after notice and hearing; and

8 3. Each public library as defined in Section 139.102 of ~~Title~~  
9 ~~17 of the Oklahoma Statutes~~ this title shall be eligible to receive  
10 Special Universal Services for libraries. Special Universal  
11 Services for libraries shall include the E-rate Eligible Services  
12 List ("ESL") for Category One services as determined by the Federal  
13 Communications Commission for the applicable funding year or, in the  
14 absence of such a list, as published by the Universal Services  
15 Administrative Company. In the event no ESL is available from the  
16 FCC or USAC for the applicable funding year, eligible services will  
17 be those on the ESL for the last funding year for which an ESL was  
18 available. Special Universal Services shall include the provision  
19 of bandwidth sufficient for providing library services per standards  
20 as recommended by the Federal Communications Commission including  
21 Internet access lines, reasonable installation and network  
22 termination equipment owned and operated by the eligible provider  
23 that is necessary to provide the eligible service. Special  
24 Universal Services shall not include voice services that use

1 separate lines or have allocated bandwidth. The Commission may  
2 modify the services considered to be Special Universal Services  
3 pursuant to rule, after notice and hearing.

4 B. 1. Eligible services that are exempt from competitive  
5 bidding pursuant to state law or the rules of the Federal Universal  
6 Service Support Mechanisms or successor program or programs shall be  
7 exempt from the Special Universal Services competitive bidding  
8 requirements set forth in this subsection, and the Oklahoma  
9 Universal Service Fund Beneficiary must provide evidence of such  
10 exemption as part of the funding request.

11 2. An OUSF Beneficiary may be eligible to receive funding from  
12 both the OUSF and other state or federal funds; however, in no  
13 instance shall there be a double recovery. The OUSF Beneficiary  
14 shall make every reasonable effort to obtain funding from another  
15 state and/or federal fund designed to support Special Universal  
16 Services. The OUSF Beneficiary shall provide the OUSF Administrator  
17 with information regarding the recipient's request for funding from  
18 government sources designed to support the provisioning of Special  
19 Universal Services, or an explanation of why such funding is not  
20 available or why the recipient of the Special Universal Services did  
21 not request such funding. Failure to provide such documentation may  
22 result in the OUSF Administrator denying in whole or in part, a  
23 request for Special Universal Services funding from the OUSF. If an  
24 OUSF Beneficiary is not eligible to receive funding from other state

1 or federal funds per the program rules of the other state or federal  
2 funds, the OUSF Beneficiary shall be exempt from the requirement to  
3 obtain funding from another state and/or federal fund designed to  
4 support Special Universal Services set forth in this subsection.  
5 The OUSF Beneficiary must provide evidence of such exemption as part  
6 of the funding request.

7 3. The credit amount for the provision of Special Universal  
8 Services as provided for in subsection A of this section shall be  
9 determined as provided for in this subsection.

10 4. An eligible provider shall be entitled to reimbursement from  
11 the Oklahoma Universal Service Fund (OUSF) for providing Special  
12 Universal Services as described in subsection A of this section. In  
13 no case shall the reimbursement from the OUSF be made for an  
14 Internet subscriber fee or charges incurred as a result of services  
15 accessed via the Internet.

16 5. Oklahoma Universal Service Fund Beneficiaries shall conduct  
17 a fair and open competitive bidding process to select the services  
18 and carrier eligible for support. The competitive bidding process  
19 shall meet the following standards:

20 a. the solicitation of bids shall clearly identify the  
21 bandwidth range requested by the Oklahoma Universal  
22 Service Fund Beneficiary or consortium,

23 b. the Oklahoma Universal Service Fund Beneficiary shall  
24 not limit bidders based upon technology,

1 c. the bidding shall be open to all carriers authorized  
2 to receive OUSF funding in the telephone exchange  
3 where the Oklahoma Universal Service Fund Beneficiary  
4 is located or where the members of the consortium are  
5 located, and

6 d. the bidding shall not be structured in a manner to  
7 exclude carriers eligible to receive OUSF funding in  
8 the telephone exchange where the Oklahoma Universal  
9 Services Fund Beneficiary is located.

10 6. For Special Universal Services that are competitively bid in  
11 compliance with this act, the credit amount shall be not more than  
12 twenty-five percent (25%) greater than the lowest cost reasonable  
13 qualifying bid of the total prediscount amount of eligible services  
14 plus installation charges, less federal funding support for the same  
15 services including installation charges issued in a funding  
16 commitment letter or similar approval document for the Federal  
17 Universal Service Support Mechanism or successor program or programs  
18 for the applicable funding year.

19 7. For purposes of this act, "lowest cost reasonable qualifying  
20 bid" means a bid that:

21 a. represents the lowest total cost proposal including  
22 monthly recurring and nonrecurring charges for  
23 eligible services,  
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- 1           b.    is reasonable to meet the needs of the Oklahoma  
2            Universal Service Fund Beneficiary as listed in the  
3            request for bids,  
4           c.    is submitted during the same competitive bidding  
5            period as the awarded bid,  
6           d.    is for a bandwidth within the range requested for bid  
7            and selected by the Oklahoma Universal Service Fund  
8            Beneficiary,  
9           e.    is for the same contract term as the bid that was  
10           selected by the Oklahoma Universal Service Fund  
11           Beneficiary,  
12           f.    meets the requirements specified in the request for  
13           bid by the Oklahoma Universal Service Fund  
14           Beneficiary, and  
15           g.    was the result of a fair and open competitive bidding  
16           process as defined in this act.

17           8.    If a long-term contract includes change clauses for changes  
18           in sites or services, the Oklahoma Universal Service Fund  
19           Beneficiary shall not be required to conduct a new competitive bid  
20           during the life of the original contract, which may not exceed five  
21           (5) years.

22           9.    For eligible services associated with an Oklahoma Universal  
23           Service Fund Beneficiary that does not competitively bid in  
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1 compliance with this act, the credit amount shall be determined at  
2 the discretion of the Administrator.

3 C. 1. Special Universal Services shall not be sold, resold or  
4 transferred in consideration for money or any other thing of value.

5 2. The OUSF shall not fund more than one eligible provider for  
6 the same service at the same location for the same time period,  
7 except during a transition period from one eligible provider to  
8 another. Funding during a transition period shall not exceed thirty  
9 (30) days.

10 D. The Administrator shall have the authority to investigate  
11 each request for OUSF funding for Special Universal Services in  
12 order to ensure that the OUSF pays only for the Special Universal  
13 Services authorized in this section. The Administrator shall deny  
14 requests for OUSF funding in excess of the credit amounts authorized  
15 in subsection B of this section unless good cause is shown.

16 E. The Corporation Commission shall have authority to  
17 investigate and modify or reject in whole or part a Special  
18 Universal Service request under subsection A of this section if the  
19 request does not meet the specified criteria, if the Corporation  
20 Commission's investigation determines that the entity has not  
21 provided sufficient documentation for the requested services, or if  
22 the Corporation Commission determines that granting the request is  
23 not in the public interest due to fraud.

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1 F. 1. The Special Universal Services preapproval and  
2 reimbursement procedures as set forth in this subsection shall be  
3 effective and shall apply for each applicable funding year beginning  
4 July 1, 2017.

5 2. The Oklahoma Universal Service Fund Beneficiary  
6 administrative preapproval submission process shall be as follows:

7 a. the Administrator shall establish an administrative  
8 approval process to be initiated by the Oklahoma  
9 Universal Service Fund Beneficiary in a timely fashion  
10 for the purpose of determining eligible services and  
11 credit amounts for the upcoming funding year. The  
12 administrative preapproval submission process shall  
13 include all necessary forms and instructions,  
14 hereinafter referred to as the "OUSF administrative  
15 preapproval request". The Administrator shall  
16 determine the form for the OUSF administrative  
17 preapproval requests. The form shall be posted on the  
18 Commission website no later than June 30 of each year  
19 to become effective for any OUSF administrative  
20 preapproval requests submitted after August 31 of that  
21 year. Any party may file an objection to the form  
22 with the Commission within fifteen (15) days of  
23 posting. The Commission shall issue a final order on  
24 the objection to the form within thirty (30) days,

1           b.    the Administrator shall issue an approval funding  
2                    letter to the Oklahoma Universal Service Fund  
3                    Beneficiary and the eligible provider within ninety  
4                    (90) days of receipt of a properly completed OUSF  
5                    administrative preapproval request. Failure by the  
6                    Administrator to issue an approval funding letter  
7                    within the ninety-day period means the OUSF  
8                    administrative preapproval request submitted by the  
9                    Oklahoma Universal Service Fund Beneficiary is  
10                  approved as submitted and the subsequent request for  
11                  reimbursement submitted by the eligible provider which  
12                  is consistent with the information submitted in the  
13                  OUSF administrative preapproval request shall be  
14                  approved as submitted,

15           c.    the approval funding letter shall inform the Oklahoma  
16                    Universal Service Fund Beneficiary of the preapproved  
17                    services and associated credit amount for the  
18                    applicable funding year. The amount of OUSF funding  
19                    preapproved under this subsection may be subject to  
20                    adjustments based on the amount of support received  
21                    from other sources, if any, and adjustments to pricing  
22                    that may occur between the time of preapproval and  
23                    installation of service,

1 d. any OUSF administrative preapproval request shall be  
2 submitted to the Administrator in the format outlined  
3 in instructions posted on the Commission website. The  
4 OUSF administrative preapproval request shall include  
5 but not be limited to the following:

6 (1) a Special Universal Services request form as  
7 posted on the Commission website no later than  
8 June 30 of each year for requests made after  
9 August 31 of that year,

10 (2) a Federal Universal Service Support Mechanism or  
11 successor program or programs form used to  
12 request federal funding support for the  
13 applicable funding year,

14 (3) a federal funding commitment letter for the  
15 applicable funding year, if issued, and

16 (4) competitive bidding documentation for the  
17 relevant funding year,

18 e. issuance of an OUSF approval funding letter by the  
19 Administrator shall occur without a Commission order,

20 f. OUSF administrative preapproval requests not submitted  
21 by June 30 prior to the applicable funding year shall  
22 be processed by the Administrator on a first-in-first-  
23 out basis, and  
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1 g. after a preapproval funding letter has been issued, an  
2 OUSF Beneficiary may submit a new administrative  
3 preapproval request to provide corrections or  
4 additional information per program rules issued by the  
5 Commission.

6 3. The eligible provider reimbursement process shall be as  
7 follows:

- 8 a. requests for reimbursement shall be submitted per  
9 procedures as set forth in subsection D of Section  
10 139.106 of Title 17 of the Oklahoma Statutes,  
11 b. the Administrator shall post the monthly payout report  
12 to the Commission website,  
13 c. funding for eligible services, including federal  
14 funding, shall not exceed actual eligible expenses,  
15 d. any change in cost of eligible services during the  
16 funding year shall be reported by the eligible  
17 provider to the OUSF and:  
18 (1) all decreases in cost shall be deemed approved  
19 until the next eligible bidding period and all  
20 cost savings shall be properly allocated to the  
21 OUSF and the Oklahoma Universal Service Fund  
22 Beneficiary, and  
23 (2) increases in cost shall be reviewed for approval  
24 as provided for in Commission rules, and

1 e. issuance of a determination by the Administrator shall  
2 not require a Commission order.

3 SECTION 2. This act shall become effective November 1, 2017.  
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