



## Iowa Communications Network

Enhanced Services to Benefit Iowans

Internet • Voice • Data • Video

GOVERNOR TERRY E. BRANSTAD    LIEUTENANT GOVERNOR KIM REYNOLDS

July 6, 2015

Janet Phipps  
Director, Department of Administrative Services  
Hoover State Office Building, 3<sup>rd</sup> Floor  
1305 East Walnut Street  
Des Moines, IA 50319-0104

Waiver approved  
s/Janet E. Phipps/  
07/06/2016

### REQUEST FOR "WAIVER OR VARIANCE"

Pursuant to 11 IAC 118.16, the Iowa Communications Network requests a waiver to 11 IAC 118.11(3), with respect to the 6-year limitation, including all optional renewals, on the duration of a service contract related to the operations, including maintenance, of the network.

11 IAC 118.11(3) specifically provides:

**"118.11(3)** A service contract should be competitively selected on a regular basis so that a state agency obtains the best value for the funds spent, avoids inefficiencies, waste or duplication and may take advantage of new innovations, ideas and technology. A service contract, including all optional renewals, shall not exceed a term of six years unless the state agency obtains a waiver of this provision pursuant to rule 11—118.16(8A)."

The six-year duration limitation established by 11 IAC 118.11(3) was intended to reinforce the competitive bidding requirements established in chapter 11 by requiring agencies to renew contracts on a somewhat regular basis, including engaging in competitive selection processes that test the marketplace. The rules further authorize the DAS Director to waive the requirements of this rule for good cause. Rule 11 IAC 118.16(3) specifically recognizes that the six-year limitation may not be appropriate in all circumstances and provides an example of good cause as "when a contract duration period of longer than six years is more economically feasible than a six-year contract in light of the service being purchased by the state agency." (emphasis added)

Pursuant to 11 IAC 118.11(3), the ICN requests approval of the following:

1. Request. A waiver of the "six year term limitation on service contracts" for the purpose of allowing the ICN to enter into a long term agreement of up to 15 years for an IRU with Alpine Communications for Ethernet service requested by an ICN customer (Unity Point), the total cost of which is due and owing from Unity Point at the commencement of the agreement.
  - a. Justification.
    - i. Will enable the ICN to meet the needs of Unity Point's (ICN customer) request for a 15-year term of service to their clinic. The term will protect the ICN customer from potential cost increases as a result of the term.
    - ii. Unity Point has determined that the term of the contract is in their best interests.

**RIC LUMBARD, EXECUTIVE DIRECTOR**

Grimes State Office Building, 400 E. 14<sup>th</sup> Street, Des Moines, IA 50319 Phone: 515-725-4692 Fax: 515-725-4727 www.icn.iowa.gov

IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION



## Iowa Communications Network

*Enhanced Services to Benefit Iowans*  
*Internet • Voice • Data • Video*

GOVERNOR TERRY E. BRANSTAD    LIEUTENANT GOVERNOR KIM REYNOLDS

- iii. This term is similar to the wavier granted on February 7, 2011, related to the ICN's dark fiber leases/IRU agreements – typically 15 and 20 year agreements.
- b. Benefits.
  - i. Insures ICN's ability to meet Unity Point's needs, as well as insuring continuity of service.
  - ii. Protects Unity Point and ICN from potential future cost increases.

Thank you in advance for your consideration of this request. Please do not hesitate to contact me if you need any additional information to help in your consideration of this request.

Sincerely,

Ric Lumbard  
Executive Director

**RIC LUMBARD, EXECUTIVE DIRECTOR**

Grimes State Office Building, 400 E. 14<sup>th</sup> Street, Des Moines, IA 50319 Phone: 515-725-4692 Fax: 515-725-4727 [www.icn.iowa.gov](http://www.icn.iowa.gov)

IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION