

SITE & SERVICE SUBSTITUTIONS

Rural Health Care Pilot Projects may request and be approved for certain site substitutions (for sites that drop out of the network), and service substitutions (including equipment).

Site and service substitutions are governed by the FCC's [Fourth Order on Reconsideration](#) in Docket 96-45,¹ which outlines the circumstances under which rural health care program participants can make modifications to a contract that USAC has previously approved for funding without completing an additional competitive bidding process.

A site or service substitution may (1) be explicitly provided for in the contract; (2) be within the contract's change clause; or (3) otherwise constitute a "minor" modification to the contract. The Fourth Order on Reconsideration explains how to determine whether a substitution is a "minor" modification that does not require re-bidding:

- 1) First, look to state or local procurement laws to determine whether the proposed substitution, under those laws, would be considered minor and therefore exempt from state and local competitive bid processes.
- 2) If state and local procurement laws are silent or are otherwise inapplicable with respect to whether the proposed substitution is a contract modification that must be rebid under state or local competitive bid processes, the FCC has adopted the "cardinal change" doctrine as the standard for whether the contract modification requires rebidding. The FCC provides an explanation of the cardinal change doctrine in paragraphs 226 to 228 of the Fourth Order on Reconsideration.

Site Substitutions

Projects may be approved for site substitutions under the following conditions:

- The site substitution is determined to be provided for in the contract, be within the change clause, or constitute a minor modification as described above.
- The site is an eligible Health Care Provider.
- The site substitution does not violate any contract provision or state or local procurement laws.
- The requested change is within the scope of the controlling FCC Form 465, including any applicable Request for Proposal.

¹ Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing End User Common Line Charge, Fourth Order on Reconsideration, FCC 97-420, 13 FCC Rcd 5318, Paragraph 224-229 (1997) (Fourth Order on Reconsideration).

How to Initiate a Site Substitution

Immediately notify your Coach in the event that you believe your project will need to initiate a Site Substitution. To initiate an official Site Substitution, submit the following information to USAC:

- An FCC Form 465 Attachment listing the new site(s). The file name should follow this naming convention: “Supplemental 465 Attachment RFP## YYYY.MM.DD”. The date at the end of the file name should be the current date. The RFP## should be the controlling RFP for which the substitution is being requested.
 - The Supplemental 465 Attachment is necessary to determine if the site is an eligible Health Care Provider.
- Letter of Agency for the new site(s) listed on the 465 Attachment.
- Letter from the Project Coordinator which details the following information:
 - A brief explanation of events that led to this Site Substitution request.
 - A listing of the site(s) that have chosen to no longer participate in the network, including their 465 App Number.
 - If the site(s) had service and chose to disconnect that service, include the disconnection date.
 - A statement acknowledging that “The substitution(s) do not violate any contract provisions or state or local procurement laws, and the requested change is consistent and within the scope of the controlling FCC Form 465, including the applicable Request for Proposal for the original services.”
- A Supplemental Network Cost Worksheet which lists the existing sites with the quantities and monies that will be de-committed and the proposed site’s services, quantities, and cost.

USAC will review the contract and other relevant documents to determine if the substitution is provided for in the contract, within the changes clause, or a minor modification. (USAC may request additional documentation from the Project or service provider if necessary for this review.) USAC will also review the Supplemental 465 Attachment and accompanying documents and will determine if the site(s) is an eligible Health Care Provider. USAC will also evaluate whether the proposed modifications are consistent and within the scope of the controlling FCC Form 465 and applicable Request for Proposal. USAC’s evaluation of the proposed substitution will include a review to determine if a de-commitment of funds or recovery of funds is necessary. USAC will also evaluate any proposed overlap in services.

USAC will notify the Project as to its decision. Projects are reminded that they are not guaranteed support for modified sites.²

² *Id.*, Paragraph 229.

Funding for Substituted Site(s)

Once USAC has approved the request for a Site(s) Substitution, a revised FCC Form 466-A Attachment and Network Cost Worksheet will be developed by USAC. It is important to communicate with your Coach regarding your unique situation. USAC will provide a Revised 466-A Attachment and Revised Network Cost Worksheet for the project to review and approve. Once approved, USAC will issue a modified Network Cost Worksheet. Depending on your projects unique situation, USAC may also need to issue a new Funding Commitment Letter.

Service Substitutions

Service Substitutions include any modification to columns 5 “Category”, 6 “Sub Category”, 7a “Itemized Description, Component”, and 7b “Itemized Description, Speed” of the Network Cost Worksheet. Projects may be approved service substitutions under the following conditions:

- The service substitution is determined to be provided for in the contract, be within the change clause, or constitute a minor modification as described above.
- The service is an eligible service under the Pilot Program.
- The substitution does not violate any contract provision or state or local procurement laws.
- The requested change is within the scope of the controlling FCC Form 465, including any applicable Request for Proposal.

How to Initiate a Service Substitution

Immediately notify your Coach in the event that you believe your project will need to initiate a Service Substitution. To initiate a Service Substitution, submit the following information to USAC:

- Letter from the Project Coordinator which details the following information:
 - A brief explanation of events leading to this request.
 - A statement acknowledging that “The substitution(s) do not violate any contract provisions or state or local procurement laws, and the requested change is consistent and within the scope of the controlling FCC Form 465, including the applicable Request for Proposal for the original services.”
- “From and To List” which provides a listing of the products and services originally approved for which changes are requested, and a similar listing of the products and services now desired.

USAC will review the contract and other relevant documents to determine if the substitution is provided for in the contract, within the changes clause, or a minor modification. (USAC may request additional documentation from the Project or service provider if necessary for this review.) USAC will also evaluate whether the substituted service is an eligible service under the Pilot Program, and whether the proposed modifications are consistent and within the scope of the controlling FCC Form 465 and applicable Request for Proposal. USAC’s evaluation of the proposed substitution will include a

review to determine if a de-commitment of funds or recovery of funds is necessary. USAC will also evaluate any proposed overlap in services.

USAC will notify the Project as to its decision. Projects are reminded that they are not guaranteed support for modified services.³

Funding for the Service Substitution

Once USAC has approved the request Service Substitution, a revised FCC Form 466-A Attachment and Network Cost Worksheet will be developed by USAC. It is important to communicate with your Coach regarding your unique situation. USAC will provide a Revised 466-A Attachment and Revised Network Cost Worksheet for the project to review and approve. Once approved, USAC will issue a modified Network Cost Worksheet. Depending on your project's unique situation, USAC may also need to issue a new Funding Commitment Letter.

³ *Id.*