Filing the FCC Form 470 and the Competitive Bidding Process

Applicant and Service Provider Training

August 25, 2022
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Meet Our Team

Latoya Anderson
Shawn Jensen
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Agenda

• Competitive Bidding Overview
  • Get Ready to Request Bids
  • File an FCC Form 470
  • Ensure an Open and Fair Process
  • Wait At Least 28 Days
  • Select a Service Provider
• Service Provider Information
Competitive Bidding Overview
What Is Competitive Bidding?

- Competitive bidding is the formal process for applicants to choose the vendors/service providers who will provide the requested products and services.

- Service providers review an applicant's FCC Form 470 for requested products and services, any procurement requirements and then submit bids.
Competitive Bidding Is The First Step In The E-Rate Application Process
Competitive Bidding Steps

1. Get Ready to Request Bids
2. File an FCC Form 470
3. Ensure an Open and Fair Process
4. Wait At Least 28 Days
5. Select a Service Provider
Get Ready to Request Bids
Plan Your Project

Plan the scope of your project and the products and services needed.

- Review any state or local competitive bidding and procurement requirements that apply to you.
- Review the [FCC Form 470 Guiding Statements Table](#) to assist with determining the services needed and being requested. (see [previous training](#))
- Review the [Eligible Services List (ESL)](#) for the current funding year, to see what products and services are eligible for E-Rate Program funding.
Be Aware Of “Mixed Eligibility” Products/Services

- **Mixed eligibility** refers to products and services for which only a portion is eligible for discounts under the E-Rate program.

- In general, a cost allocation, separating the eligible and ineligible costs, is required if a product or service:
  - Contains both eligible and ineligible components — for example, a data T1 circuit (eligible) that also has channels on the circuit dedicated to voice services (ineligible);
  - Is utilized for eligible and ineligible uses — for example, a server that is used for both caching (eligible) and video distribution (ineligible); or
  - Is delivered to both eligible and ineligible locations — for example, broadband service delivered to a school run by a church (eligible) and to the church office (ineligible).

- There is no single approved method to allocate eligible and ineligible costs. Your method must use tangible criteria that result in a reasonable allocation.
File and Certify an FCC Form 470
File an FCC Form 470

- The applicant must file and certify an **FCC Form 470** to initiate the competitive bidding process.
  - Describe your desired services and requirements with sufficient specificity for service providers to be able to submit responsive bids.
  - No generic descriptions (e.g., all Digital Transmission Services).
  - You may also include additional bidding documentation, such as a Request for Proposal (RFP) with your FCC Form 470.
    - We use “RFP” generically to refer to any bidding document that describes the applicant’s project and requested services or products in more detail.
  - Services requested on the FCC Form 470 and RFP MUST match.
When to File the FCC Form 470

• The FCC Form 470 must be filed every year for services provided under tariff or on a month-to-month basis and those seeking new services under contract.
• It must be filed at least 28 days before filing FCC Form 471.
• Exemptions:
  • Multi-year contracts: You do not need to file a new FCC Form 470 if the contract is still in effect and the costs/services are still within the terms of the establishing FCC Form 470 (but you do still need to file a new FCC Form 471 requesting E-Rate support each funding year).
  • After the contract’s initial term is over, you would need to recompete the contract.
• Low-cost, high-speed, commercially available, business-class internet services (CABIO) (with specific requirements).
Receipt Notification Letter (RNL)

- After posting FCC Form 470, USAC issues a Receipt Notification Letter (RNL) in your EPC News feed.
- **Review your submitted FCC Form 470 carefully.** If you need to make corrections do the following:
  - For minor changes, (see the [Ministerial and Clerical Errors](#) page on the E-Rate website) locate the form in EPC and choose “Related Actions” to submit allowable corrections.
  - For **certain significant changes** to your form, you must **file a new FCC Form 470 or restart your 28 day waiting period.**
- The RNL contains your Allowable Contract Date, which is 28 days after the certification date of your FCC Form 470.
Keep Product/Service Requests General

- Do not list specific make and model of products or services sought without also allowing equivalent products and/or services to be bid.
  - “XYZ manufacturer's router model 345J *or equivalent*”
  - EPC will automatically add the “or equivalent” language in the FCC Form 470, but remember to double check your RFP, if using one.
Disqualification Factors

• You can disqualify bids if they don’t meet the requirements. Bidder disqualification criteria must:
  • Be spelled out in FCC Form 470 and/or RFP and
  • Be available to all potential bidders.

• The following items are examples of bid disqualification reasons:
  • Service provider must register with the state procurement office.
  • Service provider must have a Service Provider Identification Number (SPIN), also known as the service provider’s 498 ID.
  • Service provider must have a CORES ID.
  • Service provider must be bonded.
Competitive Bidding Tip

When unsure whether a service falls under one of two service types, it’s better to request bids for both service types.

- For example, if you are unsure whether a service or product falls under Internal Connections or BMIC, seek bids for both.
Open and Fair Process
Open and Fair

- **Open** = there are no secrets in the process; information shared with one bidder must be shared with all.
- **Fair** = all bidders are treated the same, fairly, and equally.
Open and Fair Guidelines

- All applicants must comply with all E-Rate, state, and local procurement requirements.
- Applicants cannot have a relationship with service providers that would unfairly influence the outcome of the competitive bidding process.
- Applicants cannot give anyone inside competitive information.
- Applicants cannot have ownership interest in the company of a service provider’s which is competing for services.
- Applicants must describe the desired products and services with sufficient specificity to enable interested parties to bid.
- Applicants cannot receive gifts or donations from service providers that violate or seek to circumvent FCC rules.
Create A Bid Evaluation Matrix

- To evaluate incoming bids, create a **bid evaluation matrix** or similar document.
- Develop evaluation criteria or factors to assess the bids.
  - You can have one or multiple factors.
  - You may also have disqualifying factors.
- Assign each evaluation factor a point value or percentage.
  - The price of the **eligible products and services** must be the most heavily weighted factor.
  - Other factors can be considered but they must be weighted less than price of eligible products and services.
Sample Bid Evaluation Matrix

<table>
<thead>
<tr>
<th>FACTOR</th>
<th>POINTS AVAILABLE</th>
<th>VENDOR 1</th>
<th>VENDOR 2</th>
<th>VENDOR 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Price of the eligible products and services</td>
<td>50*</td>
<td>20</td>
<td>50</td>
<td>40</td>
</tr>
<tr>
<td>Prior experience with the vendor</td>
<td>25</td>
<td>25</td>
<td>0</td>
<td>25</td>
</tr>
<tr>
<td>Prices for ineligible services, products, and fees</td>
<td>15</td>
<td>10</td>
<td>5</td>
<td>15</td>
</tr>
<tr>
<td>Local or in-state vendor</td>
<td>10</td>
<td>10</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>100</strong></td>
<td><strong>65</strong></td>
<td><strong>55</strong></td>
<td><strong>80</strong></td>
</tr>
</tbody>
</table>

*This number must be higher than all other numbers in the same column.
Abide by the Gift Rules

- **Receipt or solicitation of gifts** by applicants from service providers (and vice versa) is a competitive bidding violation.
- Service providers may not offer or provide any gifts or thing of value to applicant personnel involved in E-rate.
- Gift prohibitions are always applicable, not just during the competitive bidding process.
- Exceptions for gifts - limited to items worth $20 or less, including meals or prizes, and cannot exceed $50 from one service provider to each individual per funding year.
- Watch our [Gift Rules video](#) for more details on the gift rules.
Wait At Least 28 Days
Wait At Least 28 Days

• An FCC Form 470 must have been **certified** for at least 28 days prior to the applicant selecting a service provider
  • Any RFP or other documentation must be submitted with the FCC Form 470.
• The day you certify counts as Day 1. For example, if you file an FCC Form 470 and certify it on September 1, you may not select a service provider until **on or after** September 29.
  • In this case, September 29th is known as the **allowable contract date** (ACD).
  • The ACD is contained within your Receipt Notification Letter.
While You Wait

• After applicants file and certify their FCC Form 470, they must wait a minimum of 28 days before selecting a service provider.

• Use the 28 day waiting period to:
  • Receive bids.
  • Respond to service provider inquiries regarding your project.
    • Be sure that any information provided to one service provider is provided to all bidders.
  • Evaluate the bids using your factors and bid evaluation matrix.
The *Allowable Contract Date* occurs at the end of the 28 day waiting period. This is the earliest date on which an applicant can select a service provider, and sign a contract for services or enter into an arrangement for tariffed or month-to-month services with a service provider.

**Next Steps After The 28-Day Waiting Period**

1. **Choose your service provider(s)**
   - Notify the winning service provider(s)

2. **Sign a contract or legally binding agreement**
   - On or after the Allowable Contract Date (ACD)

3. **File the next form (FCC Form 471)**
   - Wait for the filing window to open
What If You Receive No Bids?

- If applicants receive no bids or only one bid, they can:
  - Proactively solicit bids after waiting the 28 days.
  - Ask their current provider to submit a bid.
  - Accept the one bid, if it is cost effective.
- Be sure to create a memo for your E-Rate files to document the situation.
Select A Service Provider
Allowable Contract Date

- Wait 28 days
- Evaluate all bids
- Make your selection
- Sign your contract
- Note – your ACD is printed on your Receipt Notification Letter
Make A Selection

• Enter into a contract or legally binding agreement with a service provider/providers.
  • Sign something (i.e., a contract, purchase order, etc.) requesting the services from the provider(s).
  • Upload the evidence to your Contract Profile in EPC.
Document Retention

- Applicants and service providers are required to maintain documentation that demonstrates compliance with the statutory or regulatory requirements for all E-Rate program purchases of service and equipment for a period of 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request.

- Keep all records such as:
  - Copies of RFP and/or RFP documents
  - Winning and losing bids
  - Vendor correspondence
  - Evaluation matrices
  - Documentation/memos of zero or one bid received (if applicable)
  - Other competitive bidding documentation

- The Document Retention List is available in the Resources section of the USAC website.
Additional Information
Exemptions from Competitive Bidding

• **Commercially Available Business class Internet (CABIO)**
  - Costs $3,600 or less annually.
  - Bandwidth at least 100 down and 10 up (Mbps).

• **Multi-Year contract** – if you conduct a competitive bidding process and enter into a multi-year contract, you do not have to bid again for the life of the contract.
USAC Does Not Pay For Duplicative Services

- **Duplicative services** are services that provide the same functionality for the same population in the same location during the same period of time. *USAC cannot fund duplicative services.*

- **Backup services** are services sought to reduce reliance on any single service provider's network during an outage and are considered duplicative.

- Services that provide necessary bandwidth requirements, such as multiple T-1 lines when appropriate for the population served and the services to be received, may not be considered duplicative. However, the applicant must still evaluate and choose the most cost-effective option from the bids received.
State Master Contracts

- A **state master contract** (SMC) is competitively bid and put in place by a state government for use by entities in that state.
  - **Single winner**: Single vendor wins the bid.
  - **Multiple Award Schedule (MAS)**: State awards contract for same goods and services to multiple vendors that can serve the same population.
    - **MAS** always requires vendor selection justification and applicants must conduct a **mini-bid** to award contract.
    - Remember to include in your mini-bid all contracts on the MAS that provide the services sought.
Service Provider: Competitive Bidding Process
# Know Your Role in the E-Rate Process

<table>
<thead>
<tr>
<th>Applicants</th>
<th>Service Providers</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Determine services needed, file FCC Form 470.</td>
<td>• Respond to FCC Form 470 and any RFP.</td>
</tr>
<tr>
<td>• Conduct the competitive bidding process.</td>
<td>• May assist with responding to PIA questions on technical services questions (but <strong>not competitive bidding</strong>).</td>
</tr>
<tr>
<td>• Select winning bidder, with price of eligible products and services as primary factor.</td>
<td>• File service provider forms (FCC Forms 473, 474, etc.).</td>
</tr>
<tr>
<td>• Respond to PIA questions.</td>
<td>• Document your compliance with FCC rules (ongoing).</td>
</tr>
<tr>
<td>• File other applicant forms (FCC Forms 471, 486, 472, 500, etc.).</td>
<td>• Retain documentation for at least ten years from last date of service delivery.</td>
</tr>
<tr>
<td>• Document compliance with FCC rules (ongoing).</td>
<td></td>
</tr>
<tr>
<td>• Retain documentation for at least ten years from last date of service delivery.</td>
<td></td>
</tr>
</tbody>
</table>
Open and Fair Guidelines: Service Providers

- **Review all of the requirements** included in the FCC Form 470 and any Request For Proposal (RFP) documents to ensure that your bid is responsive.
- Ask questions if the information provided by the applicant is unclear.
- Separate the **eligible, mixed bucket, and ineligible** services in your bid response.
- **Do not offer gifts, free services, devices, or non–E-Rate discounts** as a way to make your response more attractive, nor offer gifts or donations to applicants that violate FCC rules or seek to circumvent FCC rules.
- **Do not offer to help** an applicant if you are also planning to submit a bid.
Service Provider Response

• Use the [FCC Form 470](https://www.fcc.gov) tool to search and view Form 470 service requests and RFPs.

• RFP requests can include specific requirements for service providers to follow during the competitive bidding process.

• Provide a responsive bid.
Lowest Corresponding Price (LCP)

• Service providers are required to offer applicants their services at the lowest corresponding prices charged to other similarly situated customers throughout their geographic service area.
• This rule ensures that applicants are not charged more than similarly situated non-residential customers for the same services because of E-rate participation.
• Exceptions can be made if the provider can show that they face significantly higher costs to serve this customer due to volume, mileage from facility, and/or length of contract.
• Applies to all service providers and for all service arrangements (tariff, month-to-month and contracted services).
Common Missteps and Bidding Errors

• Failure to provide complete and accurate information on the FCC Form 470 and RFP, such as:
  • Correct category and service type.
  • Appropriate details on the project, deadlines, and other necessary requirements.
Common Missteps and Bidding Errors - Continued

• Failure to retain all competitive bidding documents.
  • Retain Bidding Matrix showing that:
    • Price was the most highly-weighted factor.
    • You carefully considered all bids received.
  • Retain winning and losing bids.
  • If you only received one bid, create a memo to document that fact for your files.
Common Missteps and Bidding Errors - Continued

- Failure to wait the **full 28 days waiting period**.
  - Count from the date of certification on the FCC Form 470.
  - Select a service provider **on or after** the 29th day (Allowable Contract Date).
Resources
THE COMPETITIVE BIDDING PROCESS allows applicants to identify and request products and/or services so that potential service providers can review those requests and submit bids for them.

The process consists of five steps:

1. Get Ready to File
   - Perform a needs assessment
   - Review your state and local procurement rules
   - Review the Eligible Services List

2. File and certify an FCC Form 470
   - No service provider who will bid on your 470 can help you file
   - You may or may not wish to file a Request for Proposal (RFP)
   - Note: Special rules apply for Low Cost, High Speed Access and Fiber/Self-Provisioned Networks
   - After you certify your FCC Form 470, USAC issues a Receipt Notification Letter (RNL)

3. Ensure an open and fair process
   - Provide any FCC Form 470, RFP and other information/updates in EPC for all potential bidders for at least 28 days
   - Utilize a Bid Evaluation Matrix with price of eligible services/equipment as the primary factor.
   - Consider all responsive bids
   - The Bid Evaluation Matrix is subject to document retention rules
   - Abide by the Gift Rules

4. Wait at least 28 days before selecting a service provider
   - The Allowable Contract Date (included in your RNL) is 28 days after the FCC Form 470 is certified
   - The day you certify the FCC Form 470 is day 1. If the FCC Form 470 is certified on the 1st of the month, you may select a service provider on or after the 23th of the month
   - If you later change the information needed to respond to the bid, you must restart the 28 days
   - If you issue an RFP on a later date, you must restart the 28 days
   - State or Local procurement rules may require a longer waiting period

5. Select a service provider
   - Prior to certifying the FCC Form 471 and after your allowable contract date
   - Ensure that price is the primary factor in your selection
   - Enter into a legally binding agreement
   - If there is a signed contract, upload it to EPC

Be sure to retain all necessary documentation related to your competitive bidding process for ten years after the last day you receive services.

For more information, visit us at the Competitive Bidding webpage. If you have any questions, contact us.
Competitive Bidding links

- Applicant Process
- FCC Form 470 Guiding Statements Reference Table
- Eligible Services List
- FCC Form 470 Tool
- Fiber - Summary Overview
Other Helpful Links

- Category Two (C2) Budgets
- Document Retention
- Glossary of terms
- Fiber - Summary Overview
- Requirements for Leased Dark Fiber & Self-Provisioned Networks
- Fiber Services FAQs
- Competitive Bidding Infographic
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