



Program Compliance

Training for Success
September – October 2006
Schools and Libraries Division

Washington, DC • Boston • Seattle • St. Louis • Atlanta • Houston • San Diego

Compliance Success

- Know Your Role
- Technology Plan
 - Document Creation Date
 - Technology Plan contains all Five Elements
- Budget
 - Demonstrate Applicant Share
- Posting Form 470/RFP
 - Descriptive Product/Service Description

Compliance Success

- **Competitive Bidding**
 - Award Contract after 28-day period
 - Able to demonstrate fair and open process
 - Properly documented evaluation process

- **Contracts**
 - Contracts meet Program requirements
 - State Master Contracts

Know Your Role

- Applicants
 - Write tech plan, file Form 470 and write RFP, evaluate bids, select provider, document the process, file Form 471, select invoice method
- Service Providers
 - Respond to 470/RFPs, assist with preparing Item 21, provide answers on specific goods and services requested, but NOT on competitive bidding

Know Your Role

- Consultants
 - If separate from service provider, can assist applicants with their role **after** Letter of Agency (LOA) is in place.

Know Your Role

Mistakes Occur When...

- Applicants turn over responsibility for the program compliance process to a service provider or their consultant
- Applicants DO NOT differentiate between applicant and service provider roles

Technology Plan

- Creation date
 - Month and year that the plan is “written”
- Sufficient detail to **support and validate the services** requested
- Five elements
 - Goals/strategy for using technology
 - Professional development strategy
 - Needs assessment
 - Sufficient budget
 - Evaluation process

Technology Plan

Mistakes Occur When...

- The plan DOES NOT cover the fund year
- The plan is created AFTER to posting the Form 470
- The plan DOES NOT include the Form 471 Block 1 entity
- The plan is created by an outside entity

Selective Review

- Further review of
 - Budget
 - Necessary Resources
 - Competitive Bidding and contracts
 - Technology Plan
- Sample Selective Review Information Request (SRIR) available on SLD website
- Retain your documentation!

Budget

- Purpose is for you to show us you can fund your share
- Operating budget (or draft) has dates that cover the funding year (July – June)
- Secure applicant share prior to the Form 471 is certified
- Budget documentation should clearly identify applicant's share (e.g., expense line item)

Budget

- Can you pay your share?
 - Final budget or draft budget accompanied by letter explaining budget approval process
 - Cannot rely on grants that you have applied for but haven't received (yet)
 - Funds cannot come from the service provider or an entity controlled by the service provider where funding is contingent upon selecting that provider.
 - Service provider bills can't be ignored or waived.

Payment Plans

- **Applicants are required to pay their share at the same time that USAC pays the discounted amount.**
 - Service Provider certifies that the invoices they submit are for services that “have been billed to service provider’s customers.”
 - Therefore, deferred payment plans that allow the applicant to pay after USAC has paid will jeopardize a funding request.
 - FCC Rules include a presumption that the non-discount share will be paid within 90 days.

Mistakes Occur When...

- An approved, final budget is not available and the draft budget is not provided
- Your budget documentation does not :
 - Identify your share
 - Identify the funding source
 - Include authorized signatures & dates
 - Have a date before the 471 certification

Necessary Resources

- Do you have the other necessary resources?
 - Are there end user computers?
 - Must have reasonable plans to fully utilize all internal connections for which they are requesting discounts (e.g., 2 year plan to get computers for all network drops).
 - Do you have software to run on the computers?
 - Staff trained on how to use the technology?
 - Electrical capacity?
 - Can you maintain your eligible and ineligible equipment?

Form 470/RFP

- Form 470 indicates types of products and services ordered on the Form 471
- Form 470/RFP is based on tech plan
- Form 470 and RFP must be available for 28 days
- Define and document your evaluation process
- Indicates who will be receiving the services

Form 470/RFP

- Be able to explain what you were asking for (avoid generic descriptions or statements that are overly broad)
- Post for what you want (multi-year contract, type of service, voluntary contract extensions)
- Indicate on your Form 470 if you are issuing an RFP

Form 470/RFP

Imposing restrictions:

- Applicants can set some requirements for bidders.
 - For example, applicants may require service providers to provide services that are compatible with one kind of system over another (e.g. Apple vs. Windows).

Form 470/RFP

- Applicants must be prepared to explain if and how they disqualified bids.
- Applicants must inform all bidders of any requirements that could lead to disqualification.

Form 470/RFP

Mistakes Occur When...

- The “establishing” Form 470 service requested DOES NOT match services (and the service category) requested on Forms 471.
- Service description are not detailed enough for bidders to ask questions and formulate bids.
- All entities receiving services, including NIFs are NOT included.
- Contracts are awarded prior to 28-day posting period
- 470 doesn’t indicate that applicant is seeking voluntary contract extensions.
- Applicants don’t retain documentation of the process

Keep dates in order

- Remember the correct order for dates:
 - Allowable Contract Date (28 days after 470)
THEN
 - Contract Award Date
THEN
 - Form 471 filing
THEN
 - Form 471 Certification date
ALL BEFORE
 - Window close

Competitive Bidding

- **Fair and open competitive bidding process**
- Avoid conflicts of interest
 - Independent consultant ↔ Service Provider
 - Applicant ↔ Service Provider
- Open competition and bid evaluation
- Follow the rules – FCC and state/local
- Read the contract fine print
- Document the process!

Competitive Bidding

- Selecting the winning bidder
 - Price must be the primary factor, considering only **ELIGIBLE** goods and services.
 - Solution must be cost-effective (not just *the most* cost-effective)
- May not use E-rate to subsidize the procurement of ineligible or un-requested products or services because that constitutes a rebate of the non-discount portion of the costs, which is a violation of FCC rules.

Contracts

- **Contracts, tariffed service & month-to-month**
 - Tariffed services provided under contract are contracted services.
 - Month-to-month and tariffed services do not need contracts.
 - Internal connections and Basic Maintenance of Internal Connections are contracted services.

Contracts

- Contracts must be signed contract after your 28 days has elapsed but before you file your 471.
- Signed and dated by both parties (applicant and service provider).
- Be prepared to explain documents that don't look like a traditional contract.

Contracts

Mistakes Occur When:

- Contracts are not signed and dated
- Contracts are signed/dated prior to the 28-day waiting period
- Contracts are signed/dated after the Form 471 certification postmark date
- Applicants didn't request the goods and services on the establishing Form 470.
- The contract **DOES NOT** cover the fund year

State Master Contracts

- Applicant Files Form 470
 - Can use State Master contract as a bid response
 - Contract Award date is date the applicant selected the State Contract as their winning bid
- State Files Form 470
 - Applicants may cite that Form 470

State Master Contracts

- **Single winner**
 - Applicants do not need to justify the selection of the winning bidder
- **Multiple winners**
 - Applicants must be able to document why they selected the specific provider off the master contract.

State Master Contracts

- **Multiple Award Schedules**
 - Applicants must be able to document why they selected the specific provider off the multiple award schedule.
- **Only Terms and Conditions, not prices**
 - These contracts do not meet FCC contract requirements.

State Master Contracts

Mistakes occur when:

- Applicants can't explain their selection process
- The State Master Contract does not cover the services and products cited in your Form 470
- Applicants do not post a Form 470 when they need to

Red Light Rule

- Applicants and service providers that don't pay their bills on time to USAC or the FCC are put on "Red Light"
- Entities that are under "Red Light" are subject to disbursements and applications being held and/or denied.
- Tied to your TIN – so your status may be affected by other entities that share your TIN (e.g., Police department, TV station, etc.)

Red Light Rule

- If a service provider is on Red Light:
 - No effect on Forms 471 processing
 - For SPIs and BEARs, payments are netted for USAC debt and held for FCC debt.

Red Light Rule

- If an applicant is on Red Light:
 - Applicants with FY2005 and beyond Forms 471 are given notice and 30 days to pay the debt. After that, any pending applications are denied.
 - BEARs to RL applicants are held. SPIs are unaffected by the applicant's Red Light.

Documentation

- Retain documents to show your compliance:
 - Letters of agency and any agreements with all consultants
 - Technology Plan and CTPA Plan Approval letter
 - RFP, including evidence of publication date
 - Any and all bids (winning and losing)

Documentation

- Retain documents to show your compliance:
 - Documents describing bid evaluation criteria and weighting
 - Any correspondence with potential bidders
 - Documents related to the selection of the service provider(s)
 - Signed and dated copies of contracts.
 - Also, see further list on USAC website



Questions?