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## Selective Review News Brief Series – Vendor Selection and Contracts

May 14, 2009

This is the last in a series of three short News Briefs to help you understand key aspects of the Selective Review process.

### Vendor Selection

After the Form 470 and RFP have been posted and available for at least 28 days, you can review the bids you receive and choose the most cost-effective service provider from among those bids. Applicants must select the most cost-effective service provider of the desired products or services, using the price of the eligible products and services as the primary factor used to evaluate each provider's bids.

- If you receive one bid – or no bids – we suggest that you memorialize that fact with an email to yourself or a memo to the file. This provides documentation in the event that questions arise later about your competitive bidding process.
- Whether or not you receive bids, you can contact service providers to solicit bids and can then review and evaluate any bids received as a result.
- However, if you change the services you are seeking and post a new Form 470, issue a new RFP, or amend your existing RFP, the 28-day waiting period restarts. In other words, you must wait an additional 28 days before choosing a service provider if you post a new Form 470, issue a new RFP, or amend your existing RFP.

Applicants must [construct a bid evaluation](#) in order to consider all of the bids received in response to the posting of the Form 470 or the issuance of an RFP. A very important component of your evaluation process is the list of evaluation factors and their relative weights. You must select the most cost-effective service provider, which means that the price of the eligible products and services must be the primary factor – i.e., the most heavily weighted factor – in your evaluation.

Note that you can consider other factors in your evaluation matrix, such as the technical experience of the vendor, the vendor's geographic location, or the vendor's project management expertise, as well as any ineligible price factors (e.g., contract termination fees or the cost of purchasing ineligible components). Because of these other factors, the lowest bid may not necessarily be the one you choose as the most cost-effective solution for your service needs.

You can find a [sample bid evaluation matrix](#) on the USAC website.

### Multi-tiered vendor evaluations

If you use several tiers or rounds to evaluate your bids, the price of the eligible products and services must be the primary evaluation factor in **EACH** tier or round of the process. Below is an example of a multi-tiered bid evaluation process.

In the first round, the applicant uses the following evaluation criteria:

- Price of the eligible products and services (50 points)
- Reference check (25 points)
- Prior experience with the district (25 points)

Bidders that do not receive at least 60 points in the first round are eliminated and not considered any further. In the second round, the applicant uses the following evaluation criteria:

- Price of the eligible products and services (40 points)

- Technical solution (35 points)
- Price of any ineligible products and services needed in order to make the solution work (25 points)

Note that in the second round, the applicant did not consider bids that did not meet the 60-point threshold in the first round. In both evaluation rounds, the primary evaluation factor was the price of the eligible products and services so both rounds meet FCC requirements.

Another common example of multi-tiered evaluations would be those cases where potential bidders are scored and then the top bidders are invited to submit a "Best and Final Offer." As long as both rounds have price of the eligible products and services as the most heavily weighted factor in the vendor selection matrix, then both rounds will meet FCC requirements.

### **Vendor disqualification factors**

You can list specific bid requirements in your Form 470 or RFP and disqualify bids that do not meet those requirements as long as you clearly identify the potential disqualification reasons on your Form 470 or RFP. Any bid disqualifications should occur before any significant bid evaluation takes place. Disqualification reasons should not be scored on any type of numerical or percentage range, but rather should be binary. In other words, the service provider either **meets the standard** or **does not meet the standard**.

Below are examples of some common bid requirements that could result in a disqualification if the bidder cannot meet them:

- Service provider is required to register with the state procurement office
- Service provider is required to obtain a Service Provider Identification Number (SPIN) from USAC
- Service provider is required to have an FCC Registration Number
- Service provider is required to be bonded and insured

So, for example, if your Form 470 and/or RFP specifies these four disqualification reasons, bids from service providers that do not meet all four requirements would be disqualified and not evaluated further. The remaining bids must then be evaluated with the price of the eligible products and services as the factor that is weighted most heavily in the bid evaluation.

### **Contracts**

Contracts must be signed and dated by the applicant prior to the date the Form 471 certification is filed online or postmarked. When a contract is submitted for review and is missing a signature and/or date, the applicant will be given an opportunity to provide the missing element(s).

Some state and/or local procurement rules do not require a signed and dated contract. In those cases, the applicant can provide documentation, such as a copy of the procurement regulation, demonstrating that the applicant is compliant with state and/or local procurement rules.

The reviewer may determine that the contract signature date is after the Form 471 certification postmark date. Whenever this occurs the applicant will be notified of this denial reason, and will have an opportunity to provide alternative documentation to indicate the contract was signed prior to the Form 471 certification postmark date. A corrected contract is not acceptable documentation.

### **Piggyback clauses in contracts**

A piggyback clause in a contract allows an entity to use another eligible entity's existing contract to purchase products and services in lieu of establishing its own contract. A piggyback clause is permissible for E-rate purposes only if the following conditions are met:

- It must be permissible under your state and local regulations,
- The contract or RFP must allow for other entities to be added,
- You must still post your own Form 470, AND
- You must conduct your own competitive bid evaluation and follow all applicable E-rate competitive bidding requirements.

The existing contract may be used as a bid response during the bid evaluation. As always, be sure to document your vendor selection process.

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