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Schools and Libraries News Brief

October 30, 2009

TIP OF THE WEEK: If you missed the FY2008 recurring services invoicing deadline of October 28, file an invoice deadline extension request as soon as possible. Note that if you filed a BEAR Form 472 online but your service provider did not approve the form online by October 28, your form will not be considered timely filed and you will have to request an extension, wait for USAC's approval, and then resubmit your form.

Commitments for Funding Year 2009

Funding Year 2009. USAC will release FY2009 Wave 26 Funding Commitment Decision Letters (FCDLs) November 3. This wave includes commitments for approved Priority 2 requests (Internal Connections and Basic Maintenance of Internal Connections) at 85% and above. As of October 30, FY2009 commitments total over \$1.2 billion.

On the day the FCDLs are mailed, you can check to see if you have a commitment by using USAC's [Automated Search of Commitments](#) tool.

APPLICATION PROCESS: Form 470

On April 13, 2009, applicants could start filing [Form 470, Description of Services Requested and Certification Form](#) for Funding Year 2010 (FY2010). Form 470 is the first program form applicants file to request discounts under the E-rate program.

By posting a Form 470 on the USAC website, applicants are opening a competitive bidding process. Applicants describe the services they are requesting on the Form 470, and service providers can [search Forms 470](#) or [download summary reports of Forms 470](#) in order to review and respond to applicant requests.

You must file a Form 470 for FY2010 if you:

- Are seeking non-contracted tariffed or month-to-month services.
- Intend to sign a new contract.
- Signed a multi-year contract or a contract with voluntary extensions without first posting a Form 470 and following all of the competitive bidding rules of the program.
- Filed a Form 470 that resulted in a multi-year contract or a contract with voluntary extensions but did not indicate your interest in such a contract in Item 7b of that establishing Form 470 (see below).

Your Form 470 **MUST:**

- Be based on your technology plan.
- Be detailed enough for potential bidders to understand your requirements and any reasons for disqualification.
- Be posted for the correct categories of service (Telecommunications Services, Internet Access, Internal Connections, and Basic Maintenance of Internal Connections) for the services you are requesting.
- Indicate whether you have issued or will issue a Request for Proposals (RFP) and, if so, where it is or will be available to potential bidders (see below).
- Encompass all entities that will receive services – including non-instructional facilities (NIFs).
- Be **posted** on the USAC website for at least 28 days before you close your competitive bidding process; select a service provider; sign a contract; and sign, date, and submit your Form 471.
- Be **certified** before USAC completes the review of any funding requests based on that Form 470.

Your Form 470 **MUST NOT:**

- Be completed or signed by a service provider or feature a service provider as the contact person in Items 6 or 12.
- Be an encyclopedic list of services.

Issuing an RFP

You can prepare and issue an RFP in addition to your Form 470. RFPs are not specifically required under program rules but may be required by your state or local procurement rules or competitive bidding requirements. An RFP describes the project you want to undertake in sufficient detail to inform potential bidders of the scope, location, and any other requirements for the project. You must also clearly indicate any reasons that bidders could be disqualified (in the Form 470 and/or the RFP) and provide information on any other requirements imposed by state or local procurement rules and regulations.

If you issue an RFP, you must indicate that fact and the place the RFP is available (website address or contact person) on your Form 470. The RFP must remain open for at least 28 days in order to meet the 28-day competitive bidding requirement. This means that if you issue your RFP after you post your Form 470, you must start counting 28 days on the day the RFP was issued, not the date you posted your Form 470.

Whether you post your Form 470 first or issue your RFP first, they must both be available during the final 28 days of the competitive bid. For example, if you issued your RFP October 26 and your Form 470 November 2, they must BOTH have been available from November 2 through November 30 to meet the 28-day requirement.

28-day posting requirement

As noted above, your Form 470 must be posted on the USAC website for 28 days before you choose a service provider, sign a contract, and sign and submit your Form 471. If you file your Form 470 on paper, USAC must completely data enter your form before it can be posted. If you have errors or inconsistencies on your paper Form 470, USAC must contact you to receive the correct information before your Form 470 can be posted to the USAC website. Your 28-day clock does not start until that posting occurs.

The last possible day to **post** a Form 470 to the USAC website is 28 days before the Form 471 application filing window closes. (The window opening and closing dates for FY2010 have not yet been determined.) We will make every effort to data enter and post a paper Form 470 if we receive it in a timely manner but we cannot guarantee how long the posting process will take for a paper form.

If you wait until the last possible day to post your Form 470, you will have to complete your competitive bidding process, select your service provider, sign a contract (if applicable), and sign and submit your Form 471 all on the last day of the filing window. If you know now the services you want to request – or even if you only know some of them – you can post a Form 470 now for the services you know and post another Form 470 later for any other services.

You should also take advantage of online filing, as it speeds processing, reduces errors, and provides immediate verification that your form was posted successfully.

Note that the [price of the eligible products and services must be the primary factor](#) in your evaluation. You can consider other factors in your evaluation, but none of the other factors in your bid evaluation can be weighted more heavily than price.

Forms 470 and existing contracts

If you have an existing contract, posting a Form 470 may or may not be necessary.

- **Multi-year contract.** If you posted a Form 470 but **did not** indicate that you were seeking a multi-year contract (by checking the appropriate box in Item 7b of the form) and then signed a multi-year contract, you must post a new Form 470 for FY2010. You can consider your existing contract as a bid response, but you must also evaluate any other bids received. Note that if your existing contract is not the most cost-effective solution with price as the primary factor, you will not be able to receive E-rate discounts under your existing contract for FY2010.
- **Contract with voluntary extensions.** If you posted a Form 470 but **did not** indicate that you were seeking a contract with voluntary extensions (by checking the appropriate box in Item 7b of the form), signed such a contract, and intend to exercise an extension for FY2010, you must post a new Form 470 for FY2010. You can consider your existing

contract as a bid response, but you must also evaluate any other bids received as described above. Note that if a voluntary extension of your existing contract is not the most cost-effective solution with price as the primary factor, you will not be able to receive E-rate discounts under an extension of your existing contract for FY2010.

- **Contract that resulted from properly posting a Form 470.** If you posted a Form 470, **did** indicate that you were seeking a multi-year contract or a contract with voluntary extensions, and then signed such a contract, you **do not** need to post a new Form 470 for FY2010. On Item 12 of a Form 471 funding request for services provided under that contract, you can provide the Form 470 application number that opened the competitive bidding process that resulted in that contract (the "establishing Form 470").
- **Contract that expires before the end of the funding year.** If a contract that was signed pursuant to program rules expires before June 30, 2010, you must file a new Form 470 to open a competitive bidding process for any services that will be provided during the part of the funding year not covered by that contract.
- If you intend to purchase services from a state master contract, refer to the Reference Area documents [Contract Guidance](#) and [State Replacement Contracts](#) for more information.

Correcting a Form 470

Applicants have the opportunity to make certain limited corrections to information provided on the Form 470 using the [Form 470 Receipt Notification Letter](#) correction process. For example, the following items can be corrected:

- Contact information for the entity listed in Block 1.
- Technical contact information listed in Item 12.
- Number of entities in Item 16c, as long as the correction is due to a clerical error and is not a significant departure from the scope of the original request.

In general, most other Form 470 corrections can only be made by canceling the first FY2010 Form 470 and filing a new one. This is a good reason to file your Form 470 early, so that you have a chance to refile your form if necessary.

Here are some examples of information that necessitate posting a new Form 470:

- Indicating on the original Form 470 that you do not and will not have an RFP but then issuing one.
- Forgetting to post for a category of service on the original Form 470.
- Posting for the wrong category of service on the original Form 470 (see below).
- Neglecting to mention on either the original Form 470 or RFP the reasons that service providers or their bids could be disqualified.

Posting for the wrong category of service

USAC will deny a funding request if the category of service posted for the funding request on the Form 471 does not match the category of service posted on the Form 470. In some cases, USAC may change the category of service on the Form 471 from the category posted by the applicant. Applicants should therefore post for all **applicable** categories of service.

- A service that can appear in more than one category should be posted in both. For example, Interconnected Voice over Internet Protocol (VoIP) should be posted in both Item 8 (Telecommunications Services) and Item 9 (Internet Access) on the Form 470.
- A service that could be moved from one category of service to another should be posted in both. For example, during its review of an application, USAC may move a request for [On-premise Priority 1 equipment](#) from Telecommunications Services or Internet Access to Internal Connections because the service does not meet all applicable program requirements. If USAC moves the service to Internal Connections and the applicant did not post for the service in Item 10 (Internal Connections) on the Form 470, USAC will deny the request.

For more information on the Form 470, refer to the [Form 470 guidance](#) on the USAC website and the [Form 470 Instructions](#).

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