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Schools and Libraries News Brief

December 18, 2009

FY2010 WINDOW COUNTDOWN

| | |
|--------------------------------|---------------|
| Days to window close | 55 |
| Forms 470 filed to date | 19,418 |
| Forms 471 filed to date | 933 |

TIP OF THE WEEK: If you plan to file your Form 470 on paper, make sure USAC will RECEIVE it by Thursday, January 7, 2010. We will make every effort to get your Form 470 posted by the January 14 deadline if we receive it by January 7, but we may not be able to post forms in time to meet program requirements if they are received after that date.

NOTE: The next two SL News Briefs will be issued on Wednesday, December 23 and Wednesday, December 30.

Commitments for Funding Year 2009

Funding Year 2009. USAC will release FY2009 Wave 33 Funding Commitment Decision Letters (FCDLs) December 22. This wave includes commitments for approved Priority 2 requests (Internal Connections and Basic Maintenance of Internal Connections) at 80% and above and denials at 54% and below. As of December 18, FY2009 commitments total just under \$1.84 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: Competitive Bidding

The competitive bidding process is the cornerstone of the E-rate program. It is very important that you familiarize yourself with all of the requirements regarding competitive bidding. Although we discuss some important concepts below, this discussion does not include the complete set of program requirements related to competitive bidding. For more information, you can refer to [Step 3. Open a Competitive Bidding Process](#), [Construct an Evaluation](#), and the [sample Bid Evaluation Matrix](#) and related links on the USAC website. Finally, presentations from the [2009 Fall Applicant Training](#) on Program Compliance, Understanding PIA Review, Issues in Competitive Bidding, and Advanced PIA Review all contain more detailed information regarding this critical area.

In the [October 30 SL News Brief](#), we discussed the Form 470, the first program form that applicants file. After an applicant posts a Form 470 to the USAC website, the applicant must conduct an [open and fair competitive bidding process](#) for the services listed on the Form 470.

- "Open" means there are no secrets in the process – such as information shared with one bidder but not with others – and that all bidders know what is required of them.
- "Fair" means that all bidders are treated the same and that no bidder has advance knowledge of the project information.

In addition to posting a Form 470, applicants can also issue a Request For Proposals (RFP). RFPs are not required under program rules, but they may be required by your state or local procurement rules or regulations. If you issue or intend to issue an RFP, you must indicate that fact on the Form 470 together with information on how to obtain a copy of the RFP.

The Form 470 and – if one is issued – the RFP should be clear about the products, services, and quantities you are seeking. If there are reasons that bids can be disqualified, you should include those reasons for disqualification as well. Remember that disqualification factors are binary – that is, a potential bidder either meets the standard or does not. Any subjective factors should be included in your bid evaluation matrix.

In order to be sure that you run a fair and open competition, any marketing discussions held with service providers must be neutral so as not to taint the competitive bidding process. That is, you should not have a relationship with a service provider prior to the competitive bidding process that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow the service provider to unfairly compete in any way. Also, remember that service providers cannot help you write your technology plan, determine the services to be posted on the Form 470, file the Form 470, or respond to or evaluate bids.

Neutral consultants not connected to service providers can assist you in filing your Form 470 and responding to USAC questions regarding your competitive bidding process. Be sure to have a [Letter of Agency](#), a contract, or similar document with a consultant that acts on your behalf. The letter of agency should spell out the types of services and any authority delegated to the consultant by the applicant (such as the authority to sign program forms).

However, make sure that a conflict of interest does not exist with a consultant that assists you with your competitive bidding process. For example, a consultant who is involved in the planning, execution, and/or bid evaluation for your competitive bidding process should not also represent a service provider that will participate in the competitive bidding process as a bidder.

After the Form 470 and RFP have been posted and available for at least 28 days, you can review the bids you have received and choose the [most cost-effective](#) service provider from among those 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.
- You can contact service providers to solicit bids and can then review and evaluate any bids received as a result. You may also choose to do this if you do not receive any bids during the 28-day waiting period. However, if you post a new Form 470, issue a new RFP, or amend your existing RFP, you start the clock on another 28-day waiting period.

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 solution, and the price of the eligible products and services must be the primary factor in your evaluation. Although that factor must be the factor that is weighted most heavily, you can consider other factors. Because of these other factors, the lowest bid may not necessarily be the one you choose as the most cost-effective solution.

Reminders

Applicants should be aware of advertisements and marketing documents that claim E-rate eligibility. While some vendors claim E-rate eligibility simply because they have a SPIN, this logic is flawed. Although a service provider must have a SPIN to participate in the E-rate program, possession of a SPIN does NOT mean that the service provider's products and/or services are eligible. USAC does not pre-approve services, although in limited circumstances USAC reviews cost allocation data submitted by a service provider when applicable. Applicants should research product and service eligibility using the [Eligible Services List](#) to validate whether or not a type of service or product is eligible.

When completing your Form 470, make sure you post in ALL the categories of service (Telecommunications Service, Internet Access, Internal Connections, and Basic Maintenance of Internal Connections) for which you will be requesting discounts on your Form 471. You cannot seek discounts in a category of service on your Form 471 if those services in those categories were not indicated on a Form 470.

Services provided under tariff or under a month-to-month arrangement do not require a contract. However, you must file a Form 470 for these services every year. In general, we expect a contract to be in place for services other than tariffed or month-to-month services.

If you indicated on your Form 470 that you were interested in a multi-year contract or a contract with voluntary extensions (checkboxes for Item 7b on the form) and you then signed such a contract, you do not need to post a Form 470 for the life of the contract. However, each year you must file a new Form 471 and cite that original or "establishing" Form 470 on your Form 471 Block 5 funding request for the services covered under that contract.

- Note, however, that if you do NOT indicate your interest in a multi-year contract or a contract with voluntary extensions and then you sign such a contract, you must file a Form 470 the following year and run the risk that your contract will not be the most cost-effective solution to your new Form 470 posting.

Be sure to retain any final documentation you produce for your competitive bidding process, for example:

- A copy of your Form 470. (Also keep a record of your security code if you file online.)
- A copy of your RFP.
- A copy of your technology plan with the creation date memorialized somewhere on the plan. Remember that this is not your final approved plan but the written plan that provided the basis for your Form 470.
- Any specific documentation you used for reference in preparing your Form 470 or RFP.
- Copies of winning and losing bids.
- Your bid evaluation plan and a description of your evaluation process.
- Your evaluation criteria.
- Your completed bid evaluation that demonstrates the bid you chose was the most cost-effective.
- A copy of your contract if you sign one.

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