

## Schools and Libraries

# NEWS BRIEF

December 13, 2013

**TIP OF THE WEEK:** If you are not using a consultant, leave the consultant information fields blank on the FCC Form 470. If you are filing online and you start an entry in a consultant information field by mistake, you must completely delete your entry in order to continue.

### Commitments for Funding Years 2013 and 2012

**Funding Year 2013.** USAC will release Funding Year (FY) 2013 Wave 31 Funding Commitment Decision Letters (FCDLs) December 18. This wave includes commitments for approved Priority 1 (Telecommunications Services and Internet Access) requests at all discount levels. As of December 13, FY2013 commitments total over \$1.51 billion and encompass 32,262 of FY2013 applications.

**Funding Year 2012.** USAC will release FY2012 Wave 72 FCDLs December 19. This wave includes commitments for approved Priority 2 (Internal Connections and Basic Maintenance) requests at 90 percent and denials at 89 percent and below. As of December 13, FY2012 commitments total over \$2.81 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.

### Posting the FCC Form 470

In the [December 6 SL News Brief](#) we discussed the [FCC Form 470](#), which applicants file to open a competitive bidding process for the services they desire. In this issue, we are providing additional information about posting the FCC Form 470; in the near future we will include guidance on receiving responses from bidders.

Remember that the applicant is responsible for ensuring an open and fair competitive bidding process. Only applicants can determine the types of services sought and prepare, complete, sign, certify and submit FCC Forms 470. If service providers undertake or assist the applicant with any of these actions, funding will be denied.

### Posting for Priority 1 services

Starting with FY2013, applicants can post Priority 1 services on the FCC Form 470 in either the Telecommunications Services or the Internet Access category of service. In fact, the proposed draft FCC Form 470 – which should be available shortly – will feature only the category "Priority One Services" for all Priority 1 services.

Note that applicants will be required to post their services in the correct Priority 1 category of service on the FCC Form 471, but they will not be penalized if the Priority 1 category of service on the FCC Form 471 does not match the Priority 1 category of service posted on the FCC Form 470.

### State or local requirements and E-rate requirements

Applicants posting FCC Forms 470 must comply not only with E-rate program requirements but also with all applicable state and local competitive bidding requirements. In general, when E-rate program requirements and state and/or local requirements differ, you should comply with the requirements that are more stringent to make sure you are in compliance with both.

## Requests for Proposal

A Request for Proposal (RFP) is a formal bidding document that describes the project and requested services in sufficient detail so that potential bidders understand the scope, location, and any other requirements. Although you may know these by a different name – such as Request for Quote (RFQ) or Statement of Work – USAC uses the term RFP to cover all such documents. Applicants may be required by state or local procurement rules or regulations to issue an RFP, or they may choose to do so because of the size or scope of their project or services requested.

- Note: The FCC Form 470 and RFP must contain sufficient information to enable prospective bidders to formulate bids. If the FCC Form 470 describes in broad terms the services for which the applicant is seeking bids and the applicant also provides additional supplementary documents, those documents could be considered an RFP if they contain the detailed information necessary for the formulation of responsive bids. The applicant should consider checking the box indicating that an RFP is available if such documents are provided.

If an RFP is issued, both the RFP and the FCC Form 470 must be available for at least 28 days. While the FCC Form 470 and the RFP may be issued on the same day, in cases where one document is issued before the other, both the FCC Form 470 and the RFP must be available for at least 28 days. The competitive bidding process cannot be closed prior to the second document being available for at least 28 days.

If Priority 2 products and services are being requested, those requests must be based on the applicant's [technology plan](#). Remember that the technology plan must be created (at least in draft form with all four required elements addressed) before the FCC Form 470 is posted to the USAC website.

As stated above, the applicant must follow all applicable state and local procurement rules and regulations that pertain to RFPs – e.g., issuing a formal RFP when purchasing services over a certain dollar threshold, posting any required announcement of the RFP in a newspaper, etc.

### ***Bona fide* requests**

The FCC Form 470 – and RFP, if one is issued – must contain *bona fide* requests for services, which means that you list the specific services for which you anticipate seeking funding support. The FCC Form 470 and/or RFP must provide clear and complete descriptions of the project to be undertaken or the services desired, in sufficient detail for a service provider to be able to formulate bids. An applicant may, in certain circumstances, list multiple services on its FCC Form 470, knowing that it intends to choose one over another. However, all products and services listed on the FCC Form 470 must be linked in a reasonable way to the applicant's technology plan, if one is required, and not request duplicative services.

Applicants cannot simply include "laundry lists" of services (i.e., entering all services eligible for funding under the E-rate program) or generic descriptions of services (e.g., "broadband connections"). If you anticipate the need for growth of broadband connections during the term of the contract that would result from the competitive bidding process, you should indicate the required speed as well as the higher potential speeds desired.

### **Manufacturer or brand names**

Applicants cannot include the name of a specific manufacturer, brand, product, or service on an FCC Form 470 or RFP unless they also use the words "or equivalent" in their description of the products and services desired. Moreover, the applicants must then carefully consider all bids received, including any equivalent offerings, before choosing the most cost effective bid.

NOTE: Applicants may require service providers to provide services that are *compatible* with one kind of system over another (e.g., "Brand X compatible").

### **Breaking existing contracts**

If the applicant is breaking an existing contract, the new service provider cannot pay any associated contract termination charges. The applicant cannot include a request or requirement to pay those associated termination charges in either the FCC Form 470 or the RFP.

### **Restrictions imposed by state or local laws or regulations, reasons for disqualification, and other bid information**

In Item 13 of the FCC Form 470, the applicant indicates for potential bidders any applicable restrictions imposed by state or local laws or regulations. The applicant can also set out specific requirements and disqualify bids that do not meet those requirements. However, note that these [disqualification factors](#) must be clearly spelled out on the FCC Form 470 and/or the RFP so that they are available to all potential bidders.

If you are filing online, you can open the text field in Item 13 and enter and save additional information you need to provide by:

- Putting a check in the first checkbox in Item 13 if you are using the Expert version of the online form or
- Clicking the "Yes" button for one of the Item 13 questions if you are using the Interview version of the online form.

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