



**E-Rate Funding—Guaranteed**

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# Competitive Bidding

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## Introduction

On-Tech is a technology consulting firm focused on managing the E-Rate process for schools and libraries. We provide a full range of E-Rate services for applicants, including: handling the entire application process; consulting on construction projects to ensure maximum E-Rate funding; and reviewing proposals to ensure E-Rate compliance. In addition, On-Tech obtains E-Rate funding for school and library construction projects. On-Tech is not associated with any service provider.

Dan Riordan has been involved with the E-Rate since 1997, when he was trained by the New Jersey Department of Education to offer assistance to school districts in completing the application. Since then, he has worked on the E-Rate as a trainer, a district technology coordinator, and now a consultant.

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## The Process

The competitive bidding procedure for the E-Rate is simple:

1. Prepare Form 470 and possibly RFP
  2. Develop evaluation matrix
  3. Wait 28 days
    - a. Respond to service provider requests for information
  4. Select service provider using evaluation matrix
  5. Negotiate contract (if necessary)
  6. Sign contract (if necessary)
  7. File Form 471
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## Best Practices

### Counting to 28

You need to wait 28 days after posting your Form 470 before selecting a vendor. (If you release an RFP after posting the Form 470, you must wait 28 days from the date that the RFP became available.) That means you can make a selection on the 28<sup>th</sup> day after the posting. So if you post a Form 470 on February 21<sup>st</sup>, you can select a vendor on March 20<sup>th</sup>.

Since an RFP is ill-defined, it would be prudent to restart the 28-day clock any time you provide significant information to service providers beyond what is on the Form 470. For example, if you conduct a walk-through for service providers, it would be safer to wait 28 days after that walk-through to select a service provider.

### Selection Process / Selection Criteria

You must select the most cost-effective bid, with price of eligible services as the primary factor. If you are using price as the only factor, that is selecting the lowest-cost vendor, then the selection process is simple. However, you may want to include other factors. To date, the FCC has not made any factor ineligible, so you are free to use an reasonable factor in making your decision. Among the criteria that USAC has listed as examples:

- experience
- ability of the service provider to meet time deadlines or geographical needs
- quality of the work
- ability of the service provider to provide necessary maintenance and assistance
- availability
- minority business status
- in-state preference
- cost of ineligible products
- project management expertise

Other criteria which have not been provided as examples by USAC, but which have been used successfully include:

- experience in our library
- experience with similar organizations
- cost of transition (what it would cost to switch providers)
- technical expertise
- completeness of solution
- reliability
- integration with current infrastructure

The suggested evaluation method is to build an evaluation matrix like this

<b>Factor</b>	<b>Max. Points</b>	<b>Vendor A</b>	<b>Vendor B</b>	<b>Vendor C</b>
Cost of eligible services	30	25	30	20
Geographical availability	25	15	20	25
Experience	25	22	20	25
Expertise	20	20	15	20
<b>Total</b>		<b>72</b>	<b>85</b>	<b>90</b>

The above matrix shows that Vendor B was not the most cost-effective, even though they had the best price (and so got the highest score on the Cost factor). Instead, Vendor C, which had the highest cost, was the most cost-effective.

## Beating the Bushes

The Form 470 is an imperfect device for stimulating competition, so we often find it necessary to encourage service providers to bid. There is no problem with reaching out to potential service providers, as long as no extra information is given out. On-Tech will often contract other service providers and send them the Form 470 Number or a copy of the services listed on the Form 470.

## Be Specific

First, you cannot list every service that is eligible under the E-Rate. You do not have to purchase every item listed on a Form 470, but the form should only list services you are actually considering purchasing.

In addition, your description of services sought must be specific enough to allow vendors to bid. Putting on the Form 470 that you want “Phone service” and the quantity “System-wide” does not give a phone company enough information to submit a bid. In this case, you should supply at least the number of lines and whether you want just local or long distance also. Would you consider VoIP? Do you want a PRI (voice trunk)? Do you need connections to multiple locations?

### **But Not Too Specific**

Avoid using the names of manufacturers, providers, and products. If you do use such a name, be sure to include “or equivalent.” So if you need to replace a Cisco 3750 switch in your network, you must say “Cisco 3750 or equivalent,” and consider bids showing a switch by another manufacturer.

### **Current Service Can Be a Bid**

For tariffed and month-to-month services, you do not need to get a bid from your current service provider; you can consider your current service and cost to be a bid. File a note that you are counting this as a bid.

### **Documentation**

Save everything for at least 7 years, including:

1. All bids, winning and losing
2. A description of the bid selection process: the bid evaluation matrix and/or a memo describing how the selection was made.
3. All communications with service providers during the bidding process

You should have some documentation of the bid selection process. If you received only one bid, you should file a memo saying that only one bid was received, and that you determined that the bid was cost-effective.

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## **Pitfalls to Avoid**

There are many ways that applicants are failing to meet the FCC’s “open and fair” requirements. Here are some of the most common reasons for denial

### **Service Provider Involvement**

USAC and the FCC have been clear: until the selection process is complete, a service provider’s only involvement should be to submit a bid. Ideally, no potential service provider should be involved in any earlier part of the process. In practice, USAC allows service provider assistance in preparing the technology plan or RFP, “so long as that assistance can be interpreted as neutral and in no way as having an undue influence on the applicant’s ability to conduct a fair and open competition.” In addition, “An applicant cannot reveal information ... that the applicant does not share with all prospective bidders.”

There are several inappropriate roles for service providers identified by USAC:

1. A service provider cannot approve technology plans.
2. A service provider cannot serve as the Form 470 contact person.

3. A service provider cannot provide completed or duplicate RFPs.
4. A service provider cannot sign the Form 470 or Form 471.
5. A service provider cannot coerce or pressure the applicant to use a specific service provider.

## Cost Effectiveness

There are two cost-effectiveness hurdles. First, you must select the most cost-effective bid, which is described in the *Selection Process* section above. In addition, you must determine that the service is generally cost effective. In cases where only one bid was received and/or the cost of the service seems very high for a library of your size, USAC will ask you to demonstrate that the service is cost effective. They will look at both unit price and quantity. The unit price issue is usually more clear-cut: Why did you pay \$4,000 for that router when it's available elsewhere for \$2,000? But the question of quantity can be more fuzzy: Why does your small library need a 1 Gbps connection to the Internet? Another frequent line of questioning: You asked for 4 switches with 48 ports each. Give us a list of the 192 devices that you will connect to those switches.

## Copying

It can be very helpful to look at what other libraries have done. Some libraries will have honed the service description on their Form 470 to a beautiful gem of brevity with just the right amount of specificity. Go ahead and crib from others. However, do not make an exact copy of another library's 470. It will invite unwelcome scrutiny.

## Communications with Service Provider

The FCC and USAC have been very clear that any information provided to one service provider must be provided to all service providers. As an example, if a service provider calls up and says, "Your Form 470 requests a Cat 5e cable, but we can offer Cat 6 at the same rate. Can we quote Cat 6 instead?" If you tell that service provider that you will consider a bid for Cat 6 cabling, you must give that same information to all potential bidders (that is, any company that has contacted you about that Form 470).

In order to ensure that we can show fairness, On-Tech tells service providers to submit their questions by email and responds in an email to all potential vendors.

## RFPs

Unfortunately, neither the FCC nor USAC has provided a definition of what constitutes an RFP. From recent appeal decisions, it appears that the FCC will consider any information beyond what is on the Form 470 to be an RFP. This might include floor plans, port counts, equipment specifications.

So if you need to release more information than can fit on the Form 470, you should check the box on the Form 470 that says you will release an RFP, and give the RFP to all potential bidders (any company that contacts you about your Form 470).

Unfortunately, the term "RFP" has a specific definition in state and local law, and an RFP must meet a variety of requirements under those laws. I have not seen any court cases dealing with whether checking the RFP box on the Form 470 triggers state and local regulations about

releasing an RFP, so the safest course is to assume that you must also follow those rules, or at least consult an attorney familiar with the laws.

### **State and Local Requirements**

The FCC has been clear that their bidding requirements are not intended to supplant state and local purchasing rules. So if you are required by state or local laws/regulations/policies to do a formal bid for purchases over \$25,000 or get 3 quotes for bids over \$500, you must still meet those requirements. If state or local rules require that you select the lowest-cost vendor, then you cannot use an evaluation matrix like the one above; you must select the lowest-cost vendor.

If USAC learns that your competitive bidding process satisfied E-Rate rules but violated a state or local rule, funding will be denied.

## More Resources

### On-Tech

[www.on-tech.com/erate](http://www.on-tech.com/erate)

This handout and other E-Rate information and links are available at our Web site.

[blog.on-tech.com](http://blog.on-tech.com)

For a more informal discussion of the E-Rate, visit our blog. You can search for a topic of interest to you and get an insider's view.

If you have specific questions, contact us.

Email: [info@on-tech.com](mailto:info@on-tech.com)

Phone: 732-530-5435

### Schools & Libraries Division (SLD)

[www.usac.org/sl](http://www.usac.org/sl)

This Web site is a wealth of information, and the information is official. Start by pointing at the light blue "Schools and Library Applicants" button, and selecting the relevant step.

Info on competitive bidding:

<http://www.usac.org/sl/applicants/step03/>

The proper role of service providers:

<http://www.usac.org/sl/providers/step01/proper-service-provider-assistance.aspx>

Inappropriate roles for service providers:

<http://www.usac.org/sl/providers/step01/inappropriate-roles-providers.aspx>

Sample bid evaluation matrix:

[http://www.universalservice.org/res/documents/sl/pdf/2007\\_training/samples-checklist-vendor-selection-templates.pdf](http://www.universalservice.org/res/documents/sl/pdf/2007_training/samples-checklist-vendor-selection-templates.pdf)