



# Contracts

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# Overview

- Contracts
- State Master Contracts
- Who Files Form 470?
- Multiple Providers
- State Replacement Guidance

# Contracts Overview

- A contract must be signed and dated by the applicant prior to the Form 471 certification postmark date
  - Applicant must not sign a contract before the Allowable Contract Award Date (CAD)
  - Service providers may sign before the CAD
  - When state and/or local contract law doesn't require signature and/or date, the applicant will be given the opportunity to complete a certification statement.
- A purchase order may considered a contract **ONLY** if your state considers it a contract

# Contract Extensions

- Voluntary Contract Extensions
  - Are allowable when the option for contract extensions is stated in the original provision of the contract
  - Applicant must rebid the services (i.e., file a new Form 470) if contract extensions are not stated
- Service Delivery Extension
  - Nonrecurring services may be voluntarily extended to permit delivery and installation
  - Applicants may request a service delivery extension from USAC
  - File a Form 500 to adjust the contract expiration date

# State Master Contracts

- A state master contract (SMC) is competitively bid and put in place by a state government for use by multiple entities in that state
- Generally, SMCs involve State Purchasing Agency and an RFP process
- Must be on behalf of whole state – not just a consortium – and must be bid by a state agency



# State Master Contracts

- **Single winner**
  - Single vendor wins the bid
- **Multiple winners**
  - State awards contract to several bidders
    - Can be limited by geography or other factor
- **Multiple Award Schedule (MAS)**
  - State awards contract for same goods and services to multiple vendors that can serve the same population



# Prices & State Contracts

- Fixed price
  - No further documentation needed regarding pricing
- Price ceilings (highest price you can get)
  - Some contracts expect end users to further negotiate “best and final.” Applicants must retain documentation of the negotiations from each bidder, and comply with FCC rules.
- Price floors (lowest price you can get)
  - Again, additional work is needed by applicant to obtain specific pricing for the project from bidder(s). Must retain documentation and comply with FCC rules.



# State Filed Form 470

- For single winner contracts, applicant does not have to justify vendor selection.
- Multiple winners always require vendor selection justification.
  - Geographic limitation to single winner: document explanation in an email.
- If multiple vendors can provide the services to you, then you must conduct a mini-bid based on FCC rules.
  - In this case, applicants must compare all available bidders in their mini-bid
- Contract Award Date = Date you decided to purchase off State Contract.
- Tip: Memorialize your decision to purchase off a State Contract in an email to yourself or the file.

## Mini-bid

- Used to determine winning provider when there is more than one provider listed on the SMC that can provide the desired services to an applicant
  - Do not need to file another Form 470
  - But comply with all FCC Rules regarding vendor selection (i.e., most cost effective, price must be primary, cost-effectiveness)
  - Retain documentation



# Applicant filed Form 470

- Conduct a competitive bidding process based on FCC rules
- Determine which bids to compare on SMC
  - If applicant makes decision solely from bid responses received from their Form 470, then compare just those that provided a bid. (Some may have been using the SMC vehicle, others may not.)
  - If applicant proactively looks for “bids” by going to the State Contract, they must compare all available bidders on the SMC
- Contract Award Date = Date you decided to purchase off State Contract.
- Tip: Memorialize your decision to purchase off a State Contract in an email to yourself or the file.

# Selecting Among Multiple Winners

- Must be able to show how provider was selected and be in compliance with FCC rules
  - If you are not comparing ALL of the vendors on the multiple award schedule, be prepared to explain why
  - Price of the eligible goods and services must be the primary factor
  - Conduct a mini-bid
  - Document the process

## What happens if...

- ...you just pick the provider you used before? They are on the State MAS.
  - If you cannot show that you compared all of the providers\* based on FCC rules, then your funding may be denied.
- ...you conduct a mini-bid but don't follow your own process?
  - Your funding may be denied.

\* = see previous slides for guidance on selecting among multiple providers

# State Replacement Contracts

- If a State Master Contract expires either before the fund year starts or during a fund year, you may be able cite a [State Replacement Contract \(SRC\)](#) on your FRNs.
- Form 470/Contract requirements:
  - Existing State Master Contract posted on a State Form 470
  - Replacement State Master Contract posted on a State Form 470
- USAC can make commitments using the SRC SPIN, but cannot pay invoices until a SPIN change to “real” provider has been processed.

# SC Expires **Before** FY

- Applicants know that State has filed 470, but the winning bidder has not yet been announced at the time of the window close.
- Applicants can submit an FRN for 12 months of service under the expected State contract.
- Applicants file based on pricing from expiring contract.

# How to file for SRC

Item	Entry
12	Use 470 from expiring State Master Contract
13	Use SPIN 143999999
14	Use STATE REPLACEMENT as SP name
15	Add SRC prefix to current Master Contract #
16	Use same account numbers
17	ACD will be pre-populated based on Item 12
18	CAD should be day after expiration of old Master Contract

# How to file for SRC

Item	Entry
19	SSD is July 1 of the fund year
20a	CED will be end of the fund year
21	Submit copy of expiring SMC services
22	List entities that will be receiving service
23	Recurring and non-recurring charges are limited to charges in expiring Master Contract. If there was no provision for one-time charges in old contract, cannot claim them for future contract.



# SC Expires **During** the FY

- File two separate FRNs
  - One for current state contract
  - One for replacement state contract
- Commitment can only be for 12 months of service over both FRNs



# How to file for SRC FRNs

- For first FRN, file using the contract details on the current state master contract.
- For the second FRN, enter FRN details using the guidance for SRC expiring before the start of the fund year

# SRC SPIN Change

- After State has signed and dated the new contract, then applicants can file a SPIN change to the official winner.
- Mark up the page of your FCDL with the SRC FRN and indicate the actual:

- SP Name	- SPIN
- State Filed Form 470 #	- Contract Award Date
- Service Start Date	- Service End Date
- Expiration Date of the Replacement Contract	- Effective Date of the Replacement Contract



# SRC SPIN Change

- Sign and date the page, include your contact information and submit to USAC either via email or by regular mail to Correspondence Unit address
- Once you receive notification of the SPIN change, you can file your Form 486.

## What happens if...

- ... I misjudged the number of months of recurring service on either the old contract or SRC FRN?
  - You can make ministerial and clerical error corrections to resolve this until we issue the FCDL
- ... my state never resolves the competitive bidding before the first FRN expires?
  - We will allow you to continue with the old provider on a month-to-month basis until the new contract is awarded

# What happens if...

- ...the old state contract expires and the state ends up not signing a new contract?
  - We will allow you to finish out the year on a month-to-month basis with the old provider.
- ... I don't like the new provider on the State Contract?
  - By using the SRC process, you agreed to abide by the State's competitive bidding decision. You can't change the SRC SPIN to a SPIN other than the winning bidder – including a previous provider if they didn't win – because that would be a competitive bidding violation.

## What happens if...

- ... the State ends up awarding to multiple providers?
  - You must follow the guidance described earlier in the presentation on multiple winners.
- ... the State ends up not filing a Form 470 for the new contract?
  - The SRC procedure can only be used if the State files a Form 470. Applicant-filed Forms 470 are not sufficient.



# Questions?