



E-Rate: Competitive Bidding Process

Presented by

Valarie D. Byrd

Nancy E. Rosenwald

Topics Of Discussion

- ❑ **Giftng**
- ❑ **Why Do I Need To Perform A Competitive Bidding Process?**
- ❑ **When Do I Need To Do This?**
- ❑ **How Do I Perform A Compliant Bidding Process?**
- ❑ **Bid Matrix Examples**



Gifting

E-Rate Rules vs. SC State Ethics & Procurement Code

Gift prohibitions are applicable year-round, not just during the competitive bidding process.

□ E-Rate Rules

- ❖ 1. Rules apply to everyone participating in the E-rate whether public or private, and whether operating at the local, state or federal level.
- ❖ 2. No more than \$20 value per item, not to exceed \$50 per year (single source).
- ❖ 3. Solicitation or receipt of gifts by applicants from service providers and potential service providers and vice versa is a competitive bidding violation.



Gifts

E-Rate Rules vs. SC State Ethics & Procurement Code

□ State Rules

- ❖ 1. " A public official, public member, or public employee may not, directly or indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return...."
- ❖ 2. "...anything of value worth twenty-five dollars or more in a day and anything of value worth two hundred dollars or more in the aggregate in a calendar year must report.."

Note: You should follow your local county or district/system code if it is stricter than the E-Rate or State rules.



Gifts

❑ E-Rate Gifting Rule Prohibitions

- ❖ Prohibitions including soliciting and receiving any gift or thing of value from an applicant or a service provider participating in, or seeking to participate in the E-Rate program.
- ❖ Service providers may not offer or provide any gifts to applicant personnel involved in the E-Rate program or vice versa.

❑ E-Rate Gifting Rule Exceptions

- ❖ Gifts to family and friends when those gifts are made using personal funds of the donor (without reimbursement from the employer) and are not related to a business transaction or business relationship are exempt.



Gifts

E-Rate Gifting Rule Exceptions (CONT.)

- ❖ Gift rules are not intended to discourage companies from making charitable contributions, as long as those contributions are not directly or indirectly related to an E-rate procurement.

□ Charitable Contributions

Gift rules are not intended to discourage charitable donations as long as the donations:

- ❖ Are not directly or indirectly related to E-rate procurement activities or decisions, and
- ❖ Are not given with the intention of circumventing competitive bidding or other FCC rules



Giftng

E-Rate Giftng Rule Exceptions (CONT.)

- ❖ **Conferences and Training Sessions**
- ❖ **Raffle tickets, prizes, or door prizes that have a retail value of over \$20 violate the gift rules unless the event is open to the public.**
 - **“Open to the Public” means the event is free of charge and that members of the public at large typically attend.**
 - **“Widely attended gatherings” allow for free attendance and meals or refreshments at that event.**



Giftng

E-Rate Giftng Rule Exceptions (CONT.)

Gathering is widely attended if:

- ✓ Employee's attendance must be in the interest of the agency (i.e. school or library) and further its programs and operations, and
- ✓ It is expected that a large number of persons will attend, and
- ✓ Persons with a diversity of views or interests will be present.



Giftng

“Widely attended gatherings” (CONT.)

❖ Conferences – Permissible Actions

- ✓ Food, refreshments, instruction and documents given to all attendees at Widely Attended Gatherings are permissible.**
- ✓ Trainings offered by state, regional or local government bodies or non-profits or trade associations that include those bodies are not considered vendor promotional training.**
- ✓ Vendor promotional training means training provided by any person for the purpose of promoting its products or services.**



Gifts

Service providers can...

- host, sponsor, or conduct E-rate training, as long as they do not provide any gift that exceeds the gift exceptions

Service providers cannot...

- help with preparation or completion of forms, or determining the services listed on the FCC Form 470 and/or RFP



Gifts

Remember...

- ❑ Applicants certify on the Form 471 Item 29 that they

"...have not received anything of value or a promise of anything of value, other than services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services."

- ❑ To cure a violation...

Promptly return any tangible item to the donor, or pay the donor its market value, or, if perishable, the item may be given to an appropriate charity or shared within the office or destroyed.



Gifts

□ Timelines for Compliance

- ✓ Requirement for fair and open competitive bidding has always been in effect.
- ✓ Rules from 6th Report and Order went into effect January 3, 2011.
- ✓ New applicants, or applicants that are applying for the first time for a category of service, must be in compliance with rules six months prior to the posting of their first FCC Form 470.
- ✓ Dollar limits of \$20/\$50 are calculated per funding year.



Why Do I Need To Perform A Competitive Bidding Process?

The FCC Sixth Report and Order (FCC 10-175) codified its requirement for open and fair bidding process. The Sixth Report and Order explicitly lists gift-giving as one example of prohibitive conduct in the competitive bidding process. According to the Order, applicants must now follow either their own state/local laws regarding gifting or the FCC gift rules, whichever is stricter. A complete summary of federal rules for gifts and links to the set of federal regulations is available online:

http://www.usoge.gov/common_ethics_issues/gifts_outside_sources.aspx

Since state law and most local gift policies are more restrictive the safest course of action is not to accept any gifts at all from participating and/or potential E-rate suppliers. Gift prohibitions are always applicable, not just during the competitive bidding process.



Why Do I Need To Perform A Competitive Bidding Process?

❑ E-Rate Program Compliance

- ❖ “The goal of competitive bidding is to have as many bidders as possible respond to a Form 470, RFP, or other solicitation method so that the applicant can receive better service and lower prices.”
- ❖ “Applicants must ensure an open and fair competitive bidding process to receive Schools and Libraries support.”

❑ To satisfy state, local government or entity requirements



When Do I Need To Do This?

- ❑ After bid responses have been collected from Form 470, RFP's or any solicitation method used
- ❑ When seeking cheaper rates for a new or existing service (contract or one-time purchase)
- ❑ If using a state master contract with multiple vendors (mini-bid)



How Do I Perform A Compliant Bidding Process?

- ❑ **After the following conditions have been satisfied.....**
 - ✓ **Before submitting solicitations you must first decide what form of measurement (Competitive Bidding Matrix) will be used to determine the winning bidder. Regardless of the method used price must be the most heavily weighted factor.**
 - ✓ **A detailed request for specific services or products has been posted in a "Fair and Open" manner for a defined duration.**
 - ✓ **Then categorize all acceptable bid responses and evaluate each based on chosen form of measurement (Competitive Bidding Matrix)**
 - ✓ **Total each bid evaluation, rank the top score and add these results to a combined competitive bidding matrix to compare results.**



How Do I Perform A Compliant Bidding Process?

- ❑ **After the following conditions have been satisfied.....(CONT.)**
 - ✓ **Notify winning bidder and sign a contract if applicable**
 - ✓ **Notify losing bidders in writing. Be prepared to provide details regarding the winning bidder if requested. "Why didn't I win?"**
 - ✓ **File all documentation regarding this process.**
- * Note if the winning bidder is eliminated you must chose the next ranked option.*



Example Bid Matrix



Competitive Bidding

Bid Evaluation Matrix (*sample*)

Factor	Points Available	Vendor 1	Vendor 2	Vendor 3
Price of the ELIGIBLE goods and services	30	15	30	25
Prior experience w/ vendor	20	20	0	20
Prices for ineligible services, products & fees	25	20	15	25
Flexible Invoicing: 472 or 474	15	0	15	15
Environmental objectives	5	5	3	2
Local or in state vendor	5	5	5	5
Total	100	65	68	92



Bid Matrix Example for

Priority - 2 Service Category

Internal Connections: Inside Wiring & Cabling

- **Nancy's Library collected bid responses to place inside wiring and cabling for her newly remodeled library.**
- **She had three vendors that responded to her RFP and Form 470 posting.**
- **All vendors submitted acceptable responses and were evaluated based on six measures via a 100 point matrix model**



These are the results.....

Factor	Points	Joe's Electronics	Best American Communications	Snively's Internet
Price of Eligible goods and services required	40	35	30	#33
Ineligible cost factors (including price of ineligible goods and services, price of changing providers, price for breaking contract, etc)	25	*25	20	25
Local Vendor	10	8	10	8
Prior Experience	10	10	10	0
Reputation/Recommendation	10	10	10	10
Flexible Invoicing	5	5	3	5
TOTAL	100	93	83	81

***Joe's is willing to run cable across street to library administration building without additional charge**

Snively's price includes 5 years of free maintenance of fiber from road to building

The overall winner is Joe's Electronic because of its total point value. Snively had the best price points but the company didn't have the best point value for "Prior Experience" nor "Ineligible cost factors"



Bid Matrix Example For

Priority - 2 Services Category

Internal Connections with Basic Maintenance

- **John H. Smith Middle School collected bid responses to upgrade their current Local Area Network (LAN).**
- **Items requested include new cable, routers, switches and access points with basic maintenance.**
- **The school had six vendors that responded to their RFP and Form 470 posting.**
- **Three out of six vendors submitted acceptable responses.**
- **The unacceptable responses were eliminated.**
- **The remaining vendors were evaluated via a 100 point matrix model.**



These are the results.....

Factor	Points	Professional Computer Services	Partners in Cable	Internet USA
Price	40	38	20	20
Local Vendor	10	8	10	2
Ability to manage project and maintain equipment and connections	35	*15	35	30
Prior Experience	5	0	5	5
Environmental Objectives	5	5	3	0
Flexible Invoicing	5	5	5	0
TOTAL	100	71	78	57

***Professional Services will subcontract maintenance to a company unknown to district with no willingness to provide recommendations nor references.**



Bid Matrix Example

For

Priority - 1 Service Category

Internet Service

- **Smartown Library is evaluating responses to add internet service including email service to their existing building.**
- **The library had twelve service providers that responded to the RFP and Form 470 posting.**
- **Ten out of twelve vendors submitted acceptable responses. Two were eliminated due to not being able to provide email service.**
- **The remaining service providers were evaluated via a 100 point matrix model. The top three service providers were evaluated to determine the winning bidder.**



These are the results.....

Factor	Points	Professional Help Networks	Moe & Curly's Co.	Swift Telephone
Price	30	30	28	26
Local Vendor	10	10	10	10
Inclusion of usable ineligible goods and services	25	*20	+22	25
Prior Experience	10	0	0	0
References/ Recommendations	15	12	15	13
Flexible Invoicing	10	10	10	10
TOTAL	100	82	85	84

*Professional Help will provide access to Internet through existing cables plus basic e-mail

+Moe and Curly's will provide access to Internet through existing cables plus e-mail service with e-mail archiving features (ineligible), domain name service, dynamic host configuration, basic firewall protection (all eligible)



Bid Matrix Example For

Priority - 1 Service Category Telecommunications Service

- **Val's Library is evaluating responses to add new basic telephone service to her branch.**
- **Val had only one response to her RFP and Form 470 posting.**
- **She decided to contact service providers in her area that didn't respond to her postings. As a result, she was able to acquire two more bids.**
- **The three service providers were evaluated via a 100 point matrix model.**

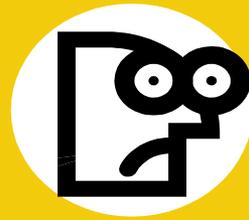
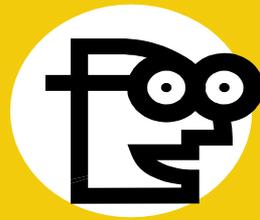
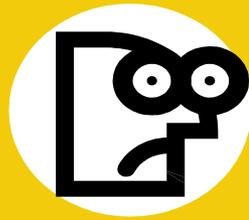


These are the results.....

Factor	Points	American Telephone	Moe & Curly's Co.	Swift Telephone
Price	30	30	25	25
Local Vendor	10	5	10	5
Inclusion of usable ineligible goods and services	20	15	20	10
Prior Experience	20	20	0	0
Product Support	15	10	0	15
Flexible Invoicing	5	5	3	5
TOTAL	100	85	58	60

Who do you think should be awarded the contract and why?





It's QUESTION TIME!!

Don't Forget Your Handouts!

- **State Master Contract Listing w/Form 470's**
- **Check List**
- **Gifting Document**

