

## **Category 2 Bidding Options for PA Applicants**

12/18/2014

The Category 2 competitive bidding rules/requirements for PA applicants are somewhat complex because there are state specific rules in addition to E-rate rules that must be followed. The following message outlines the options and requirements for PA schools and libraries (as I understand them) and hopefully provides you with a step-by-step path to ensure your E-rate success.

### **A. General Bidding Reminders for All Applicants:**

- 1) E-rate rules require applicants that include a model number or manufacturer's name to also include the words "or equivalent" on their Form 470/RFP and then evaluate equivalent products that are bid. Applicants may state that such equipment must be compatible with the District's existing equipment in which case the existing equipment should be identified.
- 2) E-rate rules require that any bid disqualification reasons be stated in either Item 13 of the Form 470 or in the RFP.

**B. Non-Public Schools:** Nonpublic schools may either post a Form 470 or purchase from the PEPPM contract using the procedures set forth below. If filing a Form 470, nonpublic schools may also issue a RFP if they so choose but an RFP is not required. If an RFP is issued, the RFP should be issued on the same day the Form 470 is posted. After a minimum of 28 days, nonpublic school applicants must conduct a bid evaluation and may consider other factors besides low price, but price of eligible goods and services must be the most heavily weighted factor. Advertising in the local newspapers is not required. A contract must be signed before the Form 471 is filed.

**C. Libraries:** Libraries must post a Form 470 and may also issue an RFP if they so choose but an RFP is not required. If an RFP is issued, the RFP should be issued on the same day the Form 470 is posted. After a minimum of 28 days, libraries must conduct a bid evaluation and may consider other factors besides low price, but price of eligible goods and services must be the most heavily weighted factor. Advertising in the local newspapers is not required. A contract must be signed before the Form 471 is filed.

**D. Public School Entities:** Public school entities have two options as outlined below. Please pay careful attention to all of the requirements of each option.

**1)** Category 2 contracts costing less than \$19,400: Schools may file a Form 470 to competitively bid the equipment/services it seeks. Issuance of a RFP is optional and not mandatory.

**2)** Category 2 contracts costing between \$10,500 - \$19,399: If no RFP is issued, schools must request written or telephonic price quotations from at least three bidders. After a minimum of 28 calendar days, schools must conduct a bid evaluation and may consider other factors besides lowest price in their bid evaluation, but price of eligible goods and services must be the most heavily weighted factor. A contract must be signed before the Form 471 is filed.

**3)** Category 2 contracts costing more \$19,400 or more: Schools have two options:

**a) File a Form 470 and issue an RFP:** The 470 and RFP must be issued concurrently and the RFP must be advertised in at least 2 local newspapers of general circulation once a week for 3

consecutive weeks. RFPs may set minimum requirements such as "must be compatible with district's existing XXX equipment," "vendor must have been in business for more than 5 years," "must be able to provide all products and services in the RFP or equivalent," "must have an E-rate SPIN number," "must have provided all information required in the RFP," etc. After a minimum of 28 calendar days, schools must determine which vendors complied with the minimum bid requirements and of those, the lowest price bid must be selected. Under state law, schools are not permitted to consider other bid evaluation criteria besides price. Attached to this message is a sample equipment RFP that you may use/edit as you wish. The areas highlighted in yellow must be modified to meet your individual needs/specifications. Also, please see the Prevailing Wage section at the end of this message if issuing an RFP for structured cabling. *Best Practice Timeline: Try to Post 470/File RFP by January 5 so you can have your board approve the contract at their February board meeting.*

OR

**b) Use the PEPPM contract and conduct a 'mini-bid':** (*Please note: The current PEPPM contract expires December 31, 2014. The new PEPPM contracts are in the process of being awarded and will be posted to the PEPPM site the week of January 5.*) Public schools are not required to post a Form 470, but are required to conduct a 'mini-bid' and conduct a bid evaluation of all product lines in a specific "Category." Categories will be wireless equipment, switches, routers, firewalls, UPSs, cabling/connectors, and caching servers. A list of PEPPM product lines identified by Category will be made available as soon as possible after the 2015 PEPPM contracts are made available. When conducting the mini-bid, schools will have 2 options:

**i)** If you know what equipment is equivalent to the products you're seeking, you can search the 2015 PEPPM price list to obtain prices and not seek individual vendor pricing proposals. Using those prices, then create a bid evaluation to select the successful vendor. Price of eligible equipment/services **must** be the most heavily weighted factor, but you **may** consider other factors such as previous experience with the District, references, cost to train or certify staff on new equipment, etc. When the successful vendor is selected, then contact that vendor to obtain a specific vendor quote on vendor letterhead just for the equipment for which you desire E-rate discounts. Inform the vendor that they will be included on your E-rate application, that the order is contingent upon E-rate funding, and a purchase order will be issued upon receipt of the E-rate funding notification letter. No separate contract is required to be signed because the PEPPM contract IS the contract. The PEPPM 470 # and PEPPM contract award/expiration dates will be sent to the PA E-rate listserve in January for applicants to use on their Form 471s. *Best Practice Timeline: Conduct your mini-bid in January and select your vendor by January 30 so you can have your board approve the award at their February board meeting.*

**ii)** If you do not know what equipment is equivalent to the products you're seeking, you must seek individual vendor pricing proposals for all product lines in a specific 'Category.' There is no 28-day mini-bid requirement, but you may want to give vendors 7 days to provide you with proposals. Using the prices contained in those vendor proposals, then create a bid evaluation to select the successful vendor. Price of eligible equipment/services **must** be the most heavily weighted factor, but you **may** consider other factors such as previous experience with the District, references, cost to train or certify staff on new equipment, etc. When the successful vendor is selected, then contact that vendor to provide notification that they will be included on your E-rate application, that the order is contingent upon E-rate funding, and a purchase order will be issued upon receipt of the E-rate notification letter. No separate contract is required to be signed because the

PEPPM contract IS the contract. The PEPPM 470 # and PEPPM contract award/expiration dates will be sent to the PA E-rate listserve in January for applicants to use on their Form 471s. *Best Practice Timeline: Release your mini-bid vendor requests before January 23, then conduct your bid evaluation and select your vendor by January 30 so you can have your board approve the award at their February board meeting.*

**Note regarding resellers on PEPPM Contract:** Each PEPPM product line will be awarded to a single vendor. Where the awarded vendor is the manufacturer, vendors are permitted to identify resellers that are bound by the PEPPM contract terms and conditions. Where resellers are listed or required to be used by the manufacturer, applicants must have a valid reason why they selected a particular reseller and must document that reason in their bid evaluation file. A valid reason could include: proximity to the district, previous experience with the district, possesses an E-rate SPIN number, has E-rate experience, etc.

**Note regarding Prevailing Wage Act:** PA public school entities are required to comply with the Prevailing Wage Act for public works contracts which include 'construction, reconstruction, demolition, alteration and/or repair work other than maintenance work, done under contract and paid for in whole or in part out of the funds of a public body where the estimated cost of the total project is in excess of \$25,000.' Maintenance work is defined as the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased.

In speaking with several knowledgeable school officials, they believe that structured cabling projects costing more than \$25,000 would be required to comply with the Prevailing Wage Act. You will want to check with your school district solicitor to determine if he or she believes the Prevailing Wage Act applies and if so, be sure to include this requirement in your structured cabling RFP.

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