

Category 2 Bidding Requirements for PA Public Schools

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

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 and interoperable with the school/library'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 the State and Local Procurement Requirements of the Form 470 or in the RFP. Disqualification reasons must be yes/no (either they complied or they did not).
- 3) Applicants should not contact a potential vendor prior to bidding to seek an equipment list (E-rate rule). Service providers are allowed to answer *general* questions about the products and services they sell in response to applicant inquiries, but they may not prepare any part of a RFP or spec sheet/bill of materials that will be used by the applicant for conducting a competitive bid procurement.
- 4) You must have a signed contract for all Category 2 funding requests before the Form 471 is filed. This can be as simple as a signed vendor quote as long as it contains this information:
 - Contract signing date (must be on or before the Form 471 submission date).
 - Term of contract (4/1/2018 - 9/30/2019 for equipment purchases).
 - List of equipment/quantities/prices (or services) and installation costs.
 - Whether you want the equipment/services to be contingent upon E-rate funding approval.

Public School Bidding Options: Public school entities have several bidding options as outlined below. Please pay careful attention to all of the requirements of each option (in addition to the list of requirements noted above).

Option 1) File a Form 470 and issue an RFP: The RFP must be uploaded into the Form 470 as the form is being created, *and* the procurement must be advertised in at least 2 local newspapers of general circulation once a week for 3 consecutive weeks (done concurrently with the Form 470 bidding period). After a *minimum* of 28 calendar days, schools must select the lowest price bid among all qualified proposals (those that met the minimum bid requirements outlined in the RFP). Under state law, schools are **not** permitted to consider other bid evaluation criteria besides price. Schools will then contact the winning vendor to obtain a contract document (or final quote with exact quantities) for the District to sign. (C2 Equipment/services costing between \$10,300 - \$19,399: If no RFP is issued, schools

must request written or telephonic price quotations from at least three bidders, in addition the Form 470 bidding process.)

Best Practice Timeline: Try to Post 470/File RFP by December 1, conduct your bid evaluation in January, have your board approve the contract at their February board meeting(s), and file the Form 471 in early March.

OR

Option 2) Use the PEPPM contract and conduct a 'PEPPM Mini-Bid': Public schools using the PA State PEPPM contract should NOT post a Form 470, but are instead required to conduct a 'mini-bid' of all product lines in a specific "Category" and then consider all bids submitted by vendors. Categories are wireless equipment, switches, routers, firewalls, UPSs, cabling/connectors, racks, and caching servers.

A complete guide to conducting a PEPPM Mini-Bid is coming in a separate listserve message and will explain how to conduct the PEPPM mini-bids.

There is no 28-day mini-bid requirement, but you should give vendors at least 14 calendar days to submit proposals (longer if over a holiday). Using the prices contained in the proposals submitted, schools will 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, compatibility with existing equipment, references, cost to train or certify staff on new equipment, etc. Schools will then contact the winning vendor to obtain a contract document (or final quote with exact quantities) for the District to sign.

I do not recommend using the PEPPM Mini-Bid process for structured cabling projects.

Best Practice Timeline: Release your mini-bid vendor requests by December 1, conduct your bid evaluation in January, have your board approve the contract at their February board meeting(s), and file the Form 471 in early March.

NOTE: 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 obtain a Prevailing Wage Determination from the PA Department of Labor and Industry (<http://www.dli.pa.gov/Individuals/Labor-Management-Relations/llc/prevailing-wage/Pages/Prevailing-Wage-App.aspx>) and include this requirement and PW Determination in your structured cabling RFP/procurement. (The federal Davis-Bacon Act does not apply to E-rate funds.)

If you have any questions related to the information contained in this message, please don't hesitate to contact me at jtschell@comcast.net. Reminder, the complete guide to conducting a PEPPM Mini-Bid is coming in the next listserve message.

-- Julie

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