

Procurement Components to Include in your RFP

Below are suggested components we at GPLS feel are to your benefit if you include them in your RFP. **Nothing below is a required component for your RFP.** However, the items listed here add to your protection and, we feel, will help you greatly during the bid evaluation and contract execution process.

It also gives you a document you can point to should a vendor protest arise. If you have any questions concerning any of the following or would like more information about how to properly include them in your RFP, please don't hesitate to get in touch with Sue Plaksin at splaksin@georgialibraries.org or call her at (404) 309-5876.

You may copy, cut and paste any wording from this document but please keep in mind that this is a general template and not specific to your library system. Therefore, "XXX" should be replaced with your library system name. It is important to check and make sure the wording in your document is relevant to your specific RFP and funding request.

1.0 Service Provider E-Rate Requirements & Compliance

1.1 SPIN and FCCRN Required

It is the intention of XXX to apply for discounts under the Schools and Libraries ("E-rate") program for some or all of the services that are the subject of this RFP. Services may be requested under this RFP for both E-rate eligible and non-E-rate eligible locations and/or services. Therefore, all Service Providers responding to this RFP must participate in the E-rate Program and must comply with all applicable FCC rules.

The Service Provider is required to submit its SPIN and FCCRN as part of the Proposal. If you do not have a SPIN and FCCRN, you MUST obtain them before you respond to this RFP.

*You can obtain a SPIN by following the directions on the Schools and Libraries Division ("SLD") web site which is found at the following URL:

<http://www.usac.org/sl/service-providers/step01/default.aspx>

*You can obtain an FCCRN from the FCC web site which is found at the following URL:

<https://fjallfoss.fcc.gov/coresWeb/publicHome.do>

1.2 Document Retention, Production of Records, and Audits

Pursuant to 47 C.F.R. § 54.516, the Service Providers have the following obligations with respect to document retention, production of records and audits:

The Service Providers shall retain documents related to the delivery of discounted telecommunications and other supported services for at least 10 years after the last day of the delivery of discounted services. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. Comprehensive information about document retention requirements is found in the FCC's Fifth Report and Order (FCC 04-190).

The Service Providers shall produce such records at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the FCC or any local, state or federal agency with jurisdiction over the entity.

The Service Providers shall be subject to audits and other investigations to evaluate their compliance with the statutory and regulatory requirements for the schools and libraries universal service support program including those requirements pertaining to what services and products are purchased, what services and products are delivered, and how services and products are being used. XXX must provide written consent before a Service Provider releases information to the auditor, reviewer, or other representative.

The Service Provider shall assume responsibility for its subcontractors' compliance with the FCC requirements on document retention, production of records, and auditing.

1.3 Lowest Corresponding Price

Pursuant to 47 C.F.R. § 54.511, Service Providers shall not submit bids for or charge libraries a price above the lowest corresponding price for supported services, unless the FCC, with respect to interstate services or the state commission with respect to intrastate services, finds that the lowest corresponding price is not compensatory. Promotional rates offered by a Service Provider for a period of more than 90 days must be included among the comparable rates upon which the lowest corresponding price is determined.

1.4 Pricing Transparency

Pursuant to the FCC's E-rate Modernization Order (FCC14-99) released July 23, 2014, the Commission provided notice to all Service Providers that the receipt of E-rate support will be conditioned on disclosure of pricing information beginning in Funding Year 2015. The Commission states in the Order that contracts executed after the effective date of the Report and Order may not contain restrictions barring publication of purchasing price data, and that any such restrictions shall have no effect.

2.0 Contract Stipulations

2.1 Contract Period

It is anticipated that the contract resulting from this RFP will be for a period of 1 year from July 1, XXX through June 30, XXX with the possibility of XXX one-year extensions solely in the discretion of XXX.

2.2 Timing and Delivery of Service

The XXX services shall commence at 12:00:01 a.m. on July 1, 2017.

3.0 Invoicing

Services may be requested under this RFP for both E-rate eligible and non-E-rate eligible locations and/or services. Separate invoices are required for E-rate eligible locations and services from those that are not eligible. XXX will provide a summary of the services ordered and the corresponding locations, together with all costs. It is the burden of the Service Provider to reconcile, to XXX's satisfaction, its invoices to that summary.

All invoices must be based on a first-of-the-month through end-of-the-month cycle.

All invoices must be manually created in a form and format which XXX has approved. Invoices may only be submitted after services have been provided, as XXX does not pay in advance for services.

Errors on invoices cannot be remedied by credits on invoices. All errors must be repaid by a check cut by the Service Provider within 30 days of notification such error.

3.1 Invoices for Non-E-rate Eligible Locations and/or Services

All locations and/or services not eligible for E-rate must be invoiced separately. XXX will attempt to pay correct and properly-submitted invoices within 30 days of receipt.

4.0 XXX's Contract Terms and Conditions

GPLS highly recommends that you and your vendor work together to develop a contract unique to your library's situation. "Canned" vendor contracts offer little in customer protections and should disputes arise, are weighted heavily in the vendor's favor.

The following is a list of Terms and Conditions that you may wish to consider including in your contract negotiations. Items in this list may pertain to CAT 1 or CAT 2 services or both. When selecting terms and conditions for your RFP and/or contract negotiation, keep in mind that many of these are "situation dependent" Please do not simply "cut & paste" from this list. **Highlighted items are items to be considered when thinking about your own specific needs and, if you feel it necessary, discussed during your contract negotiation rather than listed directly in your RFP.** Please feel free to call GPLS if you have any questions.

XXX's Contract Terms and Conditions are as follows:

- a. XXX will not sign a vendor contract (see above comments)
- b. Services added during the course of the contract must be coterminous with the proposed contract. (Need to add or delete services at the same costs throughout the contract period.)
- c. Reserve the right to make service substitutions (This is something to consider more with CAT 2 rather than CAT 1)
- d. "XXX" reserves the right to change a Service Provider if there is a legitimate reason to do so.
- e. Time is of the essence in the Proposed Contract.
(Failure to act within the time required constitutes a breach of the contract. The general rule is that time is not of the essence unless the contract expressly so provides...Retrieved from The Free Legal Dictionary)
- f. Reserve the right to postpone delivery of goods/services until a Funding Commitment is made. (This is something to consider more with CAT 2 rather than CAT 1)
- g. Should the Service Provider, its principals, agents or employees act in violation of the FCC's policy regarding gifts, and should XXX be denied funding on a funding request or be subject to a

commitment adjustment as a result of the aforementioned action, the Service Provider shall be liable for liquidated damages in the amount of XXX's discounted portion on each of the funding requests so denied.

- h. The Service Provider shall comply with all applicable FCC rules, Orders, and guidance which govern the E-rate program. Notwithstanding any other remedies at law or equity, in the event the Service Provider acts or fails to act in such a way that causes XXX to lose E-rate funding, the Service Provider shall be liable to XXX for the amount of denied, reduced or adjusted funding. Additionally, the Service Provider shall be liable to XXX for legal or consulting fees XXX incurs to: ensure compliance with the E-rate program; to respond to the FCC or USAC directives; and/or to pursue an appeal.

i. Independent Contractor Status?

j. Subcontractor assignments? Allowed? Consent required?

k. Address penalty or early termination fees.

l. Establish order of priority among contract, exhibits, addenda RFP and attachments, Service Provider Proposal Response to the RFP.

m. No payment for "acts of God" events?

n. Any licenses permits, certifications, required to perform work?

o. Service Provider compliance with laws, ordinances, rules, etc?

p. Any legal indemnification?

q. Materials complying with safety requirements?

r. Damages? Breach of Contract?

s. Service Provider failure to fulfill its obligations?

t. Notices to either party required in a certain format?

u. Service provider requirements with regard to any library resources? Hours of access, etc.?