

1. Personnel costs (including salaries and fringe benefits), except for personnel expenses in a consortium application that directly relate to designing, engineering, installing, constructing, and managing a dedicated broadband network. Ineligible costs of this category include, for example, personnel to perform program management and coordination, program administration, and marketing;

2. Travel costs, except for travel costs that are reasonable and necessary for network design or deployment and that are specifically identified and justified as part of a competitive bid for a construction project;

3. Legal costs;

4. Training, except for basic training or instruction directly related to and required for broadband network installation and associated network operations;

5. Program administration or technical coordination (*e.g.*, preparing application materials, obtaining letters of agency, preparing request for proposals, negotiating with vendors, reviewing bids, and working with the Administrator) that involves anything other than the design, engineering, operations, installation, or construction of the network;

6. Administration and marketing costs (*e.g.*, administrative costs; supplies and materials, except as part of network installation/construction; marketing studies, marketing activities, or outreach to potential network members; evaluation and feedback studies);

7. Billing expenses (*e.g.*, expense that vendors may charge for allocating costs to each health care provider in a network);

8. Helpdesk expenses (*e.g.*, equipment and related software, or services); and

9. Technical support services that provide more than basic maintenance.

(d) *Cost allocation for ineligible sites, services, or equipment*—(1) *Ineligible sites*. Eligible health care provider sites may share expenses with ineligible sites, as long as the ineligible sites pay their fair share of the expenses. An applicant may seek support for only the portion of a shared eligible expense attributable to eligible health care provider sites. To receive support, the applicant must ensure that ineligible sites pay their fair share of the expense. The fair share is determined as follows:

(i) If the vendor charges a separate and independent price for each site, an ineligible site must pay the full undiscounted price.

(ii) If there is no separate and independent price for each site, the applicant must prorate the undiscounted price for the “shared” service, equipment, or facility between eligible and

ineligible sites on a proportional fully-distributed basis. Applicants must make this cost allocation using a method that is based on objective criteria and reasonably reflects the eligible usage of the shared service, equipment, or facility. The applicant bears the burden of demonstrating the reasonableness of the allocation method chosen.

(2) *Ineligible components of a single service or piece of equipment*. Applicants seeking support for a service or piece of equipment that includes an ineligible component must explicitly request in their requests for proposals that vendors include pricing for a comparable service or piece of equipment that is comprised of only eligible components. If the selected provider also submits a price for the eligible component on a stand-alone basis, the support amount is calculated based on the stand-alone price of the eligible component on a stand-alone basis. If the vendor does not offer the eligible component on a stand-alone basis, the full price of the entire service or piece of equipment must be taken into account, without regard to the value of the ineligible components, when determining the most cost-effective bid.

(3) *Written description*. Applicants must submit a written description of their allocation method(s) to the Administrator with their funding requests.

(4) *Written agreement*. If ineligible entities participate in a network, the allocation method must be memorialized in writing, such as a formal agreement among network members, a master services contract, or for smaller consortia, a letter signed and dated by all (or each) ineligible entity and the Consortium Leader.

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§ 54.640 Eligible vendors.

(a) *Eligibility*. For purposes of the Healthcare Connect Fund, eligible vendors shall include any provider of equipment, facilities, or services that are eligible for support under Healthcare Connect Fund.

(b) *Obligation to assist health care providers*. Vendors in the Healthcare Connect Fund must certify, as a condition of receiving support, that they will

provide to health care providers, on a timely basis, all information and documents regarding supported equipment, facilities, or services that are necessary for the health care provider to submit required forms or respond to Commission or Administrator inquiries. The Administrator may withhold disbursements for the vendor if the vendor, after written notice from the Administrator, fails to comply with this requirement.

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§ 54.642 Competitive bidding requirement and exemptions.

(a) *Competitive bidding requirement.* All applicants are required to engage in a competitive bidding process for supported services, facilities, or equipment consistent with the requirements set forth in this subpart, unless they qualify for one or more of the exemptions in paragraph (h) of this section. In addition, applicants may engage in competitive bidding even if they qualify for an exemption. Applicants who utilize a competitive bidding exemption may proceed directly to filing a funding request as described in § 54.643.

(b) *Fair and open process.* (1) All entities participating in the Healthcare Connect Fund must conduct a fair and open competitive bidding process, consistent with all applicable requirements.

(2) Vendors who intend to bid to provide supported services, equipment, or facilities to a health care provider may not simultaneously help the health care provider choose a winning bid. Any vendor who submits a bid, and any individual or entity that has a financial interest in such a vendor, is prohibited from:

- (i) Preparing, signing or submitting an applicant's request for services;
- (ii) Serving as the Consortium Leader or other point of contact on behalf of applicant(s);
- (iii) Being involved in setting bid evaluation criteria; or
- (iv) Participating in the bid evaluation or vendor selection process (except in their role as potential vendors).

(3) All potential bidders must have access to the same information and must be treated in the same manner.

(4) All applicants and vendors must comply with any applicable state, Tribal, or local competitive bidding requirements. The competitive bidding requirements in this section apply in addition to state, Tribal, and local competitive bidding requirements and are not intended to preempt such state, Tribal, or local requirements.

(c) *Cost-effective.* For purposes of the Healthcare Connect Fund, "cost-effective" is defined as the method that costs the least after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing a method of providing the required health care services.

(d) *Bid evaluation criteria.* Applicants must develop weighted evaluation criteria (e.g., scoring matrix) that demonstrate how the applicant will choose the most "cost-effective" bid before submitting a Request for Services. Price must be a primary factor, but need not be the only primary factor. A non-price factor can receive an equal weight to price, but may not receive a greater weight than price.

(e) *Request for services.* Applicants must submit the following documents to the Administrator in order to initiate competitive bidding.

(1) *Form 461, including certifications.* The applicant must provide the following certifications as part of the request for services.

(i) The person signing the application is authorized to submit the application on behalf of the applicant and has examined the form and all attachments, and to the best of his or her knowledge, information, and belief, all statements of fact contained therein are true.

(ii) The applicant has followed any applicable state, Tribal, or local procurement rules.

(iii) All Healthcare Connect Fund support will be used solely for purposes reasonably related to the provision of health care service or instruction that the HCP is legally authorized to provide under the law of the state in which the services are provided and will not be sold, resold, or transferred in consideration for money or any other thing of value.