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December 7, 2017

The Honorable Ajit Pai, Chairman
The Honorable Mignon Clyburn, Commissioner
The Honorable Michael O’Rielly, Commissioner
The Honorable Brendan Carr, Commissioner
The Honorable Jessica Rosenworcel, Commissioner

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Subject: Rural Health Care Support Mechanism - WC Docket No. 02-60
Promoting Telehealth in Rural America – WC Docket No. 17-310
Concerns related to RHC Program FY2018 filing window and FY2017 delayed funding

Dear Chairman,

We would like to take the opportunity to address concerns we have related to the FCC’s RHC program. Specifically, we are concerned about the short time frame for filing required by the RHC FY2018 filing window and serious financial hardship created by the standstill in funding for FY2017.

Our firm, Kellogg & Sovereign® Consulting, LLC, has been assisting rural health care applicants successfully file for needed support from the FCC’s Rural Healthcare program since 2007. Over the years we have been impressed by the positive and lasting impact that the valuable funding has provided the nation’s rural health care providers.

The two areas of immediate concern are the following:

1. Proposed filing window for FY2018 significantly limits competitive bidding as well as applicant participation
2. Standstill in funding for FY2017 is creating significant undue financial hardship on health care providers across the nation and undermining the goals of the program.

Discussion

1. Proposed filing window for FY2018

For reference, the announced filing window for FY2018 is as follows:

- All funding requests (FCC Forms 462 and 466) must be submitted between February 1, 2018 – April 30, 2018
- Applicants will be unable to submit FCC Forms 462 and 466 before or after these dates
- Applicants may submit FCC Form 460, for the purpose of determining eligibility, at any time.
- Applicants may submit FCC Forms 465 and 461 for competitive bidding beginning on January 1, 2018. (Note: FCC Forms 465 and 461 submitted prior to January 1, 2018 may not be used for the purpose of competitive bidding for FY2018)

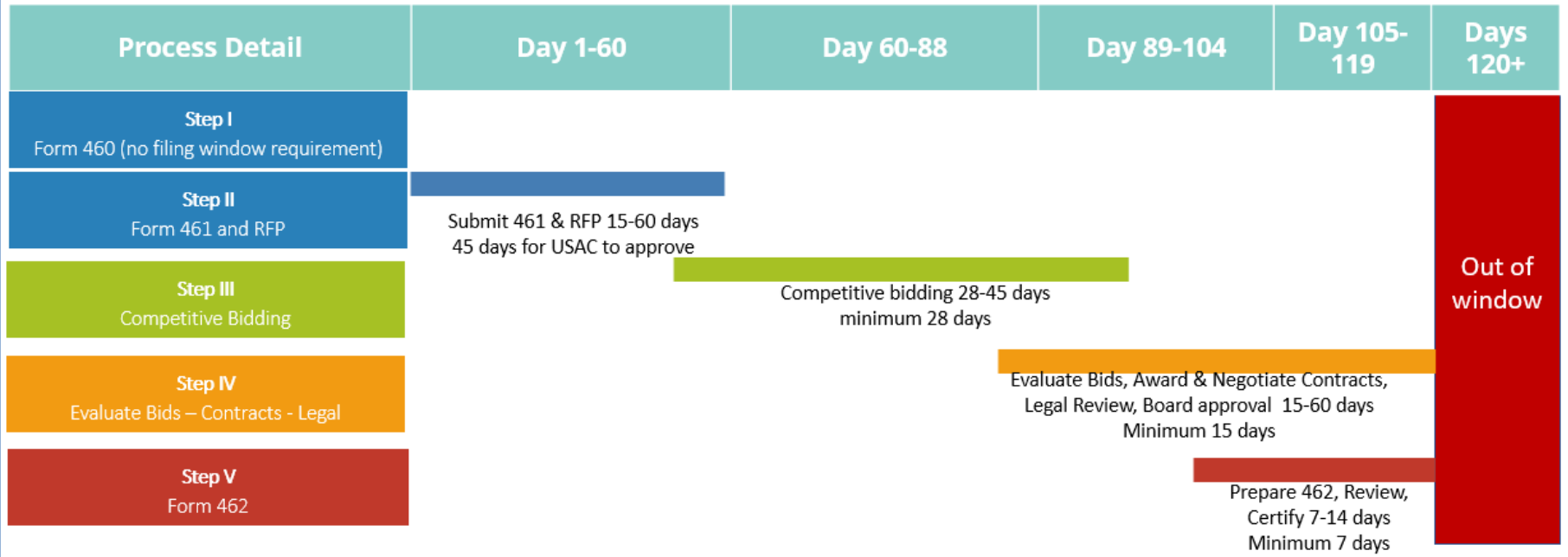
For RHC Healthcare connect participants, the shortened filing window only allows a total of 119 days for the applicants to submit their Forms 461 to USAC's RHC team to review and post the 461 and RFP to the USAC web site, conduct a minimum 28 day competitive bidding period (longer depending on the applicant's procurement rules), evaluate bids, negotiate contracts, secure approval including legal review, then submit and certify the application for funding (Form 462).

The following is a standard filing timeline for an applicant filing in the Healthcare connect fund based on the 119 day filing window. Providing only 2 weeks for contract negotiations and 7 days to complete the Form 462, the applicant cannot complete the process within 119 days. The timeline also assumes that the USAC RHC review team will be able to review the Form 461 and RFP within 45 days. If all applicants cannot submit their Form 461 to USAC until January 1, then the USAC RHC team will be tasked with concurrently reviewing all of the applications submitted which is not humanly possible with a staff of only 12.

Example HCF Project Timeline

USAC RHC Filing Healthcare Connect – 119 days ; January 1, 2018 – April 30, 2018

(assumes FCC Form 460 complete – Entity verification can take up to 60 days)



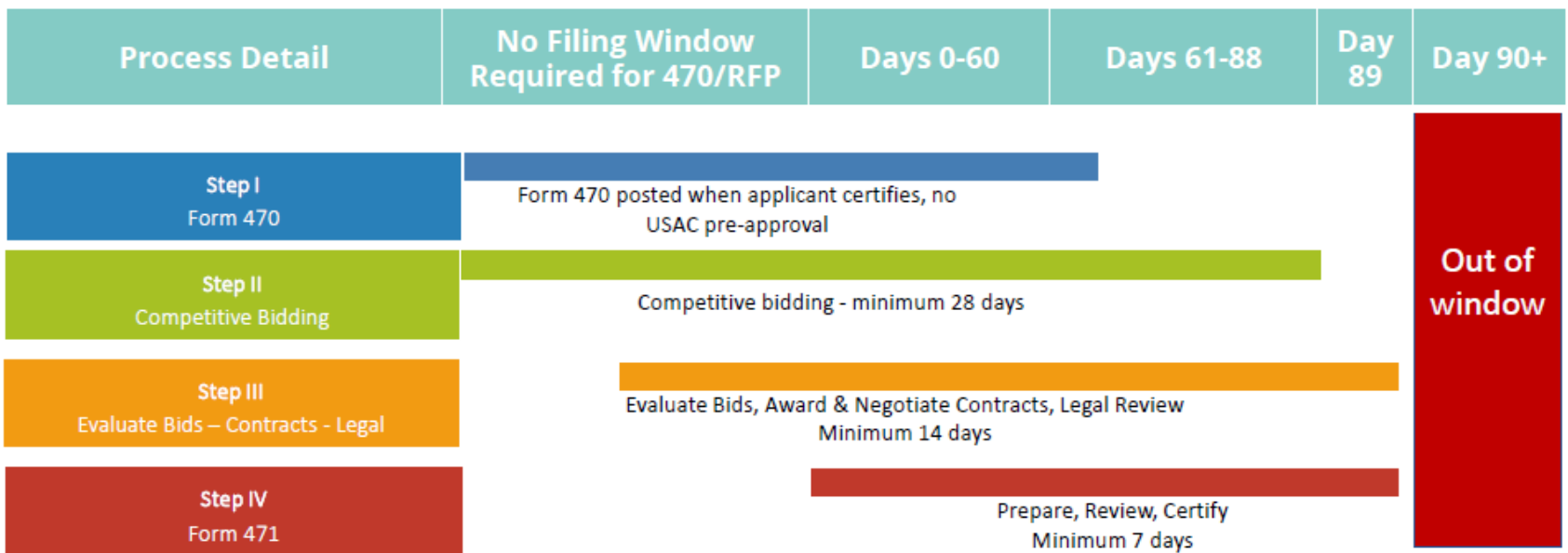
Comparison with E-Rate filing window

In the E-rate program, the filing window only applies to the filing of the application itself, the FCC Form 471. E-rate allows applicants to conduct the competitive bidding period well before the opening of the Erate filing window. This allows the applicants ample time to conduct the competitive bidding process, complete bid evaluations, secure approvals, and negotiate contracts prior to the opening of the filing window. Since 70-90 days is then provided to E-Rate applicants for the filing of the Form 471 (Erate application for discounts) the applicants have plenty of time to file the application.

Example E-Rate Project Timeline

E-Rate filing window – applicants can complete competitive bidding prior to start of filing window

Assumes 89 days for this example, but actual filing window period varies each year



Specific Example - Large health care system

Our firm worked with a large health care system in filing for support from the RHC Healthcare program for FY2017. In their case the entire process for the 2017 filing took 12 months of preparation, site examination for needs, and detailed multi-page RFPs. One RFP included 800 pages of data. The evaluation of each RFP had to go through the management structure for approval including committees, purchasing staff, legal and upper level management for all requests.

Additionally, every one of the RFPs and 461's had to be approved by USAC's RHC team before they could be posted to the USAC web site which could be up to 45 days for each individual filing.

After their competitive bidding period closed, one of the projects was not approved by the applicant until March 2017, and signed contracts were not provided until the last day of filing June 30, 2017.

This particular applicant would simply not be able to participate in funding for FY2018 with the limited 119 day period. If the filing window only applied to the filing of the Forms 462 and 466, they could make this deadline as long as they had known this in advance and could plan to start early on the Form 461 of Form 465 filings. Now that we are already into December, it is too late for applicants to start early. They were told specifically that "FCC Forms 465 and 461 submitted prior to January 1, 2018 may not be used for the purpose of competitive bidding for FY2018." Therefore, at this late date, the best way to allow applicants to participate in FY2018 would be to extend the close of the filing window to June 30, 2018.

2. Immediate funding need for FY2017

Significant delay in funding for FY2017 is creating significant undue hardship on health care providers across the nation and undermining the goals of the program

Rural health care applicants who depend on funding from the FCC's rural health care programs are in serious financial trouble with the standstill of funding for FY2017. Depending on each applicant's situation, they may be able to pay a portion of the charges but in most cases the service providers are not receiving payments for the services provided since July 1, 2017 and this is causing a very negative situation. The RHC Program participants are having to stretch their current budget for the unplanned cash needed to pay for the discount portion and in many cases, they simply do not have sufficient funds to pay.

The financial burden on the service providers will create a situation where service providers will be reluctant to continue service or drop out of the program completely. In these cases, we are losing one more provider that won't be submitting bids. This means that the RHC applicant may not receive any competing bids at all for services going forward.

Since these applicants have yet to be funded, the entity doesn't know how to approach requests for funding year 2018. Do they need to request the same services in FY 2018 that were submitting in 2017 since they do not know their funding status now? If they have requested a three-year Evergreen contract for FY2017, they might need to refile for the FY2017 requests again in FY 2018.

RECOMMENDATIONS:

The following items are the highest priority for immediate action. If at all possible, we encourage the Commission to address the immediate issues that have created a standstill for FY2017 and will potentially cripple the program for FY2018.

- Provide sufficient funding for FY2017 approved requests. Take action as appropriate – as proposed in the draft NPRM, waive the RHC Program's cap now on a one-time basis and instruct USAC to carry forward any unused RHC Program funds from prior funding years for use in FY 2017.
- As proposed in the draft NPRM, enable service providers to voluntarily reduce their rates for qualifying FY 2017 requests while keeping constant the support amount provided by the Universal Service Fund
- Remove the competitive bidding process (Forms 461 and 465) from the Filing window requirement. Require the filing window only for applications for funding support (Forms 462 and 466).
- Consider extending the filing window to June 30, 2018 to allow USAC RHC staff sufficient time to review Forms 461 and 465 and provide sufficient time for competitive bidding.
- Defer any actions that will cause delays in release of funding for FY2017.

Thank you for your consideration of these serious issues. The RHC program continues to make a positive impact for rural health care providers across the nation and we appreciate the dedication by the FCC of your time and talent to this valuable program.

Respectfully submitted,

KELLOGG & SOVEREIGN CONSULTING, LLC



Jane Kellogg, Executive Director