

PUBLIC NOTICE

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WIRELINE COMPETITION BUREAU PROVIDES CLARIFICATION REGARDING EVERGREEN CONTRACT ENDORSEMENTS UNDER THE TELECOMMUNICATIONS AND HEALTHCARE CONNECT FUND PROGRAMS OF THE RURAL HEALTHCARE SUPPORT MECHANISM

WC Docket No. 02-60

In this Public Notice, the Wireline Competition Bureau (Bureau) clarifies the scope of the evergreen contract exemption in the Commission's universal service Rural Health Care program to reduce the administrative burden on participants. Under the Telecommunications and Healthcare Connect Fund Programs of the Rural Healthcare Support Mechanism, multi-year contracts may be designated as "evergreen" by the Universal Service Administrative Company (USAC), meaning that for the life of the contract, the health care provider (HCP) need not annually re-bid the service by posting an FCC Form 465 or FCC Form 461.¹ In the December 2012 *Healthcare Connect Fund Order*, the Commission concluded that if a HCP has a contract designated as "evergreen" under the Telecommunications Program or Internet Access Program before January 1, 2014,² it may choose to seek support for the services provided under the evergreen contract from the Healthcare Connect Fund without undergoing additional competitive bidding, so long as the services are eligible for support under the Healthcare Connect Fund and the HCP complies with all other Healthcare Connect Fund rules and procedures.³

It has come to the Bureau's attention that some parties are unsure as to whether Telecommunications Program evergreen contracts designated after January 1, 2014 may be used to seek Healthcare Connect Fund support without undergoing additional competitive bidding. The

¹ See USAC, *Rural Health Care: Evergreen Contracts*, <http://www.usac.org/rhc/telecommunications/healthcare-providers/evergreen-contracts.aspx> (last visited July 8, 2015); Health Care Providers Universal Service, Telecommunications Program Description of Services Requested and Certification Form, OMB 3060-0804 (January 2004); Health Care Providers Universal Service, Healthcare Connect Fund Description of Services Requested and Certification Form, OMB 3060-0804 (January 2012). In 2012, the Commission codified its existing evergreen contract procedures for the Healthcare Connect Fund Program. See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678, 16791-92, paras. 261-265 (2012) (*Healthcare Connect Fund Order*); 47 C.F.R. § 54.642(h)(4).

² Funding for Internet access under the Internet Access Program continued through the end of funding year 2013, which ended on June 14, 2014. See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16700, n.120 (noting that funding under the Internet Access Program would be available through the end of funding year 2013). Beginning in January 2014, applicants receiving support for Internet access can apply for support for those same services through the Healthcare Connect Fund Program. See USAC, *Rural Health Care*, <http://www.usac.org/rhc/> (last visited July 8, 2015).

³ *Healthcare Connect Fund Order*, 27 FCC Rcd at 16792, para. 265.

January 1, 2014 date was used because it coincided with the date that support under the Healthcare Connect Fund would become available for program participants; it was not intended to suggest that contracts under the Telecommunications Program deemed “evergreen” *after* that date would be treated differently and required to undergo additional competitive bidding under the Healthcare Connect Fund. We therefore clarify that the January 1, 2014 date is not a bright-line cut-off for the evergreen exemption. If USAC designates a contract as “evergreen” under the Telecommunications Program, that designation will also apply under the Healthcare Connect Fund Program, and vice versa. In both instances, the HCP will not be required to undergo additional competitive bidding for the life of the evergreen contract.⁴

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⁴ Note that a contract modification must undergo additional competitive bidding if the modification is a “cardinal change” or exceeds the scope of the original contract, even if the contract has been deemed evergreen. *See Health Care Connect Fund Order*, 27 FCC Rcd at 16804-06, paras. 306-312.