

HEALTHCARE CONNECT FUND COMBINED LETTER OF AGENCY TEMPLATE FOR FCC FORMS 460, 461, 462 AND 463

Healthcare Connect Fund LOA Administrative Guidance

Health care providers (HCPs) joining consortia to participate in the Healthcare Connect Fund are required to submit to the Consortium Leader an LOA. The FCC requires that the Consortium Leader obtain authorization, the required certifications, and any supporting documentation from each consortium member. Each consortium should tailor the LOA to meet the needs of the consortium and/or the participating HCP(s). A consortium that chooses to customize its LOA is encouraged to submit the LOA to USAC for review prior to obtaining signed LOAs from consortium members.

The LOA must meet the minimum requirements as outlined in the FCC rules at Part 54 of the Code of Federal Regulations (CFR) and in the Healthcare Connect Fund Order. LOAs that do not meet the minimum requirements will be returned and the consortium will not be permitted to file the forms on behalf of the participating HCP(s). See new 47 C.F.R. Section 54.632 and paragraphs 208 through 212 of the FCC's Healthcare Connect Fund Order for more information about the requirements.

The sample language is provided as an example of the language that meets the minimum requirements outlined in the FCC's rules and the Healthcare Connect Fund Order. This language authorizes the Consortium Leader to submit on behalf of the member HCPs:

- the FCC Form 460, Eligibility and Registration, on behalf of the member HCPs, which is used to determine eligibility to participate in the Healthcare Connect Fund;
- the FCC Form 461, Request for Services, and to prepare and post the request for proposal for purposes of the Healthcare Connect Fund;
- the FCC Form 462, Funding Request; and
- the FCC Form 463, Invoice and Request for Disbursement.

Separate or Combined LOAs Allowed

The Consortium Leader may choose to obtain (1) separate LOAs authorizing it to act on behalf of each member HCP at each step of the process; or (2) a single LOA authorizing it to act on behalf of the member HCPs from the start of the process (eligibility determination) to the end (disbursement). This combined LOA template should be used if the Consortium Leader has authority to act on the member's behalf from the eligibility determination through the request for disbursement.

Certifications

The Healthcare Connect Fund Order requires Consortium Leaders, prior to submitting FCC Forms 460, 461, 462 and/or 463 on behalf of a consortium member, to obtain the

certifications required on those forms through the consortium member's LOA.¹ Certain certifications may be omitted from the LOA, if the consortium has a formal written agreement that places sole legal and financial responsibility upon the Consortium Leader for making the certification (e.g. the certification that the service provider selected is the most cost-effective service provider available).² Prior to providing the template to a consortium member, the Consortium Leader should determine if the LOA should contain the authorizations contained in the option one (no formal written agreement) or option two (formal written agreement). In cases where the Consortium Leader has sole responsibility for only certain authorizations, the Consortium Leader should modify option one to contain only those certifications not covered by the formal written agreement. Consortium Leaders are reminded that the formal written agreement must be submitted to USAC for approval.³ USAC recommends that the formal written agreement that will be used by the consortium be submitted prior to obtaining any LOAs from participating members.

- Option One: If there is no formal agreement between the Consortium Leader and the HCP members, by default, the Consortium Leader will be assumed to have sole legal and financial responsibility for the activities of the consortium. Without an agreement, the Consortium Leader does not have the authority to make all the certifications on the forms on behalf of the HCP. The HCP must make all the certifications on the LOA.
- Option Two: The consortium has a formal written agreement, approved by USAC, allocating legal and financial responsibility to the Consortium Leader and stating that the Consortium Leader is responsible for making certain certifications on behalf of members of the consortium. In this situation, because the Consortium Leader has authority to make certain certifications on behalf of the HCP, the HCP will not make those same certifications in the LOA.

Note concerning Option Two:

- USAC still requires a certification that the person signing the LOA is authorized to submit it on behalf of the HCP member;
- USAC recommends that Consortium Leaders obtain a certification that the HCP member will utilize the supported connections, infrastructure, and/or equipment only for authorized program purposes, and that the HCP member will not sell, resell, or transfer such supported connection, infrastructure, and/or equipment (see certification (b) for exact language). USAC recommends obtaining this certification from the HCP to affirmatively obtain written acknowledgment from the HCP as to the program rules concerning the use of the supported connections, infrastructure and/or equipment; and

¹ *Healthcare Connect Fund Order*, 22 FCC Rcd 20360, ¶ 210.

² *Id.*, n.547.

³ *Id.*, ¶ 206.

- USAC also recommends that Consortium Leader obtain a certification that the HCP member is not requesting support for the same service from either the Telecommunications Program or Internet Access Program and the Healthcare Connect Fund. USAC recommends obtaining this certification from the HCP to affirmatively obtain written acknowledgment from the HCP that, it nor any third parties acting on its behalf, can submit a funding request to the Telecommunications Program for a service already supported in the Healthcare Connect Fund.

Consortia are encouraged to provide a proposed end date of the LOA to its participating members. It may be helpful if the end date of each LOA for all participating members ends on the same date, (e.g. June 30, 20XX). Consortia pursuing long-term capital leases or construction options are encouraged to make the LOA end date commensurate with the long-term investment.

A health system or a HCP that owns and operates multiple locations can complete a single LOA for all physical locations. A health system or HCP that chooses to complete a single LOA for all physical locations must include the name of each site (e.g. Memorial Health System – Bayside Clinic) and the complete physical address (address, city, state, zip) for each site.

All submitted LOAs must meet the following requirements:

- submitted on the letterhead of the HCP or health system;
- addressed to the Project Coordinator for the Consortium Leader;
- include the end date for the authorization contained within the LOA;
- for health systems or an HCP that owns multiple locations, provide a brief description of the relationship of the HCPs listed on the LOA to the entity signing the LOA on their behalf; and
- signed by an officer, director or authorized employee of the HCP or health system.

HEALTH CARE PROVIDER'S LETTERHEAD

Consortium Leader
Project Coordinator
Address
City, State, Zip

Re: Letter of Agency to (1) Seek Eligibility Determination (Form 460); (2) Seek Bids for Services (Form 461); and (3) Submit Funding Request and Manage Invoicing and Payments (Forms 462 and 463) in the Healthcare Connect Fund

By this letter, **[Health Care Provider Name]** confirms its participation in the **[Name of Consortium]**. **[Health Care Provider Name]** hereby authorizes **[Consortium Leader Name]** to act on its behalf before the Federal Communications Commission (FCC) and the Universal Service Administrative Company's Rural Health Care Division in matters related to the Consortium's participation in the Healthcare Connect Fund.

[Health Care Provider Name] includes the following sites:

[provide name and physical location information for each site under the HCP]

The sites listed above are [describe relationship to HCP].

[Health Care Provider Name] authorizes **[Consortium Leader Name]** to:

- submit the FCC Form 460, Eligibility and Registration, on its behalf, which is used to determine eligibility to participate in the Healthcare Connect Fund;
- submit the FCC Form 461, Request for Services, on its behalf and prepare and post the request for proposal on its behalf for purposes of the Healthcare Connect Fund;
- submit the FCC Form 462, Funding Request, on its behalf, for purposes of the Healthcare Connect Fund;
- submit FCC Form 463, Invoice and Request for Disbursement, on its behalf, to manage invoicing and payments for purposes of the Healthcare Connect Fund; and
- submit any other necessary documentation required to obtain funding through the Healthcare Connect Fund.

This Letter of Agency is effective from the date of this letter to **[Insert End Date]**.

If the **[Name of Consortium]** changes its designated Consortium Leader for purposes of the FCC Healthcare Connect Fund, the LOA _____ may _____ may not (choose one) be assigned to the new Consortium Leader upon **[Insert number of days]** notice to the **[Health Care Provider Name]**.

[SELECT ONE CERTIFICATION OPTION BELOW. If there is *no formal written agreement* between the HCP and the Consortium Leader allocating specific administrative, legal or financial responsibilities to the Consortium Leader use Option One below in the template. If there is a *formal written agreement* between the HCP and the Consortium Leader allocating specific administrative, legal or financial responsibilities to the Consortium Leader use Option Two below in the template. By default, the Consortium Leader does not have authority to make certifications on behalf of the member HCPs.]

OPTION ONE

By this Letter of Agency, **[Health Care Provider Name]** authorizes **[Consortium Leader Name]** to make the certifications included in the FCC Forms 460, 461, 462 and 463 on behalf of **[Health Care Provider Name]**. Those certifications are:

- a) The person signing this Letter of Agency is authorized to submit this letter on behalf of the **[Health Care Provider Name]**.
- b) **[Health Care Provider Name]** is non-profit or public.
- c) 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.
- d) The applicant has followed any applicable state, Tribal, or local procurement rules.
- e) The supported connections, infrastructure and /or equipment associated with this request for funding will be used solely for purposes reasonably related to the provision of health care service or instruction, for which support is intended, and that the health care provider is legally authorized to provide under the law of the state in which the services were provided and will not be sold, resold, or transferred in consideration for money or any other thing of value.
- f) The applicant satisfies all of the requirements under section 254 of the Act and applicable Commission rules.
- g) The applicant has reviewed all applicable requirements for the program and will comply with those requirements.

- h) The health care provider has considered all bids received and selected the most cost-effective method of providing the requested services as defined in the FCC's rules and instructions.
- i) **[Health Care Provider Name]** is not requesting support for the same service from either the Telecommunications Program or Internet Access Fund and the Healthcare Connect Fund.
- j) The applicant understands that any letter from the Universal Service Administrative Company (USAC), the Administrator of the Healthcare Connect Fund, that erroneously commits funds for the benefit of the applicant may be subject to rescission.
- k) To the best of the applicant's knowledge, information and belief, the health care provider has received the network build-out or related services itemized on the submitted and the 35 percent minimum funding contribution for each item on the invoice was funded by eligible sources as defined in the FCC's rules and has been provided to the service provider.
- l) All documentation associated with the forms must be kept for a period of five years (including copies of the submitted Forms), including but not limited to,

For Form 461: any bids/contract resulting from the Form 461 posting, scoring sheet, and other information that was used in the decision-making process) from the last day of the funding year; and

For Form 462: all bids, contracts, scoring matrices, and other information associated with the competitive bidding process, and all billing records for services received.

OPTION TWO

By this Letter of Agency and the formal written agreement between **[Health Care Provider Name]** and **[Consortium Leader Name]**, **[Health Care Provider Name]** authorizes **[Consortium Leader Name]** to make the certifications included in FCC Forms 460, 461, 462 and 463, on behalf of **[Health Care Provider Name]**. Those certifications as applicable to **[Health Care Provider Name]** are:

- a) The person signing this Letter of Agency is authorized to submit this letter on behalf of the **[Health Care Provider Name]**.
- b) The supported connections, infrastructure and /or equipment associated with this request for funding will be used solely for purposes reasonably related to the provision of health care service or instruction, and that the health care provider is legally authorized to provide under the law of the

state in which the services were provided and will not be sold, resold, or transferred in consideration for money or any other thing of value.

- c) **[Health Care Provider Name]** is not requesting support for the same service from either the Telecommunications Program or Internet Access Program and the Healthcare Connect Fund.
- d) **[include any of certifications (b)-(d), (f)-(h), and/or (j)-(l) above, to the extent that the Consortium Leader is not already authorized by the formal written agreement to make these certifications]**

[Name of Health Care Provider]

Signature _____

Name

Title of Authorized Person

Address

Phone Number

Email Address

Date