

Important E-Rate Program Changes

CIPA Changes

Due to a recent amendment in the Children’s Internet Protection Act, E-Rate applicants must include in their Internet Safety Policy “educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms, cyberbullying awareness, and response.” Applicants should also be prepared to demonstrate that the policy is put into practice, perhaps with Internet safety lesson plans. This policy change should have been made before July 1, 2012

Technology Plan Requirements Relaxed

A technology plan is no longer required for Priority One funding requests. Since the vast majority of applicants are not able to receive Priority Two funding, few districts will need to have a tech plan in order to receive E-Rate funding. For those districts that do need a technology plan, a budget is no longer a required component. However, applicants who will be applying for Priority Two funding should be prepared to document that the new tech plan was written (not final, not approved) before the Form 470 is posted, and approved before the start of the funding year.

Funding Running Out, but Slowly

The E-Rate fund will now be indexed to inflation, but demand increases are far outpacing funding increases. For the 2012-2013 school year, the fund increased by 2%, while demand increased by 20%. Funding for Priority Two may run out as early as Funding Year 2013-2014. Priority One funding is safe for the next few years at least.

Telecommunications Melding with Internet Access

The Eligible Services List for 2013-2014 removed the distinction between Telecommunications Services and Internet Access, lumping all Priority One services into a single category. The FCC stated that applicants could put Priority One services under either category on the Form 470. However, applicants must still keep services in the right category on the Form 471 in order to comply with CIPA.

Federal Rules on Gifts Now Apply

The FCC reiterated many existing competitive bidding requirements, and added a new requirement: district personnel must comply with Federal regulations concerning gifts from

vendors. Federal rules allow employees to receive single items worth \$20 or less (meals, pencils, pens, hats, t-shirts, etc.) as long as those items do not exceed \$50 per year per employee from any one source.

More Difficult to Change Service Providers

It appears likely that districts who find a better deal on, for example, cell phone service will not be able to change providers until they have gone through a bid process and waited until the following school year. As the rule stands, districts will have to wait 5 – 16 months before they can switch service providers.

Until this year, it was a simple matter to change service providers in mid-year. Now the FCC is looking to tighten up the process in two ways. First, the FCC is tightening up the reasons that a school district can change service providers. Applicants must now have a “legitimate reason to change providers.” The only legitimate reasons given so far are bankruptcy and failure to deliver service. Second, when an applicant wants to change providers, they must select the provider that came in second in the original bid evaluation. No ruling has been given on how to proceed if there was only one bid.

Free Phones

This is a change that is still evolving. Since the beginning of the program, USAC has quietly allowed cell phone service providers to give free phones to applicants. In a December 2010 order, the FCC stated that free cell phones were allowable under certain conditions. A VoIP service provider then offer free desk phones with their service, arguing they met the FCC’s conditions. In January 2013, USAC began approving funding requests that included free phones. However, this matter is still under FCC review, so applicants should proceed with caution.

Unbundled Warranties No Longer Eligible

“Unbundled warranties,” such as Cisco SMARTnet and phone system service agreements, are no longer eligible for E-Rate funding, because applicants pay for the warranties, whether any service is actually required or not. Maintenance agreements which include a pool of hours (to be used as needed) are still eligible for those applicants which can receive Priority Two funding. Some annual support agreements (for example CiscoBase) are still eligible.

Dark Fiber is Eligible

Districts can now get E-Rate funding for leased dark fiber. The E-Rate will not pay for the build-out of dark fiber, but will pay for the build-out of lit fiber. Fiber, whether lit or dark, can be leased from non-telecommunications providers.

Equipment Disposal Rules Changes

Until this year, applicants were in a Catch-22: generally, state rules require schools to sell excess equipment rather than give it away, while E-Rate rules forbid the sale of equipment purchased with E-Rate funds, so schools were stuck with equipment they could not sell and could not give away. Now the rules allow schools to sell equipment after five years. As before, applicants can transfer equipment to other eligible entities after three years.

Community Use of School Internet Access Allowed

Schools are now free to provide after-school Internet access to the community. The primary purpose of any Internet access must be K-12 education, and community use must not increase the cost of the Internet access. Schools cannot charge for Internet use, though they can charge for computer use.

Changes on the Horizon

Lowest Corresponding Price

In the E-Rate regulations, there is a requirement that service providers give applicants the “Lowest Corresponding Price” (LCP) on all services provided under the E-Rate. The LCP requirement has not been enforced by USAC or the FCC, but some service providers have been successfully sued over their failure to comply. Over the last year, LCP has been getting increased attention from USAC and the FCC, but there still has not been any obvious enforcement.

New IT system coming at USAC

USAC has released a request for comment on an upgrade to their IT systems. To see what comments have been requested, search the Internet for SLITM. It is way too early to see what the new online tools will look like.