



E-Rate Funding—Guaranteed

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New E-Rate Gotchas

The FCC has recently made several changes that will cause school districts to lose funding. Here are the biggest pitfalls created by the new rules.

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.

New CIPA Regulations

The FCC has now implemented the changes to the Children’s Internet Protection Act. The big change is that by July 2012, all schools need to update Internet safety policies to “provide for the education of minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.” Boards should be sure to update the district’s Internet safety policy, which may mean an update to the district Technology Plan and the Acceptable Use Policy.

Unbundled Warranties No Longer Eligible

According to the order, “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.

Oldies but Baddies

Here are some rules which have been in the program for years, but which still trip up applicants.

Deadlines, Deadlines, Deadlines

By far the biggest cause of lost funding is missed deadlines. The application process requires at least 4 forms, each with its own deadline. The good news is that the FCC has been very lenient in granting waivers to applicants who miss deadlines. The bad news is that it often takes years for the waiver to be granted.

Documenting Competitive Bidding

The first part of the E-Rate application process is competitive bidding. The Form 470 acts as an RFP. Applicants must keep copies of all bids, winning and losing. In addition, applicants should document the selection process, even in cases where no bids were received.

Price the Primary Factor in Vendor Selection

In evaluating vendors, applicants do not have to choose the lowest-cost vendor. Applicants can use as many criteria as they want in the selection process. However, price must be more important than any other single factor. And, of course, the criteria and the scoring must be documented.

Tech Plan Timing

This is not a problem for school districts in NJ this year, since current plans cover 2010-2013, but it will be a concern this time next year. There are two issues with the timing of technology planning:

1. The tech plan must be written before the application process begins. That means that the tech plans covering 2013-2016 must be written (but not approved) by December 2012.
2. The tech plan must have state approval before July 1st. That means that the county board of education must approve district tech plans before July 1, 2013.

Moving Equipment

Equipment which is purchased through the E-Rate cannot be moved to another location for 3 years after installation, unless a school closes. Districts should be careful not to swap equipment between locations.

Tracking Equipment

A district must have an inventory of equipment purchased with E-Rate funding which shows the location, make, model and serial number of each piece of equipment, and allows auditors to tie the piece of equipment to a purchase order.

Other Recent Changes

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.

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.

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.

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 to the Forms

There are a few changes to the forms in the program, which should make them a little easier to fill out. The changes to the forms are important because implementing the changes will likely delay the opening of the filing windows, perhaps until January.

Funding Cap Indexed to Inflation

The E-Rate fund has been capped at \$2.25 billion since its inception, but will now be indexed to inflation. For the 2010-2011 school year, the fund has been increased to just over \$2.27 billion.