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E-rate Program

6th Report and Order

Fall 2010 Applicant Trainings

Washington, DC I Newark I Minneapolis I Los Angeles I Kansas City I Jacksonville I Portland I Dallas/Fort Worth

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6th Report and Order

Overview

What's Included?

- Leased dark fiber now eligible
- Makes permanent community use
- Services to certain residential schools are eligible
- Indexes funding cap to inflation
- Pilot program for schools providing offsite wireless access
- Technology plans only for P2
- More on competitive bidding, including gifts
- Disposal of equipment and SPIN changes

6th Report and Order

Improving Broadband Access for All

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Dark Fiber

- Lease of fiber, lit or dark, is eligible in Telecom or Internet Access from any provider (dark fiber must be lit immediately)
- Providers can be telcos; state, regional or local networks; or private networks
- Cannot purchase excess capacity for future growth
- Maintenance of leased dark fiber is eligible
- Installation costs within the property line are eligible
- Modulating electronics for leased dark fiber are not eligible

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Dark Fiber Construction

- Up-front construction costs:
  - Construction on school or library property is eligible
  - Construction beyond the property line is ineligible

Access to Broadband

Who can provide fiber?

- Any provider can provide telecommunications over fiber
  - Includes voice phone service, distance learning, etc.
  - Includes providers such as state and regional networks, utility companies, and private companies

Access to Broadband

Applying for fiber

- On Form 470, post for fiber and fiber-based services in both Internet Access and Telecom Services to maximize your pool of providers
- On Form 471, file in Telecom Services if the provider is a telecommunications carrier or Internet Access for all other providers
- CIPA reminder:
  - CIPA compliance is required if selecting services in Telecom Services when used to obtain Internet service or access to the Internet

Access to Broadband

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Selecting Broadband

- Applicants can access broadband through a variety of means
- When comparing competing bids with different solutions, you should do an "apples to apples" comparison
- Total cost for leased dark fiber involves a number of additional costs beyond the lease payments for fiber connectivity, and those costs should be factored into a total-cost comparison across bids.

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Community Use of Schools' E-rated Services

- Waiver for FY 2010 is now permanent
- When schools are not in session, schools may open their facilities to the general public to use E-rate supported services on the school's campus.
- Schools decide whether or not to provide such access
- Service must primarily be for educational purposes
- Schools cannot purchase additional services to support community use
  - Use must be incidental and not increase E-rate costs

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Community Use of Schools' E-rated Services

- Community use is limited to non-operating hours and only on campus
  - School personnel and students must have priority
- Schools may not charge for use of services or facilities purchased through E-rate though they may charge a fee to offset ineligible costs (e.g. security, additional electricity, etc.)

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Funding for Certain Residential Facilities

- Residential schools that service populations facing unique challenges can receive support for service in residential areas (dormitories) of their schools.
- Eligible populations include:
  - Schools on Tribal lands
  - Children with physical, cognitive and behavioral disabilities, and those with medical needs
  - Juvenile Justice schools, where eligible
  - Schools with 35% or more students eligible for NSLP
- Schools can be public or private

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Indexing the Funding Cap to Inflation

- Funding has been capped at $2.25B since 1999
- Starting with FY 2010, the cap will be increased based on the Dept of Commerce Gross Domestic Product numbers.
- Cap will not decrease in event of deflation
- FCC will announce the increase annually
- For FY 2010, inflation is deemed 0.9%
- New cap for FY 2010: $2,270,250,000
- This increase is *in addition to* any rollover funds

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E-rate Deployed Ubiquitously (EDU) 2011 Pilot Program

- Pilot allows up to $10M in FY 2011 to support innovative and interactive off-premise wireless device connectivity for schools and libraries.
- FCC will use the pilot to gather more information about issues affecting such use to determine whether such services should permanently be eligible for E-rate support.
- FCC will require data reporting by those selected
- Strong preference given to those who have implemented or in the process of implementing such programs

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EDU2011 – How to Apply

- Two-step application process.
  - FCC will publish due dates for first part of application process in a Public Notice
  - Applicants will then submit detailed information about their programs directly to the FCC
  - Applicants must then also apply for E-rate following the regular E-rate rules and timeframes.
  - File for additional services on separate Form 471
  - Add "EDU2011" to your form identifier

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EDU 2011 – How to Apply

- Rules:
  - Competitive bidding rules for applicants who already have legally binding agreements with existing providers for these services are waived.
  - Other rules may be waived to the extent necessary to run the program
  - CIPA continues to apply

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EDU 2011 – How to Apply

- Application must contain:
    - Description of current program
    - All costs associated with the program
    - Technology Plans
    - Explanation of CIPA compliance
    - Internal policies and procedures for Acceptable Use
    - Curriculum objectives
    - Student performance data collected on effectiveness

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EDU 2011 – Selection and Award

- FCC will select winners and will notify USAC.
- These applicants will not be required to cost-allocate Internet Access provided off-site
- Applicants must still pay non-discounted share

Slide 1

6th Report and Order

Streamlining and Simplifying

Slide 2

Streamlining & Simplifying

Technology Plans

- New requirements apply for FY 2011 and beyond
- No longer required for:
  - Priority One (Telecom and Internet Access)
- Still required for:
  - Priority Two services (internal connections and Basic Maintenance of Internal Connections)
- Beware of potential bucket switches
  - P1 on-premise equipment moved to Internal Connections

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Streamlining & Simplifying

Technology Plan Timing

- Who needs a written plan prior to the Form 470 posting?
  - Applicants citing their own Form 470:
    - If P2 services are all included in current tech plan, and the plan covers at least part of the upcoming funding year, then a new tech plan not needed prior to posting
    - If new P2 services requested are not in tech plan, then must have a written plan prior to posting
  - Applicants citing a State-filed Form 470:
    - Not needed prior to posting of state-filed Form 470

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Streamlining & Simplifying

Technology Plan Timing

- Technology Plan Approval – no change
  - All applicants requesting Priority 2 services, must have an approved plan that covers at least part of the upcoming funding year prior to the start of service, or the filing of the Form 486, whichever comes first.

Streamlining & Simplifying

Technology Plan

- Four Required Elements
  - Applicants no longer have to include a section on budget
  - This information is covered by certification on necessary resources ("I certify that the entities I represent or the entities listed on this application have secured access to all of the resources to pay the discounted charges …")

Streamlining & Simplifying

Competitive Bidding Process

- Form 470
  - All must continue to use the Form 470 process
  - New, streamlined Form 470 will be available for use for FY 2011
    - New form currently awaiting OMB approval
    - Applicants that file Forms 470 **prior** to effective date do **not** need to refile
    - Applicants that file Form 470 **after** the effective date **MUST** use the new form

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Streamlining & Simplifying

Disposal of Equipment

- Disposal or resale is permitted *no sooner than* five years after installation date
- Applicants may receive payment or other consideration in return for disposal
- Applicants are not required to use equipment for five years, nor are they required to dispose of equipment after five years.
- No notification to USAC is needed, but update your asset registers
- This does not change the requirement to report transfers of equipment made less than three years from purchase

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Streamlining & Simplifying

Fair and Open Competitive Bidding Rule

- New Order codifies that competitive bidding process must be fair and open.
  - All potential bidders must have access to the same information and must be treated in the same manner throughout the procurement process
  - Additions or modifications to the Form 470/RFP must be made available at the same time and in a uniform manner to all potential bidders

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Streamlining & Simplifying

Fair and Open Competitive Bidding Rule

- Rule violations include (but are not limited to):
  - Applicant has relationship with the service provider that unfairly influences the outcome of the competition or provides them with "inside" information
  - Someone other than the applicant (or their representative) prepares, signs and submits the Form 470
  - Service provider is listed as the contact on the Form 470 and the provider is allowed to bid

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Streamlining & Simplifying

Fair and Open Competitive Bidding Rule

- Rule violations include (but are not limited to):
  - Service Provider prepares applicants' Form 470 or participates in the bid evaluation or vendor selection process in any way
  - Applicant turns over the competitive bidding process to a service provider
  - Applicant employee with a role in the selection process has an ownership interest in a vendor seeking to provide the services

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Streamlining & Simplifying

Fair and Open Competitive Bidding Rule

- Rule violations include (but are not limited to):
  - Applicant does not describe the desired products and services with sufficient specificity to enable interested parties to bid.
  - List is not exhaustive and are meant as examples

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Streamlining & Simplifying

Fair and Open Competitive Bidding Rule

- Gifts
  - Receipt of gifts by applicants from service providers and potential service providers is a competitive bidding violation.
  - Must follow the stricter of state/local or FCC rules
  - Applies per funding year
  - Exceptions mirror Federal Government regulations
    - Modest refreshments not offered as part of a meal (eg coffee and donuts at a meeting) are OK
    - Items with little or no intrinsic value such as certificates and plaques are OK

Streamlining & Simplifying

Fair and Open Competitive Bidding Rule

- Gifts
  - Exceptions:
    - Items worth $20 or less (meals, pencils, pens, hats, t-shirts etc) as long as those items do not exceed $50 per funding year per employee from any one source (service provider) are OK.
    - This means all gifts from all employees, officers, representatives, agents, independent contractors, or directors of the service provider.

Streamlining & Simplifying

Fair and Open Competitive Bidding Rule

- Gifts
  - Gift prohibitions are always applicable, not just during the competitive bidding process
  - Prohibition includes soliciting and receiving any gift or other thing of value from a service provider participating in or seeking to participate in the E-rate program.
  - Service providers may not offer or provide any gifts to applicant personnel involved in E-rate

Streamlining & Simplifying

Fair and Open Competitive Bidding Rule

- Gifts
  - Gifts to family and friends when those gifts are made using personal funds of the donor (without reimbursement from the employer) and are not related to a business transaction or business relationship are also exempt.
  - Gift rules are not intended to discourage companies from making charitable contributions to schools, as long as those contributions are NOT directly or indirectly related to an E-rate related procurement.

Simplifying and Streamlining

Gift Examples

Gifts OK	Gifts NOT OK
Coffee and donuts at a presentation	Meal at presentation over $20
Door Prize: Ball cap worth $20 or less	Door Prize: $30 gift card
Certificate or plaque presented at conference	Gold watch given as thank you gift
	Travel, food or lodging at conference, even if you are speaking on behalf of the provider
Pens handed out a conference worth $20 or less	Conference giveaways: any item exceeding $20 in value (eg briefcase)
Holiday present to sibling, not reimbursed by company, paid with own funds	Customer Appreciation meal/gift exceeding $20

Simplifying and Streamlining

Gift Examples

Gifts OK	Gifts NOT OK
Joe Applicant get $18 lunch from Larry, the Cable Guy. No other meals or gifts during the funding year from anyone employed by, or representing, the Cable Company. No Rule Violation = Total gift below $20 and $50 threshold.	Joe Applicant get $12 lunch from Larry, the Cable Guy three times during the funding year. (Total: $36 total). Larry's boss, takes Joe to lunch for $18. (Total from Cable Company: $54). Rule violation = exceeded $50 threshold
Jane Applicant wins mousepad at a conference from Internet R Us. (Value = $8) Jane Applicant also receives $15 box of chocolates from Internet R Us. No Rule Violation = Both below $20 and did not exceed $50 threshold.	Jane Applicant wins a wireless mouse and mousepad at a conference from Internet R Us. (Value = $24 +$8) Rule violation: One gift exceeded $20 threshold.

Simplifying and Streamlining

Gift Examples

Gifts OK	Gifts NOT OK
Joe Applicant attends a conference and picks up a free ballpoint pen and stress ball from a company he's never heard of. No further gifts are given. No Rule Violation = Total gift below $20 and $50 threshold.	Joe Applicant is invited to a customer appreciation lunch at a seminar. Meal value = $22 Rule violation = exceeded $20 threshold
Jane Applicant received a bag of peaches in the summer from a provider. Value of peaches = $10 No other gifts are given by anyone from that company for the rest of the funding year. No Rule Violation = Below $20 and did not exceed $50 threshold.	Jane Applicant is invited to speak at a conference regarding services she gets from a provider. The provider offers to pick up travel costs. Rule violation: Total gift exceeded $20 threshold.

Streamlining & Simplifying

SPIN Changes

- Pre-commitment SPIN changes
  - Corrective SPIN changes only (ie. data entry errors)
- Post-commitment SPIN changes
  - Operational SPIN changes
    - Must have legitimate reason to change, such as Breach of Contract or provider unable to perform

      and
    - Must select provider with next highest point value in evaluation

Eligible Services List

Eligible Services

- Order adopts the FY 2011 Eligible Services List
- Priority 1
  - Leased dark fiber is eligible as described above
  - Telecommunications now two categories on ESL
    - "Telecommunications Services" can only be provided by an eligible telecommunications carrier
    - "Telecommunications" can be provided by a non-telecommunications carrier via **fiber** in whole or in part

Eligible Services List

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Eligible Services

- Web hosting
  - Remains eligible
  - Allows additional functionality of discussion boards, instant messaging and chat
  - Content remains ineligible, including searching of databases such as gradebooks, encyclopedias etc.
  - Support for applications necessary to run online classes or collaborative meetings is also ineligible

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Eligible Services List

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Ineligible Services

- Wireless Internet Access Applications
  - Remain ineligible
  - Wireless Internet Access service and data charges for a service that is solely dedicated to access an ineligible functionality is also ineligible
    - For example, cellular data circuits used to support GPSs on busses or student attendance are fully ineligible

Eligible Services List

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Ineligible Services

- Enhanced Firewalls, Intrusion Detection and Prevention Devices and Anti-Virus and Anti-Spam software
  - All fully ineligible
  - Basic firewalls that are bundled with Internet access remain eligible

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Eligible Services List

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Ineligible Services

- Unbundled Warranties
  - Separately priced warranties allows for broken equipment to be fixed or replaced are ineligible.
  - This is a type of retainer and not actual maintenance service performed.
  - Funding requests for routine maintenance will continue to be funded.

Eligible Services List

Ineligible Services

- Unbundled Warranties
  - Applicants that can estimate number of maintenance hours per year for their equipment, based on current life of equipment and history of needed repairs, can seek funding for upfront costs on service contract designed to cover this estimate and upkeep.
  - Reimbursement will be paid on actual worked performed and hours used only.

Eligible Services List

Ineligible Services

- Unbundled Warranties
  - For example, school determines they need 30 hours of maintenance for a router but only use 20
    - USAC will reimburse for 20 hours only
  - Manufacturers warranties of no more than three years and included in the equipment purchase are eligible.
- Scheduling services are ineligible
- Online backup solutions are ineligible

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Administrative Changes for the ESL

- The complete list of services and products eligible for E-rate support will only be listed in the ESL from now on, and not elsewhere in the rules.
- USAC will submit the ESL to the Commission by March 30 of each year
- ESL can be released through Public Notice or Order
  - Stakeholders will continue to be able to provide comment on future ESLs.

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Questions?

Thank you!