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Schools and Libraries News Brief

October 1, 2010

TIP OF THE WEEK: If you are filing a program form on paper, please do not staple the pages together. Paper clips, rubber bands, or binder clips work just as well and do not interfere with the scanning process by causing pages to stick together.

Commitments for Funding Years 2010 and 2009

Funding Year 2010. USAC will release FY2010 Wave 20 Funding Commitment Decision Letters (FCDLs) October 6. This wave will include commitments for approved Priority 2 (Internal Connections and Basic Maintenance) requests at 85% and above. As of October 1, FY2010 commitments total just under $1.34 billion.

Funding Year 2009. USAC will release FY2009 Wave 69 FCDLs October 6. This wave will include commitments for approved Priority 2 requests at 77% and above and denials at 76% and below. As of October 1, FY2009 commitments total over $2.77 billion.

On the day the FCDLs are mailed, you can check to see if you have a commitment by using USAC's Automated Search of Commitments tool.

SERVICE PROVIDERS: Special Training Sessions for FY2010

USAC will hold two service provider training sessions this fall. These 1/2-day trainings will provide information to service providers about the Sixth Report and Order (FCC 10-175) released on September 28.

Following are the dates and locations for these training sessions. Note that there is not a conference room rate at the hotel, so attendees can make their own arrangements. The training sessions will start at 1:00 pm and finish by 4:30 pm.

November 4, 2010 – Renaissance Concourse Atlanta Airport Hotel

- Atlanta, Georgia

November 9, 2010 – Albuquerque Marriott

- Albuquerque, New Mexico

Online registration for both training sessions is available on the fall 2010 training sessions page on the USAC website.

FCC Releases Sixth Report and Order

On September 28, the FCC issued the Sixth Report and Order (FCC 10-175). The FY2011 Eligible Services List is contained in the order as Attachment B.

Following are the highlights of the order:

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.
- Modulating equipment for leased dark fiber, leased or purchased, is not eligible.
- Maintenance of dark fiber is eligible.
- Installation costs are eligible.

- Up-front construction costs: Construction on school or library property is eligible. Construction beyond the property line is ineligible.
- 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.
- Post for dark fiber in both Telecommunications Services and Internet Access categories on the Form 470 to maximize the pool of providers.

Community Use of Schools' E-rated Services

- Waiver for FY2010 is now permanent.
- After school hours, schools may open their facilities to the general public to use E-rate supported services.
- 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.
- 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.)

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.
- Populations include: Tribal children, children with physical, cognitive, or behavioral disabilities, schools with 35% or more of their students eligible for NSLP, and juvenile justice schools, where eligible.
- Schools can be public or private.
- All categories of service are eligible.

Indexing the Funding Cap to Inflation

- Funding has been capped at $2.25B since 1999.
- Starting with FY2010, 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 FY2010, inflation is deemed 0.9%. New cap for FY2010: $2,270,250,000.
- This increase is in addition to any rollover funds.

E-rate Deployed Ubiquitously (EDU) 2011 Pilot Program

- Pilot allows $10M in FY2011 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 which can later be used for permanent rules.
- FCC expects data reporting by those selected.
- Strong preference given to those already implementing such programs.

Technology Plans

- New requirements apply for FY2011 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.
- Applicants citing their own Form 470: If P2 services are all included in the current technology plan, and the plan covers at least part of the upcoming funding year, then a new technology plan is not needed prior to posting. If new P2 services requested are not in the technology plan, then the applicant 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.
- 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.
- Four required elements: Applicants no longer have to include a section on budget.

Competitive Bidding Process

- Order codifies that the 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.

Competitive Bidding Process Rule Violations Include (But Are Not Limited To):

- Applicant has a relationship with the service provider that unfairly influences the outcome of the competition or provides the service provider with "inside" information.
- Someone other than the applicant (or its 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.
- Service provider prepares applicant's 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.
- Applicant does not describe the desired products and services with sufficient specificity to enable interested parties to bid.
- This list is not exhaustive – these entries are meant as examples.

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.
- Exceptions mirror Federal Government regulations. 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 (service provider) are OK. This means all gifts from all employees, officers, representatives, agents, independent contractors, or directors of the service provider.
- 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.

SPIN Changes

- Pre-commitment SPIN changes: Corrective SPIN changes only (i.e., 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 the next highest point value in evaluation.

Eligible Services

- Priority 1: Dark Fiber is eligible as described above.
- Telecommunications is now two categories on the ESL. "Telecommunications Services" can only be provided by an eligible telecommunications carrier, and "Telecommunications" can be provided by a non-telecommunications carrier via fiber in whole or in part.
- 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.

- 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 are also ineligible.
- 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.
- 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.

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 after purchase.

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