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September 21, 2012

TIP OF THE WEEK: Remember that [service delivery deadline extension requests](#) for non-recurring services must be received or postmarked by the last day to receive service. For FY2011 non-recurring services that have not already received extensions, this deadline is September 30, 2012.

Commitments for Funding Years 2012, 2011, and 2010

Funding Year 2012. USAC will release FY2012 Wave 12 Funding Commitment Decision Letters (FCDLs) September 25. This wave includes commitments for approved Priority 2 (Internal Connections and Basic Maintenance) requests at 90% and denials at 89% and below. As of September 21, FY2012 commitments total over \$1.14 billion.

Funding Year 2011. USAC will release FY2011 Wave 62 FCDLs September 26. This wave includes commitments for approved Priority 2 requests at 88% and above and denials at 87% and below. As of September 21, FY2011 commitments total over \$2.36 billion.

Funding Year 2010. USAC will release FY2010 Wave 101 FCDLs September 24. This wave can include commitments for approved Priority 2 requests at all discount levels. As of September 21, FY2010 commitments total over \$3.06 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.

Fall Training Update

All eight applicant training sessions are either closed or have started waiting lists. If you registered for more than one session, please cancel any registration you will not be using to open a space for someone from the waiting list for that session.

Remember also that you must make a room reservation if you want to stay at the conference hotel. The table below shows the last day to make a reservation at the negotiated conference room rate. Rooms may not be available – or may be more expensive – if you try to make a reservation after these dates.

City	Conference Hotel	Reservation Deadline
Washington DC	Renaissance Arlington Capital View	CLOSED*
Dallas TX	Sheraton DFW Airport Hotel	CLOSED*
St. Louis MO	Renaissance St. Louis Airport Hotel	September 24
Atlanta GA	Renaissance Concourse Atlanta Airport Hotel	September 26
Newark NJ	Newark Liberty International Airport Marriott	September 28
Minneapolis MN	Hilton Minneapolis/St. Paul Airport Mall of America	October 1
Portland OR	Hilton Portland & Executive Tower	September 28
Los Angeles CA	Sheraton Gateway Los Angeles Hotel	October 16

*New reservations will be processed based on availability and may not be at the negotiated rate.

If you have questions or wish to cancel your reservation, please [email USAC](#).

Lowest Corresponding Price

Lowest corresponding price (LCP) is defined as the lowest price that a service provider charges to non-residential customers who are similarly situated to a particular E-rate applicant (school, library, or

consortium) for similar services. See 47 CFR § 54.500(f).

- A similarly situated E-rate applicant is one that is located in the service provider's geographic service area, i.e., the area in which the service provider is seeking to serve customers with any of its E-rate services. See *Report and Order*, 12 FCC Rcd 8776, 9032 ¶ 486.
- Similar services include those provided under contract as well as those provided under tariff. *Report and Order*, 12 FCC Rcd 8776, 9032 ¶ 485. See also *Fourth Order on Reconsideration*, Report and Order 13 FCC Rcd 5318, 5398 ¶ 133).

Service providers cannot charge E-rate applicants a price above the LCP for E-rate services. See 47 CFR § 54.511(b).

This ensures that:

- service providers do not charge E-rate applicants more than they would charge their other non-E-rate services customers for the same services. See *Report and Order*, 12 FCC Rcd 8776, 9031-32 ¶ 484.
- any lack of experience in negotiating in a service market does not prevent E-rate applicants from receiving competitive prices. *Report and Order*, 12 FCC Rcd 8776, 9031 ¶ 484.

A service provider – regardless of the size of the company or the category of service provided – must ensure that the LCP is provided to E-rate applicants. The applicant is not obligated to ask for it, but must receive it. See *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 87, 383 ¶ 540.

Moreover, service providers cannot avoid the obligation to offer the LCP by arguing that none of their non-residential customers are identically situated to an E-rate applicant or that none of their service contracts cover services identical to those sought by an E-rate applicant. See *Federal Joint Board on Universal Service*, 12 FCC Rcd 8776, 9033 ¶ 488.

The service provider's obligation to provide the LCP is not tied to a response to an FCC Form 470 or Request for Proposals (RFP). The service provider must actually charge a rate that is the LCP, not just offer the LCP in a bid response. See 47 CFR § 54.511; 47 CFR § 54.500(f).

- A service provider should be aware that a customer participates in E-rate for several reasons, including the fact that a service provider receives a copy of the FCC Form 471 Receipt Acknowledgment Letter (RAL) and the Funding Commitment Decision Letter (FCDL). However, if a service provider does not know that a customer participates in E-rate and therefore does not charge the LCP rate, the service provider must actually charge the LCP once it realizes that the customer participates in E-rate. See 47 CFR § 54.511; 47 CFR § 54.500(f).

An E-rate applicant may request lower rates if the rate offered by the service provider does not represent the LCP. See 47 CFR § 54.504(c)(1).

Service providers may request higher rates from the Commission if they can show that the lowest corresponding price is not compensatory. See 47 CFR § 54.504(c)(2). This may occur when the service provider can show that it faces demonstrably and significantly higher costs to serve the E-rate applicant seeking service. Factors that could affect the cost of service include – but are not limited to – volume, mileage from facility, and length of contract. *Report and Order*, 12 FCC Rcd 8776, 9033 ¶ 488.

In addition, please note that:

- There is a rebuttable presumption that rates offered within the previous three years are still compensatory. *Report and Order*, 12 FCC Rcd 8776, 9034 ¶ 489; *Fourth Order on Reconsideration*, 13 FCC Rcd 5318, 5398 ¶ 133.
- Promotional rates offered by a service provider for a period of more than 90 days must be included among the comparable rates upon which the LCP is determined. 47 CFR § 54.511.

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