E-Rate Funding—Guaranteed

E-Rate Update

Dan Riordan

President

On-Tech Consulting, Inc.

dan@on-tech.com

Introduction

On-Tech is a technology consulting firm focused on managing the E-Rate process for schools and libraries. We provide a full range of E-Rate services for applicants, including: handling the entire application process; consulting on construction projects to ensure maximum E-Rate funding; and reviewing proposals to ensure E-Rate compliance. In addition, On-Tech obtains E-Rate funding for school construction projects.

On-Tech is not associated with any service provider.

Dan Riordan has been involved with the E-Rate since 1997, when he was trained by the New Jersey Department of Education to offer assistance to districts in completing the application. Since then, he has worked on the E-Rate as a trainer, a district technology coordinator, and now a consultant.

Upcoming Training Announced

The SLD has announced the schedule of trainings for 2006. There will be a training in Washington, DC on September 7-8, 2006. Sign up soon; these sessions filled up quickly last year. For more information and to register, go to:

www.universalservice.org/sl/about/training-presentations/training-2006/

Changes in the Eligible Services List

The FCC and the SLD continue to make changes to the eligibility of services and equipment. The most important changes since 2004 are listed below.

Eligible in 2004 onward

Educational Purpose (Phones for Secretaries and Bus Drivers)

The FCC has loosened the rule concerning "educational purpose." The new rule states "reasonable requests for any supported service – over any technology platform – to be used by any school or library staff while in a library, classroom, or on school or library property, shall be eligible for discounts." For example, phone service to administrative buildings and cell phones used by bus drivers are now eligible, even if the drivers are actually employees of an outside contractor.

Voice Mail

Voice mail services and equipment are eligible for discount.

Firewalls

All districts can receive funding for firewall service as part of Internet access. Districts eligible for Priority Two ("internal connections") funding can receive funding for the purchase of firewall equipment and software.

Web Hosting

Districts can now receive funding for external hosting of their Web sites. Note that charges for content creation and management are still ineligible.

Alarm Lines

Telephone lines used to connect alarm systems are now eligible. Alarm services are not eligible.

Ineligible in 2004 onward

VoIP (Voice over IP)

The FCC is in the third year of a year-long investigation into the status of "IP-enabled telecommunications," and until the status is clarified, it has been declared ineligible as a telecommunications service. However, VoIP equipment continues to be eligible for districts which receive Priority Two funding. Also, service provider use of IP within their network is eligible, as long as the connection from the client is over a traditional voice circuit.

Dark Fiber

Districts cannot receive discounts on the lease of "dark fiber," which is fiber optic cable without modulating electronics. If the district also leases the devices to "light" the fiber, it is eligible for discount. However, only lit fiber provided by "eligible telecommunications providers" is eligible for discount. To determine if your vendor is an eligible telecommunications provider, use the SPIN Search tool on the SLD Web site to locate the information on your vendor. In the table that appears, there is a column for "Elig Telecom Provider," which shows whether a vendor is eligible.

Eligible 2005 Onward

Proxy Servers

Proxy servers became eligible. Caching remains ineligible, but proxies which cache are eligible as long as the caching meets the criteria for "ancillary use."

Basic Maintenance

Basic maintenance of eligible internal connections was eligible in the past under "technical services," but the definition and limits on eligibility were changed to match the FCC's Third Report and Order. In the proposed 2006-2007 Eligible Services List, Basic Maintenance has been moved to its own section.

Eligible 2006 Onward

VPNs

The new proposed list would make VPN equipment and services eligible for funding under the Internet Access category. It is unclear what use of a VPN would be eligible. The SLD Web site (www.sl.universalservice.org/whatsnew/2005/022005.asp#021505) says, "Funding in [the Internet Access] category will not be provided for transport of point-to-point connectivity of

data, video, or voice applications that are to be provided only by eligible telecommunications carriers," so point-to-point VPNs seem to be ineligible. Remote access from ineligible locations is not eligible. Perhaps allowing users at eligible locations to access the network using VPN client software would be eligible, though the applicant would have to ensure that those clients could not use the VPN from ineligible locations.

Ineligible 2006 Onward

Mobile Internet Access
The list states that cell phone use at ineligible locations is still eligible in some cases (bus drivers, teachers on field trips), but that Internet access using mobile devices is not eligible unless the applicant can show that the access is from within eligible locations.

Redundancy
The new Eligible Services List further clarifies the prohibition against duplicative services and redundant equipment. No redundancy is allowed (except redundant power supplies), even where necessary to ensure reliable operation. Think "load balancing."

Changes in the Application Forms

Form 470
A new Form 470 was released for the 2005-2006 and subsequent program years. The significant changes on the new form are listed below. If you are filing a paper 470, make sure it is dated October 2004.

Services Must Be Described
In earlier versions of the Form 470, if an applicant who indicated on the 470 that s/he had an RFP, no description of the services sought was entered on the 470. Now the 470 must describe the services sought, whether an RFP is sought or not.

Invoicing Preference
The 470 now allows you to express a preference for discounts or reimbursements. Your choice on this form is not binding.

New Certifications
The new form has more certifications, to reflect the increase in rules governing the program.

Ms. Smith Has Left the Building
The mailing address for the form has changed. Forms will no longer be addressed to Ms. Smith.

Form 471

A new Form 471 was released for the 2005-2006 and subsequent program years. The significant changes on the new form are listed below. If you are filing a paper 471, make sure it is dated October 2004.

Impact of Services Blocks Changed (Blocks 2 and 3)

The tables for collecting information on the impact of E-Rate services have been modified.

Description of Service (Block 5)

The description of service now includes items for:

1. Duplicative services: If you are making a request only because you are still waiting for a funding commitment on a request from the previous year, you can indicate so.

2. Basic Maintenance was added as a category of service.

3. There are now items to clarify if a request is for tariff/month-to-month service, is under a master contract, or is a continuation of an existing contract.

New Certifications

The new form has more certifications, to reflect the increase in rules governing the program.

Budget Numbers Required

As part of the Item 25 certifications, applicants must now enter the amount they have budgeted for the applicant share and for ineligible-but-required items like training, end user equipment and electricity. Note that at the 2004 training, SLD representatives confirmed that no funding would be denied based on these numbers. However, applicants whose numbers are unusually high or low should expect increased scrutiny.

Authorized Person Must Show Employer

The person signing the form must now indicate their employer. Consultants should indicate the name of their company, not the applicant organization.

Ms. Smith Doesn't Want Your Form 471, Either

The mailing address for the form has changed. Forms will no longer be addressed to Ms. Smith.

Changes in USAC Policy and Practice

The following changes are changes that the SLD has made in the application process.

Published Changes

Cost Effectiveness Review

The SLD has added a new review to the Program Integrity Assurance application review process. It seems to apply only to Basic Maintenance funding requests. The review seeks to determine if the selected bid for a funding request is "cost-effective," that is, in line with the market price of

similar services. For funding requests that undergo this review, applicants will be asked to supply details on the equipment maintained and the type of service provided.

Extended Outreach Site Visits

Billed as a way of reaching out to applicants to spread best practices and success stories, these visits are mini-audits. Each year, 1,000 invoices are selected at random, and the applicant will be visited. The visit will focus on that one invoice and the services it funds. The auditor does indeed collect information on how the service is impacting education, and does seek feedback on the program, but also checks compliance with the competitive bidding requirements, etc. The most interesting finding in the first report from the site visits: fear. Applicants are unusually fearful about breaking program rules.

Consortium LOAs Must Include Specific Services

At the recent training in Washington, the SLD said that LOAs cannot grant authority for "E-Rate eligible services." The services covered by the LOA must be specified.

Block 4 Bulk Upload

Applicants can now upload Block 4 information rather than typing it in manually. This feature will simplify the Block 4 entry process for applicants with many locations, especially consortia.

Online Item 21 Attachments

The SLD released an online Item 21 Attachment tool. The tool is reasonably easy to use, and the SLD has said that applicants who use the tool can expect their applications to pass through application review more quickly.

PINs for All

If you have certified a Form 470, 471 or 486 in the past, you should have received a PIN from the SLD. This PIN allows you to certify forms online, without the need to print and sign the certification page. In the past, there was a cumbersome request process, but now the SLD will "push" PINs out to everyone who has certified a form.

Unwritten Changes

The changes listed below cannot be substantiated, as they are part of SLD's "internal controls," the secret rules that determine how applications are handled.

"Installation" Detail Required

Starting in February 2006, the SLD has been requesting an increased amount of detail on one-time charges for Wide Area Networks. It seems to be pursuit of On-Premise Priority One Equipment. Applicants are now being asked to supply a list of the equipment covered by the installation charges.

FCCRNs Not Necessary for All Buildings

The FCC said in the Fifth Report and Order that all entities must have FCC Registration Numbers, and the SLD immediately published guidance that all entities must have FCCRNs. But some time between February and May, the SLD realized that the FCC probably doesn't

consider each building to be an entity, and that really only one FCCRN per district (or library system) was necessary. The SLD now requests only one FCCRN per district, not per location.

"Wide Area Network" Is a Red Flag

Last year, PIA reviewers' scripts seemed to call for an increased level of scrutiny for any Item 21 Attachments which mentioned "Wide Area Networks." Requests for digital lines to connect networks were not scrutinized unless they mentioned "WAN" or "Wide Area Network."

Increased Scrutiny of Invoices

USAC has increased the use of invoice review as another opportunity to ensure eligibility of services and equipment. Internal connections invoices in particular are being scrutinized, and applicants should expect to receive a request for a "service certification" for all invoices for equipment. A "service certification" is a fax listing the equipment, signed by the applicant, and accompanied by the invoice which the applicant paid.

Non-Instructional Facilities

The SLD has settled on criteria for eligibility of non-instructional facilities (NIFs), and is asking a series of questions of any applicant with a NIF. It seems clear from the questions that funding will only be approved for facilities which are:
1. owned or leased by the district,
2. used only by district personnel, and
3. used only for district purposes.

Recent FCC Decisions

The FCC changes the rules in two ways: "Report & Order" documents and appeal decisions. When the FCC plans to make changes to the program, it releases a "Notice of Proposed Rulemaking" (NPRM) requesting public comment, then releases a "Report and Order." There have been five of these major orders. The FCC has also made changes and clarifications through orders released in response to appeals from applicants and service providers. For a summary of significant FCC orders, see

www.on-tech.com/erate/FCC/index.html

Outstanding NPRM

In June 2005, the FCC released a wide-ranging Notice of Proposed Rulemaking, requesting comment on almost all aspects of the program. This NPRM included proposals for drastic changes in the program. The comment period has closed, so the FCC could produce rulings at any time. It seems unlikely that any changes will come soon, though it is possible that major changes could be made in time for the 2007-2008 application cycle.

Kinder, Gentler FCC

In recent months, the FCC has shown pity on applicants which made errors on the application, and been willing to bend the rules. Applicants have been forgiven for putting the wrong date on a 486, not having a signed contract before submitting a 471, and for submitting a 471 late because a key staff member was called up for military service. However, these are one-time

waivers; the FCC is holding off on making rule changes until decisions have been made on the major reforms proposed in the NPRM above.

The "2 in 5" Rule

The FCC has recognized that applicants with high discounts have been consuming Priority Two funding disproportionately. In order to "spread the wealth," the FCC has declared that beginning in 2005-2006, with the exception of maintenance, applicants can only apply for Priority Two funding twice in a five year period.

30% Rule Limited

The FCC has clarified that the 30% Rule only applies to applications where 30% of the request is for ineligible services, and cannot be used to deny funding requests where 30% of the request is unsubstantiated. If you request funding based on $200 per month for 5 phone lines, and it is determined that 2 of those phones, costing $80, are at an ineligible location, you would lose all the funding. If, however, you can only show bills for $120 for those lines, the funding request should be reduced, but not denied in full.

Equipment Must be Tracked, Can't be Transferred

The FCC has ruled that applicants must have an inventory system that allows them to identify at all times the location of equipment purchased with E-Rate funding. In addition, the FCC has ruled that equipment purchased for a particular location cannot be transferred from that location for three years. The SLD has recently published an interpretation of this rule that says that it does not matter where the equipment is located; what cannot be changed is the locations served by that equipment. So an email server which served only one school cannot be allowed to serve other schools, even if it remains in the same school.

Online Eligible Products Database

The SLD is working with manufacturers to create a database of internal connections products and their eligibility. Applicants (and resellers) will be able to see the eligibility of the particular piece of equipment they are considering.

Technology Plans

In the Fifth Report & Order, the FCC made several changes to its rules concerning technology planning. In general, these changes are really just codification of previous practice.

1. The Form 470 must be written, though not necessarily approved, before submission of the Form 470, and applicants must certify that it will be approved before the start of service.

2. Applicants must certify on the Form 486 that a technology plan was approved before the start of service.

3. "In addition to the requirements of the EETT, technology plans [must] be supplemented by an analysis that indicates that the applicant is aware of and will be able to secure the financial resources it will need to achieve its technology aims, including technology training, software, and other elements outside the coverage of the Commission's support program."

4. Applicants are free to make "changes in the services they order as long as those services are designed to deliver the educational applications they have prepared to provide."

Possible Changes in the Future

Notice of Proposed Rulemaking (NPRM)

The FCC is looking at a wide range of possible reforms, and is currently accepting comments on almost any aspect of the program. If you would like to have some input, comments are due by October 18, 2005. For more information, go to:

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-124A1.pdf

Discount Matrix

In another attempt to distribute Priority Two funding more equitably and reduce waste, fraud and abuse, the FCC has been considering reducing the maximum discount for Priority Two funding. The FCC may reduce the maximum discount to 80%, or even 70%, for Priority Two equipment and services. A reduction was once seen as likely, but the latest request for comment does not mention the idea.

Formulaic Funding

The new FCC Chairman has expressed support for awarding funding based on a formula. An applicant would probably have to supply a few numbers, and those numbers would be put into a formula, which would determine the amount of funding to be given to the applicant. Enrollment is the only factor for the formula mentioned in the NPRM.

Streamlined Application for Priority One

Recognizing that the program abuses are almost exclusively in Priority Two projects, the FCC is considering simplifying the application process for Priority One services, and allowing a single application to cover multiple years.

Bids from the 470

The SLD has been paying more attention to the competition used in selecting a vendor, and the FCC is looking for ways to increase competition. One possible change is to require applicants to obtain at least three bids for any service requested.

Hurricane Katrina

The FCC has created special E-Rate rules to provide relief to schools and libraries affected by Hurricane Katrina.

- **Affected applicants to receive a 90% discount**: The FCC plans to allow all schools and libraries affected by the hurricane to apply at the 90% discount level.
- **Supplementary application window**: The FCC opened a special application window for 2005-2006 to allow affected applicants to receive funding outside the normal cycle. For 2006-2007, affected applicants have been given an extension on the application deadline until September 2007.

- **Amendments for schools taking in students from affected areas**: Those schools surrounding the affected area whose enrollment has grown were allowed to amend their applications to reflect the increased costs.

Effect for Applicants not Affected

For those applicants outside the affected area, there will probably be three consequences:

- **Higher denial threshold**: Since more funds will be going to the gulf region, and more applicants will be at the 90% discount level, the Priority Two denial threshold for 2005-2006 and 2006-2007 will probably be high.
- **Denial threshold calculation delayed**: A funding demand estimate for 2006-2007 cannot be made until 3 months into the funding year. This is likely to mean no Priority Two funding approvals until October 2006 at the earliest.

More Resources

On-Tech

www.on-tech.com/erate

This handout and other E-Rate information and links are available at our Web site.

e-rate.blogspot.com

For a more informal discussion of the E-Rate, visit our blog. We have posted our experience with a Selective Review and an Extended Outreach Site Visit.

If you have specific questions, contact us.
   Email: info@on-tech.com
   Phone: 732-530-5435

Schools & Libraries Division (SLD)

www.universalservice.org/sl or www.usac.org/sl

This Web site is a wealth of information, and the information is official. If you can find it.

E-Rate Central

www.eratecentral.com

This Web site is less official than the SLD site above, but is more user-friendly.