

FCC Releases Details on Expanded E-Rate Program

December 22, 2014

On December 19, 2014, the [Federal Communications Commission](#) (FCC) released an [Order](#) that details the significant changes to the Schools and Libraries Universal Service Fund program, commonly referred to as “E-rate,” that it adopted earlier in the month. As noted in our prior [Policy Brief](#), the FCC has raised the annual spending cap on the program to \$3.9 billion, up from the \$2.4 billion that had applied to the program for the last several years. Combined with the FCC’s action earlier this year to devote an additional \$1 billion per year over the next five years to upgrade on-campus networks as early as 2015, K-12 schools and public libraries will have substantially more access to E-rate funds to support broadband network upgrades.

In addition to increasing the E-rate funding cap, the Order implements many important changes to the program, including expanding options for network construction, applying additional discounts when states match funds for high-speed broadband construction, and obligating certain providers to respond to E-rate related Requests for Proposal (RFP). Many of the E-rate changes are intended to spur an immediate increase in broadband capacity to schools and libraries by lowering the up-front costs of those connections to meet the aggressive broadband speed targets set by the FCC in July.

Increased Funding Cap

The most immediate change to the program is the expansion of the E-rate funding cap, which, despite rapid change in broadband and education technology, has been in place for well over a decade. E-rate is an application-driven system – funding is provided to schools and libraries for qualifying services as requested, and the amount reimbursed to each school is based upon the income of the neighborhood and its urban or rural nature. The E-rate cap operates as a “hard” cap, meaning that if applications for reimbursement exceed available funding, schools and libraries lower in priority (generally, those in more affluent and urban areas) will not be funded. In recent years, demand for E-rate funds has exceeded the cap substantially, to the point that, reportedly, many schools and libraries have not even applied.

In the July 2014 Order, the FCC established short- and long-term targets for school and library broadband connectivity. The FCC estimates that it will cost approximately \$935 million to \$1.29 billion per year in non-recurring costs over the next five years to meet these targets, plus nearly \$4 billion in additional recurring costs. The FCC used these figures – as well as assumptions of costs savings and the phase out of subsidies for legacy voice services – to establish the new \$3.9 billion/year cap. The FCC said that raising the cap will “provide certainty” to “local decision-makers to proceed at the pace that best serves their students and patrons.”

It is important to note that the increase in the funding cap is **in addition to** the \$2 billion the FCC added to the E-rate fund in July to fund upgrades to on-campus wireless networks. Over the next five years, the FCC E-rate budget will include \$1 billion per year for schools and libraries to upgrade on-campus networks on a formula basis (per student for schools; per square foot for libraries, subject to a per-applicant cap). The first two years of this new “Category 2” fund (\$2 billion) will come from previously collected but unspent dollars from prior years. The FCC also increased the per-square foot allotment for larger urban libraries in this Order.

As a result of these changes, for at least the next two years, funding for E-rate projects will more than double – to \$4.9 billion - beginning immediately. The doubling of E-rate funding presents a substantial opportunity for the school and library community to upgrade infrastructure. In particular, school and library administrators that might have shied away from E-rate funding in the past out of concern that funding might not have been available should reexamine the program in light of these changes.

Additional Subsidies when State Provides Matching Funds for Broadband

For the first time, the FCC will **increase** its discount of “special construction charges” for high-speed broadband funding requests from schools and libraries if the state provides “matching” funds for those builds. This program could considerably lower the out-of-pocket costs of a broadband network purchase for a school and library.

As discussed above, E-rate is a **discount** program, with schools and libraries qualifying for a certain range of discounts from purchase price, ranging from 20% off for relatively affluent, urban schools (less than 1% of student body population qualifying for National School Lunch Program) to 90% off for low-income schools (greater than 75% qualifying for National School Lunch Program). To purchase services, schools and libraries still must fund the remaining balance.

Based on evidence that even with these discounts, large upfront “special construction” charges may be a barrier for high-speed broadband purchases, the FCC will now provide an additional discount that “matches” any funding that a state provides the applicant for certain broadband purchases.

This funding will operate on a “dollar-for-dollar” basis, up to 10% of the “special construction” cost of a high-speed broadband build. These matching funds are in **addition** to the existing E-rate discount. For example, before this program, a school in the 60% discount category facing a \$50,000 special construction charge for high-speed broadband installation would ordinarily need to find \$20,000 to pay for its portion of the project (with E-rate paying \$30,000, or 60%). If the state, however, implements a program that would pay \$5,000 of that special construction cost, the E-rate program now will match that amount with an additional \$5,000. As a result, the school would only need to find \$10,000 to fund that project. Collectively, the state and school authority would save 10% of the project cost over the standard E-rate program.

To qualify, the state program must provide funding for “special construction” charges for high-speed broadband service to a school or library that meets the “long-term connectivity” targets of the schools and libraries (1 Gbps per 1,000 students and staff; 100 Mbps or 1 Gbps for public libraries, based on service area). For Tribal schools and libraries, federal agency funding can qualify.

Increased Flexibility in Building and Operating Networks

The FCC also changed several rules that will give applicants more flexibility in paying for and deploying high-speed broadband connections. In particular,

- The FCC is suspending for four years its requirement that applicants amortize their contribution to any large non-recurring infrastructure charge over the length of the contract. This will essentially provide applicants more of the E-rate discount earlier for large construction projects.
- Beginning in the 2016 funding year, applicants will also be allowed to pay the “non-discounted portion” of non-recurring construction costs over multiple years. Under current

rules, schools and libraries must pay their full share of these charges within 90 days of service delivery.

- Beginning in the 2016 funding year, applicants will be able to seek E-rate discounts on special construction charges for dark fiber that is leased from another entity and on equipment necessary to light that dark fiber. An applicant will only be able to receive these E-rate discounts for equipment in the year it lights the fiber, and the applicant must light the fiber the same year it receives the discount for dark fiber special construction charges.
- Beginning in the 2016 funding year, applicants will be able to seek E-rate reimbursement directly for self-construction of broadband networks, provided that the applicant first shows that it has placed bids out for broadband service and not received offers from private providers that are “cost-effective.”

Ensuring Service Bids in Rural, High-Cost Areas

In another effort to drive down costs of connectivity, the FCC is also requiring that all recipients of its high-cost Universal Service Fund program, the Connect America Fund (CAF), respond to E-rate applicants’ requests for high-speed broadband services and in those responses offer service at rates, terms, and conditions that are “reasonably comparable to comparable offerings to community anchor institutions in urban areas.”

Currently, schools and libraries seeking E-rate funding must put their broadband purchases out for bid through the FCC Form 470 process. This FCC rule change requires that, in areas in which a broadband provider is receiving Connect America Fund subsidies to upgrade broadband networks to residential and small businesses, that provider **must** respond to E-rate RFPs in those areas. This obligation will commence for funding year 2016 (July 1, 2016). To help implement this requirement, FCC staff will study and release a series of rate benchmarks.

Modified Definition of “Urban” E-Rate Applicants

In response to many requests for reconsideration of its July 2014 Order, the FCC reconsidered its definition of “urban” areas for the E-rate program. In July 2014, the FCC had included “urban clusters” (defined by the U.S. Census Bureau) to be “urban” areas for purposes of the E-rate program. However, that change had the effect of classifying many schools and libraries, particularly those in Alaska, as “urban” even if those communities did not have road access, as the case is in Bethel and Nome, Alaska. The FCC will now regard any “urbanized area” or “urban cluster” with a population of less than 25,000 to qualify for the “rural” E-rate discount. Only “urbanized areas” or “urban clusters” with a population equal to or greater than 25,000 will be regarded as “urban” for the purposes of the E-rate program.

Enhanced Oversight of E-Rate Funds

Finally, the Order establishes a new performance management system for administering the E-rate fund. The Universal Service Administrative Company (USAC) administers the program under contract with the FCC. The Order requires a litany of USAC process changes that are designed to simplify the application and reimbursement processes.

These improvements include:

- Support discount calculations of applicants;
- Explore the possibility of allowing applicants to post request for bids for E-rate supported services through USAC;



- Provide neutral technical assistance to applicants; and
- Track and release data on E-rate spending and progress towards goals

In summary, the FCC's December 2014 E-rate Order should spur schools, libraries, and states to upgrade broadband connectivity both *to* school and library buildings, as well as *within* school and library campuses. Raising the E-rate funding cap will ensure that the FCC's program implemented earlier this year to upgrade on-campus wireless connectivity will be fully funded for five years. In addition, many of the changes are designed to incent and indeed reward aggressive school and library broadband upgrades by lowering out-of-pocket and upfront costs for applicants.

For more information about the FCC's E-rate modernization process, as well as other broadband policy issues, please contact Connected Nation at policy@connectednation.org.