

Before the
Federal Communications Commission
Washington, DC 20554

In the matter of:

Eligible Services List

Schools and Libraries Universal Service
Support Mechanism

GN Docket No. 09-51

CC Docket No. 02-6

**COMMENTS ON THE FY 2013 DRAFT ELIGIBLE SERVICES LIST
FOR THE SCHOOLS AND LIBRARIES UNIVERSAL SERVICE MECHANISM
(DA 12-1052)**

E-Rate Provider Services, LLC.
166 Deer Run
Burlington, CT 06013
(860) 404-8883
www.erateproviderservices.com

Dated: August 6, 2012

Introduction

E-rate Provider Services respectfully submits these comments in response to the Federal Communications Commission's ("Commission" or "FCC") Public Notice regarding the Eligible Services List (ESL) for the Schools and Libraries Universal Service Mechanism, commonly known as the E-Rate Program. E-rate Provider Services is a consulting firm serving Service Providers in the E-rate program. E-rate Provider Services' purpose is to assist E-rate Service Providers in navigating the complexities of the program, providing sales and compliance assistance, cost allocation services, bid and proposal review, and staff training.

E-Rate Provider Services comments on two specific topics concerning the FY2013 ESL: the inclusion of cellular data plans as eligible, and the issue of bundling ineligible equipment with an eligible Priority 1 contract.

Cellular Data Plans

E-Rate Provider Services is concerned by the growth in the number of applicants applying for E-Rate funds for cellular data plans for end-user devices, i.e. cellular data plans for iPads or similar technologies. While such data plans are consistent with current program rules, E-Rate Provider Services believes widespread proliferation of these data plans represents an existential threat to the E-rate fund itself, especially since much more cost-effective solutions are available in Priority 2, e.g. purchasing Wireless Access Points.

Discussion

Generally, cellular data plans cost approximately \$40.00 per month per user, or \$480.00 per year per user. Because part of the purpose of purchasing a cellular data plan is to allow students and faculty to take their devices home with them, cost-allocation is required to separate the 'off-site' ineligible usage from the 'on-site' eligible usage, and anecdotal evidence suggests that a 50/50 split is the most frequently used division submitted by applicants, which will cut the yearly pre-discount request in half, lowering it to \$240.00 per user per year. Factoring out the applicant's percentage, using an average discount rate of 85%, that lowers the post-discount request to \$204.00 per user per year.

The funding cap for FY2012 is \$2,338,786,577; rounding to \$2,400,000.00, this means, in sum, that the E-Rate Program can fund $2,400,000,000 / 204 =$ approximately 11,764,706 students. Referring to the chart at the back of this document titled "FY2012 E-rate School Applicants", there are 12,433,904 students at the 83% Discount Band or above. In other words, if applicants across the country filed ONLY for cellular data plans for their students and nothing else, the fund would run out of money at 83% Priority 1.

Clearly, not all applicants will make this technology choice, but the per pupil cost for this service is SO high that if a handful of larger districts DO make this choice, it will significantly alter the funding threshold, imperiling the availability for even P1 funding at lower discount levels. Bear in mind as well that this example was for illustration purposes only, and that there are other factors, both compounding and mitigating, which will influence the overall P1 request pool. For example, the projection does not take into account the rest of the services for which a district might request funding.

Comments

E-Rate Provider Services comments that Cellular Data Plans are simply not a cost-effective choice for the E-Rate fund as a whole. A cost-effectiveness review of a cellular data plan, versus purchasing Wireless Access Points and installing them in the school, would demonstrate that the cellular data plan is not only significantly more expensive, but also requires E-Rate funds on a recurring basis, rather than as a single, one-time purchase.

E-Rate Provider Services comments that because of the way Priority 1 requests are funded versus Priority 2 requests, districts are being encouraged by the peculiarities of the funding mechanism to choose more expensive, far less cost-effective solutions in order to have any chance of receiving E-Rate funds. The rules of the fund are driving applicants to make less cost-effective choices. For example, a district with a 70% discount will probably not get Priority 2 funding, where they will probably get Priority 1 funding. Therefore, an astute purchasing agent might judge that paying 30% of a more expensive Priority 1 solution is more cost-effective than paying 100% of a less expensive Priority 2 solution.

In conclusion, E-Rate Provider Services urges the FCC to change the ESL to make Cellular Data Plans ineligible for support under the E-Rate Program. E-Rate Provider Services does NOT comment on the quality nor education merit of such plans, but restricts its comments to the financial aspects only; E-Rate Provider Services does not believe that the E-Rate Fund, as currently constituted, can sustain such a high per pupil cost.

Bundled Ineligible P1 Equipment

There is an ongoing issue regarding bundling ineligible equipment with an eligible service, prompted by a reference in one of the clarifying orders pertinent to the 6th Report and Order that clarified that an applicant could receive a free cellular telephone with a time commitment of a certain length. For many months now, service providers of various types have been seeking clarification of the scope of this rule, as well as contemplating how best to craft offerings for their customers to take best advantage of it.

Discussion

The questions before the Commission can be boiled down to the following:

- What types of equipment can be bundled in without violating the Free Services Advisory and/or the Competitive Bidding requirement?
- Is there any maximum value on the equipment that can be bundled in?
- If a customer wants a more expensive piece of equipment, can the service provider offer the applicant a discount commensurate with the value of the original piece of equipment?
- What documentation is required to support any the offerings that include bundled equipment?

Comments

First, with the proliferation of new service offerings designed to leverage the rules in question, E-Rate Provider Services urges the FCC to adjudicate the issue as quickly as possible, in order to give applicants and service providers sufficient time to plan for the upcoming funding year. Further, E-Rate Provider Services urges the FCC to provide definitive guidance as to the scope of products that can and cannot be bundled, and provide additional guidance regarding the types of plans that would be acceptable under the spirit of the FCC's intent.

Second, E-Rate Provider Services comments that an overly broad interpretation of the cellular telephone analogy will lead to a significant expansion of the scope of bundled equipment. E-Rate Provider Services comments that restricting the scope of the ruling to voice handsets, both cellular and VoIP, seems consistent with the spirit of the original ruling.

Third, E-Rate Provider Services urges the FCC to add a financial component to the guidance, that is, set a maximum price to the bundled equipment, either as a discreet cost or as a percentage of the yearly price for the recurring service. Further, E-Rate Provider Services recommends clarifying that this discreet cost be allowable as a discount off of a more expensive piece of equipment. For example, either a free \$20.00 phone, or \$20.00 off of the cost of a more expensive phone, should be allowable within program rules.

FY2012 E-rate School¹ Applicants
Applicant Count, Number of Students, and Funds Requested
Sorted by Discount Rate

Disc. Rate	Applicant Count	Applicant Enrollment	FY2012 \$ Requested	Disc. Rate	Applicant Count	Applicant Enrollment	FY2012 \$ Requested
20%	265	169,958	\$1,940,424	60%	1,318	3,620,262	\$38,380,961
23%	2	4,665	\$61,239	61%	84	462,007	\$15,499,449
25%	54	31,867	\$543,589	62%	104	723,862	\$16,362,612
26%	2	8,072	\$89,900	63%	100	768,403	\$18,509,295
27%	2	3,275	\$84,188	64%	163	880,384	\$27,323,939
29%	1	1,675	\$74,728	65%	243	863,374	\$48,669,962
30%	1	1,545	\$29,694	66%	157	690,138	\$41,479,146
31%	6	6,766	\$104,590	67%	243	1,294,158	\$28,915,440
32%	6	10,291	\$338,052	68%	116	704,450	\$44,951,608
33%	3	6,896	\$71,124	69%	140	1,601,614	\$49,918,638
34%	3	11,207	\$184,881	70%	953	2,244,050	\$42,427,862
35%	6	20,945	\$289,479	71%	183	1,191,985	\$39,241,267
36%	8	31,203	\$456,125	72%	171	1,659,081	\$55,265,553
37%	5	58,149	\$883,290	73%	179	1,106,901	\$78,660,107
38%	17	70,244	\$992,389	74%	260	966,530	\$52,151,031
39%	11	59,611	\$729,533	75%	387	1,134,000	\$71,839,847
40%	2,720	2,951,139	\$45,271,388	76%	270	1,196,376	\$81,032,234
41%	112	655,863	\$9,255,500	77%	479	1,577,051	\$84,864,265
42%	92	578,912	\$11,859,851	78%	162	1,049,917	\$60,812,637
43%	71	420,358	\$6,007,934	79%	124	986,251	\$188,195,137
44%	82	481,587	\$6,675,457	80%	2,965	3,282,265	\$278,562,575
45%	70	394,119	\$5,910,514	81%	209	1,586,854	\$132,404,187
46%	71	433,299	\$9,226,040	82%	214	2,027,348	\$440,526,897
47%	102	481,767	\$4,878,721	83%	196	1,781,473	\$207,492,975
48%	62	412,997	\$4,755,791	84%	193	1,194,501	\$273,509,671
49%	56	510,510	\$12,056,260	85%	284	1,047,249	\$157,960,165
50%	1,415	1,304,855	\$26,418,923	86%	174	940,564	\$155,138,382
51%	84	846,249	\$12,762,605	87%	248	1,794,309	\$225,006,613
52%	96	467,606	\$9,618,793	88%	142	1,047,998	\$211,553,167
53%	87	579,962	\$9,543,670	89%	108	1,017,185	\$198,580,427
54%	113	684,120	\$19,860,821	90%	4,414	3,610,625	\$920,388,066
55%	139	507,473	\$11,310,997	TOTAL	21,190	59,166,150	\$4,562,920,103
56%	98	686,856	\$15,896,590				
57%	188	644,700	\$13,779,859				
58%	87	767,292	\$15,678,450				
59%	70	808,952	\$19,654,599				

¹ Includes individual schools, school districts, and certain schools that only apply as consortium.