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August 22, 2012

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** David T. Craig

**RE: STAFF BRIEF: EDUCATION TECHNOLOGY PLANS AND E-RATES**

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**INTRODUCTION**

As part of its 2012 interim workplan, the Legislative Education Study Committee (LESC) has asked that staff review the approval process for Educational Technology Plans and E-Rates statewide.

This staff brief provides information regarding:

- an overview of the E-Rate program;
- the education technology plan approval process; and
- deadlines for submittals.

In addition, LESL staff has asked the Public Education Department (PED) to provide information on the following:

- the districts and state-chartered charter schools that have submitted plans for approval, indicating whether those have been approved;
- PED's approval timeline;
- any guidance that PED has provided for submitting these plans; and

- any other information PED thinks might be helpful or important for the LESC to know regarding education technology plan approval.<sup>1</sup>

## AN OVERVIEW OF THE E-RATE PROGRAM

“E-Rate” is a common term used in place of the “Schools and Libraries Program” administered by the Universal Service Administrative Company (USAC) under the direction of the Federal Communication Corporation (FCC). E-Rate provides discounts to schools and libraries for eligible telecommunications products and services.

As reported during a 2007 LESC meeting:

- the E-Rate program is administered by the USAC under the direction of the FCC;
- the E-Rate program supports connectivity for communications using telecommunications services and/or the Internet;
- schools and districts that wish to receive E-Rate funding must prepare a technology plan, which delineates how information technology and telecommunications infrastructure will be used to achieve educational goals, specific curriculum reforms, or library service improvements;
- eligible schools must also provide additional resources, including end-user equipment such as computers or telephones, software, professional development, and other elements that are necessary to utilize the connectivity funded by the E-Rate program;

**TABLE 1**

Percent of Free or Reduced Lunch Eligibility	Discount	
	Urban	Rural
Less than 1%	20%	25%
1% to 19%	40%	50%
20% to 34%	50%	60%
35% to 49%	60%	70%
50% to 74%	80%	80%
75% to 100%	90%	90%

Source: USAC

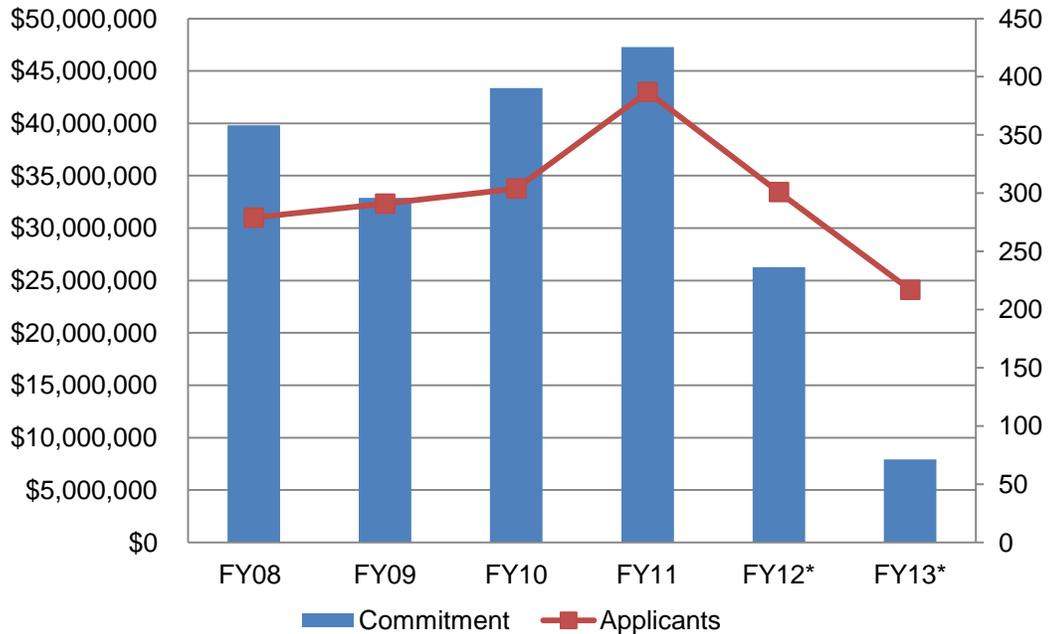
- discounts for support depend on the level of poverty (free- and reduced-fee lunch program status by school) and the urban/rural status of the population served;
- and these discounts range from 20 percent to 90 percent of the costs of eligible services (see **Table 1**, above); and
- service providers bill the E-Rate program for the discount portion of the services they provide schools and districts, and are required to bill schools and districts for the non-discount portion.<sup>2</sup>

<sup>1</sup> As of the date this report was being completed (August 17, 2012), PED had not provided the requested information.

<sup>2</sup> The FCC stated that requiring applicants to pay their share would ensure efficiency and accountability in the program, and encourage them to avoid unnecessary and wasteful expenditures.

From FY 08 to FY 13<sup>3</sup>, schools (both public and private), districts, education consortia, and libraries (henceforth education entities) in New Mexico have received approximately \$197.5 million<sup>4</sup> in E-Rate funding (see Chart 1).

**E-Rate Commitment and Applicants by Fiscal Year**



Note: \*FY12 and FY13 funding is ongoing.

Source: USAC

Additional testimony during the 2007 interim meeting to the LESC indicates that, because E-Rate awards are made on a reimbursement basis, the actual disbursements to education entities or telecommunications providers for a particular funding year are often not known until sometime after the funding year has ended. The total E-Rate disbursements for FY 12, for example, have not all been made.

### **THE EDUCATION TECHNOLOGY PLAN APPROVAL PROCESS**

As shown in Attachment 1, *Application Process Flow Chart*, the E-rate process application and approval process includes the submission of a written technology plan followed by a number of required USAC forms prior to receiving approval for reimbursement or discounted rates.

Among the requirements, a technology plan must:

- cover all 12 months of the funding year; and
- include, at a minimum:

<sup>3</sup> It is important to note that the fiscal year naming convention for fiscal years used by the FCC is not the same as that used by the state. For example, the FCC fiscal year 2012 covers the time from 7/1/12 to 6/30/13. To minimize confusion, fiscal years in this brief represent those used by the state.

<sup>4</sup> As of August 13, 2012.

- clear goals and a realistic strategy for using telecommunications and information technology to improve education or library services;
- a professional development strategy to ensure that members of the staff know how to use these new technologies to improve education or library services;
- a needs assessment of the telecommunication services, hardware, software, and other services that will be needed to improve education or library services; and
- an evaluation process that enables the education entity to monitor progress toward the specified goals and make mid-course corrections in response to new developments and opportunities as they arise.

### ***Form 470, Services Requested Form***

After drafting a technology plan, education entities must:

- post a services requested form (FCC Form 470) explaining the request for proposal (RFP) to the USAC website;
- wait at least 28 days after the date that the FCC Form 470 is posted and/or the date the RFP is issued, whichever is later, before closing the competitive bidding process;
- ensure all bidders are treated the same;
- ensure no bidder has advance knowledge of the project information; and
- ensure there are no secrets in the process – such as information shared with one bidder but not with others – and that all bidders know what is required of them;
- evaluate and select a provider from the RFP respondents; and
- enter into a contract with the service provider.

### ***Form 471, Services Ordered Form***

The education entities may next file the services ordered and discount request form (FCC Form 471). Only after this form is filed will the USAC begin to make a funding determination.

### ***USAC Review Process***

After the services ordered and discount request form is filed, the USAC Program Integrity Assurance (PIA) review process begins. According to USAC, all applications go through an initial review and a final review, which may involve questions from PIA reviewers on one or more of the following topics:

- eligibility of the entities receiving service (this review step generally occurs for entities that have not appeared on a previous application);
- eligibility of the services requested;
- discount calculations;
- contracts;
- the competitive bidding process; and
- any discrepancies between the information on the funding request and the associated detailed description of services requested (as an attachment).

If 30 percent of services requested are determined by the PIA to be ineligible, then the funding request will be denied. After the USAC PIA finishes its review, USAC will issue a funding

commitment decision letter (FCDL). The entity has 60 days from the date of the FCDL to file an appeal.

### ***Form 486, Services Confirmed Form***

According to the USAC, after entities have received a FCDL and the delivery of services has started, they file a services confirmed form (FCC Form 486) within 120 days from the start date or FCDL date (whichever is later) to inform USAC that:

- services for which discounts have been approved have started and invoicing can begin;
- the technology plan – if required to have one – has been approved by a USAC-certified Technology Plan Approver; and
- the entity is in compliance with the Children’s Internet Protection Act (CIPA) – or CIPA does not apply because the application is only for Telecommunications Services and/or Interconnected Voice over Internet Protocol (VoIP) services.

Before the Form 486, Services Confirmed is filed, and before services start, the education technology plan must be approved by a USAC-approved technology plan approver.<sup>5</sup> After the USAC receives the services confirmed form (FCC Form 486), USAC will issue a Form 486 notification letter.

### ***Form 472, Billed Entity Applicant Reimbursement***

After all of these steps have been completed the education entity may file Billed Entity Applicant Reimbursement (BEAR) Forms (FCC Form 472) to receive reimbursement by check or credit.

### ***Form 474, Service Provider Invoice Form***

Alternatively, education entities can work with the contracted service provider to receive discounted invoices and the service provider then submits a Service Provider Invoice (SPI) Form (FCC Form 474) if they have provided discounted bills to their customer and want to be reimbursed for the discount amount. These must be received by USAC or postmarked no later than 120 days after the USAC-issued Form 486 letter or after the last date to receive service, whichever is later.

## **DEADLINES FOR SUBMITTALS**

Table 2 provides a list of the E-rate program’s timetable and a list of deadlines. Also, because all technology plans must be certified by PED prior to receiving discounts and reimbursements in a fiscal year, and some education entities traditionally have education plans ending on June 30 of a fiscal year, for those plans without approval for FY 13, reimbursement or discounted rates may be delayed until technology plans are approved. If an education technology plan has not been approved by PED, or is not approved in a timely fashion, the

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<sup>5</sup> For New Mexico public schools, the certified Technology Plan Approvers (TPAs) are Deputy Secretary of Finance and Operations and the Chief Information Officer. A list of all TPAs for all entities is provided as Attachment 2.

education entity may not be able to submit the Form 486, Services Confirmed Form that allows the entity to start receiving reimbursements or discounts.

According to USAC, the reason why FCC rules prescribe a filing window during which all Forms 471 that are filed are treated the same as if they were simultaneously received is because the amount of funding each year is capped at \$2.25 billion.

**Table 2. E-Rate Program Timetable and List of Deadlines**

<b>Form or Event</b>	<b>Deadline or Dates</b>
1. Funding Year	July 1 through the following June 30 (nonrecurring services through the following September 30)
2. Form 470 (Services Requested)	Posted at least 28 days before the filing of the Form 471, keeping in mind (1) the time frame for compliance with all competitive bidding requirements and (2) the Form 471 application filing window opening and closing dates
3. Form 471 (Services Ordered) window	Early November to early February preceding the start of the Funding Year (exact dates for each funding year will be posted on the website) Applications filed after this date will be considered out-of-window, and are unlikely to receive funding
4. Form 471 (Services Ordered)	Received or postmarked no later than 11:59 PM EST on the day of the close of the Form 471 application filing window (exact date will be posted on the website) <sup>6</sup>
5. Form 486 (Services Confirmed)	Received or postmarked no later than 120 days after the date of the Funding Commitment Decision Letter or 120 days after the Service Start Date, whichever is later
6. Form 472 (Billed Entity Applicant Reimbursement, or BEAR)/Form 474 (Service Provider Invoice)	Received or postmarked no later than 120 days after the date of the Form 486 Notification Letter or 120 days after the last date to receive service, whichever is later
7. Appeals	Received no later than 60 days after the date of the SLD decision letter [the FCDL]

Source: USAC

In addition, as an informational item, Attachment 3, *Public Notice*, indicates that the USAC solicited public comment to proposed changes to the eligible services list for FY 14 and the window for public comment closed August 14, 2012. The changes seek to reorganize existing service categories to reduce administrative burden.

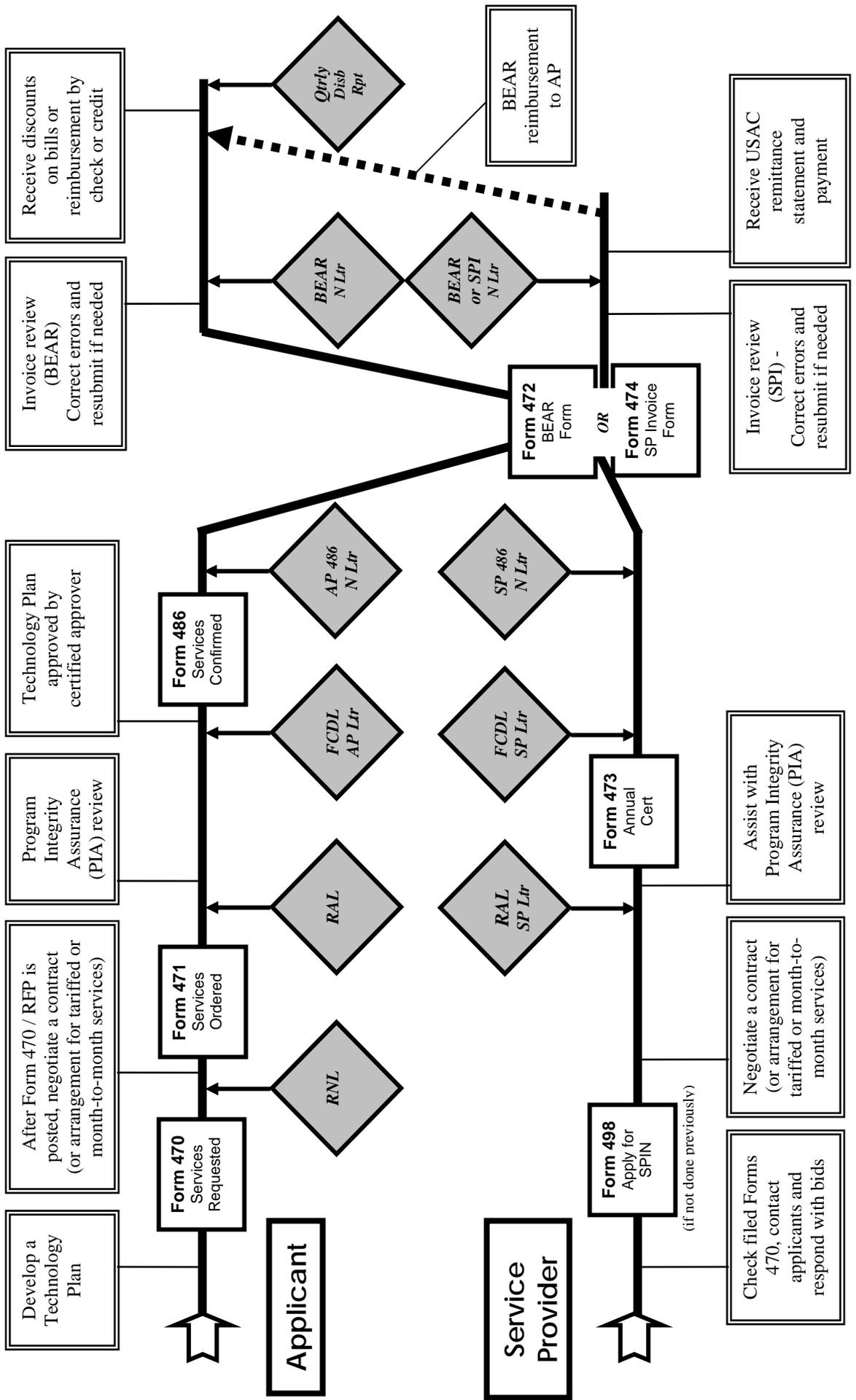
<sup>6</sup> The USAC website indicates that for FY 13 the deadline was March 20, 2012. This is the only hard deadline, but because of the requirement that education entities wait at least 28 days from the date that the services requested form (FCC Form 470) is posted and/or the date of the RFP, whichever is later, the date for FY 13 was actually closer to February 20, 2012. Although Table 2 indicates the Form 471 window is from early November to early February, for the last two fiscal years the deadlines for submitting the services ordered form (FCC Form 471) has been the third week of March.

# Application Process Flow Chart

**Key**

AP or SP	Applicant or Service Provider
SPIN	Service Provider Identification Number
RNL	Form 470 Receipt Notification Letter
RAL	Form 471 Receipt Acknowledgment Letter
FCDL	Funding Commitment Decision Letter
486 NLtr	Form 486 Notification Letter
BEAR or SPI	Billed Entity Applicant Reimbursement or Service Provider Invoice
Qtrly Disb Rpt	Quarterly Disbursement Report

**Wait at least 28 days!**



**CERTIFIED TECHNOLOGY PLAN APPROVERS IN NEW MEXICO BY ENTITY**

***Entity Type: Public***

Public Education Department

Paul Aguilar, Deputy Secretary of Finance and Operations  
(505) 827-6591

[Paul.Aguilar@state.nm.us](mailto:Paul.Aguilar@state.nm.us)

Michael Archibeque, Chief Information Officer

(505) 827-4971

[Michael.Archibeque@state.nm.us](mailto:Michael.Archibeque@state.nm.us)

***Entity Type: Libraries***

Institute of Museum and Library Services

Laurie Brooks, Associate Deputy Director

1800 M Street, N.W. 9th Floor

Washington, DC 20036

(202) 653-4650

Notes: Please be advised IMLS only approves 5-year plans for LSTA, and those plans satisfy the USAC requirement for a technology plan for State Library Agencies. Only contact this organization if you are a State Library Agency seeking approval of an LSTA plan.

New Mexico State Library

Patricia Moore, Technology Consultant

1209 Camino Carlos Rey

Santa Fe, NM 87507

(505) 476-9724

[patricia.moore@state.nm.us](mailto:patricia.moore@state.nm.us)

***Entity Type: Bureau of Indian Affairs***

Primary Contact

Bartholomew Stevens, Deputy Director-School Operations

1011 Indian School Road, NW

Albuquerque, NM 87104

(505) 563-5235

[bart.stevens@bie.edu](mailto:bart.stevens@bie.edu)

Alternate Contact

Maureen Lesky, Ph.D., Special Assistant

1011 Indian School Road, NW

Albuquerque NM 87104

(505) 563-5397

[maureen.lesky@bie.edu](mailto:maureen.lesky@bie.edu)

Notes: Please be advised you should only contact this organization if you are a member school.

***Entity Type: Independent/Private***

Independent Schools Association of the Southwest

Rhonda Durham, Executive Director  
505 North Big Spring Street, Suite 406  
Midland, TX 79701  
(432) 684-9550  
[rdurham@isasw.org](mailto:rdurham@isasw.org)

Notes: Please be advised you should only contact this organization if you are a member school.

Southwestern Association of Episcopal Schools

Connie Wootton, Executive Director  
1420 4th Avenue, Suite 29  
Canyon, TX 79015  
(806) 655-2400  
[cwootton@swaes.org](mailto:cwootton@swaes.org)

Notes: Please be advised you should only contact this organization if you are a member school.

***Entity Type: Catholic***

Archdiocese of Santa Fe

Sr. Mary Klersey, Superintendent of Schools  
4000 St. Joseph Place, NW  
Albuquerque, NM 87120  
(505) 831-8173  
[cs@archdiocesasantafe.org](mailto:cs@archdiocesasantafe.org)

Notes: Please be advised you should only contact this organization if you are a member school.

Independent Schools Association of the Southwest

Rhonda Durham, Executive Director  
505 North Big Spring Street, Suite 406  
Midland, TX 79701  
(432) 684-9550  
[rdurham@isasw.org](mailto:rdurham@isasw.org)

Notes: Please be advised you should only contact this organization if you are a member school.

Jesuit Secondary Education Association

Dr. Bernard Bouillette, Vice President  
1616 P Street, NW, Suite 400  
Washington, DC 20036  
(202) 667-3888  
[bouilletteb@jsea.org](mailto:bouilletteb@jsea.org)

Notes: Please be advised you should only contact this organization if you are a member school.

National Catholic Educational Association - NCEA

Mr. Daniel Curtin, Executive Director, CACE Department  
1077 30th Street, NW, Suite 100  
Washington, DC 20007  
(202) 337-6232  
[curtin@ncea.org](mailto:curtin@ncea.org)

Notes: Please be advised you should only contact this organization if you are a member school.

***Entity Type: Christian***

Association of Christian Schools International

Primary Contact

Kathryn Bailey, Director of Technology

1509 Ponce de Leon Avenue

Atlanta, GA 30307

(404) 270-2324

[bailey.kathy@paideiaschool.org](mailto:bailey.kathy@paideiaschool.org)

Notes: Please be advised you should only contact this organization if you are a member school.

Evangelical Lutheran Church in America

Primary Contact

Donna Braband, Director for Schools

8765 West Higgins Road

Chicago, IL 60631

(773) 380-5074

[donna.braband@elca.org](mailto:donna.braband@elca.org)

Notes: Please be advised you should only contact this organization if you are a member school.

Independent Schools Association of the Southwest

Primary Contact

Rhonda Durham, Executive Director

505 North Big Spring Street, Suite 406

Midland, TX 79701

(432) 684-9550

[rdurham@isasw.org](mailto:rdurham@isasw.org)

Notes: Please be advised you should only contact this organization if you are a member school.

Lutheran Church-MO Synod, Rocky Mountain District

Primary Contact

Mr. Paul Albers, Superintendent

14334 East Evans Avenue

Aurora, CO 80014

(303) 695-8001

[martha@rm.lcms.org](mailto:martha@rm.lcms.org)

Notes: Please be advised you should only contact this organization if you are a member school.

Southwestern Association of Episcopal Schools

Primary Contact

Connie Wootton, Executive Director

1420 4th Avenue, Suite 29

Canyon, TX 79015

(806) 655-2400

[cwootton@swaes.org](mailto:cwootton@swaes.org)

Notes: Please be advised you should only contact this organization if you are a member school.

***Entity Type: Jewish***

Building Better Jewish Education-bbje.org

Jeffrey Liberman, Associate Director

28 Stedman Street

Brookline, MA 02446

(617) 965-7350

[jal@bbje.org](mailto:jal@bbje.org)

Notes: Please be advised that you are not required to be a member school in order to contact this organization. This organization may also review technology plans for Jewish libraries.

Independent Schools Association of the Southwest

Primary Contact

Rhonda Durham, Executive Director

505 North Big Spring Street, Suite 406

Midland, TX 79701

(432) 684-9550

[rdurham@isasw.org](mailto:rdurham@isasw.org)

Notes: Please be advised you should only contact this organization if you are a member school.

Solomon Schechter Day School Association

Primary Contact

Robert Abramson, Director

155 Fifth Avenue

New York, NY 10010

(212) 533-7800

[education@uscj.org](mailto:education@uscj.org)

Notes: Please be advised you should only contact this organization if you are a member school.



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

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Internet: <http://www.fcc.gov>  
TTY: 1-888-835-5322

DA 12-1052

Released: July 5, 2012

## WIRELINE COMPETITION BUREAU SEEKS COMMENT ON DRAFT ELIGIBLE SERVICES LIST FOR SCHOOLS AND LIBRARIES UNIVERSAL SERVICE PROGRAM

CC Docket No. 02-6; GN Docket No. 09-51

**Comment Date: August 6, 2012**

**Reply Comment Date: August 21, 2012**

The Wireline Competition Bureau seeks comment on a draft eligible services list (draft ESL) for the schools and libraries universal support mechanism (also known as the E-rate program) for funding year 2013.<sup>1</sup> As part of the Commission's ongoing commitment to remove burdens on industry and provide greater transparency regarding Commission requirements, the draft ESL has been reorganized to make it easier for schools and libraries who apply for E-rate funding to determine what services and products are eligible for E-rate discounts.

The draft ESL divides Priority One services into three sections grouped primarily by functionality from the user perspective. The "communications connectivity" section includes digital transmission services, fiber and Internet access. The "voice services" section includes telephone services, telephone service components and interconnected voice over Internet protocol. The "other designated and related services" section includes E-mail, voice mail and web hosting.<sup>2</sup> The proposed reorganization of the ESL does not change the eligibility status for any of these services from funding year 2012.<sup>3</sup> Rather, it lists the services by categories that reflect how school and library applicants plan for and seek technology and services, *i.e.*, by the services they purchase and the infrastructure they need to bring the services to their buildings. We seek comment on this proposed reorganization and whether there are other ways to organize the ESL that would make the document more useful to applicants and reduce regulatory burdens. We also seek comment on the proposed list of eligible services.

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<sup>1</sup> See 47 C.F.R. § 54.502 (detailing the procedures for seeking comment on a draft ESL for the E-rate program for the upcoming funding year). The E-rate program was established pursuant to section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254.

<sup>2</sup> Voice mail is moved out of the "miscellaneous" category of the ESL into the "other designated and related services" but this does not change the eligibility status for voice mail.

<sup>3</sup> To help transition applicants to this reorganization and minimize any potential confusion, we propose to add a third column in all three of the Priority One services sections to suggest the category of service that should be selected in Block 2 of the FCC Form 470 and Block 5 of the FCC Form 471.

In addition, we have made other minor changes in this draft ESL. For example, throughout the document, we have removed citations to Commission orders and other legal or regulatory language to make this document more accessible for personnel at schools and libraries who may not be familiar with the details of telecommunications regulation and terminology. We understand E-rate applicants use this document predominantly as a quick reference for eligible services and products and not as a primary reference source for the Commission regulations and orders that have established the relevant requirements. We propose this change because we think it will further streamline the ESL into a more user-friendly resource for applicants. We seek comment on these changes.

We also clarify that although the phrase “commercially available” was left out of the section describing supported telecommunications services in the ESL for funding year 2012, this was not intended to change the eligibility status for telecommunications services.<sup>4</sup> We reinsert the phrase “commercially available” into the proposed ESL for 2013 to clarify that supported telecommunications services provided by telecommunications carriers include all commercially available telecommunications services; this language is taken verbatim from the Commission’s rules.<sup>5</sup>

Pursuant to section 54.502 of the Commission’s rules, the final ESL for the upcoming funding year will be released at least 60 days prior to the opening of the E-rate application filing window.<sup>6</sup> Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

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<sup>4</sup> Last year’s ESL included the statement that “[a]ny service that meets the definition of ‘telecommunications service’ is eligible for E-rate funding.”

<sup>5</sup> 47 C.F.R. § 54.502(a)(1).

<sup>6</sup> *See* 47 C.F.R. § 54.502(b).

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>7</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

For further information, please contact Cara Voth, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400 or TTY (202) 418-0484.

- FCC -

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<sup>7</sup> 47 C.F.R. §§ 1.1200 *et seq.*