

Before the
Federal Communications Commission
Washington, DC 20554

In the matter of:)	
)	
Eligible Services List)	
For Funding Year 2007)	CC Docket No. 02-6
)	
Schools and Libraries Universal)	
Support Mechanism)	
)	

August 4, 2006

**Initial comments of Dan Riordan, President of On-Tech Consulting, Inc.
on the Eligible Service List
for the Universal Service Mechanism for Schools and Libraries
for Funding Year 2007
(FCC 06-109)**

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Introduction

On-Tech Consulting, Inc. (On-Tech), a technology consulting firm based in Red Bank, New Jersey, assists schools and libraries in navigating the E-Rate process. In addition to the firm’s significant experience working with the E-Rate program, Dan Riordan, President of On-Tech, is both an experienced network engineer and a former purchasing officer for the U.S. Government.

General Comments

Layout Change

The proposed Eligible Services List (ESL) has only two columns: Function and Description. A third column should be created: Eligibility. In order to increase clarity, information on the eligibility of the item should be separated from a description of the item.

“Cost-Effective” Not Defined

The term “cost-effective” has entered the ESL in several places, but no definition of the term is given. The appearance of the term in the ESL appears to be a justification for a new SLD procedure called a “cost-effectiveness review.” No information about this procedure is publicly available, but it appears that if an applicant reaches some level of spending (kept secret from applicants), a review is triggered which compares their level of spending to some standard (kept secret from applicants), and if the spending exceeds the secret level, the request is denied.

The term “cost-effective” should be defined in the ESL. If there is a cost-effectiveness requirement beyond the competitive bidding process, the requirement should be clearly explained, with the trigger amounts for the cost-effectiveness review shown.

“Conditionally Eligible” Overused

The proposed ESL lists all products and services as either “Conditionally Eligible” or “Not Eligible.” I would prefer to see a third category: “Eligible.” Some products and services are best described as “eligible.” Take the example of a T-1: this is an eligible service. True, the

eligibility of a request for funding for a T-1 is conditional on the circuit being put to an eligible use at an eligible location. If an item is “conditionally eligible,” all the conditions limiting its eligibility should be described in the item listing. Since the “Educational Purposes” condition applies to all products and services, it should be included as part of the ESL, but any items limited only by “Educational Purposes” should be listed as “Eligible.”

Missing from the List

The services listed below should be eligible for funding under the Commission’s current rules and should be included in the ESL.

Content Filtering

Content filtering hardware, software and services should be eligible for funding. When it created CIPA, the Congress clearly indicated that content filtering is a necessary part of the data distribution system for any school or library.

Anti-Virus

Anti-virus hardware and software which protect eligible components should be eligible for funding. Anti-virus software is no longer a “best practice”; it is a requirement for the reliable delivery of data over any network connected to the Internet.

Anti-Spam

Hardware and software which filter out spam should be eligible for funding. If applicants do not take measures to deal with the flood of spam, their email systems will quickly become useless. Of 14.7 billion email messages processed by one email management company, 88% were spam.¹ Anti-spam measures are required for the effective distribution of email.

Training

The Commission’s decision in the Henkel Order concerning training of users² has created confusion among applicants and service providers as to exactly what training is eligible. Given the confusion, the ESL should have a separate entry for training, providing a very clear description with examples of what training is eligible and what is not.

Telecommunications Services

Paging

The inclusion of “text messaging” in the entry for Paging makes it appear that alphanumeric paging is not eligible. The eligibility of alphanumeric paging, which is not the same service as text messaging, should be explicitly stated.

Telephone Service

The examples given for wireless services used outside of an eligible location are good, but there is no description of how to determine the eligibility of cases which do not match one of the examples. The most common case not covered by the examples is a district employee

¹ http://www.postini.com/news_events/pr/pr020105.php

² DA 06-1463, paragraph 12

conducting district business at an ineligible location, for example a Superintendent calling the office or contacting a parent from a meeting at the county education office or from a conference.

Telephone Service Components

A wire maintenance plan is eligible “only if charges are minimal.” The list should describe what “minimal” means. Please express “minimal” as dollar figure or a percentage of the total phone bill.

Voice/Video Over IP

Since the FCC has determined that VoIP carriers must pay into the Universal Service Fund³ as if their service were a telecommunications service, their service should be treated as a telecommunications service when it comes to payments from the USF. VoIP should be eligible for E-Rate funding.

Other Eligible Telecommunications Services

The third paragraph states that “maintenance and technical support” are eligible. It should be made clear that only maintenance and support of the service and of equipment owned by the service provider is eligible; maintenance and support of applicant-owned equipment is eligible only under Priority Two Basic Maintenance of Internal Connections.

Ineligible Telecommunications Services

The first paragraph states: “Services not included in this Eligible Services List are presumed to be not eligible.” This sentence should be deleted, and no such presumption should be made. While the ESL continues to improve, it is by no means an exhaustive list of all the voice, video and data distribution products that will exist at the end of the funding year.

Internet Access

Firewall Service

The eligibility of firewall service has been made ambiguous. In the past, there was a separate entry for firewall service, stating it was eligible. The current list states that firewall service is eligible when “provided as a standard component.” In its summary of changes to the ESL⁴, the SLD states that a separately-priced firewall service is not eligible. It appears that if firewall service is not given its own entry in the ESL, the SLD will deny requests for the service.

Firewall service should be eligible. In the Internal Connections section of the proposed ESL, a firewall is an eligible component, meaning it is necessary for the transmission of data; the protection offered by a firewall is a necessary part of any basic conduit to the Internet, and so should be eligible as a service. If a service provider prices firewall service separately, that does not make it less necessary.

Web Hosting

The entry for Web Hosting is more detailed than last year’s, which is in an improvement. However, it is still inadequate to determine the eligibility of most Web sites. For example, the entry says that “software applications” are not eligible. However, many Web sites (the SLD’s,

³ FCC 06-94

⁴ http://www.universalservice.org/_res/documents/sl/pdf/principal-proposed-updates-fy2007-esl.pdf

for example) are broken up into a series of “applications” which are used to generate content on the fly; static Web sites are becoming less and less common. The vague definition of Web hosting has resulted in COMADs this year, and the change in the tone of the entry leads me to believe that more and more Web hosts will be found ineligible, and hundreds of applicants will be surprised to find their Web hosting service is no longer eligible and they are subject to a COMAD. The eligibility of several common situations needs to be spelled out precisely in the ESL to avoid such problems.

“Value-Added” Web hosting: A number of service providers have developed Web hosting products that simplify the creation and maintenance of a Web site for schools. Most include a series of templates, a permission structure and a publishing/editing interface that make it easier for a district to create and maintain a site. Templates, permissions and a publishing/editing interface are common elements of all Web hosting services, but these hosts understand the specific needs of schools, and have enhanced their products to better meet the needs of schools. At least one of these services has recently been found to be ineligible, and the inclusion of “content editing features” as ineligible appears to be trying to make these value-added hosts’ product largely ineligible. The ESL should state clearly whether such Web hosting products are eligible.

Hosted applications: Increasingly, applicants are having administrative software (for example, student management systems, financial management systems and library catalogs) hosted on the Web. The service providers typically use a multi-tiered architecture, where the first tier of servers is dedicated to hosting the Web pages used to display information from the other tiers of servers. The ESL should clearly state whether the portion of the service provider’s fee that covers Web hosting (the cost of Web servers and Internet bandwidth) is eligible for funding.

SSL Certificates: Schools which host student information internally are increasingly making this available to parents and staff over the internet using Web sites with SSL encryption. This encryption requires a fee paid to a Certificate Authority. The ESL should state whether this fee is eligible.

Ineligible Internet Access Components

The first paragraph states: “Services not included in this Eligible Services List are presumed to be not eligible.” This sentence should be deleted, and no such presumption should be made. While the ESL continues to improve, it is by no means an exhaustive list of all the voice, video and data distribution products that will exist at the end of the funding year.

Internal Connections

Data Protection

In the description of the eligibility of Uninterruptible Power Supplies, please provide a definition for “substantial periods in excess of that necessary for basic power protection.” I would propose: “UPSes are eligible that provide basic power protection, which is defined as 1 hour of battery backup for servers and data distribution equipment and 6 hours for telephone systems.”

Interfaces, Gateways, Antennas

In the first paragraph, replace “Internet access information” with “information from the Internet.”

Servers

In the third paragraph, replace “Remote Access Components” with “Remote Access Server.”

Software

Web hosting software, if purchased separately, should be eligible for discount.

The last item in the list of ineligible software should be changed from “Utility software, such as anti-virus software” to “Utility software”; anti-virus software is not utility software.

Storage Devices

The third paragraph should be deleted or at least clarified. What is meant by “a storage product such as a DVD drive”? Does it mean all storage products? Removable-media storage products? Does it mean that a CD-ROM drive is eligible, but a DVD drive is only eligible if there is no separate charge for it? In addition, the phrase “at no additional cost” is problematic, as it often happens that the quote given when purchasing a server shows no additional cost for a component like an optical drive, but when the invoice arrives, it includes a separate price for that component.

DVD drives for servers should be eligible. As software necessary to maintain a server is increasingly delivered on DVDs, it is good practice to order servers with DVD drives. The added cost of a DVD drive is generally not a significant part of the total cost of a server.

Telephone Components

The list of eligible components should include “VoIP telephone systems/call managers/media gateways” to clarify that VoIP systems are eligible.

The fourth paragraph should mention that VoIP softphones are ineligible end-user software.

Video Components

The third paragraph states that “components are not eligible if...operated directly by end users.” The phrase “and/or operated directly by end users” should be removed. In the Henkel Order⁵, the Commission held that “training for school personnel is appropriate as long as such personnel will be the personnel responsible for using of the equipment.” The Henkel Order says that end-user training is eligible if they will be using the equipment, while the ESL says that if they use the equipment, it is ineligible.

Ineligible Internal Connections Components

The second paragraph states: “Products and services not included in this Eligible Services List are presumed to be not eligible.” This sentence should be deleted, and no such presumption should be made. While the ESL continues to improve, it is by no means an exhaustive list of all the voice, video and data distribution products that will exist at the end of the funding year.

The third paragraph states that redundant components are not eligible. Applicants should be allowed to purchase the redundant components necessary to ensure “the degree of reliability ordinarily provided in the marketplace to entities purchasing such systems without E-rate discounts.” Redundancy is an essential element in the transmission of information. It is irresponsible to implement an enterprise network without redundancy to ensure reliability.

⁵ DA 06-1463, paragraph 12

Necessary redundancy is not a waste of public funds. For confirmation, the Commissioners can ask their network administrators about the redundancy built into the FCC's voice and data distribution systems.

Basic Maintenance of Internal Connections

Applicants should be given the option to receive maintenance on a "month-to-month" basis without a contract. The second paragraph of the introduction states that maintenance is "generally provided by contract." This is not so. While the E-Rate process forces school districts to create contracts, in normal circumstances, maintenance is often provided on an hourly as-needed basis with no contract. As another example, Cisco's hardware warranty is purchased from resellers with no contract, instead typically using a purchase order. As another example, it is not possible to receive E-Rate funding for the typical Microsoft telephone support mechanism, since there is no contract available; payment is made at the start of the support period by credit card or check, and support begins. I have requested a contract from Microsoft, and have been told that such a contract does not exist; the only option for support which meets the E-Rate contracting requirement is a much higher (and more expensive) level of support than most applicants need.

Maintenance and Technical Support of Internal Connections

The last paragraph states: "Services not included in this Eligible Services List are presumed to be not eligible." This sentence should be deleted, and no such presumption should be made. While the ESL continues to improve, it is by no means an exhaustive list of all the voice, video and data distribution products that will exist at the end of the funding year.

Other Miscellaneous Ineligible Components

The last paragraph states: "Services not included in this Eligible Services List are presumed to be not eligible." This sentence should be deleted, and no such presumption should be made. While the ESL continues to improve, it is by no means an exhaustive list of all the voice, video and data distribution products that will exist at the end of the funding year.

Respectfully submitted by:



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