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E-Rate Management Professionals Association, Inc

The Role of Consultants In the Universal Service Program for Schools and Libraries

Submitted to the

Federal Communications Commission

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The E-Rate Management Professionals Association, Inc. (E-MPA) is a (501)(c)(6) trade association. Its purpose is to promote excellence and ethics in E-rate professional management and consulting through certification, education and professional resources. E-MPA is an advocate for the critical role served by E-rate management professionals and consultants. The organization strives to strengthen and support the E-rate program by acting as a self-governing body of E-rate management professionals and consultants (hereafter referred to collectively as "consultants"). E-MPA provides assurance to stakeholders by maintaining the highest standards, developing and promoting best practices, and requiring ethical conduct for all members.

The Role of Consultants
In the Universal Service Program for Schools and Libraries

We are pleased to have this opportunity to provide additional information to the Federal Communications Commission about the important role that consultants play in helping stakeholders to understand how the E-Rate program operates, to comply fully with program rules, and to benefit appropriately and sensibly from this unique and valuable source of funding for telecommunications and information services.

As regulatory-intensive programs like the E-rate program mature, history shows that private sector service industries tend to grow up around them. The Medicare/Medicaid program is a prime example of that. Note that directories are replete with listings for consulting firms that help health care companies with applications for reimbursement, rate reviews, recordkeeping, appeals and so on. The E-Rate program, now in its second decade, is no different, as large numbers of companies and individuals now offer schools and libraries, and, in some cases, service providers, much the same type of help.

A common belief among E-rate stakeholders today is that a mountain of complex regulations stands between them and the funding to which they are entitled. That is one reason why they have been turning to professionals in steadily increasing numbers to guide them through the process. Many of them are also concluding that the stakes involved in the E-rate program are simply too high to risk "going it alone." Along those lines, they are finding that the increased likelihood of selection for a compliance audit and the risk of substantial penalties for audit findings of non-compliance as a result is leaving them no choice but to seek out and pay for the kind of unique and valuable expertise that only experienced, full-time E-Rate professional consultants have to offer. Together, the complex E-Rate regulatory framework, the risks associated with E-Rate non-compliance, and the significant amount of time that it now takes to manage the E-Rate application process from beginning to end has made the cost of retaining a regulatory consultant with E-Rate expertise a legitimate and necessary expense.

The role that the E-rate consultant plays in the Schools and Libraries Program is a minor variation on the roles that regulatory consultants have been playing in other fields for years. The range and type of services that E-rate consultants provide to their school and library clients are very similar to the kinds of services that consultants in other highly regulated fields provide to their clients. Services include but are not limited to education and training, assistance with forms completion and compliance, recordkeeping, accounting, programming and system development, and audit assistance.

To help illustrate this point, we randomly sampled the Internet marketing materials of a handful of organizations that provide regulatory consulting in other highly regulated fields and copied brief excerpts from them below. What will immediately become apparent is just how analogous the respective roles and services of regulatory consultants in those varied fields are to each other, and more important, to the roles and services of E-Rate consultants.

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Sample Consultants From Other Highly Regulated Fields

Medicare/Medicaid Consulting	Medicare/Medicaid Consulting	Credit Union Consulting
Campbell Wilson Healthcare Consulting[1]	ISMA Consulting Services[2]	CU Cooperative Solutions[3]
"Regulatory problems have become mission-critical for today's healthcare companies, bleeding providers out of millions in revenue every year. Our team of experts can help you make the right decisions, so you can better control the effects of these regulations on your entire enterprise—from organization and policy to reimbursements that can help you stabilize cash flow. [Services offered:] 1) Aide in the preparation of Medicare and Medicaid Cost Report coinciding with the required due dates and regulations of the State and Federal Government. 2) Review and recalculate all Medicare and Medicaid rates issued by the state and Federal government. 3) Review periodically the billing and collections regarding Medicare, Medicaid, and other revenues to ensure proper billing and collection"	"Is your office ready for a government audit? Reduce your risk of inappropriate billing for Medicare/Medicaid claims with a visit from ISMA Consulting Services. We'll educate you and your staff: • Find and follow the rules for filing claims with Medicare/Medicaid • Improve your awareness of Local Medical Review Policy (LMRP) • Avoid non-payment of claims and audits"	"Keeping up with the constant change in the laws and regulations affecting credit unions can be overwhelming. Regulators, feeling the pressure from both consumers and Congress, are raising the bar and demanding higher levels of compliance to protect the public and ensure institutional safety and soundness. CUcorp's Regulatory Compliance Consulting Services can provide customized training and assistance to help you more effectively manage the daunting regulatory requirements that are draining resources and attention from what should be your key focus: serving your members."

[1] http://www.campbellwilson.com/
[2] http://www.ismanet.org/resources/consulting/medicare.htm
[3] http://www.cucorp.com/Regulatory_Compliance_Consulting_359.html

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Sample Consultants From Other Highly Regulated Fields

Pharmaceutical Consulting	Securities Broker Dealers and Registered Investment Advisors Consulting	Medical Device FDA Compliance Consulting
CGMP Pro[4]	Regulatory Compliance, LLC[5]	REU Associates Inc.[6]
"We offer a number of pharmaceutical consulting services, each designed to help you assure CMGP compliance. These include CGMP compliance assessments of your firm and vendors, document assistance including editing or developing your quality system documents, regulatory submission assistance, CGMP training, review of facility plans with a CGMP perspective, and other CGMP related activities for manufacturing, distribution, laboratory operations, and regulatory action assistance."	"Regulatory Compliance, LLC specializes in products and services for Securities Broker Dealers and Registered Investment Advisors. Our goal is to provide superior solutions to meet the evolving regulatory compliance needs of our clients."	"REU Associates Inc. is prepared to be Your Regulatory Business Partner. We know that there are many ways to achieve your regulatory requirements. You can use our experience to tailor the right solution for your business. REU Associates Inc. are Regulatory Affairs & Quality Systems professionals that will provide responsive service to address your submission & compliance requirements for the medical products industry. We have the flexibility and experience to address your requirements whether you are a start-up, virtual or large corporation. We will develop your regulatory strategy to expedite product approvals and compliance activities. We can direct your international regulatory strategies to help in your global medical products distribution."

[4] http://www.cgmppro.com/
[5] http://www.regulatorycompliance.com/
[6] http://www.reuassociates.com/

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As you can see, when it comes to the role that consultants play in federal regulatory programs, E-Rate consultants are contributing similarly valuable services. Like the regulatory consultants that have come before them, they work to help ensure compliance with applicable laws and regulations, to enhance the accuracy of applications for funds and requests for payments, to help clients conserve resources, to help promote best-practices and to improve the overall integrity of the system in which they operate.

Over the years, other federal agencies have examined the role of the consultant, who plays it and how it is played. In June 2001, for example, the Office of Inspector General at the Department of Health and Human Services reviewed the business practices of Medicare/Medicaid consultants and, afterwards, issued a report. In that report, the OIG outlined the significant role that consultants working in that particular regulatory system play, but cautioned health care providers to be on the lookout for a small minority of bad actors who engage in improper practices and abuse the process. Here are two relevant excerpts from the OIG's report[7]:

> Providers use the legitimate services of consultants, such as accountants, attorneys, business advisors, and reimbursement specialists, for many *bona fide* reasons, including, for example, improving the efficiency and effectiveness of the provider's operations (including its coding and billing systems), enhancing the accuracy of the provider's claims, conserving resources through outsourcing, and ensuring compliance with applicable laws, regulations, and rules. Responsible consultants play an integral role in developing and maintaining practices that enhance a client's business objectives, as well as in improving the overall integrity of the health care system. We believe that most consultants, like most providers, are honest and that the vast majority of relationships between providers and consultants are legitimate business activities. Unfortunately, a small minority of unscrupulous consultants engage in improper practices or encourage abuse of the Medicare and Medicaid programs. Depending on the circumstances, these practices may expose both the consultants and their clients to potential legal liability. Hiring a consultant does not relieve a provider of responsibility for ensuring the integrity of its dealings with the Federal health care programs.
>
> ….
>
> CONCLUSION
> Consultants who abuse their position of trust pose a risk to their provider clients, to the Federal health care programs, and to themselves. While most consultants are honest and provide valuable services to their clients, a small minority engage in questionable practices or promote abuse of the Federal health care programs. In general, if a consultant's advice seems too good to be true, it probably is. We urge providers to be vigilant and to exercise judgment when selecting and relying on consultants.

Were the Commission to undertake a similar examination of E-rate consultants, we are certain that its findings and conclusion would track those of the DHHS OIG – i.e., schools and libraries use the legitimate services of E-rate consultants for a wide variety of bona fide reasons; there are, however and unfortunately, a small number of consultants who will abuse their position of trust; therefore, schools and libraries must choose consultants carefully and remain extremely cautious and fully engaged throughout the application process; if they do not, their failure could lead potentially to loss of funding or worse.

[7] http://www.oig.hhs.gov/fraud/docs/alertsandbulletins/consultants.pdf

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OVERVIEW: E-RATE CONSULTING SERVICES

Why Schools and Libraries Retain E-Rate Consultants

In the early days of the E-rate program, the truth is that a wild-west mentality sometimes took hold and refused to let go. In that environment, it was relatively easy for a few so-called consultants to claim and for stakeholders to believe that the former possessed the ability to double, triple or even quadruple a school or library's funding and do so legitimately. Those days, fortunately, are long gone, and the individuals who perpetrated them have either been fired, debarred, convicted for their misdeeds or retreated so deeply into the woodwork that they no longer present a serious threat to the integrity of the program.

Like any other new and unique federal program, the E-Rate program came to life with a novel set of rules and procedures that would take applicants, service providers, and the consulting community a very long time to master. In addition, the steady stream of rule modifications that followed only tended to make the learning curve longer. Just like it took architects years to understand how to apply the standards associated with the American's with Disabilities Act, which were undergoing modification in the courts, it took E-Rate stakeholders years to understand how to conform to the E-Rate program's requirements, especially while they were undergoing change. What is important now, though, is that significant progress has been made. As the FCC has ruled on Requests for Review and published clarifying Orders, auditors have reported their findings, and USAC has improved its training techniques, both applicants and service providers have been able to improve their processes accordingly.

Today, where E-Rate matters are concerned, school and library leaders and their counterparts on the service provider side of the table are much more sophisticated. To them, the program is neither a complete mystery nor a fairytale. They understand and fully appreciate the seriousness of their responsibilities and the penalties for not following the rules. As a result, their approach to it has tended to become far more professional and business-like. They know from experience how valuable the program is and will continue to be to their organizations, but they also know that to run a successful, fully compliant E-rate program in a school district or library system today requires time and expertise that they frequently do not possess in-house. This is the reason why that E-Rate management and clerical work has been flowing steadily for years and faster lately to third-party, E-Rate professionals. Because of their extremely narrow professional focus, these regulatory consultants offer the direction, continuity of management, expertise, experience, tools, and trained staff that schools and libraries need to help ensure that they are applying for and receiving all of the funding that they legitimately need and to which they are legally entitled – and that they have the documents and records necessary to support their requests.

What E-Rate Consultants Do

E-Rate consultants provide a wide variety of program-related services to their schools, library, and service provider clients. Overall, the types of services that they provide fall into several different categories, with the exact scope and nature of the work depending on the specific type of engagement. The following is a good example of the kinds of categories into which E-Rate consulting services generally fall:

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Sample Areas of E-rate Consulting Services

- E-Rate education and training
- Recordkeeping assistance
- Establishment and implementation of E-Rate policies and internal controls
- Compliance software services
- Compliance consulting for service providers
- CIPA compliance consulting
- E-Rate-related technology plan compliance consulting
- Eligible services consulting
- Form 470 preparation
- Discount rate-related data collection
- Form 471 preparation
- Post Form 471 administrative consulting
    - Receipt Acknowledgement Letter (RAL) review
    - Form 471 correction and modification requests
- PIA and Selective Review response preparation
- Funding Commitment Decision Letter (FCDL) review and Appeal preparation
- Post commitment administrative form preparation:
    - Forms 486 and 500
    - Service substitution and service provider (SPIN) change requests
    - Invoice deadline extension requests
    - Contact change notifications
- Service certification and Service Provider Invoice (SPI) review
- Assistance with Service Provider collections and invoice reconciliations
- Reimbursement (BEAR) form preparation
- Audit assistance

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In summary, the role of Consultants in the Universal Services Program for Schools and Libraries ("E-rate") is similar to the role of all regulatory consultants. E-rate consultants use their expertise to provide valuable services to assist their clients to receive the full benefits provided by the program as efficiently as possible while simultaneously working to ensure those same clients comply with the laws and program rules that apply to them.

Respectfully submitted:

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