

**APPENDIX A****Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 C.F.R.

Part 54 as follows:

**PART 54 - UNIVERSAL SERVICE**

1. The authority citation for Part 54 continues to read as follows:

Authority: 47 U.S.C. §§ 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

2. Amend § 54.501 by revising the section heading, deleting paragraph (a), revising paragraphs (b)(1), (c)(1), and (d)(1), and re-designating paragraphs (b), (c), and (d) as (a), (b), and (c) to read as follows:

**§ 54.501 Eligible recipients.****(a) Schools.**

(1) Only schools meeting the statutory definitions of “elementary school,” as defined in 20 U.S.C. 7801(18), or “secondary school,” as defined in 20 U.S.C. 7801(38), and not excluded under paragraphs (a)(2) or (a)(3) of this section shall be eligible for discounts on telecommunications and other supported services under this subpart.

(2) \* \* \*

(3) \* \* \*

**(b) Libraries.**

(1) Only libraries eligible for assistance from a State library administrative agency under the Library Services and Technology Act (Public Law 104-208) and not excluded under paragraphs (b)(2) or (b)(3) of this section shall be eligible for discounts under this subpart.

(2) \* \* \*

(3) \* \* \*

**(c) Consortia.**

(1) For purposes of seeking competitive bids for supported services, schools and libraries eligible for support under this subpart may form consortia with other eligible schools and libraries, with health care providers eligible under subpart G, and with public sector (governmental) entities, including, but not limited to, state colleges and state universities, state educational broadcasters, counties, and municipalities, when ordering telecommunications and other supported services under this subpart. With one exception, eligible schools and libraries participating in consortia with ineligible private sector members shall not be eligible for discounts for interstate services under this subpart. A consortium may include ineligible private sector entities if the pre-discount prices of any services that such consortium receives are generally tariffed rates.

(2) \* \* \*

(3) \* \* \*

3. Amend § 54.502 to read as follows:

**§ 54.502 Eligible services.**

(a) **Supported services.** Supported services are listed in the Eligible Services List as updated annually in accordance with subpart (b) of this section. The services in this subpart will be supported in addition to all reasonable charges that are incurred by taking such services, such as state and federal taxes. Charges for termination liability, penalty surcharges, and other charges not included in the cost of taking such service shall not be covered by the universal service support mechanisms. These supported services fall within the following general categories:

(1) **Telecommunications services.** For purposes of this subpart, supported telecommunications services provided by telecommunications carriers include all commercially available telecommunications services.

(2) **Telecommunications.** For purposes of this subpart, supported telecommunications can be provided in whole or in part via fiber by any entity.

(3) **Internet access.** For purposes of this subpart, Internet access is as defined in § 54.5 of the Commission's rules.

(4) **Internal connections and basic maintenance.**

(i) For purposes of this subpart, a service is eligible for support as a component of an institution's internal

connections if such service is necessary to transport information within one or more instructional buildings of a single school campus or within one or more non-administrative buildings that comprise a single library branch. Discounts are not available for internal connections in non-instructional buildings of a school or school district, or in administrative buildings of a library, to the extent that a library system has separate administrative buildings, unless those internal connections are essential for the effective transport of information to an instructional building of a school or to a non-administrative building of a library or the Commission has found that the use of those services meets the definition of educational purpose. Internal connections do not include connections that extend beyond a single school campus or single library branch. There is a rebuttable presumption that a connection does not constitute an internal connection if it crosses a public right-of-way.

(ii) For purposes of this subpart, basic maintenance services shall be eligible as an internal connections service if, but for the maintenance at issue, the internal connection would not function and serve its intended purpose with the degree of reliability ordinarily provided in the marketplace to entities receiving such services. Basic maintenance services do not include services that maintain equipment that is not supported or that enhance the utility of equipment beyond the transport of information, or diagnostic services in excess of those necessary to maintain the equipment's ability to transport information.

(iii) Each eligible school or library shall be eligible for support for internal connections services, except basic maintenance services, no more than twice every five funding years. For the purpose of determining eligibility, the five-year period begins in any funding year in which the school or library receives discounted internal connections services other than basic maintenance services. If a school or library receives internal connections services other than basic maintenance services that are shared with other schools or libraries (for example, as part of a consortium), the shared services will be attributed to the school or library in determining whether it is eligible for support.

(b) Eligible Services List.

(1) The Administrator shall submit by March 30 of each year a draft list of services eligible for support, based on the Commission's rules for the following funding year. The Wireline Competition Bureau will

issue a Public Notice seeking comment on the Administrator's proposed eligible services list. At least 60 days prior to the opening of the window for the following funding year, the final list of services eligible for support will be released.

(2) All supported services are listed in the Eligible Services List as updated annually in accordance with subsection (b)(1) of this section.

4. Amend § 54.503 to read as follows:

**§ 54.503 Competitive bidding requirements.**

(a) All entities participating in the schools and libraries universal service support program must conduct a fair and open competitive bidding process, consistent with all requirements set forth in this subpart.

**Note:** The following is an illustrative list of activities or behaviors that would not result in a fair and open competitive bidding process: (i) the applicant for supported services has a relationship with a service provider that would unfairly influence the outcome of a competition or would furnish the service provider with inside information; (ii) someone other than the applicant or an authorized representative of the applicant prepares, signs, and submits the FCC Form 470 and certification; (iii) a service provider representative is listed as the FCC Form 470 contact person and allows that service provider to participate in the competitive bidding process; (iv) the service provider prepares the applicant's FCC Form 470 or participates in the bid evaluation or vendor selection process in any way; (v) the applicant turns over to a service provider the responsibility for ensuring a fair and open competitive bidding process; (vi) an applicant employee with a role in the service provider selection process also has an ownership interest in the service provider seeking to participate in the competitive bidding process; and (vii) the applicant's FCC Form 470 does not describe the supported services with sufficient specificity to enable interested service providers to submit responsive bids.

(b) **Competitive Bid Requirements.** Except as provided in § 54.511(c), an eligible school, library, or consortium that includes an eligible school or library shall seek competitive bids, pursuant to the requirements established in this subpart, for all services eligible for support under § 54.502. These competitive bid requirements apply in addition to state and local competitive bid requirements and are not

intended to preempt such state or local requirements.

(c) Posting of FCC Form 470.

(1) An eligible school, library, or consortium that includes an eligible school or library seeking to receive discounts for eligible services under this subpart, shall submit a completed FCC Form 470 to the Administrator to initiate the competitive bidding process. The FCC Form 470 and any request for proposal cited in the FCC Form 470 shall include, at a minimum, the following information, to the extent applicable with respect to the services requested:

(i) a list of specified services for which the school, library, or consortia including such entities, anticipates they are likely to seek discounts; and

(ii) sufficient information to enable bidders to reasonably determine the needs of the applicant.

(2) The FCC Form 470 shall be signed by the person authorized to order eligible services for the eligible school, library, or consortium including such entities and shall include that person's certification under oath that:

(i) The schools meet the statutory definition of elementary and secondary schools found under section 254(h) of the Act, as amended in the No Child Left Behind Act of 2001, 20 U.S.C. 7801(18) and (38), do not operate as for-profit businesses, and do not have endowments exceeding \$50 million;

(ii) The libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to, elementary and secondary schools, colleges, and universities).

(iii) All of the individual schools, libraries, and library consortia receiving services are or will be covered by:

(A) technology plans for using the services requested in the application; or

(B) no technology plan is required by Commission rules.

(iv) To the extent a technology plan is required by § 54.508, the technology plan(s) has/have been/will be approved consistent with § 54.508.

- (v) The services the school, library, or consortium purchases at discounts will be used primarily for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as allowed by § 54.513.
- (vi) Support under this support mechanism is conditional upon the school(s) and library(ies) securing access to all of the resources, including computers, training, software, maintenance, internal connections, and electrical connections necessary to use the services purchased effectively.
- (vii) All bids submitted for eligible products and services will be carefully considered, with price being the primary factor, and the bid selected will be for the most cost-effective service offering consistent with § 54.511.
- (3) The Administrator shall post each FCC Form 470 that it receives from an eligible school, library, or consortium that includes an eligible school or library on its website designated for this purpose.
- (4) After posting on the Administrator's website an eligible school's, library's, or consortium's FCC Form 470, the Administrator shall send confirmation of the posting to the entity requesting service. That entity shall then wait at least four weeks from the date on which its description of services is posted on the Administrator's website before making commitments with the selected providers of services. The confirmation from the Administrator shall include the date after which the requestor may sign a contract with its chosen provider(s).

(d) Gift Restrictions.

- (1) Subject to subparagraphs (3) and (4) of this paragraph, an eligible school, library, or consortium that includes an eligible school or library may not directly or indirectly solicit or accept any gift, gratuity, favor, entertainment, loan, or any other thing of value from a service provider participating in or seeking to participate in the schools and libraries universal service program. No such service provider shall offer or provide any such gift, gratuity, favor, entertainment, loan, or other thing of value except as otherwise provided herein. Modest refreshments not offered as part of a meal, items with little intrinsic value intended solely for presentation, and items worth \$20 or less, including meals, may be offered or provided, and accepted by any individuals or entities subject to this rule, if the value of these items

received by any individual does not exceed \$50 from any one service provider per funding year. The \$50 amount for any service provider shall be calculated as the aggregate value of all gifts provided during a funding year by the individuals specified in subparagraph (2)(ii).

(2) For purposes of this paragraph:

(i) the terms “school, library, or consortium” include all individuals who are on the governing boards of such entities (such as members of a school committee), and all employees, officers, representatives, agents, consultants or independent contractors of such entities involved on behalf of such school, library, or consortium with the Schools and Libraries Program of the Universal Service Fund (E-rate Program), including individuals who prepare, approve, sign or submit E-rate applications, technology plans, or other forms related to the E-rate Program, or who prepare bids, communicate or work with E-rate service providers, E-rate consultants, or with USAC, as well as any staff of such entities responsible for monitoring compliance with the E-rate Program; and

(ii) the term “service provider” includes all individuals who are on the governing boards of such an entity (such as members of the board of directors), and all employees, officers, representatives, agents, or independent contractors of such entities.

(3) The restrictions set forth in this paragraph shall not be applicable to the provision of any gift, gratuity, favor, entertainment, loan, or any other thing of value, to the extent given to a family member or a friend working for an eligible school, library, or consortium that includes an eligible school or library, provided that such transactions (i) are motivated solely by a personal relationship, (ii) are not rooted in any service provider business activities or any other business relationship with any such eligible school, library, or consortium, and (iii) are provided using only the donor’s personal funds that will not be reimbursed through any employment or business relationship.

(4) Any service provider may make charitable donations to an eligible school, library, or consortium that includes an eligible school or library in the support of its programs as long as such contributions are not directly or indirectly related to E-rate procurement activities or decisions and are not given by service providers to circumvent competitive bidding and other E-rate program rules, including those in section §

54.503(c)(2)(vi), requiring schools and libraries to pay their own non-discount share for the services they are purchasing.

5. Amend § 54.504 to read as follows:

**§ 54.504 Requests for services.**

(a) Filing of the FCC Form 471. An eligible school, library, or consortium that includes an eligible school or library seeking to receive discounts for eligible services under this subpart, shall, upon signing a contract for eligible services, submit a completed FCC Form 471 to the Administrator. A commitment of support is contingent upon the filing of an FCC Form 471.

(1) The FCC Form 471 shall be signed by the person authorized to order eligible services for the eligible school, library, or consortium and shall include that person's certification under oath that:

(i) The schools meet the statutory definition of elementary and secondary schools found under section 254(h) of the Act, as amended in the No Child Left Behind Act of 2001, 20 U.S.C. 7801(18) and (38), do not operate as for-profit businesses, and do not have endowments exceeding \$50 million.

(ii) The libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to, elementary and secondary schools, colleges, and universities).

(iii) The entities listed on the FCC Form 471 application have secured access to all of the resources, including computers, training, software, maintenance, internal connections, and electrical connections, necessary to make effective use of the services purchased, as well as to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. The billed entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).

(iv) All of the schools and libraries listed on the FCC Form 471 application are or will be covered by:

(A) technology plan(s) for using the services requested in the application; or

(B) no technology plan is required by Commission rules.

- (v) To the extent a technology plan is required by § 54.508, status of technology plan(s) has/have been approved or will be approved by a state or other authorized body.
- (vi) The entities listed on the FCC Form 471 application have complied with all applicable state and local laws regarding procurement of services for which support is being sought.
- (vii) The services the school, library, or consortium purchases at discounts will be used primarily for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as allowed by § 54.513.
- (viii) The entities listed in the application have complied with all program rules and acknowledge that failure to do so may result in denial of discount funding and/or recovery of funding.
- (ix) The applicant understands that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.
- (x) The applicant recognizes that it may be audited pursuant to its application, that it will retain for five years any and all worksheets and other records relied upon to fill out its application, and that, if audited, it will make such records available to the Administrator.
- (xi) All bids submitted to a school, library, or consortium seeking eligible services were carefully considered and the most cost-effective bid was selected in accordance with § 54.503 of this subpart, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals.
- (2) [Reserved]
- (b) Mixed eligibility requests. If 30 percent or more of a request for discounts made in an FCC Form 471 is for ineligible services, the request shall be denied in its entirety.
- (c) Rate disputes. Schools, libraries, and consortia including those entities, and service providers may have recourse to the Commission, regarding interstate rates, and to state commissions, regarding intrastate rates, if they reasonably believe that the lowest corresponding price is unfairly high or low.
- (1) Schools, libraries, and consortia including those entities may request lower rates if the rate offered by

the carrier does not represent the lowest corresponding price.

(2) Service providers may request higher rates if they can show that the lowest corresponding price is not compensatory, because the relevant school, library, or consortium including those entities is not similarly situated to and subscribing to a similar set of services to the customer paying the lowest corresponding price.

(d) Service substitution.

(1) The Administrator shall grant a request by an applicant to substitute a service or product for one identified on its FCC Form 471 where:

- (i) the service or product has the same functionality;
- (ii) the substitution does not violate any contract provisions or state or local procurement laws;
- (iii) the substitution does not result in an increase in the percentage of ineligible services or functions; and
- (iv) the applicant certifies that the requested change is within the scope of the controlling FCC Form 470, including any associated Requests for Proposal, for the original services.

(2) In the event that a service substitution results in a change in the pre-discount price for the supported service, support shall be based on the lower of either the pre-discount price of the service for which support was originally requested or the pre-discount price of the new, substituted service.

(3) For purposes of this rule, the broad categories of eligible services (telecommunications service, Internet access, and internal connections) are not deemed to have the same functionality with one another.

(e) Mixed eligibility services. A request for discounts for a product or service that includes both eligible and ineligible components must allocate the cost of the contract to eligible and ineligible components.

(1) Ineligible components. If a product or service contains ineligible components, costs must be allocated to the extent that a clear delineation can be made between the eligible and ineligible components. The delineation must have a tangible basis, and the price for the eligible portion must be the most cost-effective means of receiving the eligible service.

(2) Ancillary ineligible components. If a product or service contains ineligible components that are ancillary to the eligible components, and the product or service is the most cost-effective means of

receiving the eligible component functionality, without regard to the value of the ineligible component, costs need not be allocated between the eligible and ineligible components. Discounts shall be provided on the full cost of the product or service. An ineligible component is “ancillary” if a price for the ineligible component cannot be determined separately and independently from the price of the eligible components, and the specific package remains the most cost-effective means of receiving the eligible services, without regard to the value of the ineligible functionality.

(3) The Administrator shall utilize the cost allocation requirements of this subparagraph in evaluating mixed eligibility requests under § 54.504(e)(1).

(f) Filing of FCC Form 473. All service providers eligible to provide telecommunications and other supported services under this subpart shall submit annually a completed FCC Form 473 to the Administrator. The FCC Form 473 shall be signed by an authorized person and shall include that person's certification under oath that:

(1) The prices in any offer that this service provider makes pursuant to the schools and libraries universal service support program have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to those prices, the intention to submit an offer, or the methods or factors used to calculate the prices offered;

(2) The prices in any offer that this service provider makes pursuant to the schools and libraries universal service support program will not be knowingly disclosed by this service provider, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt will be made by this service provider to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

6. Amend § 54.505 by revising paragraph (b)(4) to read as follows:

**§ 54.505 Discounts.**

(a) \* \* \*

(b) \* \* \*

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(i) \* \* \*

(ii) \* \* \*

(4) School districts, library systems, or other billed entities shall calculate discounts on supported services described in § 54.502(b) that are shared by two or more of their schools, libraries, or consortia members by calculating an average based on the applicable discounts of all member schools and libraries. School districts, library systems, or other billed entities shall ensure that, for each year in which an eligible school or library is included for purposes of calculating the aggregate discount rate, that eligible school or library shall receive a proportionate share of the shared services for which support is sought. For schools, the average discount shall be a weighted average of the applicable discount of all schools sharing a portion of the shared services, with the weighting based on the number of students in each school. For libraries, the average discount shall be a simple average of the applicable discounts to which the libraries sharing a portion of the shared services are entitled.

\* \* \* \* \*

6. Amend § 54.506 to read as follows:

**§ 54.506**

[Reserved]

7. Amend § 54.507 by revising paragraphs (a), (a)(1), (a)(2), and (g), and adding paragraphs (a)(3), (a)(3)(i), and (a)(3)(ii) to read as follows:

**§ 54.507 Cap.**

(a) **Amount of the annual cap.** In funding year 2010 and subsequent funding years, the \$2.25 billion funding cap on federal universal service support for schools and libraries shall be automatically increased annually to take into account increases in the rate of inflation as calculated in subpart (a)(1).

(1) **Increase Calculation.** To measure increases in the rate of inflation for the purposes of section 54.507(a), the Commission shall use the Gross Domestic Product Chain-type Price Index (GDP-CPI). To compute the annual increase as required by section 54.507(a), the percentage increase in the GDP-CPI from the previous year will be used. For instance, the annual increase in the GDP-CPI from 2008 to 2009 would be used for the 2010 funding year. The increase shall be rounded to the nearest 0.1 percent by rounding 0.05 percent and above to the next higher 0.1 percent and otherwise rounding to the next lower 0.1 percent. This percentage increase shall be added to the amount of the annual funding cap from the previous funding year. If the yearly average GDP-CPI decreases or stays the same, the annual funding cap shall remain the same as the previous year.

(2) **Public Notice.** When the calculation of the yearly average GDP-CPI is determined, the Wireline Competition Bureau shall publish a Public Notice in the Federal Register within 60 days announcing any increase of the annual funding cap based on the rate of inflation.

(3) **Amount of unused funds.** All funds collected that are unused shall be carried forward into subsequent funding years for use in the schools and libraries support mechanism in accordance with the public interest and notwithstanding the annual cap.

(i) The Administrator shall report to the Commission, on a quarterly basis, funding that is unused from prior years of the schools and libraries support mechanism.

(ii) **Application of unused funds.** On an annual basis, in the second quarter of each calendar year, all funds that are collected and that are unused from prior years shall be available for use in the next full funding

year of the schools and libraries mechanism in accordance with the public interest and notwithstanding the annual cap as described in paragraph (a) of this section.

(b) \* \* \*

(c) \* \* \*

(d) \* \* \*

(e) \* \* \*

(f) \* \* \*

(g) Rules of priority. The Administrator shall act in accordance with paragraph (g)(1) of this section with respect to applicants that file an FCC Form 471, as described in § 54.504(a) of this part, when a filing period described in paragraph (c) of this section is in effect. The Administrator shall act in accordance with paragraph (g)(2) of this section with respect to applicants that file an FCC Form 471, as described in § 54.504(a) of this part, at all times other than within a filing period described in paragraph (c) of this section.

\* \* \* \* \*

8. Amend § 54.508 to read as follows:

**§ 54.508 Technology Plans.**

(a) Applicants must develop a technology plan when requesting discounts for internal connections and basic maintenance for internal connections. Applicants must document the date on which the technology plan was created. The technology plan must include the following elements:

- (1) A clear statement of goals and a realistic strategy for using telecommunications and information technology to improve education or library services;
- (2) A professional development strategy to ensure that the staff understands how to use these new technologies to improve education or library services;

- (3) An assessment of the telecommunication services, hardware, software, and other services that will be needed to improve education or library services; and
- (4) An evaluation process that enables the school or library to monitor progress toward the specified goals and make mid-course corrections in response to new developments and opportunities as they arise.
- (b) Relevance of approval under Enhancing Education through Technology. Technology plans that meet the standards of the U.S. Department of Education's Enhancing Education Through Technology (EETT), 20 U.S.C. 6764, are sufficient for satisfying paragraphs (a)(1), (a)(2), (a)(3) and (a)(4) of this section. Furthermore, to the extent that the U.S. Department of Education adopts future technology plan requirements that require one or more of the four elements described in paragraph (a) of this section, such plans will be acceptable for satisfying those elements of paragraph (a) of this section. Applicants with such plans will only need to supplement such plans with the analysis needed to satisfy those elements of paragraph (a) of this section not covered by the future Department of Education technology plan requirements.
- (c) Timing of certification. As required under §§ 54.503(c)(2)(iii) and 54.504 (a)(1)(iv), applicants must certify that they have prepared any required technology plans. They must also confirm, in FCC Form 486, that their plan was approved before they began receiving services pursuant to it.
- (d) Parties qualified to approve technology plans required in this subpart. Applicants required to prepare and obtain approval of technology plans under this subpart must obtain such approval from either their state, the Administrator, or an independent entity approved by the Commission or certified by the Administrator as qualified to provide such approval. All parties who will provide such approval must apply the standards set forth in paragraphs (a) and (b) of this section.

9. Amend § 54.511 by revising paragraphs (a), (c)(1), (c)(1)(ii) and (d)(1), and deleting paragraph (c)(3) to read as follows:

**§ 54.511 Ordering Services.**

(a) Selecting a provider of eligible services. In selecting a provider of eligible services, schools, libraries, library consortia, and consortia including any of those entities shall carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers, but price should be the primary factor considered.

(b) \* \* \* \* \*

(c) Existing contracts.

(1) A signed contract for services eligible for discounts pursuant to this subpart between an eligible school or library as defined under § 54.501 or consortium that includes an eligible school or library and a service provider shall be exempt from the requirements set forth in § 54.503 as follows:

(i) \* \* \*

(ii) A contract signed after July 10, 1997, but before the date on which the universal service competitive bid system described in § 54.503 is operational, is exempt from the competitive bid requirements only with respect to services that are provided under such contract between January 1, 1998 and December 31, 1998.

(2) \* \* \*

(d)(1) The exemption from the competitive bid requirements set forth in paragraph (c) of this section shall not apply to voluntary extensions or renewals of existing contracts.

(2) \* \* \*

10. Amend § 54.513 by revising paragraph (a), adding a new paragraph (b), and re-designating paragraphs (b) and (c) as (c) and (d) to read as follows:

**§ 54.513 Resale and transfer of services.**

(a) Prohibition on resale. Eligible supported services provided at a discount under this subpart shall not be sold, resold, or transferred in consideration of money or any other thing of value, except as provided in paragraph (b) of this section.

(b) Disposal of Obsolete Equipment Components of Eligible Services. Eligible equipment components of eligible services purchased at a discount under this subpart shall be considered obsolete if the equipment components have been installed for at least five years. Obsolete equipment components of eligible services may be resold or transferred in consideration of money or any other thing of value, disposed of, donated, or traded.

(c) \* \* \*

(d) \* \* \*

11. Amend § 54.517 to read as follows:

**§ 54.517**

[Reserved]

12. Amend § 54.518 to read as follows:

**§ 54.518 Support for wide area networks.**

To the extent that schools, libraries or consortia that include an eligible school or library build or purchase a wide area network to provide telecommunications services, the cost of such wide area networks shall not be eligible for universal service discounts provided under this subpart.

13. Amend § 54.519 by revising paragraphs (a), (a)(6) and (b) to read as follows:

**§ 54.519 State telecommunications networks.**

(a) Telecommunications services. State telecommunications networks may secure discounts under the universal service support mechanisms on supported telecommunications services (as described in § 54.502(a)) on behalf of eligible schools and libraries (as described in §54.501) or consortia that include an eligible school or library. Such state telecommunications networks shall pass on such discounts to eligible schools and libraries and shall:

(1) \*\*\*

(2) \*\*\*

(3) \*\*\*

(4) \*\*\*

(5) \*\*\*

(6) Comply with the competitive bid requirements set forth in § 54.503.

(b) Internet access and installation and maintenance of internal connections. State telecommunications networks either may secure discounts on Internet access and installation and maintenance of internal connections in the manner described in paragraph (a) of this section with regard to telecommunications, or shall be eligible, consistent with § 54.502(a), to receive universal service support for providing such services to eligible schools, libraries, and consortia including those entities.

14. Amend § 54.522 to read as follows:

**§ 54.522**

[Reserved]

**APPENDIX B**

**Eligible Services List for Funding Year 2011**

**Eligible Services List  
Schools and Libraries Support Mechanism  
for Funding Year 2011**

**Overall Eligibility Requirements for All Categories of Service:**

The Eligible Services List (ESL) indicates whether specific products or services may be able to receive discounts under the Schools and Libraries Support Mechanism.

The List is organized into five sections that represent the five funding categories established by the Federal Communications Commission (FCC) plus a Miscellaneous section that is applicable to multiple categories:

Telecommunications Services  
Telecommunications  
Internet Access  
Internal Connections  
Basic Maintenance  
Miscellaneous

In addition, the following sections are provided:

Special Eligibility Conditions  
Glossary, providing additional information about  
the terms used in this Eligible Services List  
Index

Funding may be provided only for eligible products or services that will be used for educational purposes. See 47 C.F.R. §§ 54.500(b), 54.502-4. The conditions for eligibility are described in the specific entries of this Eligible Services List. Services that are not eligible are listed at the end of each category.

All program participants are reminded to review the Special Eligibility Conditions at the end of this Eligible Services List in addition to all of the entries applicable to the services or products they are requesting. Additional information about eligibility requirements is available at USAC's website at <http://www.usac.org/sl/>, the reference area of the USAC website at <http://www.usac.org/sl/tools/reference-area.aspx>, and in Schools and Libraries News-briefs available at <http://www.usac.org/sl/tools/news-briefs/Default.aspx>. These documents are not incorporated by reference into the Eligible Services List.

This version of the Eligible Services List is dated September 23, 2010. Some eligibility information in this List represents a change from prior funding years and applies to funding requests for Funding Year 2011.

**Eligibility Requirements for all Telecommunications Services:**

To be eligible for support, telecommunications services must be provided by a telecommunications carrier, that is, a company that offers telecommunications services on a common carriage basis. A telecommunications service is "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public..." 47 U.S.C. 153(46). All telecommunications carriers are required under FCC rules to be common carriers and to file FCC Form 499A (*Telecommunications Reporting Worksheet*).

Except as otherwise indicated in this section, support in this funding category is only available for telecommunications services or for services that are an integral component part of a telecommunications service. Support in this category of service is not available for equipment purchases by applicants.

We include interconnected VoIP as an eligible service irrespective of whether the FCC has classified this service as a telecommunications service or an information service. The FCC has included both information services (*i.e.*, Internet access and voicemail services) and telecommunications services as priority one services eligible for discounts under the universal service support mechanism. *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9212, para. 29 (2003). As such, the regulatory classification of interconnected VoIP service does not affect the inclusion of this service as an eligible service here.

In addition, some service offerings provide a combination of both Internet access and telecommunications services. For example, a service provider may offer local phone service, long distance service, cellular service, and Internet access for one price. For administrative convenience, such a combined offering, if provided by an eligible telecommunications carrier, may be requested in the telecommunications services category of service on the FCC Form 471. Alternatively, funding may be requested as two separate requests, with the price of the offering appropriately allocated between the telecommunications services and Internet access categories.

If Internet access is being requested in the telecommunications services category, applicants must indicate that Internet access is being sought when filing an FCC Form 470. Please note that funding of Internet access in the telecommunications services category does not relieve applicants of responsibilities they may have under the Children's Internet Protection Act (CIPA).

Function	Description
Digital Transmission Services	<ul style="list-style-type: none"> <li>• A telecommunications service that provides transmission from an eligible school or library facility to other locations beyond the school or library is eligible for discount. Digital transmission services refer to data links that connect multiple points using any available technology. An eligible digital transmission service may be used to connect an eligible location to the Internet or <u>Internet2</u>. Digital transmission services used to link local networks are commonly called "wide area networks" (WANs).</li> </ul> <p>Eligible digital transmission technologies include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• <u>Asynchronous Transfer Mode (ATM)</u></li> <li>• <u>Broadband over Power Lines (BPL)</u></li> <li>• <u>Digital Subscriber Line (DSL)</u></li> <li>• <u>DS-1, DS-3</u></li> <li>• <u>Ethernet</u></li> <li>• <u>Fiber optics</u></li> <li>• <u>Frame Relay</u></li> <li>• <u>Integrated Services Digital Network (ISDN, BRI, PRI)</u></li> <li>• <u>OC-1, OC-3, OC-12, OC-n</u></li> <li>• <u>Satellite service</u></li> <li>• <u>Switched Multimegabit Data Service (SMDS)</u></li> <li>• <u>T-1, T-3, Fractional T-1</u></li> <li>• <u>Wireless</u></li> </ul> <p>Components required as an integral part of a digital transmission service are eligible for discount, such as:</p> <ul style="list-style-type: none"> <li>• costs of a <u>permanent virtual circuit (PVC)</u></li> <li>• costs of <u>trunk lines</u></li> <li>• reasonable installation costs</li> </ul> <p>The telecommunications component of:</p> <ul style="list-style-type: none"> <li>• a <u>distance learning</u> capability,</li> <li>• <u>video</u>, or</li> <li>• <u>interactive television</u> is eligible for discount.</li> </ul>
Paging	<p><u>Paging</u> services eligible when integral, immediate, and proximate to the education of students.</p>
Telephone Service	<p>"Telephone Service" refers to communication that takes place using the public switched telephone network. Costs to subscribe to a telephone service are generally eligible for discount including the costs for the following telephone services:</p>

	<ul style="list-style-type: none"> <li>• <u>800 service</u>, e.g., a toll-free telephone number for students to contact school regarding questions about homework</li> <li>• <u>Centrex</u></li> <li>• <u>Local phone service</u></li> <li>• <u>Long distance telephone service</u></li> <li>• <u>Interconnected Voice Over Internet Protocol</u></li> <li>• <u>POTS</u> ("Plain Old Telephone Service")</li> <li>• <u>Radio loop</u></li> <li>• <u>Wireless telephone services</u>, e.g., <u>cellular service</u> and <u>Personal Communications Services (PCS)</u></li> <li>• Shared telephone service (only that portion of the shared service relating to the eligible use and location is eligible)</li> </ul> <p>Various payment options may be used with these eligible services, and phone bills may include billing terms such as <u>flat rate</u>, <u>local measured service</u>, and <u>message rate service</u>. <u>Phone calling cards</u> may be used if they are used for an educational purpose.</p> <ul style="list-style-type: none"> <li>• Service to an eligible location for educational or library purposes can provide voice communication, fax connections, modem connections, <u>911</u> or an <u>alarm</u>.</li> </ul>
<p>Telephone Service Components</p>	<p>Telephone features indicated in this section are eligible for discount if they are a component part of a telephone service. Generally, this requirement means that these charges will appear on the same bill as the telephone service itself.</p> <ul style="list-style-type: none"> <li>• <u>900\976 Call Blocking</u></li> <li>• <u>Text messaging</u></li> <li>• <u>Custom calling services</u></li> <li>• <u>Direct Inward Dialing (DID)</u></li> <li>• <u>Directory assistance charges</u></li> <li>• An <u>inside wire maintenance</u> plan is eligible as a component part of a telephone service only if charges are minimal.</li> <li>• <u>Installation charges</u>—see the entry for "<u>Installation and Configuration</u>" in the Miscellaneous section</li> </ul>
<p>Other Eligible Telecommunications Services</p>	<p>The telecommunications component of voice or video <u>conferencing services</u> that provide a means for multiple users to participate in group discussions can be eligible if the services are limited only to eligible educational or library purposes.</p> <p>Maintenance and technical support appropriate to maintain reliable operation is eligible for discount when provided as a component of an eligible telecommunications service.</p> <p>Please see the <u>Miscellaneous</u> section of this document for additional entries applicable to Telecommunications Services,</p>

	such as charges for installation and configuration.
<p>Ineligible for E-rate Funding as Telecommunications Services (Not Eligible)</p>	<p>The following services are <b>NOT ELIGIBLE</b> for discount:</p> <ul style="list-style-type: none"> <li>• <u>900\976 service</u></li> <li>• <u>Broadcast "Blast" Messaging</u></li> <li>• <u>Direct Broadcast</u> and other services that provide broadcast content or cable television</li> <li>• <u>Directory advertising</u></li> <li>• Extra costs for directory listings</li> <li>• <u>Payphone</u></li> <li>• <u>Reverse directory assistance</u></li> <li>• <u>Non-telecommunications components</u> of a distance learning service, video service, or interactive television service, such as a scheduling service or services for creation, maintenance, and storage of content</li> <li>• <u>Internet2 membership dues</u></li> <li>• <u>Residential telephone service</u> is not eligible except in cases where state or local law or tariffs allow a school or library to receive local service at the residential rates</li> <li>• Charges for creation, configuration, or maintenance of content</li> <li>• Services that go beyond a telecommunications service, such as monitoring services for 911, E911, or an alarm telephone line</li> <li>• Telephone services that connect to a residential facility or home, except as allowed by the Commission in FCC 10-175 for the residential areas of residential schools that serve unique populations</li> <li>• Services that provide voice, video, or data connectivity exclusively within school or library grounds are not eligible for funding as Telecommunications Services but may be eligible as Internal Connections</li> <li>• Services to ineligible locations</li> <li>• Applications (including GPS) for wireless devices are not eligible for discount. Charges for telecommunications service or Internet access service used solely for the provision of these applications are not eligible.</li> </ul> <p>Please see the <u>Miscellaneous</u> section of this document for additional entries applicable to Telecommunications Services. For example, finance charges and termination charges are not eligible.</p>

**Eligibility Requirements for Telecommunications:**

Non-telecommunications carriers may provide telecommunications via fiber in whole or in part. *Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan For Our Future*, CC Docket No. 02-6, GN Docket No, 09-51, Report and Order, FCC 10-175 (2010).

Telecommunications is defined as "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." 47 U.S.C. 153(43).

Function	Description
<p>Fiber or Dark Fiber</p>	<p>Fiber capacity, lit or dark and provided by any entity, including a non-telecommunications carrier, is eligible. Dark fiber is eligible as long as applicants light the fiber immediately.</p> <p>Certain maintenance and installation costs are eligible, including charges for installation within the property line. Special construction charges to build out connections from an applicant's facilities to an off-premises fiber network are NOT eligible. Special construction charges include design and engineering costs, project management costs, digging trenches and laying fiber.</p> <p>The purchase and ownership of modulating electronics associated with lighting dark fiber is NOT eligible. Applicants are also not permitted to use E-rate discounts to acquire unneeded capacity or warehouse dark fiber for future use.</p> <p>Applicants should apply for fiber service as a telecommunications service if they select a telecommunications carrier to provide the dark fiber but should apply for the dark fiber service as Internet access if they select a non-telecommunications carrier to provide the dark fiber.</p> <p>We include dark fiber as an eligible service irrespective of whether the FCC has classified this service as a telecommunications service or an information service. As such, the regulatory classification of dark fiber does not affect its inclusion as an eligible service.</p>

## Internet Access

### Eligibility Requirements for All Internet Access Services:

Internet access is an information service. Briefly, an information service is "the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications...." 47 U.S.C. 153(20).

Support in this funding category is only available for basic conduit access to the Internet or for services that are an integral component part of basic conduit access. Support in this category of service is not available for content, equipment purchases by applicants, or services beyond basic conduit access to the Internet.

Service providers for Internet access need not be telecommunications carriers.

We include interconnected VoIP as an eligible service irrespective of whether the FCC has classified this service as a telecommunications service or an information service. The FCC included both information services (*i.e.*, Internet access and voicemail services) and telecommunications services as priority one services eligible for discounts under the universal service support mechanism. *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9212, para. 29 (2003). As such, the regulatory classification of interconnected VoIP service does not affect the inclusion of this service as an eligible service here.

Function	Description
Distance Learning and Video Conferencing	<p>The basic conduit access to the Internet may be used to access Internet-based distance learning and video conferencing services. However, the charges for web meetings or online collaboration solutions for the provision of distance learning or video conferencing charges (e.g. web meetings or online collaboration solutions) are NOT Eligible for discount.</p> <p>A point-to-point connection (e.g. ISDN line) for <u>distance learning</u> or video conferencing is NOT eligible as Internet Access and may only be provided by eligible telecommunication carriers, except if provided via fiber or dark fiber.</p> <p>Videoconferencing components at customer sites may be eligible as Internal Connections. See the Video Components entry in the Internal Connections section of this Eligible Services List.</p>