

Before the
Federal Communications Commission
Washington, DC 20554

In the matter of:

Comments of the Draft Eligible Services List

Schools and Libraries Universal Service
Support Mechanism

August 4, 2014

WC Docket No. 13-184

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COMMENTS OF E-RATE PROVIDER SERVICES, LLC.

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Introduction

E-Rate Provider Services respectfully submits these comments in response to the Federal Communications Commission's ("Commission" or "FCC") Public Notice regarding the Wireline Competition Bureau's Request for Comment on the FY 2015 Eligible Services List (ESL) for the Schools and Libraries Universal Service Mechanism, commonly known as the E-Rate Program. E-Rate Provider Services is a consulting firm serving Service Providers in the E-rate program. E-Rate Provider Services' purpose is to assist E-rate Service Providers in navigating the complexities of the program, providing sales and compliance assistance, cost allocation services, bid and proposal review, and staff training.

E-Rate Provider Services provides the following comments regarding product eligibility with a similar perspective as Funds For Learning's excellent comments, and will echo many of them in this brief document. In addition, we pose several questions for consideration by the Commission, with the hope that several points we consider unclear can be clarified in advance of the opening of the filing window, allowing both Applicants and Service Providers ample opportunity to review the changes and plan accordingly.

Product Eligibility

Category 2 DNS/DHCP

DNS/DHCP is a core infrastructure function, and should be included as such in the FY 2015 ESL. Data will not move without this function, and as Funds For Learning stated, is much more critical to the transport of information than an Uninterruptible Power Supply (UPS). Simply put, data will flow without a UPS; it will not flow without DNS/DHCP.

Further, DNS/DHCP services and devices are now being used to regulate access to different parts of a network, and are extremely useful for differentiating between student devices and teacher devices, and as such are best implemented as Category 2 equipment, configurable by the Applicants. In sum, applicant-owned and configurable DNS/DHCP devices offer a low-cost, powerful tool for applicants to better control their environment, user privileges, and security.

E-Rate Provider Services therefore comments that DNS/DHCP services and devices should be included in the final FY 2015 ESL.

Caching

The FY 2015 ESL contained language regarding Caching devices, with little specificity. E-Rate Provider Services comments that caching, in the broader sense, refers to any devices which contain storage to more readily recall frequently accessed information, which can include caching of frequently-accessed web pages, router caching for frequently-accessed web sites, video caching for frequently-accessed videos, etc. E-Rate Provider Services comments that in all cases the caching in question makes the bandwidth of the connection more efficient, allowing a bandwidth-restricted entity to get more functionality out of their Broadband connections. E-Rate Provider Services therefore comments that the Commission should take a broader view of the types of Category 2 caching devices allowable in the final version of the FY 2015 ESL.

Category 1 Distance Learning/Video-Conferencing

E-Rate Provider Services found the omission of Category 1 Distance Learning/Video-Conferencing (VC) Services from the Draft FY 2015 ESL to be perplexing, and seeks clarification. It is generally considered that high-bandwidth video services are the primary reason for building high-capacity broadband networks. To put it another way, the bandwidth targets set in the E-Rate Modernization Order are excessive by an order of magnitude if on-demand video streaming and VC services are not funded as part of the program. E-Rate Provider Services was under the impression that video streaming and VC services were not an afterthought, but (bluntly put) the entire POINT of the refocusing effort?

To be able to take best advantage of the high-capacity broadband connections proposed by the Commission, there must be a cloud-based “switch,” that is, some agent, virtual or physical, making the connection between the various sources and the Applicant. Our reading of the ESL, corroborated by conversations with internal USAC staffers, indicated that these switching services, necessary to enable the streaming and VC services, will not be funded, and E-Rate Provider Services believes that this omission is a mistake, and will result in a significant overbuild of data capacity to schools and libraries. In other words, large, empty highways serve no one.

Category 1 Bundled Services

The breadth and depth of Category 1 services removed from the FY 2015 Draft ESL raises several questions concerning bundled services, including:

Bundled Web Hosting, Virus Protection, SPAM Filtering or Content Filtering

Category 1 Internet Access providers sometimes include other services as part of their basic product. Will providers of these “inclusive” offerings be required to cost-allocate the ineligible services out? Historically, if such a service is part of the “base” offering USAC has allowed its inclusion and not required it to be cost-allocated.

Separately-Priced Firewall Services

Category 1 Telecommunications providers often offer a variety of services in addition to the basic bandwidth, and often the structure of these offerings vary from provider to provider. For example, some have a single price for bandwidth including firewall services, while some price the firewall separately. Current program rules do not allow the separately priced firewall services to receive funding, but E-Rate Provider Services comments that this approach is counterproductive.

For this discussion, Vendor A provides a DS3 Internet connection for \$1,100.00 per month, which includes firewall services bundled in, while Vendor B provides the same DS3 Internet connection for \$1,000.00 per month with the option of adding firewall services for an additional \$100.00 per month.

Program rules will fund Vendor A's entire solution, and will fund Vendor B's bandwidth-only solution, but will not fund Vendor B's solution with firewall because the firewall services are priced separately. Why? Both Vendor A and Vendor B comply with Commission rules that state that Category 1 firewall services can only be purchased from the Service Provider providing the bandwidth. The fact that Vendor B has chosen to offer the bandwidth with or without the firewall services is a better solution for Applicants who wish to own and manage their own firewall, but in this case their flexibility costs them the eligibility for their offering that includes firewall services. E-Rate Provider Services finds this perplexing, because it incentivizes providers to provide more services that the Applicant requires in order to get their most robust suite of services funded, and because it appears to be based on the mistaken principle that services bundled in have no discrete cost; clearly it costs more to provide firewall services than not.

Therefore, E-Rate Provider Services recommends that the Commission rescind this requirement, and allow providers to offer a basic connection and price the incremental services they offer separately, and receive funding for any and all eligible portions of the service.

Voice, Video and Data over Broadband

One element of the E-Rate Modernization Order that remains unclear is the relationship between broadband connectivity and ineligible services. Seeking clarity, E-Rate Provider Services poses the following questions:

A Service Provider provides a Category 1 DS3 connection to the Internet, a 100% eligible Category 1 service.

Is the eligibility decreased for any reason based upon the type of traffic carried? The circuit is obviously 100% eligible if it is carrying data only.

- What if the circuit carries voice and data?
- Voice, video and data?
- Voice only?

Do any of the above scenarios require the usage to be cost-allocated? Program rules generally require ineligible services to be cost-allocated out, but the language in the FY 2015 Draft ESL is ambiguous.

Finally, will Applicants be given the flexibility to contract with multiple providers to achieve the bandwidth targets? The short-term bandwidth goal in the E-Rate Modernization Order is 100 mbps per 1000 students. Does the Commission take a position regarding whether this needs to be a single broadband connection, or can it be multiple connections? For example, could an Applicant achieve the 100 mbps connection by purchasing two 50 mbps connections, or some other combination that, in aggregate, meets the bandwidth goals set for in the Order?

Cost-Allocation

While E-Rate Provider Services appreciates the Commission's interest in simplifying the ESL, without guidance on the types of features which are and are not eligible, it becomes nearly impossible to cost-allocate goods and services properly. For example, under previous ESLs, redundant MCPs were not fundable in routers, nor were hard drives for logging errors in routers or firewalls were not eligible. Are they now? Without a list of specific ineligible features, cost-allocation becomes not only difficult, but potentially costly as decisions are reversed and funds rescinded.

USAC, per Commission direction, has historically taken a conservative view on product eligibility. Coupled with the clear direction in the ESL that (to paraphrase), "If it is not listed, it is not eligible," this may cause USAC to require a wide variety of adjunct features to be cost-allocated from products, including router failover/survivable remote functionality, load balancing, DNS/DHCP functionality, built-in network management agents, and many more. The list of potentially problematic features is large, and the ESL is unclear about the disposition of equipment that is basically eligible (like a router) but that may contain peripheral features.

Essentially, the question before the Commission is, if a customer submits a router for funding (for example), will USAC be required to examine all of the features of the router, or because "router" is on the ESL, will ALL routers be funded, regardless of features, assuming said feature is not specifically listed in the ESL, like content or SPAM filtering?

If USAC will be forced to review the features of the submitted router, and remove any ineligible functionality, then Service Providers need that list of ineligible functionality to be public and detailed, so Service Providers can begin the process of reviewing their products with USAC in advance of the filing window. It is important for Service Providers to know, with as much certainty as possible, the percentage of eligibility of their products; Applicants base their procurement and technology decisions on the same information.

Further, Commission rules have never established a "safe harbor" for Service Providers in the program for decisions, which were reviewed in full view and later, reversed or amended, costing Applicants and Service Providers time and money.

If the Commission's intention is to foster the simplification of the ESL, which E-Rate Provider Services supports, then we urge the Commission to establish a "safe harbor" for product eligibility, where if the Applicant or Service Provider, in good faith and in full view, (meaning, absent fraud, omission, or other misconduct), submit products for cost-allocation, and receive approval, that the approval stands even if policies change in the future. That is, all changes in policy are prospective.

Summary

E-Rate Provider Services, as always, appreciates the opportunity to provide comments. Ironically, despite almost universal calls for greater simplicity in the program, product eligibility is one area where details are important, and E-Rate Provider Services comments that more detail regarding ineligible product features is necessary. Service Providers need to know the eligibility of their products so that Applicants will know the financial impact of their applications. E-Rate Provider Services is concerned that “loose rules” in this area will lead to a series of clarifications and corrections, which may result in COMADs as funds, committed and disbursed in good faith, will suddenly be at risk.

E-Rate Provider Services further comments that clarification of mixed-use broadband circuits is of critical importance. Some Applicants have embraced the converged model, that is, broadband data circuits that carry voice, video or both, while some Applicants have kept their broadband voice or video transport separate from their broadband data transport. Both approaches have strengths and weaknesses, and the Commission, by its decisions on Category 1 eligibility, will guide Applicants’ technology decisions.

The E-Rate Program continues to be a vital component in the quest to educate our children and provide them the tools to succeed in an increasingly technological world, and E-Rate Provider Services is pleased to be a part of this.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "B Richter".

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