Federal Communications Commission
Washington, D.C. 20554

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DA 10-820

Small Entity Compliance Guide

Schools and Libraries Universal Service Support Mechanism; Eligible Services; Eligible Services List

FCC 09-105
CC Docket No. 02-6
Released: December 2, 2009

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)
TTY: 1-888-TELL-FCC (1-888-835-5322)
Fax: 1-866-418-0232
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Background

The E-rate program provides eligible schools, libraries, and consortia that include eligible schools and libraries the ability to apply for discounts on eligible telecommunications services, Internet access, and internal connections. Under section 254(c) of the Communications Act of 1934, as amended (the Act), the Commission may designate certain services to be eligible for support under the E-rate program. The Commission also has determined that it may designate services to be eligible for E-rate support as part of its authority to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms and libraries. The list of services and products eligible to receive discounts under the E-rate program is known as the Eligible Services List (ESL). Each year, pursuant to section 54.522 of the Commission's rules, the Commission must seek comment on a draft version of the ESL proposed by the Universal Service Administrative Company (USAC). It then must issue a public notice attaching the final ESL for the upcoming funding year at least 60 days prior to the opening of the application funding window for the E-rate program. In its current form, the ESL is divided into five main categories – telecommunications service, Internet access, internal connections, basic maintenance of internal connections, and miscellaneous. The actions taken in the Report and Order in FCC 09-105 designate new services as eligible for E-rate discounts, adds services or products to the ESL, clarifies the eligibility of other services, and determines that other services are not eligible for discounts.

Objectives of the Proceeding

- Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts on eligible services only and the changes regarding eligible services stated below impact the services available for discounts.
- Prior to requesting E-rate support, it is recommended that E-rate applicants refer to the Commission's rules at 54.500, et. seq., the Report and Order, and the ESL to determine whether the services for which they seek discounts are eligible for support.
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Actions

- Revised rules. In the Report and Order the Commission designated interconnected voice over Internet protocol (VoIP) and text messaging as services that are eligible for E-rate support. These services were added to the Commission's rules and the ESL.
    o By eligible services, the Commission means eligible for funding under the E-rate program. In order to apply for funding, all applicants seeking E-rate discounts must first file FCC Form 470 with USAC to seek bids on services from service providers and other vendors. Once the applicants select service providers and vendors, they file FCC Form 471 with USAC to seek discounts on services. USAC will determine the eligibility of these discount requests. A full explanation of the E-rate application process can be found on USAC's Schools and Libraries website: http://www.usac.org/sl/.

- ESL changes.
  - The Commission clarified the E-rate program eligibility of ethernet, wireless local area network (LAN) controllers, video on-demand servers, web hosting, and virtualization software for funding year 2010. Specifically, it stated that although they had not been listed in the ESL previously, ethernet and wireless LAN controllers are eligible for E-rate discounts and would be added to the ESL. It clarified that video on-demand servers remain eligible for discounts but video content storage would be listed as ineligible components of these servers. It clarified that a web hosting service that provided password protected pages would be eligible under the category of web hosting. Finally, the Commission determined that virtualization software should be added to the ESL as an eligible internal connection component.
  - The Commission clarified that telephone broadcast messaging, unbundled warranties, power distribution units, softphones, interactive white boards, and e-mail archiving remain ineligible for E-rate program funding and would not be added to the ESL because they are either software that the Commission has not approved as eligible (e.g. softphones), ineligible end user equipment (e.g. white boards, ineligible storage (e.g. e-mail archiving), and/or do not otherwise fit into established eligibility categories.

Web Link
- A copy of the Report and Order is available at:
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-105A1.doc