

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

ORDER

Adopted: January 14, 2011

Released: January 14, 2011

By the Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. In this order, we clarify the treatment of attachments to applications for the E-rate program (formally known as the schools and libraries universal support program). Beginning in funding year 2011, we require applicants to file the detailed descriptions of services requested (item 21 attachments to the FCC Form 471) within the filing window, but direct the Universal Service Administrative Company (USAC) to accept attachments that are filed late in certain circumstances. Pursuant to the Bureau’s delegated authority to “issue orders interpreting [the Commission’s] rules as necessary” regarding the E-rate program, we detail the process USAC should follow below.¹

2. Background. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible services.² After entering into a contract for eligible services, the applicant must submit a complete FCC Form 471 application to USAC to request discounts on the eligible services to be provided.³ The FCC Form 471 requires a detailed description of services requested (item 21 attachments) and a set of certifications (block 6).⁴ The FCC Form 471 must be filed within each funding year’s “filing window” because, under Commission rules, USAC treats all filings made within the filing window as if the applications were simultaneously received.⁵ Since 1999, the requests for funding filed within the filing window have always exceeded the annual cap on funding.⁶ Accordingly, if an FCC Form 471 is filed outside of the window, the applicant will not receive funding.

3. If applicants have filed FCC Form 471 applications that lack the required certifications, USAC generally informs the applicant of that omission in writing soon after the application is submitted

¹ Federal-State Joint Board on Universal Service, Third Report and Order, CC Docket 96-45, 12 FCC Rcd 22485, 22488-89, para. 6 (1997).

² 47 C.F.R. §§ 54.501-54.503.

³ 47 C.F.R. § 54.504(c); see, e.g., Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2010) (FCC Form 471).

⁴ See (last viewed Jan. 10, 2011).

⁵ 47 C.F.R. § 54.507(c). For USAC to treat FCC Form 471 applications as complete, applicants must also have filed their associated certifications and “Item 21” attachments.

⁶ The annual cap on E-rate funds is \$2.25 billion per funding year adjusted for inflation. 47 C.F.R. § 54.507. Since 1999, E-rate funds have been exhausted before satisfying all of the priority 2 funding requests of those applicants who filed within the filing window. See USAC website, Automated Search of Commitments, http://www.usac.org/sl/tools/commitments-search/Default.aspx (last viewed Jan. 10, 2011).

and gives the applicant 15 calendar days from the date of receipt of the notice to provide the omitted certifications.⁷ USAC makes a similar request of applicants providing insufficient documentation for any part of their detailed description of services (item 21 attachments), with USAC reviewers generally giving applicants 15 days to respond,⁸ but that latter request may not come until many weeks later, when USAC is reviewing the application in detail. If applicants provide a timely response, USAC does not adjust the submission dates for those associated applications. On the other hand, if applicants do not respond to those requests in a timely manner, USAC denies the associated funding requests for lack of documentation that they are requesting funding for eligible services.

4. *Discussion.* We now clarify that applicants must submit item 21 attachments to their FCC Forms 471 before the filing window deadline or their applications will be considered out of window. We find that allowing applicants to submit item 21 attachments later in the review process is implicitly inconsistent with our rule requiring a submitted application to be complete and compromises the efficiency and effectiveness of the E-rate program.⁹ We note that applicants who do not submit item 21 attachments when requesting funding often overestimate their funding requests, which has the effect of reducing the funds available for other applicants and potentially increasing the amount of E-rate funds left unused each year. Furthermore, when USAC must seek submission of the item 21 attachment, the efficiency of USAC's review process suffers and administrative costs increase.

5. Beginning with funding year 2011, when USAC determines that an application lacks an item 21 attachment, USAC shall treat the missing attachment as it treats a missing certification. USAC shall inform the applicant promptly in writing of the omission and give it 15 calendar days from receipt of that notice to submit the missing item 21 attachments.¹⁰ We believe that the 15-day period is limited enough to ensure that funding decisions are not unreasonably delayed, is sufficient time for applicants to file item 21 attachments, and ultimately should decrease administrative costs associated with interrupted reviews. We also clarify that if applicants do not provide timely responses to USAC requests for omitted item 21 attachments, USAC should treat the associated applications as out of window for the purposes of meeting the filing window deadline.

6. ACCORDINGLY, IT IS ORDERED, that pursuant to the authority contained in sections 1-4, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 254, and 403, and sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that this report and order IS ADOPTED.

⁷ See *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5326, para. 23 (2006) (*Bishop Perry Order*).

⁸ See Schools and Libraries website, Step 8: Undergo Application Review, <http://www.universalservice.org/sl/applicants/step08/default.aspx> (last visited Sept. 7, 2010); Schools and Libraries website, Step 8: Deadline for Information Requests, <http://www.universalservice.org/sl/applicants/step08/deadline-for-information-requests.aspx> (last visited Jan. 10, 2011).

⁹ 47 C.F.R. § 54.504(c).

¹⁰ See *Bishop Perry Order*, 21 FCC Rcd at 5326-27, para. 23. Receipt of notice will be presumed to be five days after the notice is postmarked.

7. IT IS FURTHER ORDERED, pursuant to section 1.103(a) of the Commission's rules, 47 C.F.R. § 1.103(a), that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Gina M. Spade
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau