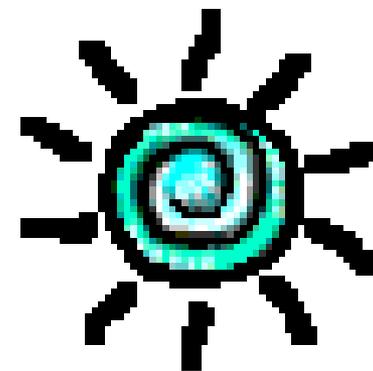






# Overview of Program Compliance and Changes (E-Rate 2.0)



**Valarie D. Byrd, MA**  
**SC State E-Rate Coordinator**

# Agenda



Registration	9:30 am-10:00 am
Program Compliance	10:00 am-11:15 am
*Break	11:15 am-11:30 am
Programs Changes Part I	11:30 pm-12:15 pm
*Break	12:15 pm-12:30 pm
Programs Changes Part II	12:15 pm-1:00 pm
Q &A	1:00 pm – 1:30 pm

# Program Compliance



## Applicants Role

- File FCC Form 470 and indicated other procurement document postings. *e.g. RFP*
- Evaluate bids and select the winning service provider.
- File FCC Form 471 during the application window.
- Respond to Program Integrity Auditor (PIA) requests.
- File FCC Form 486.
- Select invoice method (BEAR or SPI).
- Document compliance with FCC rules (on-going).
- Retain documentation ten years. (last service delivery date)

# Program Compliance



## Service Provider Role

- Respond to FCC Form 470 and other procurement document postings. *e.g. RFP*
- Winning service provider can assist applicant with preparing their FCC Form 471.
- Provide answers to technical questions regarding specific goods and services. Not competitive bidding questions.
- File and certify FCC Forms 473 and 474.
- Document compliance with FCC rules (on-going).
- Retain documentation ten years. (last service delivery date)

# Program Compliance



## Consultants Role

- Obtain a Consultant Registration Number for FCC Forms.
- Assist school and library applicants for a fee.
- Follow the role of client. Avoid conflict of interest.
  - – either applicant or service provider
- Document compliance with FCC rules (on-going).
- Retain documentation ten years. (last service delivery date)

# Program Compliance



## The Competitive Bidding Process

- Must be a fair and open process.
- Avoid conflict of interest.
- Open competition and bid evaluation.
- Abide by FCC and state/local entity procurement rules.
- Review bid responses received from FCC Form 470/other procurement document posting and contract fine print.

# Program Compliance



## The Competitive Bidding Process

### FCC Form 470

- Indicate services and categories of service which entities are seeking.
- Must be \*posted for 29 days (day 0+28 days=29 days).
- Indicate if the applicant is planning/has issued other procurement documents.
- Indicate special requirement and/or disqualification factors.
- Indicate who will be receiving the services.

**\*Note this requirement applies to other procurement processes also.**

# Program Compliance



## The Competitive Bidding Process

### FCC Form 470

- Provide sufficient detail to enable service providers to formulate bids.
- Cannot provide generic descriptions.
- Cannot provide laundry lists of products and services.
- Cannot list specific make and model of product/services sought without allowing “equivalent” product/service bids.
- Should denote bidder disqualification criteria.

# Program Compliance



## The Competitive Bidding Process

### FCC Form 470

#### Only Applicants Can:

- Determine the types of services listed on an FCC Form 470.
- Prepare, sign, certify and/or submit an FCC Form 470.
- Negotiate with prospective bidders.
- Indicate who will be receiving the services.
- Run the competitive bidding process.

# Program Compliance



## The Competitive Bidding Process

### FCC Form 470

#### Applicants **Cannot**:

- Have a relationship with service providers that would unfairly influence the outcome of the competition.
- Give service providers inside competitive information.
- Have ownership interest in service provider's company competing for services.
- Fail to describe the desired products and services
- Receive gifts or donations from service providers that violate FCC rules or seek to circumvent FCC rules.

# Program Compliance



## The Competitive Bidding Process

### FCC Form 470

#### Applicants and Service Providers Can:

- Have pre-bidding discussions.
  - Discuss new product offerings.
  - Teach applicants about new technologies
  - Present product demonstrations
- Provide or receive *de minimis items*.
  - Modest refreshments, not offered as a part of a meal
  - Items with little intrinsic value such as certificates and plaques

# Program Compliance



## The Competitive Bidding Process

### Bid Evaluation

#### Applicants Should:

- Retain all vendor selection documentation for as least 10 years from the last service delivery date.
  - Winning and losing bids, correspondences, memos, bid evaluations, emails, etc.
- Ensure price of the eligible goods and services is the primary factor or most heavily weighted overall in any tier.
- Began evaluating acceptable bids after 29-day wait period.

# Program Compliance



## The Competitive Bidding Process

### Cost Effectiveness

#### Applicants Should Consider:

- Receiving only one bid does not automatically make it cost-effective.
- Applicants must be able to demonstrate why a solution with higher than average pricing is cost-effective.
- Service providers may work with applicants to help them understand the technical needs for this expensive solution.
- Service providers must provide the lowest corresponding price to applicants.

# Program Compliance



## Contracts

- A contract or other legally binding agreement must be signed and dated by the applicant after the Allowable Contract Date and prior to the FCC Form 471 submission to USAC.
- Tariffed or month-to-month service purchased under a contract is considered a contracted service.
- Voluntary contract extensions are allowable only when the option is stated in the original provisions of the contract.

# Program Compliance



## Contracts

### State Master Contracts

- A state master contract (SMC) is competitively bid and put in place by a state government for use by multiple entities in that state.
- **Single winner:** Single vendor wins the bid
- **Multiple winners:** State awards contract to several bidders
- **Multiple Award Schedule (MAS):** State awards contract for same goods and services to multiple vendors that can serve the same population
  - Multiple winners require vendor selection justification – applicants must conduct mini-bid to award contract

# Program Compliance



## Other Considerations

- Lowest Corresponding Price (LCP): **Service Provider**
- Gifts Prohibitions: **Always Applicable, \$20/\$50 rule**
- Necessary Resources: **Applicant**
- Paying Non-Discount Share: **Applicant/Service Provider**
- Ten year Document Retention-**All documentations**
- CIPA Compliance-**Applicant**
- Disposal or Trade-In of Equipment (Five Years)-**Applicant**

# Program Compliance



## Common Mistakes

1. Submitting paper forms containing errors
2. Missing deadlines
3. Not following competitive bidding rules
4. Not communicating with service providers after the competitive bidding process
5. Mixed bucket funding requests
6. Incorrect discount calculations
7. Incomplete PIA responses
8. Missing or incomplete Item 21 attachments
9. Ignoring USAC letters
10. Poor invoicing practices
11. Inadequate document retention
12. Not managing your E-rate process

# Program Compliance



## Common Audit Findings

- Invoicing
- Discount Calculations
- Competitive Bidding
- Document Retention

Break





# Program Changes (E-Rate 2.0)



# Program Changes (E-Rate 2.0)



## Overview

### Order Highlights

- Closing the Wi-Fi Gap
- Applicant Category Two Budgets
- Changes to Eligible Services
- Maximizing Cost-Effective Purchases
- Simplifying the Administration of the E-rate program
  - Purchasing and Contracts
  - Discount Calculations
- Invoicing and Appeals
- Document Retention

# Program Changes (E-Rate 2.0)



## Closing the Wi-Fi Gap

### Making Category Two Funds Go Farther

- \$1B funding target in FY 2015 and FY 2016 for Category Two funding.
- If Category Two demand exceeds available funds, prioritize based on discount rate.
- If there are insufficient funds in a single discount rate, prioritize based on the percentage of students that are eligible for free and reduced school lunches within each applicant's school district.
- Top Category Two discount rate now 85% instead of 90%.
- Two-in-Five rule not in effect for FY 2015 and FY 2016.

# Program Changes (E-Rate 2.0)



## Closing the Wi-Fi Gap

### Applicant Category Two Budgets

- School budgets are \$150 per student **PRE-DISCOUNT** based on the count of full time and part time students at that school with a floor of \$9,200.
- Library budgets are \$2.30 **PRE-DISCOUNT** times the square footage of the library (inside the four walls) with a floor of \$9,200.
- Budgets are recalculated every year based on current student population or square footage, and can go up or down.
- Any funding commitments that include an entity as a recipient of service in FY 2015 will count against the pre-discount budget for that entity in FY 2016.

# Program Changes (E-Rate 2.0)



## Closing the Wi-Fi Gap

### Applicant Category Two Budgets

- Each individual school and each library outlet or branch has a Category Two budget.
- Non-instructional facilities (NIFs) – including school NIFs with classrooms and administrative buildings – do not have Category Two budgets.
  - If a NIF is essential for the effective transport of information to or within a school or library, the applicant must allocate the NIF costs to the entities benefiting from the service.
- Districts or library systems may not average their costs across multiple school or library budgets.

# Category Two Budget Example

School	ADA	Pre-Discount Budget <u>per school</u> (\$150/per Student)	E-Rate District-wide% (Applied)  (I.E. 85% of Eligible \$)	Post-Discount Budget <u>per school</u> <i>*5-Year Period*</i>  (Adjustable)
School A	100	100 x \$150=\$15,000	\$15,000 x 85%	\$12,750
School B	100	100 x \$150=\$15,000	\$15,000 x 85%	\$12,750
School C	100	100 x \$150=\$15,000	\$15,000 x 85%	\$12,750
School D	100	100 x \$150=\$15,000	\$15,000 x 85%	\$12,750
School E	100	100 x \$150=\$15,000	\$15,000 x 85%	\$12,750
<b>District:</b>	<b>500</b>	<b>500 x \$150= \$75,000</b>	<b>\$75,000 x 85%</b>	<b>\$63,750</b>

**\* Rolling Funding Cycle**

# Program Changes (E-Rate 2.0)



## Closing the Wi-Fi Gap

### Applicant Category Two Budgets Example

- Red School District qualifies for a 50% discount rate.
- There are 1,000 students in total. High School has 550 students but 10 middle school students also take advanced classes there.

School	F/T & P/T Students	Pre-discount Category Two Budget	Post-discount Category Two Budget
Red Elementary	100	$100 * 150 = \$15,000$	$\$15,000 * 0.5 = \$7,500$
Red Middle School	300	$300 * 150 = \$45,000$	$\$45,000 * 0.5 = \$22,500$
Mountain Top ES	50	$50 * \$150 = \$9,200$ (floor!)	$\$9,200 * 0.5 = \$4,600$
Red High School	560	$560 * \$150 = \$84,000$	$\$84,000 * 0.5 = \$42,000$
District Office	0	\$0 (NIFs don't qualify)	\$0 (NIFs don't qualify)

# Program Changes (E-Rate 2.0)



## Closing the Wi-Fi Gap

### Reorienting Support to High Speed Broadband

- Focus on providing support for broadband, removes eligibility of other services.
- Category One services now **ineligible**:
  - Web hosting, voicemail, email, and texting
  - Outdated or legacy voice services including, but not limited to:
    - Paging service
    - Inside wire maintenance
    - Custom calling service

# Program Changes (E-Rate 2.0)



## Closing the Wi-Fi Gap

### Phasing Down Support for Voice

- The discount rate for all voice services will be reduced by 20 percentage points beginning in FY 2015, and reduced by an additional 20 percentage points each subsequent funding year.
- Applies to all costs incurred for the provision of telephone services and circuit capacity dedicated to providing voice services, including:
  - Local phone service, long distance service, plain old telephone services, radio loop, 800 service, satellite telephone, shared telephone service, Centrex, wireless telephone service such as cellular, and interconnected VoIP.

# Program Changes (E-Rate 2.0)



## Closing the Wi-Fi Gap

### Phasing Down Support for Voice Example

- Big Red School District has 10,000 students of which 7,000 students are eligible for NSLP giving the district an 80% discount.
  - Big Red School District seeks \$100,000/year for their local and long distance VOIP service.
  - Local and long distance VOIP is subject to the phase down
  - FY 2015:  $\$100,000 \times (80-20)\% = \$60,000$  post-discount
  - FY 2016:  $\$100,000 \times (80-40)\% = \$40,000$  post-discount
  - FY 2017:  $\$100,000 \times (80-60)\% = \$20,000$  post-discount

# Program Changes (E-Rate 2.0)



## Closing the Wi-Fi Gap

### Cellular Data Connections

- Data plans and air cards are eligible only if a school or library can demonstrate that individual data plans are the most cost-effective options for providing internal broadband access.
- Must be able to demonstrate either that installing a wireless local area networks (WLAN) is not physically possible, or provide a cost comparison to implement an individual data plan solution versus a WLAN solution.
- Cost comparison may be established by seeking bids on WLANs and individual data plans.
- Voice portion remains eligible but subject to phase down.

# Program Changes (E-Rate 2.0)



## Closing the Wi-Fi Gap

### Category Two - Internal Connections

- **Eligible:** Broadband distribution services and equipment needed to deliver broadband to students and library patrons and are eligible. For example:
  - Routers
  - Switches
  - Access Points
  - Internal cabling
- **Ineligible:** Components that do not support broadband distribution are no longer eligible. For example:
  - Servers
  - Voice/VOIP components
  - Circuit cards
  - Video components

# Program Changes (E-Rate 2.0)



## Closing the Wi-Fi Gap

### **\*NEW\*** Category Two – Managed Internal Broadband Service

- For FY 2015 and FY 2016
- New Category Two Managed Internal Broadband Service
  - Created to help cover the operation, management, and monitoring of a LAN or WLAN.
  - Applicants benefit from greater flexibility to choose among managed Wi-Fi options

# Program Changes (E-Rate 2.0)



## Cost-Effective Purchases

### Transparent Cost and Connectivity Data

- No more separate Item 21 attachments – now embedded in the FCC Form 471.
  - FRN line items list all requested products and services.
- Pricing data will be publicly available unless you can show a specific law, rule, or other restriction bars publication of the purchasing price data.
- Contracts executed after the effective date of the Order may not contain any restriction barring publication of this pricing data.

# Program Changes (E-Rate 2.0)



## Cost-Effective Purchases

### Transparent Cost and Connectivity Data

- Preferred Master Contracts
  - Must be designated by FCC.
  - May be exempt from FCC Form 470 posting requirement and/or required in bid evaluations.
  - Likely that none will be designated for FY 2015.

# Program Changes (E-Rate 2.0)



## Cost-Effective Purchases

### Encouraging Consortia Purchasing

- A consortium lead may seek bids on behalf of the schools, school districts, and libraries for which it has authority to seek competitive bids for E-rate eligible services, even if it does not have authority to purchase services for the consortium members.
- Consortia applications will be given priority during the review process.

# Program Changes (E-Rate 2.0)



## Cost-Effective Purchases

### Offering Lowest Corresponding Price

- The LCP rule prohibits an E-rate provider from “charg[ing]” E-rate applicants a price higher than the lowest price that provider charges to non-residential customers who are similarly situated to a particular school, library, rural health care provider or consortium that purchases directly from the service provider.
- LCP rule means that providers must both:
  - submit bids to applicants at prices no higher than the lowest price they charge to similarly-situated nonresidential customers for similar services; and
  - charge applicants a price no higher than the LCP.

# Program Changes (E-Rate 2.0)



## Simple, Fast, and Efficient

### Multiyear Contracts

- Streamlined application process available starting in FY 2016 for multiyear contracts filed in FY 2015 as long as:
  - the multi-year contract is five years or less, and
  - to the extent applicable, any changes in the requested services are within the scope of the original FCC Form 470 and multi-year contract.

# Program Changes (E-Rate 2.0)



## Simple, Fast, and Efficient

### Low-Cost, High Speed Business Class Internet Access

- No FCC Form 470 posting is required if you are seeking support for Internet Access as long as it meets **all** of these requirements:
  - Bandwidth speeds of at least 100 Mbps downstream and 10 Mbps upstream;
  - Pre-discount price of \$3,600 or less annually, including any one-time installation and equipment charges; and
  - Service and price are commercially available.
- Each school or library must receive the eligible service at a cost of less than \$3,600 annually and applicants may not average the cost of services across a number of buildings to qualify for this exemption.

# Program Changes (E-Rate 2.0)



## Simple, Fast, and Efficient

### Easing Signed Contract Requirement

- Applicants must have a signed contract or ***other legally binding agreement*** in place prior to submitting their FCC Forms 471 to USAC.
- Signed contracts constitute the best evidence that a legally binding agreement exists.
- A verbal offer and/or acceptance will not be considered evidence of the existence of a legally binding agreement.
- Existence of a written offer from the service provider containing all the material terms and conditions and a written acceptance of that offer can be evidence of the existence of a legally binding agreement.

# Program Changes (E-Rate 2.0)



## Simple, Fast, and Efficient

### Technology Plans

- Technology Plans are no longer required.
- The FCC, however, strongly encourages all applicants to carefully review existing plans given the many changes in the program resulting from the *E-rate Modernization Order*.

# Program Changes (E-Rate 2.0)



## Simple, Fast, and Efficient

### Requiring Electronic Filing

- Starting in FY 2015, all applicants must file their FCC Form 471 online.
  - Item 21 is now integrated in the form. Can't submit application without completing this item.
- New FCC Form 470 will be only online.
- In FY 2015, applicants will still be able to certify their FCC Forms 470 and 471 on paper.
- Over next two years, USAC will transition all remaining forms to online only.

# Program Changes (E-Rate 2.0)



## Simple, Fast, and Efficient

### New Discount Principles

- Discounts are calculated for the organization as a whole.
- Discount rates do not change based on which entities within a district/system are receiving service.
- Libraries derive their discount from the NSLP eligibility of the district in which the main outlet is located.
- Consortia continue to use simple average of member discounts.
- Rural status is determined at the district/system level and only if more than 50% of schools or libraries are rural.

# Program Changes (E-Rate 2.0)



## Simple, Fast, and Efficient

### Urban/Rural Classifications

- Urban/rural status is based on most recent decennial U.S. Census data.
- Urban/rural status is now determined for the entire school district or library system, instead of for individual schools or libraries.
- More than 50% of the schools or libraries in a district/system must be rural for district/system to be classified as rural.
- Non-instructional facilities do not get an urban/rural status and are not counted in the determination of whether more than 50% of the entities are rural.

# Program Changes (E-Rate 2.0)



## Simple, Fast, and Efficient

### Community Eligibility Program (CEP)

- Nationwide program to reduce NSLP paperwork burden.
- Schools must have at least 40% of their students directly certified to qualify for CEP.
- All students eat free, but this does not mean they are counted as eligible for E-rate purposes. Must still determine eligibility percentage.
- Schools apply national multiplier (1.6) to directly certified population to determine NSLP eligible population.
- Schools are capped at 100% NSLP eligible for purposes of determining the E-rate discount.

# Program Changes (E-Rate 2.0)



## Simple, Fast, and Efficient

### Discount Surveys

- Surveys continue to be valid, though you can no longer extrapolate them.
- If you send out a survey to each student, and you only get responses from half, and only half of those are eligible, then you can only report 25% of your students as eligible for NSLP.
- Starting in FY 2015, you can use NSLP applications as your survey instrument, because you can no longer extrapolate the results.

# Program Changes (E-Rate 2.0)



## Simple, Fast, Efficient

### Invoicing Changes

- BEAR payments to applicants
  - Beginning in FY 2016, applicants that pay the full cost of the E-rate supported services to a service provider will be able to receive direct reimbursement from USAC.
- Deadline for filing invoices
  - The latter of 120 days after the last day to receive service or the date of the FCC Form 486 notification letter.
  - Applicants can request and automatically receive a single one-time 120-day extension of the invoicing deadline.

# Program Changes (E-Rate 2.0)



**Simple, Fast, Efficient**

## Appeals

- Appeals must be filed with USAC first.
- Waiver requests should continue to go to the FCC.

# Program Changes (E-Rate 2.0)



**Simple, Fast, Efficient**

## Document Retention

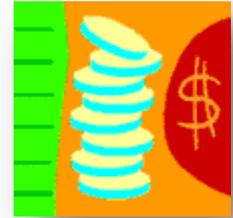
- 10 years from last date to receive service.
- FY 2015: this is at least June 30, 2026
  - Any document from a prior year that supports current year must be kept until 10 years from last date to receive service as well.
  - E.g., Contract from 2010 for recurring services, used to support FY 2015 FRNs, must be kept until at least June 30, 2026
- Documents may be retained in electronic format or paper and must be disclosed upon request.

# Program Changes (E-Rate 2.0)

**More Changes?**



**Raise the funding cap \$1.5 Billion?**



**To Be Continued....**

# Questions?



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