

FCC Third Report and Order

Schools and Libraries Universal Service Support Mechanism

CC Docket No. 02-6, Third Report and Order, FCC 03-323 (Released December 23, 2003)

Introduction

The Third Report and Order and Second Further Notice of Proposed Rulemaking addresses several matters pertinent to the administration of the E-Rate program in order to reduce waste and fraud. This report was adopted December 17, 2003 and was released December 23, 2003.

Discussion and Results

The report establishes limitations and definitions regarding funding of priority two (P2) services and the prohibition of “free” services or service and equipment transfers. The report also explains exceptions to these new rules and outlines the eligibility requirements for service substitutions and carryover of funds from previous years.

2-in-5 Rule

Establishes that each eligible entity may only receive commitments for discounts on P2 services twice every five years beginning funding year (FY) 2005. This will grant more eligible entities the opportunity to obtain services.

- Consortium members are handled individually according to this rule rather than as a whole.
- Basic maintenance is excluded from the 2-in-5 Rule because it ensures the equipment is functioning properly, thereby limiting the need for replacement due to failure.

Eligibility and Cost

- A draft of the Eligible Services List (ESL) for the upcoming FY will now be issued annually by June 30 followed by a public notice seeking comments. Public notice will also be given for the issuing of the final ESL at least 60 days prior to the opening of the window for the following FY.
- Service providers may not give free services to an eligible entity that is also receiving discounted services from the service provider.
- On-premises equipment may be part of priority one (P1) or priority two (P2) services.
 - Basic terminating components (i.e. cable modem) are deemed eligible under P1 because the service (i.e. Internet) would not work without this component.
 - A PBX is deemed a P2 component since the phone system will still work even though the school would lack the ability to route calls within the school.
- Eligible services and equipment components of eligible services purchased at a discount under this subpart shall not be transferred, with or without consideration of money or any other thing of value, for a period of three (3) years after purchase except in cases of permanent or temporary closing of an eligible school or library.
 - Items must be transferred to an eligible entity and both parties must notify the Administrator.
- Technical support, including on-site Help Desks, is ineligible if it offers any ineligible features or functions.
- Service Substitution will be granted if:
 1. The new service or product has the same functionality as the one outlined in the Form 470 and associated Request(s) for Proposal (RFP).
 2. The substitution does not violate any contract provisions or state or local procurement laws.
 3. The substitution does not result in an increase in the percentage of ineligible services or functions.
 - Support shall be provided based on the lesser of the pre-discount price of the original service or the substitute service.

Carryover of Funds (modified for FY2003; fully effective for FY2004)

- Administrator is required to issue quarterly estimates to the Commission regarding the amount of unused funds.
- Commission will carry forward available unused funds on an annual basis.
 - Unused funds will be available in the 2nd quarter of each calendar year for use in the next full funding year.
 - Wireline Competition Bureau will announce the availability of carryover funds when it announces the universal service contribution factor for the 3rd quarter of each year.
- Funds carryover will be deemed approved if the Commission takes no action within 14 days of release of public notice announcing the contribution.