

A Summary of Major Changes to the E-rate Program From the July 11 Report and Order



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In July 2013 the Federal Communications Commission (FCC) [initiated](#) the most comprehensive review of the E-rate program since its inception in 1997. This process took a year to complete, and on July 11 2014, the FCC adopted a [Report and Order](#) that makes significant changes to the program. The FCC indicated that its E-rate modernization effort is a multi-step process. To that end, the Commission also issued a Further Notice of Proposed Rulemaking (FNPRM) addressing five main issues. A brief summary of the FNPRM is included at the end of this document.

The modernization effort restructures the program to ensure that it addresses the 21st century broadband and internet connectivity needs of our nation's libraries and schools. The Commission framed its restructuring process around three E-rate goals:

1. Ensuring that all schools and libraries have affordable access to sufficient high-speed broadband.
2. Maximizing the cost-effectiveness of E-rate spending—focusing on broadband and related services.
3. Making the E-rate application and follow-up processes faster, simpler and more efficient.

Seeking public comment on the changes needed to meet these goals is an important part of the E-rate review process. Along with many other organizations, the American Library Association (ALA) submitted formal comments to the FCC in 2013 and earlier this year when the Commission released a [Public Notice](#) to build the Commission's record. Staff in ALA's Washington D.C. Office has had numerous contacts with FCC commissioners and staff over the past twelve months [advocating for E-rate changes](#) to benefit both libraries and schools. ALA also has collaborated with numerous library and non-library groups in the course of this proceeding.

Summary of the E-rate Program Modernization Order

The following is a summary of major changes to the E-rate program. By necessity this summary offers just a high-level overview.¹ However, references in parentheses refer to specific paragraphs in the Order where more detailed information is available.

Goal 1: Ensuring schools and libraries have affordable access to sufficient high-speed broadband.

- To help measure and set benchmarks for this goal the FCC proposes the following.
 - For schools: The FCC adopts the State Education Technology Directors Association's (SETDA) bandwidth target of 1 Gbps per 1,000 students and staff in the long-term (§34). (SETDA defines "long-term" as 2017-18).
 - For libraries: The FCC adopts ALA's bandwidth target that all libraries serving fewer than 50,000 people have broadband speeds of at least 100 Mbps and all libraries serving over 50,000 people have speeds of at least 1 Gbps (§37).
- On the issue of broadband affordability, the FCC—working with the Universal Service Administrative Company (USAC)—will track applicants' broadband costs and will regularly report price per Mbps and identify any outliers (§38).

Most of the specific modernization efforts in the Order related to goal #1 focus on Wi-Fi connectivity in library and school buildings. (The FCC addresses broadband capacity to the building in the FNPRM). Wi-

¹ The first 22 pages of the Order have a summary of the major changes. The Order (162 pages) and several brief summaries from the FCC are linked at <http://www.usac.org/sl/tools/modernization-order/default.aspx>.

Fi connectivity falls into the E-rate program's Priority 2 funding category. Since the program's inception very few applicants have received this funding because of the program's chronic underfunding. This goal also revises E-rate eligible services to focus on those that support broadband connectivity inside and outside the library or school building. Below are some key FCC actions in relation to this goal.

- Renamed Priority 2 as Category 2 (C2). (Telecommunications and internet access are now “Category 1”). Category 1 requests will still be funded before C2 (§78).
- In a major program change, there is a funding target of \$1 billion in 2015 and \$1 billion in 2016 focused on C2 requests for Wi-Fi connectivity and enhancements (§76-81). (This \$2 billion will come from existing reserve funds and savings from reduced eligible services, not the annual \$2.4 billion program allocation). The FCC also set a \$1 billion target each year for the three years beyond 2016 for a five year cycle. The FCC has reviewed voluminous data and thinks that \$1 billion each year for the next five (2015-2019) funding years will be sufficient to fund all C2 applications (§118).
- The maximum discount for C2 will be reduced from 90% to 85%. All other discount bands remain the same (§82-84). The intent of this reduction is to save funds, provide more equitable distribution of limited funds, and encourage more efficient purchasing of C2 services.
- In another major program change, C2 funding will be capped at \$150 per student for schools and \$2.30 per square foot for libraries with a minimum of \$9,200 per building for both libraries and schools. The minimum will ensure that the smallest libraries and schools still receive sufficient funding (§86, 103). These are pre-discount amounts.
- The C2 funding cap applies over a five-year period. (This replaces the current “two-in-five” rule). For example: A 10,000 square foot library with an 80% discount is eligible to receive a total of \$18,400 over a five-year period beginning in 2015 ($10,000 \times \$2.30 \times 0.8 = \$18,400$) (§87-117). *This funding is not automatically given to the library.* Rather, it is the maximum a library can receive. The library must still complete the application process (forms 470/471), and E-rate's competitive bidding rules still apply (§127). As with the current program, C2 funding will go first to applicants with the highest discounts (§79).
- C2 E-rate support will focus on broadband services and the equipment needed to deliver broadband inside libraries and schools. This includes: routers, switches, wireless access points, internal cabling, racks, wireless controller systems, firewall services, uninterruptable power supplies, and the software supporting each of these components (§119). For 2015 and 2016 Wi-Fi managed by an outside provider, basic maintenance (§122) and caching servers are also eligible (§128-130). At a later date the FCC will determine if these services should remain eligible beyond 2016 (§131).
- Starting in 2015 E-rate for the following services, which are not directly Wi-Fi or broadband related, will be eliminated: circuit cards/components, interfaces, gateways, servers, storage devices, telephone and video components, voice over IP (VoIP) (§120), voicemail, email, and webhosting (§150). The FCC will update the Eligible Services List (ESL) to reflect the changes and cautions applicants to review the 2015 ESL carefully because of all the various changes. (§76 and §120).
- In another major program change, discounts for basic phone service will be phased out by 20% each year starting in 2015 (e.g., a library at a 70% discount will have a 50% discount in 2015 and a 30% discount in 2016) (§135). During 2015 and 2016 the FCC will evaluate the impact of the phase out. Unless the FCC takes action, phone discounts will end by 2019. Basic phone service includes: local and long distance, plain old telephone service (POTS), satellite telephone, Centrex, cellular service and interconnected VoIP (§141).

Goal 2: Maximizing the cost-effectiveness of E-rate spending, focusing on broadband and related services.

- To help evaluate progress towards accomplishing this goal the FCC—in cooperation with USAC—will develop processes to measure, track, and report on the prices paid for E-rate services. This includes costs for broadband at various bandwidth levels and the various components of Wi-Fi connectivity (§51-54).

Modernization efforts related to this goal focus on adopting measures to drive down the costs for E-rate eligible services and equipment. As the Order states, “Every dollar spent inefficiently for E-rate supported services is one less dollar available to meet schools’ and libraries’ broadband connectivity needs” (§155). Below are some key FCC actions in relation to this goal.

- Because the cost for any E-rate eligible service is a critical factor in ensuring the efficient use of program funds, the FCC will increase price transparency. This will be done by making costs for E-rate services used by libraries and schools publicly available on USAC’s website starting in 2015. This includes pricing that is part of an applicant’s Item 21 information (§158-160).
- In some circumstances state law or existing contract language may prohibit the public release of cost information. The FCC allows for some exceptions for these situations but does state that contracts signed after this Order takes effect may not contain such restrictions (§161). *The FCC reminds service providers that the receipt of E-rate support will be conditioned on disclosure of applicant pricing information (§166).*
- In recognizing that consortium purchasing can reduce prices for E-rate supported services and to encourage consortium applications, the FCC will work with USAC to prioritize review of consortium applications (§168-169).
- To further encourage consortium and bulk buying of E-rate services the FCC can designate a contract to be a “preferred master contract.” Such a contract is defined as one that is national in scope and offers libraries and schools nationwide the opportunity to obtain pricing for C2 services. Applicants purchasing off a preferred master contract do not need to file an initial form 470 (§170-175). (The FCC has not identified any preferred master contracts in the Order).
- In another attempt to ensure applicants pay the lowest price for a given service, the FCC will more aggressively enforce its own “Lowest Corresponding Price” (LCP) rule. This rule saves money for libraries and schools and the E-rate fund by ensuring that the price for an E-rate supported service is no more than the market price for that service offered to other, non-residential customers. The Commission will direct the FCC’s Enforcement Bureau to allocate additional resources to investigate, and if needed, undertake actions against service providers who violate the LCP rule (§183-186).

Goal 3: Making the E-rate application and follow-up processes fast, simple and efficient

- To evaluate progress towards accomplishing this goal the FCC will measure the timely processing of funding commitments to applicants by establishing a target funding (or denial) deadline of September 1st of each funding year for all “workable” applications (§59). (“Workable” means the application is complete and there are no pending requests to the applicant for further information).
- USAC will also survey applicants and service providers about their experiences with the program and its application process to evaluate this goal (§61).

Modernization efforts related to this goal focus on the need to simplify the administration of the E-rate program. Simplification reduces the burden on libraries and schools, makes the most efficient use of E-rate funding, and encourages greater participation in the E-rate program (§187). Below are some key FCC actions in relation to this goal.

- There will be a streamlined application process and expedited review process in the second and subsequent years of a multi-year contract. Five years will be the maximum length of contracts using this streamlined application process (§191-195).
- The technology plan requirement for C2 services is eliminated (§197-198). (This means there are no technology plan requirements for the E-rate program).
- There will be no need to bid if a library or school purchases commercially available, business-class internet service that costs \$3,600 (pre-discount) or less annually. This exemption only applies if the provider offers bandwidth speeds of at least 100 Mbps downstream and 10 Mbps upstream (§199-202).

- Starting in funding year 2017, all forms and notifications must be submitted electronically, but a very limited exception will be made to this requirement (§205-206).
- Rural libraries and schools will be able to establish direct broadband connections between their buildings for the purpose of accessing high-speed broadband services. The FCC acknowledges that it may be necessary to waive some of its current regulations and it requests that applicants file waiver requests if they want to pursue such connections (§207-208).
- Starting in 2015 school districts will use a single, district-wide discount percentage rather than calculating a discount using building-by-building discount rates (§210). (A district-wide discount has been used by libraries since the program’s inception).
- The definition of “rural” will be updated using data from the Census Bureau (§223).
- In a major program change starting in 2016 applicants who now pay the full cost of their E-rate services (i.e., the BEAR form process) will be able to get direct reimbursement from USAC, rather than their service provider (§232-237).
- The Commission will undertake several actions to raise the profile of the E-rate program to tribal libraries and schools. This includes enhancing consultation, training, and outreach (§243-249).
- USAC is directed to publish electronically all non-confidential E-rate data (§258). (See also paragraphs 158-160).
- In a major program change, the document retention period now has been extended from five to ten years. This is being done partly to help address possible issues of program waste, fraud and abuse (§261-263).

Further Notice of Proposed Rulemaking (FNPRM)

Throughout the E-rate modernization proceeding, the Commission has shown a commitment to a multi-step process to address the full range of issues necessary to achieve its goals for the future of the E-rate program. In addition to adopting the rule changes summarized above, the Commission left the record open “to address in the future those issues raised in the E-rate Modernization NPRM that we do not address today” [in the Report and Order] (§9). The Commission released a targeted FNPRM with initial comments due September 15 and reply comments due September 30. In brief, the FNPRM asks for public input to build the record on five specific issues:

1. Meeting future funding needs (§268)
2. Ensuring that multi-year contracts are efficient (§271)
3. Standardizing the collection of National School Lunch Program data (§279)
4. Encouraging consortia participation (§285)
5. Ensuring support for libraries is sufficient (§298)

Regarding the first issue, the Commission will address the lack of broadband capacity for libraries and schools coming to the building. Specifically, the Commission asks for data that shows the gap between current connectivity levels in libraries and schools and the capacity goals adopted in the Order (§269). The Commission also asks a number of open-ended questions on how it might continue to improve the program and further the goals adopted in the Report and Order (§267). Working with stakeholders throughout the E-rate community, ALA plans to continue to engage in this next step to ensure more libraries fully benefit from the program and more libraries make significant gains on the high-capacity goals set forth in this Report and Order. While this summary provides details on the changes to the E-rate program, ALA recommends referring directly to FCC materials and those developed by USAC for the most accurate and up-to-date information. USAC has developed a separate [page](#) on its website for information and resources related to the E-rate Modernization Order that will be updated as needed.