

**§ 54.502 Eligible services.**

(a) *Supported services.* All supported services are listed in the Eligible Services List as updated annually in accordance with paragraph (d) of this section. The services in this subpart will be supported in addition to all reasonable charges that are incurred by taking such services, such as state and federal taxes. Charges for termination liability, penalty surcharges, and other charges not included in the cost of taking such service shall not be covered by the universal service support mechanisms. The supported services fall within the following general categories:

(1) *Category one.* Telecommunications services, telecommunications, and Internet access, as defined in § 54.5 and described in the Eligible Services List are category one supported services.

(2) *Category two.* Internal connections, basic maintenance and managed internal broadband services as defined in § 54.500 and described in the Eligible Services List are category two supported services.

(b) *Funding years 2015–2019.* Libraries, schools, or school districts with schools that receive funding for category two services in any of the funding years between 2015 and 2019 shall be eligible for support for category two services pursuant to paragraphs (b)(1) through (6) of this section.

(1) *Five-year budget.* Each eligible school or library shall be eligible for a budgeted amount of support for category two services over a five-year funding cycle beginning the first funding year support is received. Excluding support for internal connections received prior to funding year 2015, each school or library shall be eligible for the total available budget less any support received for category two services in the prior funding years of that school's or library's five-year funding cycle. The budgeted amounts and the funding floor shall be adjusted for inflation annually in accordance with § 54.507(a)(2).

(2) *School budget.* Each eligible school shall be eligible for support for category two services up to a pre-discount price of \$150 per student over a five-year funding cycle. Applicants shall provide the student count per school,

calculated at the time that the discount is calculated each funding year. New schools may estimate the number of students, but shall repay any support provided in excess of the maximum budget based on student enrollment the following funding year.

(3) *Library budget.* Each eligible library shall be eligible for support for category two services, up to a pre-discount price of \$2.30 per square foot over a five-year funding cycle. Libraries shall provide the total area for all floors, in square feet, of each library outlet separately, including all areas enclosed by the outer walls of the library outlet and occupied by the library, including those areas off-limits to the public.

(4) *Funding floor.* Each eligible school and library will be eligible for support for category two services up to at least a pre-discount price of \$9,200 over five funding years.

(5) *Requests.* Applicants shall request support for category two services for each school or library based on the number of students per school building or square footage per library building. Category two funding for a school or library may not be used for another school or library. If an applicant requests less than the maximum budget available for a school or library, the applicant may request the remaining balance in a school's or library's category two budget in subsequent funding years of a five year cycle. The costs for category two services shared by multiple eligible entities shall be divided reasonably between each of the entities for which support is sought in that funding year.

(6) *Non-instructional buildings.* Support is not available for category two services provided to or within non-instructional school buildings or separate library administrative buildings unless those category two services are essential for the effective transport of information to or within one or more instructional buildings of a school or non-administrative library buildings, or the Commission has found that the use of those services meets the definition of educational purpose, as defined in § 54.500. When applying for category two support for eligible services to a

non-instructional school building or library administrative building, the applicant shall allocate the cost of providing services to one or more of the eligible school or library buildings that benefit from those services being provided.

(c) *Funding year 2020.* Libraries, schools, or school districts with schools that receive funding for category two services in funding year 2020 shall be eligible for support for category two services pursuant to paragraphs (c)(1) through (6) of this section.

(1) *Six-year funding cycle.* Each eligible school or library shall be eligible for a budgeted amount of support for category two services over a six-year funding cycle. Each school or library shall be eligible for the total available budget less the pre-discount amount of any support received for category two services in the prior funding years of that school's or library's six-year funding cycle.

(2) *School budget.* Each eligible school shall be eligible for support for category two services up to a pre-discount price of \$150 plus an additional prorated 20% (adjusted for inflation dating back to funding year 2015) over six funding years that will be completed at the end of funding year 2020. Applicants shall provide the student count per school, calculated at the time that the discount is calculated each funding year. New schools may estimate the number of students but shall repay any support provided in excess of the maximum budget based on student enrollment the following funding year.

(3) *Library budget.* Each eligible library located within the Institute of Museum and Library Services locale codes of "11—City, Large," defined as a territory inside an urbanized area and inside a principal city with a population of 250,000 or more, "12—City, Midsize," defined as a territory inside an urbanized area and inside a principal city with a population less than 250,000 and greater than or equal to 100,000, or "21—Suburb, Large," defined as a territory outside a principal city and inside an urbanized area with population of 250,000 or more, shall be eligible for support for category two services, up to a pre-discount price of \$5.00 per square foot plus an additional pro-

rated 20% (adjusted for inflation dating back to funding year 2015) over six funding years that will be completed at the end of funding year 2020. All other eligible libraries shall be eligible for support for category two services, up to a pre-discount price of \$2.30 per square foot plus an additional prorated 20% (adjusted for inflation dating back to funding year 2015) over a six-year funding cycle that will be completed at the end of funding year 2020. Libraries shall provide the total area for all floors, in square feet, of each library outlet separately, including all areas enclosed by the outer walls of the library outlet and occupied by the library, including those areas off-limits to the public.

(4) *Funding floor.* Each eligible school and library will be eligible for support for category two services of at least a pre-discount price of \$9,200 plus an additional prorated 20% (adjusted for inflation dating back to funding year 2015) over six funding years that will be completed at the end of funding year 2020.

(5) *Requests.* Applicants shall request support for category two services for each school or library based on the number of students per school building or square footage per library building. Category two funding for a school or library may not be used for another school or library. The costs for category two services shared by multiple eligible entities shall be divided reasonably between each of the entities for which support is sought in that funding year.

(6) *Non-instructional buildings.* Support is not available for category two services provided to or within non-instructional school buildings or separate library administrative buildings unless those category two services are essential for the effective transport of information to or within one or more instructional buildings of a school or non-administrative library buildings, or the Commission has found that the use of those services meets the definition of educational purpose, as defined in § 54.500. When applying for category two support for eligible services to a

non-instructional school building or library administrative building, the applicant shall allocate the cost of providing services to one or more of the eligible school or library buildings that benefit from those services being provided.

(d) *Eligible services list process.* The Administrator shall submit by March 30 of each year a draft list of services eligible for support, based on the Commission's rules for the following funding year. The Wireline Competition Bureau will issue a Public Notice seeking comment on the Administrator's proposed eligible services list. The final list of services eligible for support will be released at least 60 days prior to the opening of the application filing window for the following funding year.

[62 FR 32948, June 17, 1997, as amended at 79 FR 49198, Aug. 19, 2014; 79 FR 68634, Nov. 18, 2014; 80 FR 5988, Feb. 4, 2015; 84 FR 70036, Dec. 20, 2019]

EFFECTIVE DATE NOTE: At 84 FR 70036, Dec. 20 2019, §54.502 was amended by redesignating (d) as (e) and adding a new (d). These paragraphs were delayed indefinitely. For the convenience of the user, the added text is set forth as follows:

**§ 54.502 Eligible services.**

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(d) *Funding year 2021 and beyond.* Schools, school districts, libraries, and library systems shall be eligible for support for category two services pursuant to the five-year budgets described in paragraphs (d)(1) through (6) of this section.

(1) *Fixed five-year funding cycle.* Beginning in funding year 2021, each eligible school, school district, library, or library system shall be eligible for a budgeted amount of pre-discount support for category two services over a five-year funding cycle that will reset in funding year 2026 and subsequently, after every five funding years. Each school, school district, library, or library system shall be eligible for the total available budget less the pre-discount amount of any support received for category two services in the prior funding years of that fixed five-year funding cycle.

(2) *School and school district multipliers.* Each eligible school district and schools operating independently of a school district shall be eligible for support for category two services up to a pre-discount price of \$167 per student over a five-year funding cycle. The amount of support will be calculated at the time that the discount is calculated in the

first funding year of the five-year cycle in which the applicant requests category two support, unless the school or school district elects to seek additional program support using updated enrollment numbers in subsequent funding years in the five-year cycle. School districts shall provide the total number of students within the school district. Independent charter schools, private schools, and other eligible educational facilities that operate under the control of a central administrative agency shall provide the total number of students under the control of that agency. Schools that are not affiliated financially or operationally with a school district or central administrative agency shall provide the total number of students in the school.

(3) *Library and library system multipliers.* Library systems and libraries operating independently of a system shall be eligible for support for category two services, up to a pre-discount price of \$4.50 per square foot over a five-year funding cycle. The amount of support will be calculated at the time that the discount is calculated in the first funding year of the five-year cycle in which the applicant requests category two support, unless the library or library system elects to seek additional program support using updated square footage in subsequent funding years in the five-year cycle. Library systems shall provide the total area for all floors, in square feet, of all of its library outlets, including all areas enclosed by the outer walls of the library outlet and occupied by the library, including those areas off-limits to the public. Independent libraries shall provide the total area for all floors, in square feet, of all areas enclosed by the outer walls of the library outlet and occupied by the library, including those areas off-limits to the public.

(4) *Funding floor.* Each eligible school and library shall be eligible for support for category two services of at least a pre-discount price of \$25,000 over five funding years.

(5) *Calculation increase.* Before funding year 2026 and every subsequent five-year funding cycle, the Wireline Competition Bureau shall announce the multipliers and funding floor as adjusted for inflation at least 60 days before the start of the filing window for the next five-year funding cycle. The Bureau shall use the last four quarters of data on the Gross Domestic Product Chain-type Price Index (GDP-CPI) compared with the equivalent quarters from the beginning of the five-year funding cycle. The increase shall be rounded to the nearest 0.1 percent and shall be used to calculate the category two budget multipliers and funding floor for that five-year funding cycle. The multipliers and funding floor shall be rounded to the nearest cent.

## § 54.503

## 47 CFR Ch. I (10–1–20 Edition)

(6) *Non-instructional buildings.* Support is not available for category two services provided to or within non-instructional school buildings or separate library administrative buildings unless those category two services are essential for the effective transport of information to or within one or more instructional buildings of a school or non-administrative library buildings, or the Commission has found that the use of those services meets the definition of educational purpose, as defined in § 54.500. When applying for category two support for eligible services to a non-instructional school building or library administrative building, the applicant shall deduct the cost of the non-instructional building's use of the category two services or equipment.

### § 54.503 Competitive bidding requirements.

(a) All entities participating in the schools and libraries universal service support program must conduct a fair and open competitive bidding process, consistent with all requirements set forth in this subpart.

NOTE TO PARAGRAPH (a): The following is an illustrative list of activities or behaviors that would not result in a fair and open competitive bidding process: the applicant for supported services has a relationship with a service provider that would unfairly influence the outcome of a competition or would furnish the service provider with inside information; someone other than the applicant or an authorized representative of the applicant prepares, signs, and submits the FCC Form 470 and certification; a service provider representative is listed as the FCC Form 470 contact person and allows that service provider to participate in the competitive bidding process; the service provider prepares the applicant's FCC Form 470 or participates in the bid evaluation or vendor selection process in any way; the applicant turns over to a service provider the responsibility for ensuring a fair and open competitive bidding process; an applicant employee with a role in the service provider selection process also has an ownership interest in the service provider seeking to participate in the competitive bidding process; and the applicant's FCC Form 470 does not describe the supported services with sufficient specificity to enable interested service providers to submit responsive bids.

(b) *Competitive bid requirements.* Except as provided in § 54.511(c), an eligible school, library, or consortium that includes an eligible school or library shall seek competitive bids, pursuant to the requirements established in this subpart, for all services eligible for

support under § 54.502. These competitive bid requirements apply in addition to state and local competitive bid requirements and are not intended to preempt such state or local requirements.

(c) *Posting of FCC Form 470.* (1) An eligible school, library, or consortium that includes an eligible school or library seeking bids for eligible services under this subpart shall submit a completed FCC Form 470 to the Administrator to initiate the competitive bidding process. The FCC Form 470 and any request for proposal cited in the FCC Form 470 shall include, at a minimum, the following information:

(i) A list of specified services for which the school, library, or consortium requests bids;

(ii) Sufficient information to enable bidders to reasonably determine the needs of the applicant;

(iii) To the extent an applicant seeks the following services or arrangements, an indication of the applicant's intent to seek:

(A) Construction of network facilities that the applicant will own;

(B) A dark-fiber lease, infeasible right of use, or other dark-fiber service agreement or the modulating electronics necessary to light dark fiber; or

(C) A multi-year installment payment agreement with the service provider for the non-discounted share of special construction costs;

(iv) To the extent an applicant seeks construction of a network that the applicant will own, the applicant must also solicit bids for both the services provided over third-party networks and construction of applicant-owned network facilities, in the same request for proposals;

(v) To the extent an applicant seeks bids for special construction associated with dark fiber or bids to lease and light dark fiber, the applicant must also solicit bids to provide the needed services over lit fiber; and

(vi) To the extent an applicant seeks bids for equipment and maintenance costs associated with lighting dark fiber, the applicant must include these elements in the same FCC Form 470 as the dark fiber.

(2) The FCC Form 470 shall be signed by a person authorized to request bids