

## § 54.506 [Reserved]

## § 54.507 Cap.

(a) *Amount of the annual cap.* The aggregate annual cap on federal universal service support for schools and libraries shall be \$3.9 billion per funding year, of which \$1 billion per funding year will be available for category two services, as described in § 54.502(a)(2), unless demand for category one services is higher than available funding.

(1) *Inflation increase.* In funding year 2016 and subsequent funding years, the \$3.9 billion funding cap on federal universal service support for schools and libraries shall be automatically increased annually to take into account increases in the rate of inflation as calculated in paragraph (a)(2) of this section.

(2) *Increase calculation.* To measure increases in the rate of inflation for the purposes of this paragraph (a), the Commission shall use the Gross Domestic Product Chain-type Price Index (GDP-CPI). To compute the annual increase as required by this paragraph (a), the percentage increase in the GDP-CPI from the previous year will be used. For instance, the annual increase in the GDP-CPI from 2008 to 2009 would be used for the 2010 funding year. The increase shall be rounded to the nearest 0.1 percent by rounding 0.05 percent and above to the next higher 0.1 percent and otherwise rounding to the next lower 0.1 percent. This percentage increase shall be added to the amount of the annual funding cap from the previous funding year. If the yearly average GDP-CPI decreases or stays the same, the annual funding cap shall remain the same as the previous year.

(3) *Public notice.* When the calculation of the yearly average GDP-CPI is determined, the Wireline Competition Bureau shall publish a public notice in the FEDERAL REGISTER within 60 days announcing any increase of the annual funding cap including any increase to the \$1 billion funding level available for category two services based on the rate of inflation.

(4) *Filing window requests.* At the close of the filing window, if requests for category one services are greater than the available funding, the Administrator shall shift category two funds

to provide support for category one services. If available funds are sufficient to meet demand for category one services, the Administrator, at the direction of the Wireline Competition Bureau, shall direct the remaining additional funds to provide support for category two requests.

(5) *Amount of unused funds.* All funds collected that are unused shall be carried forward into subsequent funding years for use in the schools and libraries support mechanism in accordance with the public interest and notwithstanding the annual cap. The Chief, Wireline Competition Bureau, is delegated authority to determine the proportion of unused funds, if any, needed to meet category one demand, and to direct the Administrator to use any remaining funds to provide support for category two requests. The Administrator shall report to the Commission, on a quarterly basis, funding that is unused from prior years of the schools and libraries support mechanism.

(6) *Application of unused funds.* On an annual basis, in the second quarter of each calendar year, all funds that are collected and that are unused from prior years shall be available for use in the next full funding year of the schools and libraries mechanism in accordance with the public interest and notwithstanding the annual cap as described in this paragraph (a).

(b) *Funding year.* A funding year for purposes of the schools and libraries cap shall be the period July 1 through June 30.

(c) *Requests.* The Administrator shall implement an initial filing period that treats all schools and libraries filing an application within that period as if their applications were simultaneously received. The initial filing period shall begin and conclude on dates to be determined by the Administrator with the approval of the Chief of the Wireline Competition Bureau. The Administrator shall maintain on the Administrator's Web site a running tally of the funds already committed for the existing funding year. The Administrator may implement such additional filing periods as it deems necessary.

(d) *Annual filing requirement.* (1) Schools and libraries, and consortia of such eligible entities shall file new

funding requests for each funding year no sooner than the July 1 prior to the start of that funding year. Schools, libraries, and eligible consortia must use recurring services for which discounts have been committed by the Administrator within the funding year for which the discounts were sought.

(2) Installation of category one non-recurring services may begin on January 1 prior to the July 1 start of the funding year, provided the following conditions are met:

(i) Construction begins after selection of the service provider pursuant to a posted FCC Form 470,

(ii) A category one recurring service must depend on the installation of the infrastructure, and

(iii) The actual service start date for that recurring service is on or after the start of the funding year (July 1).

(3) Installation of category two non-recurring services may begin on April 1 prior to the July 1 start of the funding year.

(4) The deadline for implementation of all non-recurring services will be September 30 following the close of the funding year. An applicant may request and receive from the Administrator an extension of the implementation deadline for non-recurring services if it satisfies one of the following criteria:

(i) The applicant's funding commitment decision letter is issued by the Administrator on or after March 1 of the funding year for which discounts are authorized;

(ii) The applicant receives a service provider change authorization or service substitution authorization from the Administrator on or after March 1 of the funding year for which discounts are authorized;

(iii) The applicant's service provider is unable to complete implementation for reasons beyond the service provider's control; or

(iv) The applicant's service provider is unwilling to complete installation because funding disbursements are delayed while the Administrator investigates the application for program compliance.

(e) *Long term contracts.* If schools and libraries enter into long term contracts for eligible services, the Administrator

shall only commit funds to cover the pro rata portion of such a long term contract scheduled to be delivered during the funding year for which universal service support is sought.

(f) *Rules of distribution.* When the filing period described in paragraph (c) of this section closes, the Administrator shall calculate the total demand for both category one and category two support submitted by applicants during the filing period. If total demand for the funding year exceeds the total support available for category one or both categories, the Administrator shall take the following steps:

(1) *Category one.* The Administrator shall first calculate the demand for category one services for all discount levels. The Administrator shall allocate the category one funds to these requests for support, beginning with the most economically disadvantaged schools and libraries, as determined by the schools and libraries discount matrix in §54.505(c). Schools and libraries eligible for a 90 percent discount shall receive first priority for the category one funds. The Administrator shall next allocate funds toward the requests submitted by schools and libraries eligible for an 80 percent discount, then for a 70 percent discount, and shall continue committing funds for category one services in the same manner to the applicants at each descending discount level until there are no funds remaining.

(2) *Category two.* The Administrator shall next calculate the demand for category two services for all discount categories as determined by the schools and libraries discount matrix in §54.505(c). If that demand exceeds the category two budget for that funding year, the Administrator shall allocate the category two funds beginning with the most economically disadvantaged schools and libraries, as determined by the schools and libraries discount matrix in §54.505(c). The Administrator shall allocate funds toward the category two requests submitted by schools and libraries eligible for an 85 percent discount first, then for a 80 percent discount, and shall continue committing funds in the same manner to the applicants at each descending

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discount level until there are no category two funds remaining.

(3) To the extent that there are single discount percentage levels associated with “shared services” under § 54.505(b)(4), the Administrator shall allocate funds to the applicants at each descending discount level (e.g., 90 percent, 89 percent, then 88 percent) until there are no funds remaining.

(4) For both paragraphs (f)(1) and (2) of this section, if the remaining funds are not sufficient to support all of the funding requests within a particular discount level, the Administrator shall allocate funds at that discount level using the percentage of students eligible for the National School Lunch Program. Thus, if there is not enough support to fund all requests at the 40 percent discount level, the Administrator shall allocate funds beginning with those applicants with the highest percentage of NSLP eligibility for that discount level by funding those applicants with 19 percent NSLP eligibility, then 18 percent NSLP eligibility, and shall continue committing funds in the same manner to applicants at each descending percentage of NSLP until there are no funds remaining.

[79 FR 49201, Aug. 19, 2014, as amended at 80 FR 5990, Feb. 4, 2015]

### §§ 54.508–54.509 [Reserved]

#### § 54.511 Ordering services.

(a) *Selecting a provider of eligible services.* Except as exempted in § 54.503(e), in selecting a provider of eligible services, schools, libraries, library consortia, and consortia including any of those entities shall carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers, but price should be the primary factor considered.

(b) *Lowest corresponding price.* Providers of eligible services shall not submit bids for or charge schools, school districts, libraries, library consortia, or consortia including any of these entities a price above the lowest corresponding price for supported services, unless the Commission, with respect to

interstate services or the state commission with respect to intrastate services, finds that the lowest corresponding price is not compensatory. Promotional rates offered by a service provider for a period of more than 90 days must be included among the comparable rates upon which the lowest corresponding price is determined.

[79 FR 59203, Aug. 19, 2014]

#### § 54.513 Resale and transfer of services.

(a) *Prohibition on resale.* Eligible supported services provided at a discount under this subpart shall not be sold, resold, or transferred in consideration of money or any other thing of value, except as provided in paragraph (b) of this section.

(b) *Disposal of obsolete equipment components of eligible services.* Eligible equipment components of eligible services purchased at a discount under this subpart shall be considered obsolete if the equipment components have been installed for at least five years. Obsolete equipment components of eligible services may be resold or transferred in consideration of money or any other thing of value, disposed of, donated, or traded.

(c) *Permissible fees.* This prohibition on resale shall not bar schools, school districts, libraries, and library consortia from charging either computer lab fees or fees for classes in how to navigate over the Internet. There is no prohibition on the resale of services that are not purchased pursuant to the discounts provided in this subpart.

(d) 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 years after purchase, except that eligible services and equipment components of eligible services may be transferred to another eligible school or library in the event that the particular location where the service originally was received is permanently or temporarily closed, or is part of the same eligible school district or library system as the location receiving the eligible services or equipment components of eligible services. If an eligible service