

Know What You're Signing: A Brief Overview of the 'Small Print' on your District's E-Rate Application

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As a school administrator you sign, or cause to be signed, dozens of documents each week. Most are routine, requiring nothing more than a quick glance before adding your signature. Others require a more careful read to fully understand. Forms related to the federal E-Rate program generally fall in the latter category. Thus, the intent of this article and articles to follow is to review the most important certifications required to apply for federal E-rate funds, beginning with the FCC Form 470: Description of Services Requested and Certification Form (Form 470)

Let's begin, however, with a very brief overview of the E-rate program and process.

The E-rate program is known formally as the Universal Services Schools and Library Discount Mechanism and was created as part of the Telecommunications Act of 1996. While the program has changed significantly over the last 20 years, as a general rule this program reimburses schools for eligible telecommunications expenses including Internet and WAN services and hardware expenses related to bringing connectivity to the classroom.

The process to apply for E-rate funds is multi-step, spanning multiple years. The first step in the process is to complete and post the Form 470. Often accompanied by a Request for Proposal (RFP), this form identifies the services and/or equipment you are requesting for the following year. Most often these forms are completed in the fall to request funds effective July 1. The Form 470 is followed by the FCC Forms 471, 472, 486 and others. Subsequent articles will deal with each of these form-specific sets of certifications.

The first certification on the Form 470 serves to establish your school's eligibility to apply for E-rate: you must be recognized as a school under the statutory definition of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C §§ 7801 (18) and (38). Additionally, you cannot operate as a for-profit business or have an endowment exceeding \$50 million.

The next important set of certifications have to do with the competitive bidding process. You must make your Form 470 and RFP available to review by potential bidders for at least 28 days prior to selecting a vendor. For the purposes of the E-rate program the clock starts when your Form 470 is certified. The clock resets, however, if you post a RFP or make substantial changes to a RFP after the Form 470 has been certified.

During the bid evaluation process you must select "the most cost-effective service or equipment offering, with price being the primary factor..." The rule that forms the basis for this certification allows schools to include multiple factors in their bid evaluation insofar as price of eligible goods and services is the most heavily weighted category. This, however, is a slightly different process than required in Idaho Statute 67.28. It is important to understand these differences and develop a process that complies with both.

You must certify that you have reviewed all applicable FCC, state, and local procurement rules and have complied with them. As demonstrated in the example above, one set of rules is often more restrictive than another—in these cases it is prudent to follow the more restrictive guidelines.

Schools are now required to maintain records related to the E-rate process for ten years beyond the last day to invoice for services. Generally, the last day to invoice is October 28 of the year following the start of the previous fund year. Because the E-rate application process can start a year before the July 1 start of the fund year, to comply with this rule means keeping records for twelve years! What documents do you need to save? All procurement documents including RFPs, vendor responses, emails between the district and vendors, phone logs, meeting logs, and so forth must be saved. Bills, invoices, service delivery documents, and receipts must also be saved. And don't forget maintenance logs and replacement logs. Because most schools have less restrictive document retention processes it is important to review and amend policy and procedures to ensure compliance with this aspect of the E-rate program.

You must certify that any services or equipment received through the E-rate program are being used for educational purposes and that you will not sell, resell, or trade except under specific circumstances.

You must certify that neither you, your staff, nor your school have received or will receive anything of value (beyond the requested services or equipment) from the service provider or their agents in exchange for consideration during the procurement process. This rule often conflicts with school practices, especially when local providers are otherwise invested in your community. Take the following example: ABC Telecom, a local company, submits a bid for your school's local phone service. Meanwhile, the owner of the company, who happens to be an alumnus of your high school, donates \$1,000 for new uniforms for the basketball team. Can you accept this gift? That depends on how well you feel you could defend that decision during an FCC or USAC audit. Regardless, the burden of proof to show compliance is on you.

The last significant certification on the Form 470 relates to the separate procurement, including the appropriate budget allocation, of resources necessary to ensure E-rate funded services and equipment are functional. Thus, to use E-rate funds to wire a computer lab without having separately procured computers to use in the lab would be a violation of program rules. Basically, the FCC is not interested in purchasing equipment that is not going to be used effectively, so make sure you have a plan to do so prior to applying for E-rate funds.

Each year the E-rate program returns close to \$4 billion to schools and libraries across the county. Last year, Idaho's share was over \$12.5 million.

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