

§ 54.423

commissions and the relevant authority in a U.S. territory or Tribal governments, as appropriate.

[77 FR 38534, June 28, 2012, as amended at 81 FR 33095, May 24, 2016]

§ 54.423 Budget.

(a) *Amount of the annual budget.* The initial annual budget on federal universal support for the Lifeline program shall be \$2.25 billion.

(1) *Inflation increase.* In funding year 2016 and subsequent funding years, the \$2.25 billion funding cap on federal universal service support for Lifeline 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 paragraph (a) of this section, the Commission shall use the Consumer Price Index for all items from the Department of Labor, Bureau of Labor Statistics. To compute the annual increase as required by this paragraph (a), the percentage increase in the Consumer Price Index from the previous year will be used. For instance, the annual increase in the Consumer Price Index from 2015 to 2016 would be used for the 2017 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 Consumer Price Index decreases or stays the same, the annual funding cap shall remain the same as the previous year.

(3) The Wireline Competition Bureau shall issue a public notice on or before July 31 containing the results of the calculations described in § 54.403(a)(2) and setting the budget for the upcoming year beginning on January 1.

(b) If spending in the Lifeline program meets or exceeds 90 percent of the Lifeline budget in a calendar year, the Wireline Competition Bureau shall prepare a report evaluating program disbursements and describing the reasons for the program's growth along with any other information relevant to the

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operation of the Lifeline program. The Bureau shall submit the report to the Commission by July 31st of the following year.

[81 FR 33095, May 24, 2016]

EFFECTIVE DATE NOTE: At 81 FR 33095, May 24, 2016, § 54.423 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

Subpart F—Universal Service Support for Schools and Libraries

§ 54.500 Terms and definitions.

Basic maintenance. A service is eligible for support as a “basic maintenance” service if, but for the maintenance at issue, the internal connection would not function and serve its intended purpose with the degree of reliability ordinarily provided in the marketplace to entities receiving such services. Basic maintenance services do not include services that maintain equipment that is not supported by E-rate or that enhance the utility of equipment beyond the transport of information, or diagnostic services in excess of those necessary to maintain the equipment's ability to transport information.

Billed entity. A “billed entity” is the entity that remits payment to service providers for services rendered to eligible schools and libraries.

Consortium. A “consortium” is any local, statewide, regional, or interstate cooperative association of schools and/or libraries eligible for E-rate support that seeks competitive bids for eligible services or funding for eligible services on behalf of some or all of its members. A consortium may also include health care providers eligible under subpart G of this part, and public sector (governmental) entities, including, but not limited to, state colleges and state universities, state educational broadcasters, counties, and municipalities, although such entities are not eligible for support. Eligible schools and libraries may not join consortia with ineligible private sector members unless the pre-discount prices of any services that such consortium receives are generally tariffed rates.

Educational purposes. For purposes of this subpart, activities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate and proximate to the provision of library services to library patrons, qualify as “educational purposes.” Activities that occur on library or school property are presumed to be integral, immediate, and proximate to the education of students or the provision of library services to library patrons.

Elementary school. An “elementary school” means an elementary school as defined in 20 U.S.C. 7801(18), a non-profit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law.

Internal connections. A service is eligible for support as a component of an institution’s “internal connections” if such service is necessary to transport or distribute broadband within one or more instructional buildings of a single school campus or within one or more non-administrative buildings that comprise a single library branch.

Library. A “library” includes:

- (1) A public library;
- (2) A public elementary school or secondary school library;
- (3) An academic library;
- (4) A research library, which for the purpose of this section means a library that:
 - (i) Makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and
 - (ii) Is not an integral part of an institution of higher education; and
- (5) A private library, but only if the state in which such private library is located determines that the library should be considered a library for the purposes of this definition.

Library consortium. A “library consortium” is any local, statewide, regional, or interstate cooperative association of libraries that provides for the systematic and effective coordination of the resources of schools, public, academic, and special libraries and information centers, for improving services to the clientele of such libraries. For the purposes of these rules, references to li-

brary will also refer to library consortium.

Lowest corresponding price. “Lowest corresponding price” is the lowest price that a service provider charges to non-residential customers who are similarly situated to a particular school, library, or library consortium for similar services.

Managed internal broadband services. A service is eligible for support as “managed internal broadband services” if provided by a third party for the operation, management, and monitoring of the eligible components of a school or library local area network (LAN) and/or wireless LAN.

Master contract. A “master contract” is a contract negotiated with a service provider by a third party, the terms and conditions of which are then made available to an eligible school, library, rural health care provider, or consortium that purchases directly from the service provider.

Minor contract modification. A “minor contract modification” is a change to a universal service contract that is within the scope of the original contract and has no effect or merely a negligible effect on price, quantity, quality, or delivery under the original contract.

National school lunch program. The “national school lunch program” is a program administered by the U.S. Department of Agriculture and state agencies that provides free or reduced price lunches to economically disadvantaged children. A child whose family income is between 130 percent and 185 percent of applicable family size income levels contained in the nonfarm poverty guidelines prescribed by the Office of Management and Budget is eligible for a reduced price lunch. A child whose family income is 130 percent or less of applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget is eligible for a free lunch.

Pre-discount price. The “pre-discount price” means, in this subpart, the price the service provider agrees to accept as total payment for its telecommunications or information services. This amount is the sum of the amount the service provider expects to receive from the eligible school or library and

the amount it expects to receive as reimbursement from the universal service support mechanisms for the discounts provided under this subpart.

Secondary school. A “secondary school” means a secondary school as defined in 20 U.S.C. 7801(38), a non-profit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under state law except that the term does not include any education beyond grade 12.

State telecommunications network. A “state telecommunications network” is a state government entity that procures, among other things, telecommunications offerings from multiple service providers and bundles such offerings into packages available to schools, libraries, or rural health care providers that are eligible for universal service support, or a state government entity that provides, using its own facilities, such telecommunications offerings to such schools, libraries, and rural health care providers.

Voice services. “Voice services” include local phone service, long distance service, plain old telephone service (POTS), radio loop, 800 service, satellite telephone, shared telephone service, Centrex, wireless telephone service such as cellular, interconnected voice over Internet protocol (VoIP), and the circuit capacity dedicated to providing voice services.

Wide area network. For purposes of this subpart, a “wide area network” is a voice or data network that provides connections from one or more computers within an eligible school or library to one or more computers or networks that are external to such eligible school or library. Excluded from this definition is a voice or data network that provides connections between or among instructional buildings of a single school campus or between or among non-administrative buildings of a single library branch.

[63 FR 2128, Jan. 13, 1998, as amended at 68 FR 36942, June 20, 2003; 76 FR 56302, Sept. 13, 2011; 79 FR 49197, Aug. 19, 2014; 79 FR 68634, Nov. 18, 2014]

§ 54.501 Eligible recipients.

(a) *Schools.* (1) Only schools meeting the statutory definition of “elementary school” or “secondary school” as defined in § 54.500 of this subpart, and not excluded under paragraphs (a)(2) or (3) of this section shall be eligible for discounts on telecommunications and other supported services under this subpart.

(2) Schools operating as for-profit businesses shall not be eligible for discounts under this subpart.

(3) Schools with endowments exceeding \$50,000,000 shall not be eligible for discounts under this subpart.

(b) *Libraries.* (1) Only libraries eligible for assistance from a State library administrative agency under the Library Services and Technology Act (Pub. L. 104-208) and not excluded under paragraphs (b)(2) or (3) of this section shall be eligible for discounts under this subpart.

(2) A library’s eligibility for universal service funding shall depend on its funding as an independent entity. Only libraries whose budgets are completely separate from any schools (including, but not limited to, elementary and secondary schools, colleges, and universities) shall be eligible for discounts as libraries under this subpart.

(3) Libraries operating as for-profit businesses shall not be eligible for discounts under this subpart.

(c) *Consortia.*

(1) For consortia, discounts under this subpart shall apply only to the portion of eligible telecommunications and other supported services used by eligible schools and libraries.

(2) Service providers shall keep and retain records of rates charged to and discounts allowed for eligible schools and libraries—on their own or as part of a consortium. Such records shall be available for public inspection.

[62 FR 32948, June 17, 1997, as amended at 63 FR 2129, Jan. 13, 1998; 68 FR 36942, June 20, 2003; 75 FR 75411, Dec. 3, 2010; 76 FR 56302, Sept. 13, 2011; 79 FR 49198, Aug. 19, 2014; 79 FR 68634, Nov. 18, 2014]