

Federal Communications Commission

§ 54.617

(b) *Conditions and restrictions.* The following conditions and restrictions apply to support provided under this section.

(1) Connections eligible for support are only those that are between:

(i) Eligible health care provider sites and off-site data centers or off-site administrative offices;

(ii) Two off-site data centers;

(iii) Two off-site administrative offices;

(iv) An off-site data center and the public internet or another network;

(v) An off-site administrative office and the public internet or another network; or

(vi) An off-site administrative office and an off-site data center.

(2) The supported connections and network equipment must be used solely for health care purposes.

(3) The supported connections and network equipment must be purchased by an eligible health care provider or a public or non-profit health care system that owns and operates eligible health care provider sites.

(4) If traffic associated with one or more ineligible health care provider sites is carried by the supported connection and/or network equipment, the ineligible health care provider sites must allocate the cost of that connection and/or equipment between eligible and ineligible sites, consistent with the “fair share” principles set forth in § 54.617(d)(1).

§ 54.616 Upfront payments.

(a) Upfront payments include all non-recurring costs for services, equipment, or facilities, other than reasonable and customary installation charges of up to \$5,000.

(b) The following limitations apply to all upfront payments:

(1) Upfront payments associated with services providing a bandwidth of less than 1.5 Mbps (symmetrical) are not eligible for support; and

(2) Only consortium applicants are eligible for support for upfront payments.

(c) The following limitations apply if a consortium makes a request for support for upfront payments that exceeds, on average, \$50,000 per eligible site in the consortium:

(1) The support for the upfront payments must be prorated over at least three years; and

(2) The upfront payments must be part of a multi-year contract.

§ 54.617 Ineligible expenses.

(a) *Equipment or services not directly associated with eligible services.* Expenses associated with equipment or services that are not necessary to make an eligible service functional, or to manage, control, or maintain an eligible service or a dedicated health care broadband network are ineligible for support. For purposes of paragraph (a) of this section, examples of ineligible expenses include:

(1) Costs associated with general computing, software, applications, and internet content development are not supported, including the following:

(i) Computers, including servers, and related hardware (*e.g.*, printers, scanners, laptops), unless used exclusively for network management, maintenance, or other network operations;

(ii) End user wireless devices, such as smartphones and tablets;

(iii) Software, unless used for network management, maintenance, or other network operations;

(iv) Software development (excluding development of software that supports network management, maintenance, and other network operations);

(v) Helpdesk equipment and related software, or services, unless used exclusively in support of eligible services or equipment;

(vi) Web server hosting;

(vii) website portal development;

(viii) Video/audio/web conferencing equipment or services; and

(ix) Continuous power source.

(2) Costs associated with medical equipment (hardware and software), and other general health care provider expenses are not supported, including the following:

(i) Clinical or medical equipment;

(ii) Telemedicine equipment, applications, and software;

(iii) Training for use of telemedicine equipment;

(iv) Electronic medical records systems; and

(v) Electronic records management and expenses.

(b) *Inside wiring/internal connections.* Expenses associated with inside wiring or internal connections are ineligible for support under the Healthcare Connect Fund Program.

(c) *Administrative expenses.* Administrative expenses are not eligible for support under the Healthcare Connect Fund Program. For purposes of paragraph (c) of this section, ineligible administrative expenses include, but are not limited to, the following expenses:

(1) Personnel costs (including salaries and fringe benefits), except for personnel expenses in a consortium application that directly relate to designing, engineering, installing, constructing, and managing a dedicated broadband network. Ineligible costs of this category include, for example, personnel to perform program management and coordination, program administration, and marketing;

(2) Travel costs, except for travel costs that are reasonable and necessary for network design or deployment and that are specifically identified and justified as part of a competitive bid for a construction project;

(3) Legal costs;

(4) Training, except for basic training or instruction directly related to and required for broadband network installation and associated network operations;

(5) Program administration or technical coordination (*e.g.*, preparing application materials, obtaining letters of agency, preparing requests for proposals, negotiating with service providers, reviewing bids, and working with the Administrator) that involves anything other than the design, engineering, operations, installation, or construction of the network;

(6) Administration and marketing costs (*e.g.*, administrative costs; supplies and materials, except as part of network installation/construction; marketing studies, marketing activities, or outreach to potential network members; and evaluation and feedback studies);

(7) Billing expenses (*e.g.*, expenses that service providers may charge for allocating costs to each health care provider in a network);

(8) Helpdesk expenses (*e.g.*, equipment and related software, or services); and

(9) Technical support services that provide more than basic maintenance.

(d) *Cost allocation for ineligible sites, services, or equipment.* (1) *Ineligible sites.* Eligible health care provider sites may share expenses with ineligible sites, as long as the ineligible sites pay their fair share of the expenses. An applicant may seek support for only the portion of a shared eligible expense attributable to eligible health care provider sites. To receive support, the applicant must ensure that ineligible sites pay their fair share of the expense. The fair share is determined as follows:

(i) If the service provider charges a separate and independent price for each site, an ineligible site must pay the full undiscounted price.

(ii) If there is no separate and independent price for each site, the applicant must prorate the undiscounted price for the “shared” service, equipment, or facility between eligible and ineligible sites on a proportional fully-distributed basis. Applicants must make this cost allocation using a method that is based on objective criteria and reasonably reflects the eligible usage of the shared service, equipment, or facility. The applicant bears the burden of demonstrating the reasonableness of the allocation method chosen.

(2) *Ineligible components of a single service or piece of equipment.* Applicants seeking support for a service or piece of equipment that includes an ineligible component must explicitly request in their requests for proposals that service providers include pricing for a comparable service or piece of equipment that is comprised of only eligible components. If the selected service provider also submits a price for the eligible component on a stand-alone basis, the support amount is calculated based on the stand-alone price of the eligible component. If the service provider does not offer the eligible component on a stand-alone basis, the full price of the entire service or piece of equipment must be taken into account, without regard to the value of the ineligible components, when determining the most cost-effective bid.

(3) *Written description.* Applicants must submit a written description of their allocation method(s) to the Administrator with their funding requests.

(4) *Written agreement.* If ineligible entities participate in a network, the allocation method must be memorialized in writing, such as a formal agreement among network members, a master services contract, or for smaller consortia, a letter signed and dated by all (or each) ineligible entity and the Consortium Leader.

§ 54.618 Data collection and reporting.

(a) Each applicant must file an annual report with the Administrator on or before September 30 for the preceding funding year, with the information and in the form specified by the Wireline Competition Bureau.

(b) Each applicant must file an annual report for each funding year in which it receives support from the Healthcare Connect Fund Program.

(c) For consortia that receive large upfront payments, the reporting requirement extends for the life of the supported facility.

GENERAL PROVISIONS

§ 54.619 Cap.

(a) *Amount of the annual cap.* The aggregate annual cap on federal universal service support for health care providers shall be \$571 million per funding year, of which up to \$150 million per funding year will be available to support upfront payments and multi-year commitments under the Healthcare Connect Fund Program.

(1) *Inflation increase.* In funding year 2018 and subsequent funding years, the \$571 million cap on federal universal support in the Rural Health Care Program shall be increased annually to take into account increases in the rate of inflation as calculated in paragraph (a)(2) in this section. In funding year 2020 and subsequent funding years, the \$150 million cap on multi-year commitments and upfront payments in the Healthcare Connect Fund Program shall also be increased annually to take into account increases in the rate of inflation as calculated in paragraph (a)(2) in this section.

(2) *Increase calculation.* To measure increases in the rate of inflation for the purposes of paragraph (a)(1) in this section, the Commission shall use the Gross Domestic Product Chain-type Price Index (GDP-CPI). To compute the annual increase as required by paragraph (a)(1) in this section, the percentage increase in the GDP-CPI from the previous year will be used. For instance, the annual increase in the GDP-CPI from 2017 to 2018 would be used for the 2018 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. This percentage increase shall be added to the amount of the annual Rural Health Care Program funding cap and the internal cap on multi-year commitments and upfront payments in the Healthcare Connect Fund Program from the previous funding year. If the yearly average GDP-CPI decreases or stays the same, the annual Rural Health Care Program funding cap and the internal cap on multi-year commitments and upfront payments in the Healthcare Connect Fund Program shall remain the same as the previous year.

(3) *Public notice.* After calculating the annual Rural Health Care Program funding cap and the internal cap on multi-year commitments and upfront payments in the Healthcare Connect Fund Program based on the GDP-CPI, the Wireline Competition Bureau shall publish a public notice in the FEDERAL REGISTER within 60 days announcing any increase of the annual funding cap based on the rate of inflation.

(4) *Amount of unused funds.* All unused collected funds shall be carried forward into subsequent funding years for use in the Rural Health Care Program in accordance with the public interest and notwithstanding the annual cap. The Administrator, on a quarterly basis, shall report to the Commission on unused Rural Health Care Program funding from prior years.

(5) *Application of unused funds.* On an annual basis, in the second quarter of each calendar year, all unused collected funds from prior years shall be available for use in the next full funding year of the Rural Health Care Program notwithstanding the annual cap