



Guiding Principles for E-Rate Improvement

June, 2005

As debate begins about how to modernize America's telecommunications laws to keep pace with all of the technological advances which have occurred since the Telecommunications Act was passed in 1996, EdLiNC offers the following Guiding Principles which should be a part of any legislation or FCC rule changes designed to improve or reform the way in which the E-Rate program operates. The E-Rate program is a vital telecommunications program that has dramatically benefited our nation's public and private schools and our public libraries. (For more information about the E-Rate program, state funding figures, success stories, and more, go to www.edlinc.org.) Also attached to our Guiding Principles are excerpts from public filings EdLiNC has submitted to the FCC over the last several years which address: streamlining the application process, enacting stiffer sanctions for program abusers, establishing a super-priority for schools and libraries that remain unconnected, and making it easier for applicants to identify unscrupulous vendors. *We understand that there are other issues that Members of Congress and the FCC will likely address in E-Rate improvement legislation or regulatory actions, and we look forward to offering more ideas and suggestions as the debate moves forward.*

Guiding Principles to Improve and Strengthen the E-Rate Program

EdLiNC believes that the E-Rate program is critical for public and private schools and public libraries

- E-Rate is an essential part of the technology infrastructure in our nation's public and private schools and libraries and must be preserved.
- E-Rate must be preserved as a part of the Universal Service Fund (USF) because the USF mechanism is a stable and reliable funding mechanism.
- E-Rate funds are fees collected from industry by the Universal Service Administrative Corporation (USAC, the entity charged by the FCC to administer the E-Rate program), which are held in the Universal Service Fund (USF) and do not enter the federal treasury. Consequently, E-Rate funds are not federal funds.

EdLiNC believes that the E-Rate application process should be streamlined

- The application process should be streamlined, and applications should be reviewed in a consistent manner with publicly available guidelines and program rules.
- Performance benchmarks for the E-Rate program should measure: (1) Internet access to instructional classrooms and libraries; (2) the level of advanced connectivity; and (3) Internet penetration in libraries and classrooms located in urban, rural, and low-income areas.
- Better technical assistance, data collection, and outreach efforts to the applicant community are necessary; such efforts should be funded with additional monies from outside the USF.

EdLiNC believes that E-Rate funds must continue to flow uninterrupted

- The Universal Service Administrative Corporation should be permitted to continue to collect universal service funds on a quarterly basis to ensure that USF charges on consumer phone bills are kept low.
- Based upon our belief that E-Rate funds are not federal funds, we hold that the Anti-Deficiency Act (ADA) is not applicable to the E-Rate program. However, in order to allow E-Rate funds to continue to flow uninterrupted and in a manner which allows schools and libraries to effectively budget for their technology needs, we urge Congress to pass S. 241/H.R. 2533.

EdLiNC believes in strengthening the integrity of the E-Rate program

- Strong and appropriate sanctions for program rule violators are vital to ensuring the integrity of the E-Rate program.
- The range of penalties for E-Rate program rule violators should be easily and publicly accessible.

I. Streamlining the Application Process (Excerpt from EdLiNC Comments filed March 2004)

“EdLiNC Supports Efforts to Make the Competitive Bidding Process More Efficient

The Commission asks for comment on whether simplifying the form 470 process, including eliminating the Form 470 posting process for some or all services, would benefit the program. Based on a careful review of comments filed with the Commission on this issue, EdLiNC concludes that eliminating the Form 470 posting process for recurring Priority I services, such as local and long distance telephone access, internet access, existing telecommunications services, and cell phone service, would be beneficial to the program.

While EdLiNC understands the laudable original intentions of the Form 470 posting process – establishing a national bidding network to drive down service costs for applicants – we have grown more aware in the past few years that there is little evidence that the current process is serving these functions. For too many applicants, the competitive bidding process has been the source of very few bids that they would not receive through ordinary local and state procurement processes. Moreover, it has become yet another hurdle in a program filled with many hurdles that the applicant must overcome in order to have SLD accept its application.

EdLiNC believes that applicants should not have to repeat a fruitless competitive bidding process year after year, particularly for month-to-month services that usually are not terribly costly. Therefore, we propose that the Commission allow eligible schools and libraries to continue recurring services with the same provider for a reasonable period of time, perhaps four to five years, without having to undertake a competitive bidding process each year. At that point, we believe it healthy for applicants, vendors and SLD for the Commission to require that applicants engage in a Form 470 posting process for recurring services in order to ensure that applicants are receiving the most cost effective recurring services and that new vendors in the market have an opportunity to bid to service applicants.”

II. Sanctions (Excerpt from EdLiNC Comments filed April 2002)

“SUBJECT TO REASONABLE SAFEGUARDS, THE PROPOSED BAR FOR WILLFUL OR REPEATED NONCOMPLIANCE WOULD INCREASE PROGRAM INTEGRITY.

As noted in Section III.D.2, 60-62 of the NPRM, the Commission can bring forfeiture proceedings against entities who willfully or knowingly fail to comply with a material provision the FCC's rules. The rules, however, do not permit the Commission to suspend or entirely bar entities from participating in the program.

EdLiNC would support a temporary bar or suspension in the most egregious cases, provided that the standard is not so strict as to punish inadvertent or harmless errors. In addition, any such temporary bar or suspension should apply equally to providers, consultants, and applicants. For example, providers who collect funds in excess of the amounts properly due for services provided should be sanctioned at least as severely as schools and libraries. After all, telecommunications providers have large staffs for dealing with such matters as processing E-Rate related documents and they are in day-to-day contact with the SLD and the Administrator. Most schools and libraries - especially smaller ones - are not nearly as knowledgeable about the FCC's rules or the SLD's procedures because they handle only their own requests, compared to the hundreds of thousands of transactions a provider's staff will process in a single year.

EdLiNC believes that any bar or suspension should be limited to cases of material noncompliance, and any such rule must include a right of appeal to the Commission. EdLiNC also believes that any such rule should not hurt schools and libraries that have detrimentally relied on the advice of paid consultants. In these instances, it is the consultant that should be barred or suspended.”

III. Superpriority for Unconnected (Excerpt from EdLiNC Comments filed March 2004)

“EdLiNC Supports Establishing Priority for Applicants that Have Not Achieved Connectivity

The Commission also seeks comment on whether applicants who have not achieved connectivity should be given priority status over those applicants who have already connected their schools and libraries. The goal of the E-Rate program is to achieve 100% connectivity and, according to the National Center for Education Statistics, as of 2002, we are 92% of the way there in public school instructional classrooms and 95% for public libraries.

EdLiNC supports the E-Rate’s goal of achieving 100% connectivity for schools and libraries as soon as possible. While we understand that the work of connecting schools and libraries is a task that will never be completed fully, particularly as systems must be upgraded and new buildings connected, we support the concept of establishing some type of Internet connectivity in all eligible applicant classrooms and libraries. Once this job is completed, we believe that the program can and should focus on the requisite level of connectivity to ensure that students and community members are able to access the best digital educational tools and resources available.

However, EdLiNC also recognizes that establishing a new priority for the unconnected may create new pressures on the program. Therefore, we feel that the Commission must immediately commission a study to determine who is unconnected, to determine the reasons for the lack of connectivity, and to assess how much it would cost to connect those who remain interested in participating in the program. If the cost of connecting all of the unconnected applicants is high, EdLiNC would support spreading out plans to fully connect all applicants over a period of years in order to avoid barring other applicants from making use of the program.”

IV. Unscrupulous Vendors (Excerpt from EdLiNC Comments filed June 2003)

“EdLiNC also recommends that the Commission or SLD make available online the list of all individuals and entities debarred from participating in the E-rate program because they have been convicted criminally or held liable civilly for actions arising out of participation in the E-rate program, or because the Commission or SLD have determined that they have violated E-rate program rules willfully and repeatedly. Ultimately, it should be the vendors who are accountable to the applicants. Those vendors that have been “willfully or repeatedly” violating the program should have steps taken to prevent their full participation in the program. EdLiNC urges the FCC to adopt a graduated level of sanctions tied to the severity of the infraction. We hope that this would address the range of violations that could occur while not harming those inexperienced applicants who may make a mistake on their application. Additionally, EdLiNC urges the FCC to take into account when it was an individual who violated the program rules versus the institution. If the institution takes steps against the individual at fault, leniency should be taken on the institution as a whole under the tiered sanction system.”

EdLiNC Members

American Association of School Administrators
American Federation of Teachers
Association of Educational Service Agencies
American Library Association
Consortium for School Networking
Council of Chief State School Officers
Education Legislative Services
International Society for Technology in Education
National Association of Elementary School Principals
National Association of Independent Schools
National Association of Secondary School Principals
National Association of State Boards of Education
National Catholic Educational Association
National Education Association
National Education Knowledge Industry Association
National PTA
National Rural Education Association
National School Boards Association
Organizations Concerned About Rural Education
Rural School and Community Trust
United States Conference of Catholic Bishops