



**NEW YORK
STATE**

**BOARD OF
REGENTS**

—

FEDERAL

LEGISLATIVE

and

FUNDING

PRIORITIES

2009

E-RATE (Schools and Libraries) PROGRAM



The E-Rate Program for schools and libraries is one of four programs funded by the Universal Service Fund (USF). The USF was created in 1997 by the Federal Communications Commission to comply with goals mandated by the 1996 Telecommunications Act.

The goals of the Act included increasing nationwide access to advanced telecommunications services, expanding availability of such services in low-income, rural and high cost areas, and increasing access to telecommunications services in schools,

libraries, and rural health care facilities. The programs are funded by the federal excise tax on telephone service.

The E-Rate Program (schools and libraries program of the USF) is designed to ensure that schools and libraries have access to affordable telecommunications and information services. The program provides funding to telecommunications vendors to make discounts available to eligible schools and libraries for telecommunications services, Internet access, and internal connections (cabling and network infrastructure needed for access by multiple users). The discount rate for each school and library depends on its rate of participation in the National School Lunch Program and its urban/rural status.

E-Rate Program funding is capped at \$2.25 billion per year. Annual requests for funding far exceed the monies available.

New York State

In New York State, the E-Rate Program has been the major source of funding for schools, both public and private, and libraries to meet their telecommunications, Internet access and connectivity needs.

Over the first 10 years of the program, New York State's schools and libraries received close to \$3 billion, averaging around \$314 million over the past five years, from 2003-2007.

Without the program, a significant number of the State's schools and libraries would go "dark" as they would have difficulty in finding other funding to address their telecommunications needs.

RECOMMENDATIONS

- **Enact legislation to permanently exempt the E-Rate Program from the Anti-deficiency Act (AdA)**



- **AdA exemption (cont):**

The E-Rate Program was not subject to the Anti-deficiency Act (AdA) during the first seven years of its existence. Then in a surprise decision in 2004, the Federal Communications Commission (FCC) determined that the E-Rate Program would be subject to the spending requirements of the AdA. The FCC's decision forced a three-month shutdown of the program and left many schools and libraries without needed services.

The AdA prevents federal agencies from making "obligations" on the US Treasury unless the funding is in the Treasury when the obligation is made. This requirement is appropriate and reasonable for government programs appropriated out of the Treasury. E-Rate funding, however, is not drawn on the Treasury and instead is supported through revenues raised and distributed by the telecommunications industry through the Universal Service Administrative Company. The funds are collected and distributed without ever touching the US Treasury.

To preserve the program, Congress provided a temporary exemption from the AdA in 2005 and has continued to extend the exemption on a year-to-year basis. However, without a permanent exemption, the program continues to face potential disruptions and delays and the possibility that schools and libraries will be unable to address their technology needs.

- **Enact legislation that simplifies the E-Rate Program application process**

Legislation should be enacted that would require the FCC to implement changes in the E-Rate Program application process to reduce its length and complexity. Simplifying the application process would preserve valuable resources for schools and libraries without jeopardizing strict requirements for eligibility, accountability, and compliance.

A simplified process, similar to the 1040-EZ tax form, would be particularly helpful for schools and libraries applying only for telecommunications and Internet (Priority 1) services and smaller applicants with fewer needs. It also would be helpful for applicants who are new to the program.

According to a survey conducted in 2008 by *eSchool News* and Funds for Learning LLC, the average E-Rate applicant spent 21 hours a month managing the E-Rate process. Less than 40 percent of E-Rate managers had been on the job for over three years; 19 percent were in their first year.

- **Prevent enactment of additional federal requirements under the E-Rate Program for Internet safety**

The best way to protect children is by educating them about the potential dangers in the virtual world, with the content and form of the education being determined by local communities. All schools and libraries that receive E-Rate funds have a responsibility to take the necessary steps to increase awareness among all their users of the kinds of cyberspace dangers that exist and how to use the Internet safely.

The Children's Internet Protection Act (CIPA) requires schools and libraries that receive E-Rate funds to install software to block and filter dangerous content and provide information on Internet risks thus making additional federal requirements, such as those proposed in the *Deleting Online Predators Act (DOPA)*, unnecessary.

For additional information:

Cynthia Woodside, Federal Relations Liaison, cwoodside@mail.nysed.gov or 202-659-1947

