

August 15, 2011

Project Overview

Under the [Broadband Technologies Opportunities Program](#) (BTOP) funded by the American Reinvestment and Recovery Act (ARRA), the Montana State Library (State Library) is partnering with 42 of Montana's public libraries to expand access to free, high-speed Internet to 86% of the state's population by 2013. Though most local libraries have computers with Internet access, many do not have enough computers, fast enough broadband speeds, or Internet-accessible computer facilities to provide adequate services for the thousands of Montanans who need it. As a result in 2010, library patrons had long wait times of up to two hours for computers, as well as unacceptably slow browsing speeds.

In an effort to improve broadband services and Internet access, The State Library will:

- 1) increase broadband speeds at participating libraries up to 21 mbps;
- 2) cut wait times in half by increasing the total number of workstations and expanding library operation hours;
- 3) improve access by purchasing ADA compliant software, hardware, and furniture, and through minor renovation projects aimed at increasing accessibility of computing center facilities;
- 4) offer courses to increase computer literacy; and
- 5) provide Internet and library resources to rural Montana using a mobile computer lab.

The following report will focus on efforts to “increase broadband speeds at participating libraries up to 21 mbps.” The State Library proposes to supplement monthly costs incurred by Montana public libraries, with the goal of not increasing any out-of-pocket expenses for the local public library. Each monthly bill would be customized, charging the local library the amount equal to their current services (minus any E-rate discounts). The remaining balance would be billed to the State Library and paid with federal grant funds (minus any E-rate discounts) through June 2013.

Public Input of Broadband Service Upgrades

Prior to upgrading broadband services at participating libraries, Montana State Library posted a Request for Information and held a listening session so that broadband vendors and Internet Service Providers (ISP) could give input regarding the upgrade process. All responding vendors were willing and able to custom bill the local public libraries and the State Library separately. However, several vendors encouraged the State Library to confirm that their proposal to custom bill was in compliance with E-rate.

Purpose of Whitepaper

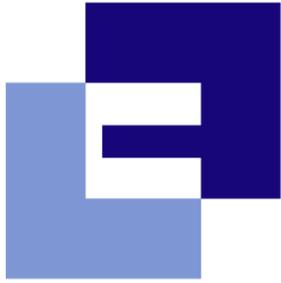
In the summer of 2011, the State Library hired E-rate Elite to conduct due diligence research and report on the allowability of this process. In addition, the consulting firm agreed to include a thorough timeline of any additional E-rate actions or forms that must be adhered to for compliance.

Results

The following report confirms that the process outlined by the State Library to upgrade broadband services and custom-bill is compatible with E-rate federal requirements.



BTOP Project Director, Montana State Library



E-RATE
ELITE SERVICES, INC.

MONTANA STATE LIBRARY

INITIAL E-RATE PROGRAM ANALYSIS
REGARDING SYNERGIES WITH THE
BROADBAND TECHNOLOGY
OPPORTUNITIES PROGRAM

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MONTANA STATE LIBRARY

INITIAL E-RATE PROGRAM ANALYSIS REGARDING SYNERGIES WITH BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

EXECUTIVE SUMMARY

This report presents the potential concerns and challenges for the Montana State Library (MSL) to maintain compliance with both E-Rate and Broadband Technology Opportunities Program (BTOP). Through our analysis of these programs we conclude that these processes are not incompatible providing the individual libraries and their governing boards co-operate to meet all program requirements and deadlines. The following report lists individual areas of concern and suggested timelines for maintaining compliance.

The purpose of this analysis is to outline a strategic framework for guiding the activities of participants in the Broadband Technology Opportunities Program to ensure compliance with the E-Rate program. As a BTOP recipient, the Montana State Library (MSL) has been awarded a total of \$1,829,473 in funding. MSL proposes to improve Internet access for 42 local libraries across the state chosen according to demonstrated need and geographic challenges, as well as their ability and willingness to sustain project investments. Funding for BTOP is administered by the Department of Commerce.

E-Rate was enacted as part of the Telecommunications Act of 1996 as a new component of the Universal Service Program. Historically, the Universal Service Program has ensured affordable telephone service in rural communities. Recognizing the growing importance of new telecommunication & Internet technologies for improving education and access to critical information, Congress voted to create the E-Rate, which provides up to \$2.25 billion annually in discounts on telecommunications, Internet access and internal networking to America's public and private schools and public libraries. In adopting this program, Congress acknowledged the importance of providing the nation's schools and libraries with new telecommunications technology: "The ability of K-12 classrooms, [and] libraries... to obtain access to advanced telecommunications services is critical to ensuring that these services are available on a universal basis".¹ The program is administered by the Universal Service Administrative Company's (USAC), Schools and Libraries Division (SLD) under the auspices of the Federal Communication Commission (FCC).

¹ H.R. CONF. REP. NO. 458, 104th Cong., 2nd Sess. 132 (1996)

BACKGROUND

In 2010 the FCC commissioned a report on broadband usage.² The primary goal of the survey was to collect data on the current state of broadband connectivity for E-rate funded schools and libraries and inquire into challenges related to broadband use that recipients face now or will face in the future. Designed to assist the Commission in making policy decisions for the E-rate program this survey provided information on the educational and technological needs of schools and libraries.

Key National Findings:

1. 95% of all E-rate survey respondents have some form of terrestrial broadband connection to at least one facility, while 2% use satellite and 3% use dial-up.
2. Nearly 80% of all survey respondents say their broadband connections do not fully meet their current needs.
 - Slow connection speed is the primary reason current Internet connectivity does not meet the needs for 55% of these respondents.
3. 39% of E-rate survey respondents cite cost of service as a barrier in meeting their Internet needs, and 27% cite cost of installation as a barrier.
4. 56% of all E-rate survey respondents expect to implement or expand the use of digital textbooks in the next two to three years, and 45% expect to implement or expand the use of handheld devices for educational purposes.
5. Most survey respondents (55%) have broadband speeds greater than 3 Mbps, of these respondents only 10% have broadband speeds of 100 Mbps or greater.
 - More than half of school districts (60%) subscribe to a fiber optic connection.
 - 66% of respondents provide some wireless connectivity for staff, students and/or library patrons.
6. For schools, e-mail is the most used application (almost all schools, 98%, regularly use or access e-mail), and the most essential (69% consider it the most essential).
7. For libraries, online reference materials are both the most used application (86% of staff and patrons regularly use or access online reference materials) and the most essential (62% consider it the most essential).

MSL is partnering with 42 public libraries to provide high-speed Internet access to 86% of the state's population by 2013. There are 36 libraries with branch locations, for a total of 42 sites. Public libraries, an important hub for Montana communities, strive to provide an inviting environment with opportunities for learning, growing and socializing which includes Internet access. While some local libraries currently have both computers and access to the Internet, these are insufficient to meet

² 2010 *E-rate Program and Broadband Usage Survey* commissioned by the Federal Communications Commission (FCC) and conducted by Harris Interactive, Inc. (Harris), an independent national marketing research firm, between February and April 2010.

current needs. Equipment is limited and/or outdated with slow browsing speeds resulting in wait times up to two hours for some patrons. .

With support from [The United States Department of Commerce](#) and the [Bill & Melinda Gates Foundation](#), MSL will:

- a. Increase broadband access and download speeds at participating public libraries;
- b. Further reduce wait times and access by increasing the total number of workstations and expanding hours of operation.
- c. Improve patron access by purchasing ADA (American Disabilities Act) compliant software, hardware, and furniture, and by renovating computer center facilities.
- d. Offer courses to increase computer literacy; and
- e. Provide Internet and library resources to rural Montana areas using a mobile computer lab.

With the implementation of these programs, Montana public libraries will be able to provide better access to higher education, employment opportunities, job training, social networking, and a host of ever-growing online resources.

A key component of this proposal is helping BTOP recipients participate in the E-Rate program. This will help them sustain their improved levels of service once the BTOP grant funds expire. All public libraries have participated in E-Rate at some level. Seven (7) libraries currently include broadband services in their E-Rate funding requests while six (6) libraries have identified obstacles that may prevent them from including broadband in their E-Rate applications

For the twenty-three (23) libraries seeking to expand their E-Rate services and another seven (7) that are looking for service upgrades these must comply with E-Rate bidding and procurement regulations. Upgrades may include: broadband, wireless networks, internal wiring, hardware, and certain operational software.

The purpose of this document is to provide E-Rate compliance guidance to:

- a. Ensure that procurement of goods and services under the MSL BTOP project comply with E-Rate, so that these actions do not have an adverse effect on future E-Rate applications;
- b. Assist MSL BTOP staff in designing a project plan that effectively addresses sustainability. This includes identifying opportunities for local public libraries to better leverage E-Rate, identifying barriers and suggesting corrective action.

LIBRARY E-RATE PARTICIPATION SUMMARY

MSL will be partnering with forty-two (42) libraries to provide support via the BTOP project. The E-Rate program has been identified as an additional resource to support the sustainability of potential cost increases associated with increasing bandwidth to participating libraries. In Funding Year 2011, twenty (20) of the partner libraries filed applications for E-Rate funding.

The Federal Communications Commission (FCC) defined two general types of services that are eligible for E-rate discounts:

- Priority 1 services, which include telecommunications services, such as local, long-distance, and wireless (e.g., cellular) telephone services, as well as data links (e.g., T-1 lines) and

- Internet access services, such as Web hosting and e-mail services—all of which receive priority for funding under FCC’s rules; and
- Priority 2 services, which include cabling, components, routers, switches, and network servers that are necessary to transport information to individual classrooms, public rooms in a library, or eligible administrative areas, as well as basic maintenance of internal connections, such as the repair and upkeep of eligible hardware and basic technical support.

Lists of specific eligible services, including the conditions under which they are eligible, are updated annually by USAC, finalized by FCC after a public comment period, and posted on USAC’s Web site.³ Items ineligible for E-rate discounts include, among other things, end-user products and services such as Internet content, Web site content maintenance fees, end user personal computers, and end-user software.

Applicants list their funding requests by service provider and may include as many funding requests as necessary on a single E-Rate application or Form 471. Each funding request is given a unique identifier called a funding request number (FRN).

In Funding Year 2011, SLD closed the application filing window on March 24, 2011. This late filing window date has resulted in a later than typical release of funding commitments which have just begun recently. The typical E-Rate funding year runs from July 1 of one year through June 30 of the following year such that filing year 2011, for example, is from July1, 2011 through June 30, 2012.

Funding Year 2011 E-Rate Statistics	
Number of Funding Requests	48
Number of Funding Requests Approved	39
Number of Funding Requests Denied	
Total Pre-Discount Funding Requested	\$29,762.04
Total Post-Discount Funding Awarded	\$23,898.51
Average Discount Level	70%

³ USAC website, Schools and Libraries, Eligible Services List, November 19, 2010, July 18, 2011: <<http://www.universalservice.org/sl/tools/eligible-services-list.aspx>>.

In 2011, partner libraries filed a total of forty-three (43) funding requests for telecommunications services. The remaining five (5) funding request are for Internet access.

Applicant Name – Funding Year 2011	Funding Year 2011 Funding Status	Funding Requested	Funding Committed
BELT PUBLIC LIBRARY	Wave 1	\$853.10	\$731.23
CARNEGIE PUBLIC LIBRARY		\$770.33	TBD
CHOUTEAU COUNTY LIBRARY	Wave 1	\$3,044.16	\$3,044.19
EKALAKA PUBLIC LIBRARY	Wave 1	\$361.12	\$361.12
FALLON COUNTY LIBRARY	Wave 1	\$1,117.02	\$1,117.02
FLATHEAD COUNTY LIBRARY	Wave 1	\$3,226.05	\$3,226.05
GLACIER COUNTY LIBRARY*		\$3,761.92	TBD
GLASGOW CITY-COUNTY LIBRARY*	Wave 1	\$2,072.19	\$2,072.19
GREAT FALLS PUBLIC LIBRARY	Wave 1	\$2,507.62	\$2,507.62
JUDITH BASIN CO FREE LIBRARY	Wave 1	\$1,302.25	\$1,302.25
LAUREL PUBLIC LIBRARY	Wave 1	\$412.08	\$412.08
LIVINGSTON PUBLIC LIBRARY	Wave 1	\$1,083.10	\$1,083.10
MILES CITY PUBLIC LIBRARY	Wave 1	\$1,410.69	\$1,410.69
NORTH VALLEY PUBLIC LIBRARY	Wave 1	\$683.42	\$683.42
PHILLIPS COUNTY LIBRARY*	Wave 2	\$1,343.13	\$1,343.13
PRESTON TOWN/COUNTY LIBRARY		\$1,209.41	TBD
RONAN CITY LIBRARY*	Wave 1	\$1,353.50	\$1,353.50
SHERIDAN PUBLIC LIBRARY	Wave 1	\$854.11	\$854.11
SIDNEY PUBLIC LIBRARY	Wave 1	\$1,421.86	\$1,421.86
THOMPSON-HICKMAN FREE CO LIB	Wave 1	\$974.95	\$974.95

*Includes funding request(s) for Internet access.

E-RATE FILING PROCESS AND TIMELINE

Form 470 and Procurement

The E-Rate program requires that specific procurement processes must be followed in the purchasing of technology/telecommunications services and equipment:

One: An E-Rate applicant must adhere to all of its state and/or local procurement requirements,

Two: If purchases require Board approval, request for proposals (RFP) or other measures, these processes should be aligned to provide sufficient time to comply with the E-Rate program deadlines,

Three: E-Rate requires that all service providers are chosen through an open and fair competitive bidding process. Contracts for services cannot be signed prior to a 28-day period required for posting, receiving and reviewing bids. Applicants must allow any interested vendors to fairly and competitively bid for library business. This requirement is met by filing the E-Rate Form 470. The filing of the Form 470 is the establishment of the E-Rate competitive bidding process. Once the Form is filed, E-Rate vendors are required to submit bids in response to the service requests as outlined on the Form. Based on the local/state procurement regulations in the library's jurisdiction, if the library would be required to issue an RFP for similar purchases, the RFP requirement would need to be observed in this case as well. **The RFP must be issued concurrently with the Form 470.** And, the Form 470 must list the person and/or web address where a complete copy of the RFP can be found. The RFP can also be used as a supplementary document to fully describe the services or project the library is planning due the limited space on the Form 470.

Four: A Technology plan must be completed prior to filing the 470 should the library intend to request funding for technology or telecommunications equipment (servers, switches, routers, racks, hubs, cabling/wiring projects, or the maintenance of any of equipment) which are classified as Priority Two category of services. The technology plan should cover the entire E-Rate Funding Year (July 1, XXXX – June 30, XXXX) and describe how the infrastructure equipment or projects will be used to improve library services. All plans must be approved by a USAC approved [Technology Plan Approver](#) in time for the start (July 1) of the E-Rate Funding Year.

Once the Form 470 and RFP have been filed, they must remain open for a minimum of 28 days after the Form 470 is posted to the USAC website. Applicants filing Form 470s manually must wait for the USAC to post of the form to the website, electronic filings are instantaneous. If state/local procurement procedures require the library to accept bids longer than 28 days, vendors should be allowed to submit bid responses for that period of time or 28 days, whichever is longer. After the 28 days, the library may evaluate the responses using price as the primary factor. If the price of the E-Rate eligible goods/services is not the only factor for vendor selection, it must be the single most heavily weighted in the evaluation process.

If a library is currently under a contractual obligation to a service provider and did not file an E-Rate Form 470 during the procurement process, they will be required to post that service to a Form 470. The existing contract may be evaluated along with all other bids that are received. Applicants cannot consider any termination penalties contained within the existing contract during their evaluation. If the existing contract is found to be the most cost-effective solution the library may continue that contract and request funding on the Form 471. If the existing contract is not the successful bid, only the most cost-effective bid will be eligible for E-Rate funding.

Post-bid evaluation processes should include the selection of the most cost-effective service provider, evaluation documentation, contracts and document retention. In cases where the procurement process is limited in scope and does not proceed to board approval or further review, the entity can memorialize the vendor selection with an email to themselves stating the date, type of service, evaluation committee member(s) and vendor selected. This serves as documentation for reporting the Contract Award Date as required by the Form 471. The library can work with the service provider to set-up and sign any contracts at this point. Contracts are not a requirement of the E-Rate program for services requested in the telecommunications and Internet access services category, some service providers may allow libraries to utilize pricing without any contractual or term obligations. However, if the library seeks E-Rate funding for Priority Two services/equipment, a contract must be signed prior to the close of the E-Rate Form 471 filing window. All documents related to the procurement process should be retained for a minimum of five years from the last date of service⁴. Documents would include, but not limited to: Form 470, RFPs, bid response, correspondences between the library and vendors, bid evaluation and selection papers, contracts, purchase orders, and any other paperwork that pertains to the competitive bidding process.

Form 471

After the selection process has been completed, the applicant will have identified the vendor(s) to provide products/services for the funding year and all the specifics about the contract (award/expiration date), monthly and/or annual costs and the Service Provider Identification Number (SPIN). If the service provider does not have a SPIN, they must apply for a number using guidance from the SLD website. Additionally, providers are required to complete a Service Provider Annual Certification (SPAC) form every year. Libraries can check the SPIN database to confirm that the provider has a current SPAC on file with SLD⁵.

Additionally, the library will need to include National School Lunch Program (NSLP) information from the school district in which they geographically reside. The NSLP information is used by the E-Rate program to calculate the library's discount, a percentage that the E-Rate program will pay towards the applicant's expenditures. The program will pay 20-90% of the library's invoice for eligible E-Rate expenditures. The school district will need to provide the total student enrollment and the total number of students eligible for NSLP. Sometimes this information is publically available on the school district's website.

All of the aforementioned information is used to complete the filing of the Form 471—the request for funding. The Form 471 lists each funding request by its FRN or funding request number separated by service provider. There may be more than one FRN per service provider, but each is unique.

Though the timeline for the submission of the Form 471 varies each year, the filing period is normally 73 calendar days between November and February and includes weekends and national holidays. It is extremely important not to miss the deadline for filing for the Form 471, late submissions are not considered. EES recommends using the online system for filing to ensure timely delivery of the Form 471 and Item 21. The Form 471 also asks applicants to attest to a number of assertions as well as list the amounts budgeted to cover their portion of expenses not covered by E-Rate. While the filing of the Form 471 does take a bit of planning, most of the information will be

⁴ Customarily the “last date of service” will be June 30, XXXX. However, this date can change if the library's funding is committed late in the year; files for invoice deadline extensions or service substitutions; or other actions that would result in a change of the last date of service.

⁵ USAC website, Schools and Libraries, SPIN and BEAR Contact Search, July 18, 2011, <http://www.sl.universalservice.org/Forms/SPIN_Contact_Search.asp>.

derived from the service contract or vendor bid if no contract was initiated, the SPIN database, NSLP data and the libraries budget.

Program Integrity Assurance Review

After the submission of the Form 471 and close of the E-Rate filing window, a team of program reviewers will review the library's application for validity and compliance with program rules. As a result, there may be a series of questions sent to the attention of the library's designee. Some common request from program reviewers are for copies of contracts or invoices; discount information from the school district used to compile the library's discount; and/or service clarity of the products and services listed on the Form 471. Applicants must respond to questions in the time allotted in the written request, usually 15 calendar days including weekends. Late or no response in some cases may result in a denial of funding. If the library encounters delays with obtaining the necessary documentation, the designated contact should request additional time to respond. It is also important to respond to the reviewer in writing when transmitting responses to his/her questions or requests for documentation. All correspondences to/from the reviewer should be retained.

Funding Commitment Decision Letter (FCDL)

The FCDL is the direct notification of E-Rate program's decision regarding an applicant's funding requests. This letter will provide specific information about the amount of funding allocated to the library for the year for each individual service provider. It is important for the library carefully review this letter to ensure the requested funding has not changed. In the event funding has been denied, reduced or modified from the original request as submitted on the Form 471, it is advised that the library review program integrity assurance's questions to ensure that the library designee agreed to the modification. If the modification was not agreed upon, the FCDL outlines the process for appeal. It is the applicant's right to appeal the decisions of USAC and/or SLD when they believe the decision to be inappropriate.

Service Substitutions/SPIN Changes

In certain cases changes may need to be made to the funding request. These include changes to the product or service, a change in service provider, typographical errors and corrections to SPIN numbers. The E-Rate program allows such changes to be made under certain conditions only after the receipt of an FCDL.

There are two different requests for changes to an FRN. The first is a Service Substitution which is required when there has been a change in the products and/or services approved on the Form 471. (See Appendix for a sample Service Substitution).

According to the FCC, service substitutions must meet the following conditions:

- The substituted services or products must have the same functionality as the services or products contained in the original proposal.
- The substitution does not violate any contract provisions or state or local procurement laws.
- The substitution does not result in an increase in the percentage of ineligible services or functions.
- The requested change is within the scope of the controlling Form 470, including any Requests for Proposal for the original service.
- ***Service Substitutions must be filed by the last day of the service period for that FRN. For FY2011, for example, substitution should be filed prior to June 30, 2012.***

The second type of request, the SPIN change, is used when there is a change in service providers or the provider's SPIN number. If the service provider number is entered incorrectly, if one service provider merges with another or splits its services into two or more separate service entities, then a request to correct the number to reflect the current provider will be needed. The SPIN change is also used to switch to a new service provider, but there must be extenuating circumstances such as a breach of contract by the service provider, hidden costs that would have resulted in the service provider not winning the bid, when a service provider goes out of business or merges with another.

Form 486

The Form 486 confirms that the library will actually utilize the funding allotted in the FCDL, a technology plan has been approved and the library is CIPA compliant. The Form 486 should be filed no later than 120 days after the receipt of the FCDL. It may not be filed prior to the receipt of a FCDL. If the library is not required to have a technology plan, due to no requests for Priority Two services, and/or they choose not to be CIPA compliant, it is important to note these items in the appropriate places on the Form 486.

Form 472/474

The Forms 472 and 474 are forms required after the delivery of services in order to request disbursement of E-Rate funds. Libraries may utilize one of the two Forms depending on the method of reimbursement chosen. The Form 472 allows the library to request a check reimbursement for the eligible expenditures. This Form is filed by the E-Rate applicant and requires that the applicant keep abreast of the deadline for filing, usually October 28 for recurring services, and facilitate signature from the service provider. The SLD currently has an online system that makes it easy for applicants to obtain the service provider signature and quickly submit the form for processing.

The Form 474 is filed by the service provider and enables the library to obtain credits on invoices. With this option, the library will need to only pay the portion of the invoice that the credit does not cover. Many applicants leverage this disbursement option because it eliminates the need for filing any additional forms after the Form 486. Applicants electing this method must reconcile their bills each month to ensure that the credits have been applied to the bill for the E-Rate eligible items approved on the FCDL. Each E-Rate service provider has a contact person listed in the SPIN database that would assist with the resolution of reimbursement issues.

Record Retention

EES encourages clients to keep all information related to the E-Rate program. Program rules require applicants to keep the documentation for a minimum of five years from the last date of service. This requirement also helps to protect the applicant's interest in cases where an E-Rate audit is initiated. Keeping the information in an orderly binder will help the library to quickly access documents and work papers requested during an audit or a Selective Review. A complete E-Rate binder should include all correspondences; filed forms; technology plan and approval letters; competitive bidding, evaluation and contracts; program integrity assurance questions and answers; CIPA compliance information; inventory logs for E-Rate funded equipment; invoices and payments; change requests and appeals; and any additional information such as the office audit documents or site visit documentation. USAC has provided additional guidance on the types of documentation applicants should retain to demonstrate compliance with program guidelines.⁶

Filing Window

⁶ USAC website, Schools and Libraries, Audit - Document Checklist, July 18, 2011, <<http://www.universalservice.org/res/documents/sl/pdf/CompDocChecklist.pdf>>.

The SLD will announce the E-Rate Form 471 filing window at the start of each funding year. The below chart is based on historical and typical filing window periods. Tasks may occur over a period of months based on the point the applicant initiates the process. The shaded areas represent the period during which these individual tasks may occur and do not represent the time required to execute the associated task.

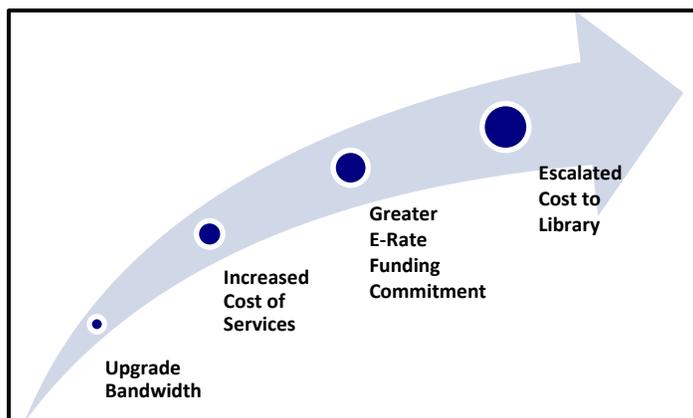
TASKS	PROPOSED TIMELINE						
	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	JANUARY	FEBRUARY
E-RATE FILING WINDOW							
Review and discuss current contracts/projects							
Issue RFP and file Form 470							
Obtain National School Lunch Program (NSLP) Data							
Bid Evaluation - WAIT 28 DAYS							
Board Review/Approval							
Award Contract							
File Form 471							

TASKS	PROPOSED TIMELINE						
	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	JANUARY	FEBRUARY
E-RATE FILING WINDOW							
The Filing window is announced annually by SLD - open for 72-80 days between November - February including weekends and holidays							
Review and discuss current contracts/projects							
Consider potential projects and services for upcoming E-Rate Funding Year (July 1 - June 30) Is there a current contract, no extensions on contract, expiring contract Ensure proper budget allocations and technology plan is reflective of the services/equipment Discussions to ensure E-Rate eligibility of services and equipment							
Issue Solicitation (RFP, RFB, IFB) and file Form 470							

<p>Simultaneously issue RFP and post Form 470 (Note: 470 is needed for tariff, month-to-month and services without contracts or contract extensions)</p> <p>Ensure every walk through and requests for information is given and equally distributed to all bidders (Open, Fair & Competitive Bidding Process)</p> <p>Retain all documentation from Pre-Bid Meeting (Attendance and Minutes)</p> <p>Make any changes or modifications to the scope, addendums, closing dates and/or additional bid related meetings related to the solicitation</p> <p>Construct evaluation criteria including disqualification factors - price must be the primary factor (e.g. Technical 70 - multiple factors less than 30/Price 30)</p>							
Obtain National School Lunch Program (NSLP) Data							
Obtain NSLP data for School District							
Bid Evaluation - WAIT 28 DAYS							
<p>Evaluate, after minimum 28-days, all bids, 470 responses, master contracts and cooperative procurement (e.g., MicTA, BRCPC, COG)</p> <p>Conduct bid evaluations - price must be the most heavily weighed factor</p> <p>Retain ALL documents relative to the RFP, bids, evaluation sheets and contracts for minimum of five years from last date of service delivery</p>							
Board Review/Approval							
Align bid evaluations with Board meetings to maximize time							
Award Contract							
<p>Memorialize date of service provider selection</p> <p>Issue contract award letter to the service provider or sign contract</p> <p>Retain a copy of the contract/award letter and evaluation sheets for record</p>							
File Form 471							
Ensure correct monthly cost, one-time charges and SPIN for the service and service provider has been recorded correctly							

COST SUSTAINABILITY

Though the E-Rate program does provide the Montana libraries with a discount on the cost of services, the bandwidth upgrade in association with the BTOP project may increase the overall costs for participating libraries. If this is the case, it is important for all to evaluate the extent of the increase and plan for sustaining the applicant's non-discounted share. E-Rate as a subsidy covers a percentage of the cost of services and requires the E-Rate applicant to budget for the remaining portion of the cost. In Funding Year 2013, libraries would be responsible for sustaining the applicant's non-discounted share of bandwidth upgrade expenses, as BTOP support concludes.

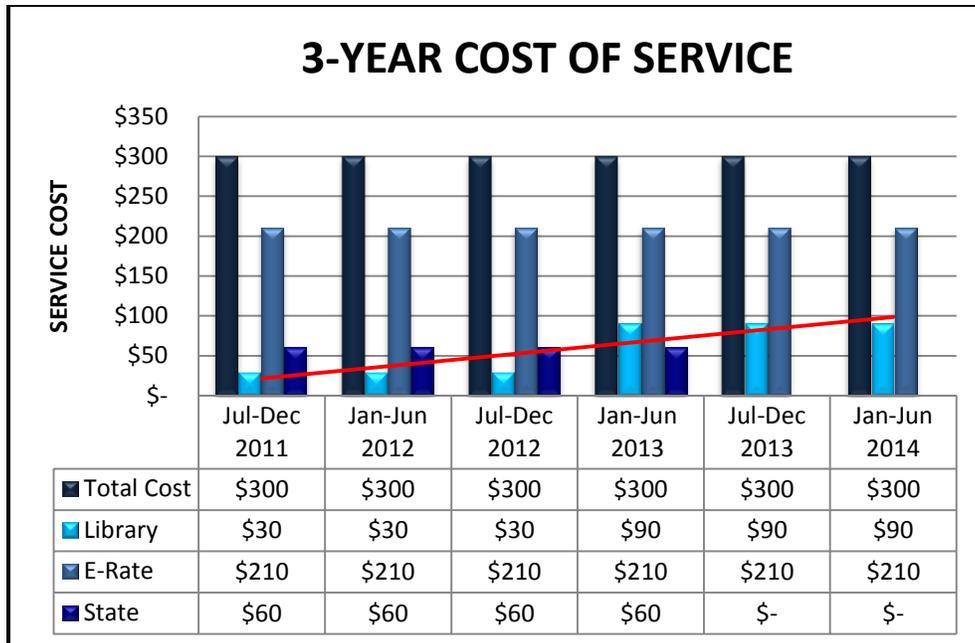


Consider that the average discount for the Funding Year 2011 application is around 70%. A library that currently has a 10 Mbps service for a total monthly cost of \$100.00 is paying only \$30.00 a month after the E-Rate discount has been applied. Using the same discount percentage, an upgrade in the service to a 25 Mbps service for a total monthly cost of \$300.00

would require a Library to pay \$90.00 per month after the E-Rate discount has been applied. In this scenario the library would pay 90% of the total cost of the original 10 Mbps service. Although, the library benefits from an overall increase in bandwidth, libraries should begin developing long-term sustainability models to support the increased cost. The State will provide libraries a subsidy from the BTOP grant to offset the increased cost. The library would continue to pay \$30.00 a month through June 2013.

Beginning with E-Rate Funding Year 2011, the graph below shows the increased cost to the library over a period of three years. In this illustration, the cost to the library for the 25 Mbps service trends upward after the State's grant ends. This example assumes that the total cost of the invoice is E-Rate eligible; however, should the invoice contain any E-Rate "ineligible" costs, the library would then be required to pay one hundred percent (100%) of those ineligible costs without any E-Rate discount applied. Examples of E-Rate ineligible items include: late fees, administration fees or Internet charges for Libraries that are not compliant with the Children's Internet Protection Act (CIPA) as required by the E-Rate program. We further discuss CIPA compliance and alternatives to applying for E-Rate funding for non-compliant libraries in the section below.

Table 1 – Increased Cost to Libraries, Funding Years 2011-2013



In some cases the evolution and availability of technology has resulted in declining cost in the bandwidth market. Libraries may find the increased bandwidth does not result in an increase cost and may in fact experience a decline in cost. In those instances, E-Rate will remain instrumental in subsidizing a substantial portion of the cost. However, the State portion shown above would not be applicable, as the BTOP funding is allocated to support the increased cost differential.

An applicant may not receive free or discounted services from a service provider that has the effect of providing a discount level greater than the discount allowed for Schools and Libraries support.

Applicants and service providers are prohibited from using Schools and Libraries support to subsidize the procurement of ineligible or unrequested products and services. E-Rate applicants may not participate in arrangements that have the effect of providing a discount level to applicants greater than that to which applicants are entitled.

Basic principles to guide applicants and service providers include the following:

- The value of all price reductions, promotional offers, and "free" products or services must be deducted from the pre-discount cost of services indicated in funding requests.
- Costs, trade-in allowances, and discounts must be fairly and appropriately derived. For example, the cost for eligible components may not be inflated in order to compensate for discounts of other components not included in funding requests.
- A proportionate cost allocation is required between eligible and ineligible components.

Funding requests or applications inconsistent with these provisions are contrary to program rules and will be denied. The "30% Rule," which provides that a funding request can continue to be processed if the value of the ineligible products and services is less than 30% of the total amount of the funding

request, does not apply in cases of serious program violations. In addition, applicants and service providers are cautioned that willful violations of program rules can result in criminal penalties.⁷

Applicants must indicate on their Form 471, if any funds associated with the support of their non-discounted share have been provided from a service provider. This requirement would not be applicable to other state or federal funding received by a library.

E-RATE FUNDING FOR NON-CIPA COMPLIANT LIBRARIES

The Children’s Internet Protection Act (CIPA) of 2001 is a federal law enacted by Congress to address and enforce policy relating to inappropriate content viewed over the Internet by schools and libraries. To receive E-Rate program support for Internet Access and Internal Connections services, applicants must demonstrate CIPA compliance in accordance with Federal Communications Commission (FCC) regulations. Library administration may address certification of CIPA compliance requirements by blocking and filtering inappropriate content, websites as well as employ monitoring measures for the online activities of minors and adults.

CIPA compliant certifications include: (1) technology protection measures, (2) Internet safety policies, and (3) a public notice and hearing. Technology protection measures are designed to block and filter unsuitable material harmful to minors. These measures may be disabled for administration research purposes. An implemented Internet safety policy includes, but is not limited to, addressing access by minors to inappropriate content, education on in appropriate behavior, cyberbullying, safety of using email and chat rooms, and the unauthorized disclosure of personal information by minors via the Internet. The library must hold at least one public hearing to address proposed technology protection measures and an Internet Safety Policy. If a school or library is not CIPA compliant in the first year of the application for E-Rate funding, the applicant may certify it will embark upon actions to become CIPA compliant in the following year of E-Rate funding or seek a waiver of state or local procurement rules or competitive bidding requirements.

In the event that a library is *non*-CIPA compliant and is applying for E-Rate subsidies the following alternative may be considered. Typically both circuit and bandwidth charges for Internet Access are combined as one price by the service provider and applied for through the E-Rate program under the Internet Access category of service. Libraries can apply for E-Rate funding for the circuit charges only under the Telecommunication Services category as a “Digital Transmission Service”. Digital transmission services refer to data links that connect multiple points to any available technology.⁸ Some eligible digital transmission services include Ethernet, fiber, frame relay, PRI, T-1 and ATM and Frame Relay services. Therefore, if the service provider is also providing the non-compliant library with Internet Access, it will be necessary to have the service provider delineate (e.g., separate line item on the invoice) the circuit costs from the Internet “service” to qualify/apply for E-Rate

⁷ USAC website, Schools and Libraries, Free Services Advisory, February 22, 2008, July 18, 2011, <<http://www.universalservice.org/sl/applicants/step06/free-services-advisory.aspx>>.

⁸ USAC website, Schools and Libraries, E-Rate Funding Year 2011 Eligible Service List – Page 3, November 9, 2010, July 18, 2011, <http://www.universalservice.org/res/documents/sl/pdf/ESL_archive/EligibleServicesList_110910.pdf>.

discounts on the circuit charges. Again, the circuit charges should be listed on the E-Rate application under the “Telecommunications” category of service. In this case the library would not qualify for Internet Access E-Rate funding and would be required to pay one-hundred percent of the cost of the Internet “service” fee as an E-Rate ineligible cost due its non-compliance.

E-RATE FUNDING WAVES AND UNPREDICTABILITY

An additional consideration for each of the libraries is to understand that E-Rate funding is committed to each applicant through cycles, called a funding *Wave*, throughout the E-Rate Funding Year. Each week the Schools and Libraries Division issues a funding Wave that approves E-Rate funding to a school or library. In Funding Year 2010 approximately 97% of the Montana libraries that applied for E-Rate funding were committed in Funding Wave 01 (May 2010). There is no way to predict when an E-Rate applicant’s funding will be issued in a funding Wave. The library *may* be required to pay the entire invoice until E-Rate funding has been approved. For this reason EES always advises clients to budget 100% of the total cost of services for the year.

E-RATE SERVICE SUBSTITUTIONS AND BANDWIDTH UPGRADES

As noted by the State, the bandwidth upgrade project will be implemented during E-Rate Funding Year 2011. Those libraries requesting only phone service on their Funding Year 2011 Form 471 will not be required to file a service substitution. Libraries that applied for E-Rate funding for Funding Year 2011, and included a funded request for existing bandwidth, will be required to complete a Service Substitution for the increased bandwidth. If there is an increased cost, a service substitution will not increase the funding commitment.

CONTRACTS, RFPS AND E-RATE PARTICIPANTS

In cases where libraries did not file for E-Rate funding in 2011 and/or would like to change service providers for the bandwidth increase, a Form 470 will need to be issued along with an RFP, if required by the local or state procurement laws. E-Rate does not require the issuance of an RFP, while the Form 470 is a requirement. However, the program does require applicants to adhere to all local and state procurement regulations. It is important for the library to consider when the current contract with the service will end so as to rebid services/seek bids in a timely manner for the filing of E-Rate funds for Funding Year 2012. The advantage of changes in service provider enables the library to better negotiate the cost of services and term of the contract.

Libraries currently utilizing E-Rate funds will need to have a contract amendment established by the service provider for the bandwidth increase, if the services are currently supplied by an existing contract. The changes to services are allowable under the E-Rate program through an amendment of the existing contract. Signing a new contract for the bandwidth increase is considered a compliance violation by the E-Rate program, if a new Form 470 and a 28-day waiting period is not adhered to. Libraries receiving E-Rate funds whose services are not under any contractual obligation with a service provider will not need to sign any contract amendments, further they should not sign any new contracts to cover the services in Funding Year 2011. Signing a new contract after the close of the E-Rate filing window will jeopardize the E-Rate funding based on the rules of the program. It is advised the libraries with a month-to-month service negotiate their upgrades with the current service provider utilizing the requirements established by their jurisdiction absent the signing of a new contract. These libraries will also need to file the required service substitution as discussed in the section above.

CONCLUSION

The July - September 2011 timeline for BTOP project implementation will not conflict with E-Rate participation. Libraries that did not apply for E-Rate will not require compliance with any E-Rate guidelines or filings associated with the current Funding Year 2011. It is recommended that all partner libraries file for E-Rate funding in the upcoming Funding Year 2012. The E-Rate program

will provide considerable support to subsidize the recurring cost of existing and potential increased cost of the bandwidth upgrade. While the overall amount of funding is proportionate to the expenses incurred; the percentage of that expense E-Rate will subsidize would be considerable, based on the 70% average discount of the partnering libraries. Funding secured from other sources is not a consideration for E-Rate, unless it is provided by a service provider associated with rendering services subsidized by the E-Rate program. The leveraging of the E-Rate program in connection with BTOP is being implemented throughout the country. MSL has a successful model that will ensure compliance with both programmatic guidelines and render measurable results for libraries in the State of Montana.