

SLD comments about: Cost Effectiveness & Technology Plans Mon 6/21/2004 8:40 AM

Cost Effectiveness and Excessive Pricing as a Bidding Violation

An outgrowth of FCC rulemaking, which may receive additional emphasis for coming E-Rate years, is the establishment of specific rules and tests for evaluating the cost-effectiveness of E-rate funding requests. The FCC has already sought comments on this issue, noting:

Currently, our rules specify that, in selecting a service provider, a recipient must carefully consider all bids submitted and must select the most cost-effective service offering. Moreover, the *Universal Service Order* makes clear that applicants must request services based on an assessment of their reasonable needs. Our rules do not expressly require, however, that the applicant consider whether a particular package of services are the most cost effective means of meeting its technology needs. Nor do our rules expressly establish a bright line test for what is a “cost effective” service. Would it be beneficial and administratively feasible to develop such a test, or, for example, a benchmark or formula for “cost-effective” funding requests, such as a specified dollar amount per student or per library patron for specified types of service? Should we adopt a ceiling on the total amount of annual funding that an applicant can request? If so, how would such a ceiling be calculated? Are there other rule changes that would ensure applicants are not requesting discounts for services beyond their reasonable needs? [See <http://www.e-ratecentral.com/FCC/FCC-03-323A1.pdf> for a complete copy of the listing – all 78 pages]

Although the FCC has not yet adopted specific rules, a recent appeal to the FCC (http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6516213106) indicates that the SLD may already have begun adopting its own procedural tests of cost effectiveness or reasonableness. The appeal deals with the denial of 5 FRNs for network electronics in a FY 2002 application by a school in Arizona. The stated reason for the denial in the applicant’s FCDL was that, “Excessive pricing on various components associated with this service provider demonstrates that this service provider is not the most cost-effective alternative.”

The applicant first appealed these denials to the SLD, noting in part that the purchases were to be made from a statewide contract. The SLD denied this appeal in full, noting:

- (1) “[T]he District was selected for a cost-comparison analysis by USAC. Via the Internet, USAC compared the prices of the applicant’s Item 21 documentation line items to prices available to the general public. This analysis revealed potentially excessive charges ranging from a 0% to a 349% increase.”
- (2) “While the District ‘opted’ to use contracts from the Mohawk Educational Services Cooperative, the District failed to pursue more cost-effective alternatives.” (Note: The contract referenced here is a statewide cooperative bid, not a formal Arizona state master contract.)

This case should serve as a warning to applicants that, at least in certain cases, the SLD is prepared to initiate its own price comparisons to confirm the cost-effectiveness of funding requests and that applicant reliance on cooperative bidding contracts may be insufficient. Please make sure you retain all documentation (bids and notes from ALL vendors) you receive in regards to your bidding process.

Approved Technology Plans for FY 2004 Required by July 1

E-rate rules require that applicants have approved technology plans — i.e., that their plans have been formally reviewed **and approved** by a SLD certified plan approver (**Texas Education Agency**) — normally by the start of the funding year. There is a common misconception that plans do not need to be approved until Form 486s are filed. The actual rule being enforced by the SLD is that a plan must be approved by either the Service Start Date (typically July 1) or by the filing date of the Form 486, whichever comes first.

Check with your local ESC for the current status of your district plan.