

# **E-Rate**Overview and Update

Albuquerque December 2013



- E-Rate program review
  - Program overview
  - Process and timetable
- Special topics for FY 2014
  - New forms
  - Update on CIPA
  - Eligible Services List for FY 2014
  - Direct certification and CEO
  - Funding outlook for FY 2014
  - Pending clarification issues
- E-Rate 2.0
  - NPRM process and timing
  - Proposed and possible changes



- > Largest federal technology funding program
  - Initiated in 1998 under auspices of FCC
  - One of 4 Universal Service Fund programs
  - Supports technology infrastructures for schools and libraries
    - Telecommunications
    - Internet access
    - Intra-building network equipment and maintenance
- Scope of program
  - \$2.3+ billion per year (plus roll-overs)
  - 20% 90% discounts (not grants)



- Important source of technology funding (FY 1998 2013)
  - \$37 billion nationwide
  - \$600 million for New Mexico
- > Time-consuming, bureaucratic, and confusing program
  - Forms 470, 471, 472, 479, 486, and 500
  - Service eligibility and discount rate issues
  - Long lead time and competitive bidding procedures
  - Strict application review process
  - Audits and retroactive refund exposure



- Schools and libraries can receive discounts ranging from 20% 90% on eligible products and services
- Discounts are based on:
  - Percentage of students <u>eligible</u> for the National School Lunch Program (NSLP)
    - NSLP participation data <u>or</u> alternative mechanisms
    - Direct certification procedures may raise discount rates
    - Community Eligibility Option ("CEO") is a special case (in NM for FY 2015)
- Shared discounts:
  - School district uses weighted average of individual school discounts
  - Library uses discount based on total student eligibility of local district
  - Consortium uses simple average of individual member discounts



Percent of Eligible Students	Urban	Rural
Less than 1%	20%	25%
1% - 19%	40%	50%
20% - 34%	50%	60%
35% - 49%	60%	70%
50% -74%	80%	80%
75% -100%	90%	90%



# **Priority 1** (funded first)

- Telecommunications Services
  - Local and long distance
  - Wireline or wireless
  - Voice/data/video
  - Fiber optic WANs (by ETPs and non-ETPs)
- Internet Access
  - "Basic conduit access" to the Internet
  - E-Mail
  - Web hosting



## **Priority 2** (funded beginning with needlest applicants — if at all)

#### Internal Connections

- Infrastructure: Switches, hubs, routers, wiring, cable, telephone systems, etc.
- End-user equipment <u>not</u> eligible
- Site funding subject to "2-in-5 Rule"

#### Basic Maintenance

- "Basic" break-fix only of eligible equipment
- Exempt from "2-in-5 Rule"



#### 2013-2014

- Application window in the preceding year
  - Form 470 can be filed well before window opens Fall 2013
  - Form 471 window for FY 2014 January 9 to March 26

#### 2014-2015

- Funding commitments for each fiscal year
  - Recurring services received: July 1 to June 30
  - Non-recurring services delivered and installed: July 1 to following September 30

#### 2014-2016

- Funding received as discount or reimbursement
  - Service provider can discount bills as service is provided
  - Applicant can request reimbursement after paying full amount
  - Invoice deadlines in following funding year (Oct. 28 or Jan 28)





- 1. Create technology plan (Priority 2)
- 2. File Form 470 (quasi-RFP)
- 3. Wait 28 days (vendor selection period)
- 4. File Form 471 (application)
- 5. PIA review and FCDL
- 6. File Form 486 (confirmation)
- 7. Submit invoices to USAC



#### Requirements

- Now required only for Priority 2
- Created prior to Form 470
- Approved prior to start of service (and Form 486)
- Four required components
  - Clear and realistic goals
  - Assessment of existing and needed services
  - Professional development strategy
  - Evaluation process

## Subject to review during:

- Form 486 Technology Plan Reviews
- Selective Reviews
- Audits



# **Service and Procurement Description:**

- Filed by applicants to define desired services and open the competitive bidding process
- Posted on the USAC website for at least 28 days before selecting service provider and/or signing a contract
- Request For Proposal ("RFP"), if used, must <u>also</u> be available for at least
   28 days before making a vendor selection
- > Annual posting requirement, except for multi-year contracts
- Compliant with state and local requirements



## Competitive bidding is required

- Applicant must conduct a fair and open bidding process
- All bidders must be treated equally
- Vendors cannot be involved in Form 470/RFP development
- Strict gift rules
- Price of eligible product or service must be the primary factor
- Special rules for BOCES

## Important requirement as of FY 2013

Cannot specify product requirement by manufacturer, unless description included "or equivalent" or "compatible with" language



# Sample bid matrix:

No	Factors	Total Points Available	Vendor 1 143xxxxxx ABC Inc.	Vendor 2 143xxxxxx DEF Inc.	Vendor 3 143xxxxxx GHI Inc.	Vendor 4 143xxxxxx JKL Inc.
1	Cost of the Eligible Goods and Services	40 *	38	25	38	0
2	Experience	20	18	17	20	0
3	Availability	10	10	8	7	0
4	Minority Business Status	10	6	9	9	0
5	In State Preference	10	3	7	10	111111111111111111111111111111111111111
6	Cost of the Ineligible products	5	4	1	5	
7	Project Management Expertises	5	2	1	5	
	Total Points	100	81	68	→ 94	0

This number must be higher than all of the other numbers in this column.

Winning Bidder: \_

Vendor 3 (GHI,Inc.) is the winning bidder because it has the highest total points.



## > E-rate gift rules are strict

- Modeled after federal employee gift rules
- Wide gift applicability
  - Gifts to individuals
  - Conferences and training sessions
  - Charitable donations
- Wide employee applicability
  - All employees involved in planning and procurement
  - Includes board members
- Encompasses other rules and policies
  - State and local procurement rules
  - Applicant/vendor "ethical regulations" policies
- Related issues
  - Procedures for "curing" violations
  - Recordkeeping requirements



- Major problems
  - Objective clear implementation cloudy
    - "Intent" of donation may be highly subjective
      - Few "safe harbors"
      - Audit determinations made after-the-fact
  - COMAD penalties can be severe
    - Appeal example: "because its employees accepted gratuities that totaled no more than \$674 over a five-year period, USAC rescinded for FY 2006 2008 and denied funding for FY 2009 2010 an aggregate amount of \$3,370,019"
- Recommendation: Accept NO gifts



- Contracts are required (except for T/MTM services)
  - Signed and dated: After ACD; before Form 471 submission
  - Often highly contingent particularly important for Priority 2
  - Can cover more than one year or contain voluntary extensions, but these options must be indicated in the establishing Form 470 and contract
  - State contracts acceptable, if properly used
- Applicants should expect "Lowest Corresponding Price"



# **Discount Application:**

- Must be filed each year within the application window
- Contains specific information on services ordered, quantities, vendor, and price
- > Shows entities receiving services and discount rate calculations
- Certifies compliance with rules and verifies access to resources to make effective use of discounted services
- Must include Item 21 attachments



# **Program Integrity Assurance Reviews:**

- Most applications generate PIA inquiries:
  - Entity eligibility
  - Discount rate validation
  - Eligible products and services
  - Funding request levels
- **Response deadlines:** 
  - Normal 15-day response requirement
  - Mid-point reminders to applicant <u>and</u> state coordinator
  - Extension request must be made in writing



- General responses
  - Be polite and friendly
  - Answer the specific question(s)
    - Do not provide "extra" information
    - Best practice: Copy question, then add answer
  - If information request is unclear
    - Ask for clarification from reviewer
    - Wait for written confirmation
    - Can ask to talk with team manager but not as "complaint"
  - Request additional time, if necessary
    - Don't wait until last minute keep reviewer apprised of progress
    - Extension requests should be in writing



- Item 21 support
  - Do not send bills unless requested
  - Provide description of service
    - Priority 1 telecom
      - Provide line count and line speed
      - Do not break out taxes and surcharges
      - For new lines, explain estimated cost
    - Priority 2 equipment
      - Provide make, model, SKU, description of usage



- Discount rate support, cont.
  - For alternative mechanism, be prepared to provide:
    - Copy of survey, if used
    - Explanatory letter from senior administrator
  - NIF, with classrooms, requires "snapshot"
  - CEO schools to be discussed separately
  - May require third-party validation



- Funding Commitment Decision Letter ("FCDL") issued to applicant and service provider(s) after PIA review
- Funding released in weekly waves
  - Priority 1 typically beginning during prior May/June
  - Priority 2 later, if available and at declining discount rates
  - Waves continue well into funding year
  - Funding as of November 2013:
    - FY 2013: \$1.48 billion of \$2.79 billion cap
    - FY 2012: \$2.80 billion of \$3.36 billion cap
    - FY 2011: \$2.65 billion of \$3.14 billion cap



- Confirms receipt of service
- Certifies compliance, if required
  - Approved technology plan
  - **■** Children's Internet Protection Act ("CIPA")
- > Subject to tech plan and/or CIPA review



- Two applicant options:
  - Discounted bills: Service provider files Form 474 ("SPI")
  - Discount reimbursement: Applicant files Form 472 ("BEAR")
  - Invoice deadline for both: 120 days after last date to receive service
- Critical point: Applicant must pay non-discounted share



- Deadline extensions
  - Non-recurring service delivery deadline
  - Invoicing deadline (1 yr. automatic extension as of FY 2012)
- > SPIN changes
  - Corrective
  - Operational more difficult since FY 2011
    - Must be legitimate reason (e.g., failure to perform/breach of contract)
    - New vendor must have been ranked second (assuming >1 bid)
- Service substitutions
- > USAC and FCC appeals





## **Key points:**

- Cycle spans three funding years
- All steps have deadlines
- > Fair and open competitive is critical
- Most applications funded as requested



- New E-rate forms
- Update on CIPA
- Eligible Services List for FY 2014
- Direct certification and CEO
- Funding outlook for FY 2014
- Pending clarification issues





> Applicant forms

■ Form 472 ("BEAR") Effective 7/22/13

■ Forms 470 and 471 December 2013?

Forms 479, 486, 500 December 2013?

Service provider form

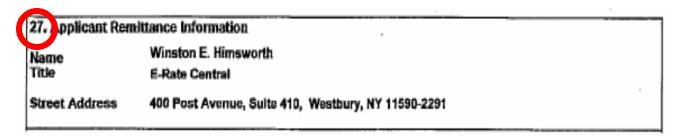
Form 474 ("SPI") Effective 7/22/13



#### Added Block 2 column for discount rate

	BLOCK 2: LINE ITEM INFORMATION PER FUNDING REQUEST NUMBER							
	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
	FCC Form 471 Application Number  (from Funding Commitment Decision Letter)	Funding Request Number (FRN) (from Funding Commitment Decision Letter)	Bill Frequency	Customer Billed Date (mm/yyyy)	Shipping Date to Customer or Last Day of Work Performed (mm/dd/yyyy)	Total (Undiscounted) Amount for Service	Rate	Amount Billed to USAC (Column 12 multiplied by Column 13)
			DO NOT WRITE IN THIS COLUMN.	NOT WRITE IN For each FRN, complete either Column (10) HIS COLUMN. or Column (11), but not both Columns				
1	875564	2390444		07/2012		109,951.12	67	73,667.25
12								

## Applicant reimbursement contact/address



#### Revised certifications



Consolidated telecom and Internet into one field for Priority 1 services in Block 2

Block 2: Summary Description of Needs or Services Requested (Attach additional pages if needed)

8 Priority One Services (Telecommunications and/or Internet Access)

- More flexible Block 2 language on RFP availability
- YES, I have released or intend to release an RFP for one or more of these services
  - Additional certification on record retention
- I certify that I will retain required documents for a period of at least five years (or whatever retention period is required by the rules in effect at the time of this certification) after the last day of service delivery.



Removed Block 2: Impact of Services Ordered



- Added request for broadband connectivity data
  - Required for each connectivity FRN
  - Number of lines by type and speed
  - Percent of classrooms and library rooms with Wi-Fi
  - Last mile vs. backbone connections for consortia
  - May require carrier assistance
- Same new certification on record retention

-						
tity Nur	nber Applicant's For	m Identifier				
ntact P	erson Ph	one Number				
ock 5 (	Continued):					
	Description of Broadband and other Connectivity Servi	one Ordered for Robe	sole and Libraries from this			
24	funding request	ces ordered for scin	Jois and Libraries from uns			
	Complete the information below for this funding request only if requesting Telecommunications Services or Internet Access for the purpo of providing broadband and other trees of connectivity to school and/or library facilities.					
	Check this box if this request is for services or equipment that do <u>not</u> prov check the box if this funding request is for internal connections, basic mair	iding broadband or connect itenance, or requests for se	vity and skip to Item 25. For instance, rvices like e-mail or phone service.			
	Which technology(ies) and speed(s) are being provided in this Funding Re	ouner? Please list the numb	or of load and autrana described consider			
a	for the lines included in this funding request. If there are multiple downloa	d speeds for the lines within	one type of hmadband connection, this			
	form provides two additional lines per broadband connection category. If y	ou need additional space, p	lease makes copies of this page and			
	number the completed pages to assure that they are all processed correct to Item 21 but should be consistent with the description of services in the r	ly. A response to this Item is	s not a substitute for a complete respons			
	assistance.	esponse to hem 21. Please	ask your service provider it you need			
	For example, if an applicant was requesting three DSL connections, two a download speed, the entries would looks that this:	veraging 2 Mbps download	speed and a third averaging 3 Mbps			
	Type of connection H V SITMIN (A)	Number of lines	Download speed per			
		included in this FRN	line in Mbps			
	DSL. 25	2	2 Mbps			
	DSL	1	3 Mbps			
	Type of connection	Number of lines	Download speed per			
		included in this FRN	line in Mbps			
	Dial-up		.056 Mbps			
	T10S-1		1.5 Mbps			
	TSDS-3		45 Mbps			
	Fiber optio/OC-x					
	Fiber optio/OC-x					
	Fiber optio/OC-x					
	Cable					
	Cable					
	Cable					
	DSL					
	DSL					
	DSL					
	Satelite					
	Satelite					
	Cellular Wireless					
	Cellular Wireless					
	Non-Cellular Wireless (e.g. microwave)					
	Non-Cellular Wireless (e.g. microwave)	<del>                                     </del>				
h	If the Internet service is available to students or patrons in more than just a	single location or office, of	ease indicate:			
	If the access is provided by wired connections, approximately wha included in the Block 4 worksheet for this FRN will have access.	t percentage of the school of				
	<ol><li>If the access is provided by Wi-Fi connections, approximately what included in the Block 4 worksheet for this FRN will have access</li></ol>	t percentage of the school of to a Wi-Fi signal?%	dassroom or public library sames			
С	For consortia and statewide applications, do the connections in this FRN in If <u>no</u> above, are these connections only for backbone connections? You	nclude the last mile connect es No	ion to the school or library? Yes N			



- Form 486 name changed
- Minor text edits
- Clarification on library CIPA waiver language
- Updated technology plan certification
- Same new certification on record retention



- Name changed to "Funding Commitment Adjustment Request Form"
- New functions added for:
  - Requesting service delivery extensions
  - Equipment transfer notification
- Minor text edits
- > Same new certification on record retention



- New FCC CIPA Order (FCC 11-125 of August 2011)
  - Implements Protecting Children in the 21<sup>st</sup> Century Act
- Basic requirement (for schools)
  - Internet safety policies must be updated to provide for:
    - The education of minors about appropriate online behavior, including interacting with others on social networking sites and in chat rooms
    - Cyberbullying awareness and response
    - Policy updates need not be formally adopted
    - Effective July 1, 2012
  - Good opportunity to review necessary CIPA documentation



#### Continued unknowns — but an E-Rate 2.0 issue

- FCC to seek public comments on CIPA requirements for on-campus use of portable Internet devices owned by students and library patrons
- No guidance on CIPA requirements for off-campus use of school- or libraryowned laptops and other portable Internet devices, but USAC is "talking" with the FCC
- Our position: Filtering may be problematic, but usage of such devices should be covered in Internet safety policies



## Reminder: Telecom and Internet combined in Priority 1 category

- Reflected in revised Form 470
  - USAC can no longer deny for Form 470 misclassification
- But for Form 471:
  - Still requires Telecom/Internet classification
  - Telecommunications carrier must be "eligible"
    - Except for fiber WANs
    - Applicant or carrier can fix eligibility
  - Warning: Internet in Telecommunications requires CIPA



# Reference SPIN and BEAR Contact Search Results

SPIN	Service Provider Name	Contact Name	Contact Address	Contact Phone	Form 499 Filer	SPAC Filed
143001359	Verizon New York Inc.	Robert J Kannegieser		800547- 5474	Ŷ	1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012



#### "Dark fiber" clarifications

- Under current rules, "dark" and "lit" fiber are both <u>lit</u>
  - Depends on who lights the fiber
  - Service must be used immediately, not "warehoused"
- Ineligible components:
  - Installation from carrier backbone to property line
  - WAN terminating equipment (even as Priority 2)
- On-campus dark fiber is Priority 2
- Greater flexibility are issues under E-Rate 2.0



## "Free" end-user equipment controversy

- End user equipment is ineligible as Priority 1 or 2
- But: "Free" cellphones may be bundled with monthly cellular service without cost allocation
- And: "Free" VoIP phones may be bundled with monthly VoIP service without cost allocation
- FCC *Clarification Order* is ambiguous awaiting FCC order

<sup>&</sup>lt;sup>25</sup> For example, many cell phones are free or available to the general public at a discounted price with the purchase of a two-year service contract. Schools and libraries are free to take advantage of these deals, without cost allocation, but cannot accept other equipment with service arrangements that are not otherwise available to some segment of the public or class of users. Therefore, a service provider may not offer free iPads to a school with the purchase of telecommunications or Internet access services eligible under E-rate, if such an arrangement is not currently available to the public or a designated class of subscribers.



## Web hosting clarification

- Only hosting of school/library website is eligible
  - Applications/storage (including collaboration tools) ineligible and must be allocated out
  - Interactive communications eligible as part of hosting package
    - Blogging, discussion boards, messaging, chat, etc., eligible, but not eligible as standalone services
    - Web-based e-mail eligible, but may be considered duplicative with standalone e-mail services
- Web hosting is eligible from only <u>one</u> provider



#### **Major Objective:**

Ensure that as many students as possible — particularly lowincome students — receive healthy school meals.

#### **USDA Tools:**

- **➤** Maximize NSLP participation Direct Certification
- > Encourage free meals for all Community Eligibility Option



- Process of identifying students eligible for free meals through their families' eligibility and participation in state-run social services programs
  - SNAP Supplemental Nutrition Assistance Program ("Food Stamps")
  - TANF Temporary Assistance for Needy Families
  - FDPIR Food Distribution Program on Indian Reservation
  - Other Head Start, Even Start, migrant, runaway, homeless, foster care
- Currently, all LEAs are supposed to be matching direct certification data with student lists and enrolling students in NSLP (excl. opt-outs)



- > Another option open to schools with:
  - 40% or more direct certification percentage
  - Willing to provide free breakfasts and lunches to all
  - For districts, option is available for individual schools, groups of schools, or entire districts
- Meal reimbursement = 1.6 x direct certification %
  - 1.6x multiple accounts for eligible students not identified by direct certification
  - In future, multiple may be 1.3x 1.6x
- Program being phased in
  - 2011-2012: IL, KY, MI
  - 2012-2013: NY, OH, WV, DC
  - 2013-2014: FL, GA, MA, MD
  - 2014-2015: NM and all others



- > Specific E-rate questions
  - How do applicants report student eligibility?
    - FCC has not endorsed 1.6x multiplier
    - Current guidance is to use last NSLP data
      - At least three years old for original three states
      - New schools, with no historic data, are a problem
  - How will states report NSLP data to USAC?
  - How will libraries access accurate NSLP data?



## Priority 2 funding threshold history

Funding <u>Year</u>	Discount Rate Threshold	Roll-over
1998	<b>70</b> %	
1999	All	
2000	82 %	
2001	86 %	
2002	81 %	
2003	<b>70</b> %	\$420 M
2004	81 %	\$150 M
2005	80 %	·
2006	86 %	
2007	81 %	\$650 M
2008	87 %	\$600 M
2009	<b>77</b> %	\$900 M
2010	All	\$1,150 M
2011	88 %	\$850 M
2012	90 %	\$1,050 M
2013	None?	\$450 M

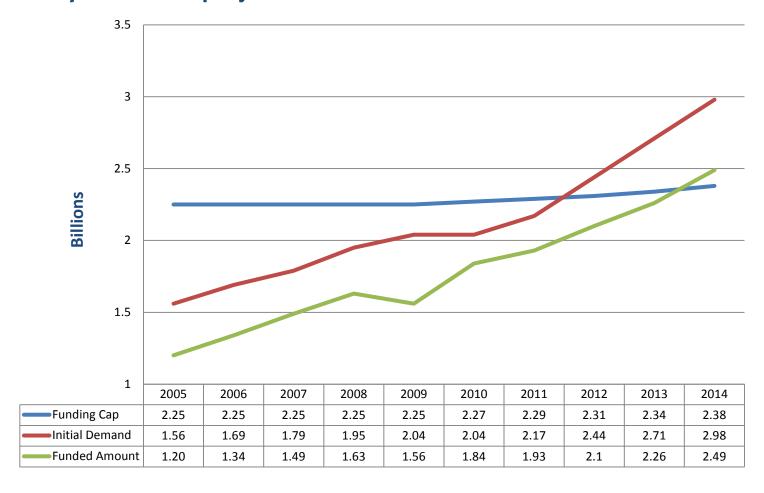
- 80% or below in only 6 of 16 years
- Recent years required large roll-over amounts
- 90% in FY 2012 was a stretch



- Initial demand estimates for FY 2013.
  - Total demand down 5% to \$5.0 billion
  - Priority 1 demand up 11% to \$2.7 billion
  - Priority 1 + 90% Priority 2 up 18% to \$4.5 billion
- Available funds
  - FY 2013 funding cap \$2.34 billion
  - FY 2012 roll-over funding \$450 million
    - Plenty for Priority 1, little for any Priority 2



# Priority 1 demand projections for FY 2014





- Funding implications for FY 2014
  - Priority 1 may need \$500+ million of roll-over
  - USAC and FCC trying to maximize roll-over
    - FY 2013 may not need all of existing roll-over
    - USAC accelerated remaining FY 2011 and FY 2012 application review
    - Might be able to funding Priority 2 at 90% for FY 2013 or FY 2014 — not both
- FCC options are limited
  - Proration is only existing mechanism
  - Longer-term options
    - Increase size of the fund
    - Reduce discount rates
    - Narrow product/service eligibility



- Application implications for FY 2014
  - Wave 1 will require FCC roll-over decision
  - Priority 2 filing strategies
    - Avoid aggregate discount requests <90%</p>
    - Separate Priority 1 and 2 applications are critical
    - Full funding may be important contingency



- Definition of "RFP" for Form 470 purposes
  - "RFP" refers to any (significant?) material made available to bidders
  - Intent clear; Form 470 procedures are not
  - May require two Form 470s RFP and non-RFP versions
  - Revised Form 470 will help
- Prohibition on two or more providers
  - Web hosting prohibition is an eligibility issue
  - Broader issue is cost-effectiveness
  - Suggests need to clearly define and bid different services



- **2013 E-Rate 2.0 initiatives**
- NPRM process and timing
- Proposed and possible changes



### Primary focus on broadband

- President's ConnectED initiative (June 2013)
  - Connect 99% of schools to 100 mbps within 5 years
  - Target is 1 Gbps
  - Noted that FCC could act without Congressional approval
  - Hinted at added E-rate funding for five years
- Reform supported by Senate Commerce Committee
- FCC's E-Rate 2.0 NPRM (July 2013)
  - Massive document
    - Almost 100 pages of relevant text
    - Few actual proposals, but over 600 request for comments or questions
  - Three key goals, plus other issues
    - Ensuring affordable broadband access
    - Maximizing cost-effectiveness of E-rate funds
    - Streamlining the administration
  - Over 800 initial comments filed by Sept. 16 almost 200 of > 2 pages
  - Over 450 reply comments filed by Nov. 8



- Apparent target is FCC order in 1<sup>st</sup> half of 2014
  - Few changes, if any, affecting FY 2014
  - Most changes affecting FY 2015 and/or FY 2016
  - Some changes may require additional NPRM
  - Increased funding would be game-changer



- Increased "transparency"
- Streamlined program administration
  - Applicant portal
  - Relief from 100% recovery on COMADs
  - Electronic filing only?
- Multi-year contract approval
- BEAR payments direct to applicants
- > 10 year document retention
- National emergency procedures



- ESL changes
  - Phase out support for outdated services?
  - Eliminate telecom/Internet classification?
  - Broaden fiber eligibility?
  - Include basic broadband equipment in Priority 1?
- Higher level form certifications?
- Funds distribution options
  - Lower maximum discount
  - District-wide discount percentages
  - Revised "rural" definition (NCES model)
  - Per student/library budget caps
  - More equitable access to Priority 2 funding



- Specific connectivity goals
- CIPA issues
  - What devices are subject to CIPA?
  - Applicant-owned devices used off-campus
  - Non-applicant devices used on-campus
- NSLP and CEO issues
- Contracting issues
- Encouraging consortia
- Wireless community hotspots
- Increased E-rate funding



➤ Web: USAC: www.usac.org/sl/

E-Rate Central: www.e-ratecentral.com

USAC help lines: 888-203-8100 (General)

888-276-8736 (Fax)

USAC online "Submit a Question" facility

www.slforms.universalservice.org/EMailResponse/EMail\_Intro.aspx

- Hint: Always get a case # and keep records
- Weekly SLD News Brief (subscribe online):



- **Web: E-rate:**www.e-ratecentral.com/www.e-ratecentral.com/us/ny
  www.e-ratecentral.com/us/stateInformation.asp?state=NM
- Weekly news (via e-mail): http://www.e-ratecentral.com/subscribe.asp

