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SMALL ENTITY COMPLIANCE GUIDE

Addressing the Homework Gap through the E-Rate Program

**FCC 24-76
WC Docket No. 21-31
Released July 29, 2024**

In accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996, this Small Entity Compliance Guide (Guide) is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking dockets. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decision regarding a particular small entity will be based on the statute and any relevant rules.

In any civil or administrative action against a small entity for a violation of rules, the content of the Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide in the above referenced docket and the appropriateness of its application to a particular situation. The Commission will then consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The Commission may decide to revise this Guide without public notice to reflect changes in its approach to implementing a rule, or it may clarify or update the text of the Guide. Please direct comments and recommendations, or requests for further assistance, to the FCC's Consumer Center:

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I. OBJECTIVES OF THE PROCEEDING

On July 29, 2024, the Commission released the *Addressing the Homework Gap through the E-Rate Program Report and Order and Further Notice of Proposed Rulemaking (2024 E-Rate Hotspots Report and Order)*.¹ In the *2024 E-Rate Hotspots Report and Order*, the Commission modernized the E-Rate program to meet the evolving needs of schools and libraries around the country by allowing E-Rate support for the distribution of Wi-Fi hotspots and services to students, school staff, and library patrons for off-premises use.

The E-Rate program supports high-speed, affordable Internet services to and within school and library buildings, and has been instrumental in providing students, school staff, and library patrons with access to the essential broadband services that are required for next-generation learning. The *2024 E-Rate Hotspots Report and Order* takes further steps to permit participating schools and libraries to use E-Rate support to establish Wi-Fi hotspot lending programs to provide the Wi-Fi hotspot devices and monthly mobile wireless broadband services needed to connect individuals who lack the Internet access needed to engage in remote learning. To accomplish this and to preserve the limited E-Rate funding, the *2024 E-Rate Hotspots Report and Order* adopts funding caps for hotspot devices and services, and a budget mechanism that limits the amount of support an eligible school or library can request for Wi-Fi hotspots and services that can be loaned to their students, school staff, and library patrons. To maintain the Commission's commitment to supporting the connectivity needs of school and library buildings, it also adopts rules to prioritize funding for on-premises equipment and services before funding off-premises equipment and services. Additionally, it establishes safeguards to ensure E-Rate-funded Wi-Fi hotspots and services are used for their intended purpose, including recordkeeping and usage requirements for applicants and service providers. Finally, the *2024 E-Rate Hotspots Report and Order* finds that the obligations of the Children's Internet Protection Act (CIPA) apply if the school or library receives E-Rate support for Internet service, Internet access, or network connection services or related equipment, including Wi-Fi hotspots.

These rule changes will provide eligible schools and libraries with much-needed assistance in getting the students, school staff, and library patrons with the greatest need connected via Wi-Fi hotspots and services that can be used off-premises. This furthers the Commission's E-Rate program goal of ensuring affordable access to high-speed broadband sufficient to support digital learning for schools and robust connectivity for all libraries.

II. COMPLIANCE REQUIREMENTS

The *2024 E-Rate Hotspots Report and Order* amends part 54 of Title 47 of the Commission's rules to make the off-premises use of Wi-Fi hotspots and services eligible for E-Rate program support. A summary of the relevant rule amendments is included below.

A. Definitions of Wi-Fi and Wi-Fi Hotspot Adopted for E-Rate Program (47 CFR § 54.500)

The Commission adopted definitions of "Wi-Fi" and "Wi-Fi hotspot" for purposes of E-Rate funding. Specifically, "Wi-Fi" is defined as "wireless networking protocol based on Institute of Electrical and Electronics Engineers standard 802.11" and "Wi-Fi hotspot" is defined as "a device that is capable of receiving advanced telecommunications and information services, and sharing such services with another connected device through the use of Wi-Fi."

B. Establishing an Off-Premises Wi-Fi Hotspot Lending Program Mechanism (47 CFR §§ 54.502(e)(1)-(4), (7)-(9))

Under the amended rules, eligible schools and libraries will be eligible for a budgeted amount of pre-discount support for off-premises Wi-Fi hotspots and services over a three year funding cycle. The

¹ *Addressing the Homework Gap through the E-Rate Program*, WC Docket No. 21-31, Report and Order and Further Notice of Proposed Rulemaking, FCC 24-76 (Jul. 29, 2024) (*2024 E-Rate Hotspots Report and Order*).

first three-year Wi-Fi hotspot budget cycle will run from funding year 2025 through funding year 2027, after which the budgets will reset in funding year 2028. The budgets will rely on pre-discount funding caps of \$15 per month on recurring mobile wireless Internet service and \$90 per Wi-Fi hotspot device. Wi-Fi hotspots and services purchased with E-Rate support may only be used by students, school staff, and library patrons, and no more than one Wi-Fi hotspot may be distributed per user.

Schools and school districts will calculate their Wi-Fi hotspot budgets by multiplying their student counts by 20% (i.e., 20 hotspots per 100 students), and adjusting by their category one discount rates. This number is rounded up to the nearest ten. The applicant then multiplies that rounded number by the three-year cost of the funding caps (\$630) to determine the three-year budget.

Libraries and library systems will calculate their Wi-Fi hotspot budgets based on their square footage, allowing 5.5 devices per 1,000 square feet, adjusted by their category one discount rates. This number is rounded up to the nearest ten. The applicant then multiplies that rounded number by \$630 to determine the three-year pre-discount budget.

C. Prioritizing On-Premises Uses (47 CFR § 54.507(f)(4))

In the amended rules, funding requests for category one equipment and services used off-premises, including Wi-Fi hotspots and Wi-Fi on school buses, will be funded after on-premises category one and category two equipment and services in the event that demand exceeds the available E-Rate funding in any given funding year.

D. Safeguarding E-Rate-Funded Wi-Fi Hotspots and Services Used Off-Premises

1. Educational Purposes (47 CFR §§ 54.504(g), 54.516(f))

Eligible schools and libraries will be required to update and publicly post an acceptable use policy that states that the off-premises use of the Wi-Fi hotspot and/or service is primarily for educational purposes as defined in 47 CFR § 54.500 and that the Wi-Fi hotspot and/or service is for use by students, school staff members, and/or library patrons who need it. Eligible schools and libraries will be required to certify to meeting these requirements.

2. Usage (47 CFR §§ 54.502(e)(5)-(6), 54.504(a)(1)(xii)), (g), 54.516(g))

The rules establish verification processes to ensure that E-Rate-supported Wi-Fi hotspots are in use. To prevent warehousing of devices, the revised rules prohibit applicants from requesting Wi-Fi hotspots as part of a one-to-one initiative (i.e., where every student gets a hotspot) or for future use, emergency use, or use in the case of theft, loss, or breakage. Applicants are required to certify that they have activated the Wi-Fi hotspot and service, made it available for loan, and publicized the availability of the Wi-Fi hotspot device and service to students, teachers, and library patrons via public notice or other means.

Unused Lines. Additionally, at least once every 31 days, service providers are required to determine whether any E-Rate-supported lines have zero data usage in the prior 60 days and provide notice to the applicant of the particular lines within 5 business days. If there is zero data usage for 90 days, service providers must discontinue service to such lines. Service providers may not charge early termination fees for lines of service associated with Wi-Fi hotspots that are lost, broken, or unused. Service providers are also not permitted to bill applicants for unused lines of service that are discontinued.

Data Usage Reports. Under the amended rules, service providers must provide reports regarding Wi-Fi hotspot data usage for off-premises use to applicants, and applicants are required to make the reports available to any representative (including any auditor) appointed by a state education department, the Universal Service Administrative Company (USAC)—the administrator of the E-Rate Program, the FCC, or any local, state, or federal agency with jurisdiction over the entity upon request. The revised rules require the data usage reports to be in machine-readable digital format so that information lines can be read and sorted, clearly identifying the lines that are not being used across billing periods and the lines that have been terminated pursuant to the non-usage rules.

3. Recordkeeping, Auditing, and Inspections (47 CFR § 54.516(a)(1), (b), (e)-(g))

For each Wi-Fi hotspot and/or service line, a school or library is required to maintain an asset and service inventory that identifies the:

- Equipment make/model;
- Equipment serial number;
- Full name of the person to whom the equipment was provided (for schools only);
- Dates the equipment was loaned out and returned, or the date the school was notified that the equipment was missing, lost, or damaged; and
- Service detail – the line number or other unique identifier that associates a device to that particular line of service.

Consistent with the Commission's existing rules, asset and service inventories, as well as the other records required by the *2024 E-Rate Hotspots Order*, including the acceptable use policies and data usage reports, must be kept for at least 10 years. Under the revised rules, entities may anonymize or deidentify any personally identifiable information when producing records requested by USAC, or the FCC as part of an audit or investigation.

4. Duplicate Funding (47 CFR §§ 54.504(a)(1)(x), 54.506)

Under the amended rules, applicants are prohibited from seeking E-Rate support for equipment or services that have already been funded with other Federal, state, Tribal, or local funding and must certify that the equipment or services have not been funded through some other source.

5. Equipment Disposal (47 CFR § 54.513(b))

Under the amended rules, Wi-Fi hotspots will be considered obsolete after three years. At that time, they may be resold, disposed of, donated, or traded.

E. Children's Internet Protection Act (CIPA) (47 CFR § 54.520 (c)(1)(iii)(C), (2)(iii)(C), (3)(i)(C))

CIPA obligations apply to school or library-owned computers if the school or library received E-Rate support for Internet service, Internet access, or network connection services or related equipment, including Wi-Fi hotspots or mobile wireless Internet services.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

The *2024 E-Rate Hotspots Report and Order* contains new or modified information collection and reporting requirements that are codified in section 54.516 of the Commission's rules. As described in section II.D above, the *2024 E-Rate Hotspots Report and Order* adopts rules requiring schools and libraries and/or service providers to maintain certain records.

Schools and Libraries. Under the revised rules, schools and libraries must retain the following records related to E-Rate-funded Wi-Fi hotspots:

- An asset and service inventory that identifies the information in section II(D)(3) above (Recordkeeping, Auditing, and Inspections).
- An acceptable use policy that clearly states that the off-premises use of the Wi-Fi hotspot and/or service is primarily for educational purposes as defined in 47 CFR § 54.500 and that the Wi-Fi hotspot and/or service is for use by students, school staff members, and/or library patrons who need it.
- Data usage reports regarding off-premises Wi-Fi hotspot data usage. Data usage reports must be in machine-readable digital format so that information lines can be read and sorted, clearly

identifying the lines that are not being used across billing periods and the lines that have been terminated.

Service Providers. Under the revised rules, service providers must retain the following records related to E-Rate-funded Wi-Fi hotspots:

- Data usage reports on Wi-Fi hotspot data usage at least once per billing period. Data usage reports must be in machine-readable digital format so that information lines can be read and sorted, clearly identifying the lines that are not being used across billing periods and the lines that have been terminated.

E-Rate applicants and service providers continue to be subject to audits and existing recordkeeping requirements. E-Rate applicants and service providers are required to retain documentation regarding the application for, receipt and delivery of E-Rate-supported equipment and services, and demonstrating compliance with the E-Rate program rules for at least ten (10) years.²

IV. IMPLEMENTATION DATE

The rules in the *2024 E-Rate Hotspots Report and Order* became effective on September 19, 2024, with the exception of 47 CFR §§ 54.504(a)(1)(x)-(xii), 54.504(g) and 54.516(e)-(g), which require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. These rules shall become effective after the Commission publishes a notice in the Federal Register announcing OMB approval and the relevant effective date.

V. INTERNET LINKS

A copy of the *2024 E-Rate Hotspots Report and Order* is available at:

<https://docs.fcc.gov/public/attachments/FCC-24-76A1.pdf>.

A copy of the Federal Register Summary of the *2024 E-Rate Hotspots Report and Order* is available at:

<https://www.federalregister.gov/d/2024-18122>.

An overview of the E-Rate program, along with information on the other program requirements, can be found on the website of the program's administrator, the Universal Service Administrative Company (USAC), at <https://www.usac.org/e-rate/>.

The FCC's overview of the Schools & Libraries Program, including the *2024 E-Rate Hotspots Report and Order*, is available at: <https://www.fcc.gov/general/e-rate-schools-libraries-usf-program>.

² 47 CFR § 54.516.