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M E M O R A N D U M

DATE: December 9, 2004

TO: TechMIS Subscribers

FROM: Charles Blaschke

SUBJ: E-Rate Update: Congress Passes Bill Allowing USAC/SLD to Resume Sending Funding Commitment Letters for Approved 2004 E-Rate Applications

As a result of intensive lobbying by education groups, mayors, and other E-Rate supporters, in the last five minutes before adjourning, Congress passed HR 5419 which, pending the President's signature, should allow the USAC/SLD to resume sending funding commitment letters to 2004 E-Rate applicants which have been approved. HR 5419 has a provision which, at least for the next 12 months, would exempt E-Rate funds from being subject to the Anti-Deficiency Act which requires most government agencies to have enough funding in-hand before making any commitments to applicants. According to an Associated Press article on December 8, USAC spokesman Mel Blackwell said that about 4,000 applicants for funding had been delayed since August, amounting to more than \$400 million under the 2004 funding round. When asked if the next wave would be about \$400 million, Blackwell told us that there would be "quite a bit" of commitment letter money going out over the next 2-4 weeks but he couldn't confirm whether it would be exactly \$400 million. Funding commitment letters, however, had been sent to prior year applicants which received late approvals or had submitted appeals which had been found to be meritorious.

Once funding commitment letters for 2004 begin to flow -- most likely in the next wave - - many districts will begin requesting E-Rate discounts for eligible products for 2005 with the window opening on December 17. Many of these same districts which have been holding on to funds budgeted for purchases of non-eligible E-Rate products (e.g., instructional software, computers, staff training) will likely begin purchasing these products if the funding commitment letter they receive assures them that purchases of eligible items will be subsidized by E-Rate discounts. Hence, unfreezing of the E-Rate funding commitment letters is not only good news for telecommunication carriers and

vendors of eligible products, but also for other technology vendors and suppliers of technology-related training.

The freezing of funding commitment letters in August was a “problem” that should never have occurred. One can question the intentions of those requiring USAC/SLD to convert to a new set of accounting standards which fell under the Anti-Deficiency Act. As several news items have noted, the requirement for new accounting procedures came from the Office of Management and Budget directly and the White House indirectly. After all, the President’s proposed FY 2002 budget included language which would have likely resulted in the end of the E-Rate program. As one astute E-Rate observer noted in a recent discussion, the E-Rate is not a grant program where the applicant receives the money upfront when the application is approved, which should be subject to Anti-Deficiency Act. E-Rate funds flow when invoices are submitted, typically 5-8 months after the funding commitment letters are received by the applicants. Moreover, E-Rate discounts are not Federal “tax dollars” but rather are fees paid on a quarterly basis by telecommunication carriers.

The havoc created by the August 4 stoppage is one more factor contributing to the likely reduction in the number of applicants for E-Rate’s 2005 funding round. Another contributing factor is the reduction from \$700 million to \$500 million in next year’s funding for Title II D which has been the very pot of funds most districts had set aside as matching for the purchases of staff development, software, and other ineligible items to ensure that the infrastructure supported under the E-Rate is actually used.