

FCC E-rate Gift Rule Restrictions

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This analysis provides updated information analysis concerning the newly enacted E-rate rules governing receipt of gifts as understood from the FCC's 6th Report and Order (FCC 10-175), the FCC's Clarification Order (DA 10-2355), and Title 5 of C.F.R. § 2635.205.

Who Is Affected - Schools and Libraries?

- All school and library employees, officers, representatives, agents, technology consultants, E-rate consultants, or independent contractors of schools and libraries that perform any of these functions:
 - Prepare, approve, sign or submit E-rate applications, technology plans, or other forms related to the E-rate program;
 - Prepare or approve school or library technology plans;
 - Prepare RFPs, communicate or work with E-rate service providers; or
 - Monitor a school or library's compliance with E-rate.
- All school board members and library board members.
- Presumably, affected staff includes, but is not limited to, school business officials, superintendents, technology directors, school board members, and library directors -- anyone who has any role in procurement, E-rate, or technology planning.

Who Is Affected - Service Providers?

- All service provider employees, officers, representatives, agents, independent contractors of such entities, and board members of service provider's company.

What Are the Requirements?

- All gifts from service providers to applicants are prohibited at any time (not just during a competitive bidding process) with these minor exceptions:
 - (1) Modest refreshments that are not offered as part of meal (e.g., coffee and donuts provided at a meeting) and items with little intrinsic value intended for presentation (e.g., certificates and plaques); and
 - (2) **\$20/\$50 Rule: Items that are worth \$20 or less (e.g., pencils, pens, hats, t-shirts, meals, drinks, etc) as long as those items do not exceed \$50 per school or library employee from any one company per funding year. The \$50 per funding year exception is computed as an aggregate value of all gifts from a company.**

Examples:

a) Susan Himes, business manager, could not accept a vendor lunch worth \$21 from an single E-rate vendor company because the value is more than \$20.

b) Ben Tomlin, school board member, could not accept three \$20 lunches in a single year from three different employees of a single E-rate vendor company because the aggregate donation from that company would be more than \$50.

c) Lauren Naugle, technology director, could accept a vendor raffle prize at a conference worth \$15, as long as the total value of gifts from that vendor's company did not exceed \$50 in that given E-rate funding year.

(3) Charitable Contributions: Service providers can continue making charitable donations to E-rate eligible entities in the support of schools – including, for example, literacy programs, scholarships, and capital improvements – as long as such contributions are not directly or indirectly related to E-rate procurement activities or decisions.

(4) Personal Gifts: Personal gifts to vendor family members are generally acceptable when those gifts are made using personal funds of the donor (without reimbursement from an employer) and are not related to a business transaction or business relationship.

(5) Disposal of Gifts: Applicants may dispose of the gift in order for the value of the gift to not be counted toward the \$20/\$50 rule and such disposal should be recorded.

(6) Repayment of Value of Gifts: Applicants may repay to the vendor the retail value of the gift so the gift is not counted toward the \$20/\$50 rule if repayment is made immediately following the gift donation. Such repayment should be recorded.

Who Must Keep Track of Gift Receipts/Donations?

- It is the responsibility of both the applicant and the vendor to keep an annual record of the value of all gifts received and donated during each year (July 1 - June 30). Such records may be requested during an audit or USAC investigation.

Are Both Priority 1 and Priority 2 Applicants Affected?

- If an applicant only applies for Priority 1 Services, gifts received from E-rate vendors that only sell Priority 2 equipment/services are not subject to the \$20/\$50 rule.
- If an applicant opts to apply for Priority 2 equipment/services for the first time, the applicant must have been in compliance with the E-rate gift rules for the six months preceding the posting of the Form 470.

Example: A school business official from a school district with a 50% E-rate discount could accept gifts without restriction from vendors that only sell Priority 2 equipment/services because the District does not qualify for Priority 2 E-rate funding.

Are vendor-sponsored trinkets, gifts, raffle-prizes, and hospitality suites at conferences included in the Gift Rule restrictions?

Yes.