

School and Library Eligibility

Schools and libraries must meet statutory definitions to be eligible for Schools and Libraries (E-rate) Program support.

Schools

For purposes of universal service fund (USF) support, schools must meet the statutory definition of elementary and secondary schools found in the No Child Left Behind Act of 2001 (20 U.S.C. § 7801(18) and (38)):

- An elementary school is a non-profit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law.
- A secondary school is a non-profit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under state law, except that such term does not include any education beyond grade 12.

Schools operating as for-profit businesses or that have endowments exceeding \$50 million are not eligible.

Non-Traditional Education

The E-rate program classifies students enrolled in Head Start, Pre-K, juvenile justice and adult education programs as “non-traditional” education. E-rate eligibility of these students depends on state law definition. Every two years SLD sends a survey to each state department of education to obtain information about which of these groups of students meet the state’s definition of elementary or secondary education. State officials are required to provide legal support for their responses and to certify the accuracy of their determinations.

E-rate Eligibility of South Dakota Non-Traditional Education Programs/Groups

Head Start: These schools/programs and students are eligible if the Head Start program is part of a public school district.

Pre-Kindergarten: Pre-K students are eligible for E-rate to the extent the students are enrolled in a public school district. If the Pre-K students are enrolled in a building that is not recognized by the State as a school, such as a day care facility, neither the students or building qualify for E-rate funding.

Adult Education: Students are eligible if enrolled in a school building for secondary education classes.

Juvenile Justice: Students and buildings are eligible for E-rate.

School Residential Facilities

The following school residential facilities are eligible for discounts as of FY 2011:

- Schools on Tribal lands;

- Schools that serve children with physical, cognitive, and behavioral disabilities;
- Schools that serve children with medical needs;
- Juvenile justice schools, where eligible; and
- Schools with 35 percent or more students eligible for the National School Lunch Program (NSLP).

Libraries

Libraries must meet the statutory definition of library or library consortium under the Library Services and Technology Act (LSTA) (20 U.S.C. Section 9122) and must be eligible for assistance from a state library administrative agency under that Act.

The definition of library includes:

- A public library
- A public elementary school or secondary school library
- An academic library
- A research library, which for the purposes of this definition, means a library that:
 - makes publicly available library services and material suitable for scholarly research and not otherwise available to the public; and
 - is not an integral part of an institution of higher education
- A private library, but only if the state in which such private library is located determines that the library should be considered a library for purposes of this definition

A library's eligibility for support also depends on its funding as an independent entity. Only libraries whose budgets are completely separate from any schools (including, but not limited to, elementary and secondary schools, colleges and universities) shall be eligible to receive discounted services.

For example, an elementary school library is only eligible to receive discounted services if its budget is completely separate from the elementary school. If its budget is not completely separate from the elementary school, the elementary school library is not eligible for support independent from the school with which it is associated.

Entity Numbers & Billed Entity Numbers

Note: To determine entity numbers and associated data in list format, go to:

<https://data.usac.org/publicreports/EntityDownload/Entity/Download>

Entity Numbers - BUILDINGS

SLD assigns a unique identifying number to each eligible entity (building) that participates in the E-rate Program. An entity can be an individual school, a library, library outlet/branch, a bookmobile, an administrative office or other Non-Instructional Facility (NIF). This number assigned by USAC is called an Entity Number.

Billed Entity Numbers (BENs) - ORGANIZATIONS

A Billed Entity does not refer to a building, but rather to an organization. The entity that pays the service provider for products and/or services delivered to eligible schools and libraries, is called a Billed Entity. USAC assigns this entity a Billed Entity Number (BEN). There is no visible difference between a number assigned as a BEN and a number assigned as an entity number.

A Billed Entity is not required to be - but may be - an eligible entity. An ineligible entity, such as city or local government, may be assigned a BEN if it pays the bills to service providers for eligible services on behalf of eligible entities.

Beginning in FY 2016, each Billed Entity is assigned a single and distinct entity classification and must file forms using this entity classification. The classifications are:

- School
- School District
- Individual Library
- Library System
- Consortium

If a billed entity wants to file forms as two different entity types, the organization must obtain a separate Billed Entity Number. This new requirement usually will affect consortia that previously relied on the Billed Entity Number of the lead consortium member to file forms. The consortium now requires its own unique BEN in order to file forms.

The Form 470 applicant is not required to be the Billed Entity that will appear on the Form 471, but it is in most situations.

All buildings and non-instructional facilities (NIFs) associated with a Billed Entity are required to be included in the billed entity's EPC portal. If an entity is missing, contact CSB by creating a customer service case inside your EPC portal. If an entity's name or other information needs to be revised, this can be done in the EPC Portal.

Annex

Beginning in FY 2016, the SLD introduced the entity classification of an Annex. If a school has more than one location separated by a public right-of-way, but all of those locations together are considered one school by the state, those additional locations are annexes of that school. They are associated only with

that school, they do not have an entity number, and they share the Category Two budget of that single school. For the purpose of the Category Two budget calculation, that school uses the total student counts for the school and its annexes combined.

Similarly, if a library has more than one location separated by a public right-of-way, but all of these locations together are considered a single library by the state library administrative agency, those additional locations are annexes of that library. They are associated only with that library, they do not have an entity number, and they share the Category Two budget of that single library. For the purpose of the Category Two budget calculation, that library uses the total square footage for the library and its annexes combined.

These entities do not have a separate entity number assigned to them. Rather, they should be classified as an annex and linked to its school or library in EPC. The Account Administrator should log into EPC, choose "Related Actions" and then "Manage Annexes." Follow the prompts to create an annex.

Obtaining New Entity Numbers

To create an entity, the following information should be on hand when contacting CSB:

- Entity's legal name (this field is limited to 64 characters - be prepared to provide abbreviations if needed)
- Physical address (cannot be a PO Box and this field is limited to 49 characters)
- Mailing address or PO Box, if different than physical address
- Telephone number
- Fax number
- If the entity provides non-traditional elementary or secondary education, indicate the appropriate category (Head Start, pre-kindergarten (Pre-K), juvenile justice, adult education, non-instructional facility)
- Sector (public, private, religious)
- County name
- Email address (the address for the entity itself, not for any specific person)
- For schools, the district entity number to link the school to the district
- For library branches, the library system entity number where the new library should be added.
Note: This would not include independent libraries.

In general, CSB can process requests for up to two new entity numbers, new or existing, over the phone at (888) 203-8100.

If you need more than two new entity numbers, you may submit a request using the EPC portal and create a customer service case.

Non-Instructional Facilities (NIFs) & Annexes

Non-Instructional Facilities (NIFs)

A non-instructional facility (NIF) is a school building without classrooms or a library building without public areas. Non-instructional facilities on school and library property are eligible to receive discounts on data transmission services and internet access services. A non-instructional facility must have an entity number and be included in your billed entity's EPC Portal so that it can be accurately reflected on your Form 471.

Examples of non-instructional facilities on school property include, but are not limited to, administrative buildings, school bus barns and garages, cafeteria offices, and facilities associated with athletic activities. Examples of non-instructional facilities on library property include, but are not limited to, administrative buildings, bookmobile garages, interlibrary loan facilities, and library technology centers.

Eligibility of Category 1 Services

Category 1 services provided to NIFs located on school or library property are eligible for support. For example, a leased lit fiber circuit going to a bus barn is E-rate eligible.

Eligibility of Category 2 Services

NIFs are not eligible for Category 2 services and equipment funding. However, E-rate eligible equipment may be installed in eligible NIFs, if those internal connections are essential for the effective transport of information to an instructional building of a school or to a non-administrative building of a library or the use of the services meets the definition of educational purpose.

When a NIF houses the WAN/WLAN central equipment (such as the network operations center) or other central equipment such as Wi-Fi controllers, that is used to provide services to other school or library buildings, the equipment may be funded by E-rate by using the district or library's E-rate Category 2 budget. However, the FCC requires that a proportional share of the cost of the equipment being used by the NIF must be deducted as ineligible. *(Note: Several E-rate advocacy organizations have asked the FCC to reconsider this rule.)*

Tab 5 of this Binder contains more information about Category 2 funding budgets.

Entity Numbers for NIFs

To be correctly entered in an FCC Form 471 funding request, a NIF must have an entity number under most circumstances:

- A NIF does not need a separate entity number if it serves only one eligible school or library and is located on the same campus as that school or library. An example of this type of facility is a separate cafeteria building on a high school campus that is only used by students from that high school. The applicant should use the entity number of the school or library on the funding request.

- A NIF that serves multiple schools or libraries must have a separate entity number. An example of this type of facility is a separate cafeteria building on a high school campus that functions as a central kitchen for the entire school district.
- A NIF that is not located on the same campus as a school or library must have an entity number. An example of this type of facility is a school stadium on school property but not on the campus of any school that hosts the sporting events for the entire school district.
- An administrative office or wing within a school or library is considered part of that school or library, not a separate NIF, and does not need an entity number.

Annexes

E-rate uses the term “annex” to mean a remote location or secondary site associated with an E-rate school entity (school) that provides educational services to students, and does not independently operate as a school.

The term "annex" was introduced in the USAC Schools and Libraries Program News Brief on October 9, 2015 where it is defined as:

Single school with multiple locations

If one school has multiple locations (in other words, a school considered to be a single school by the state consists of multiple buildings separated by one or more public rights of way), each location can be identified as an "annex" in the school's profile in the E-rate Productivity Center (EPC). Annex is a new term for FY2016. Designating locations other than the main location as annexes removes the requirement for applicants to request a separate entity numbers for those buildings.

Common attributes of an annex:

1. Provides instruction to students
2. Does not have a separate Department of Education AUN/site number
3. Accountability and other reports not reported independently, rather they are reported as part of an E-rate school entity

Annexes qualify for Category 1 services. In addition, an annex is eligible for expenditures from the school's Category 2 budget.

Consortia Requirements

Definition of a Consortium

A consortium (plural consortia or consortiums) is a group of E-rate eligible entities that seeks competitive bids or E-rate funding for eligible services on behalf of its members. Schools and/or libraries can form consortia for the purposes of the Schools and Libraries (E-rate) Program to aggregate demand in order to lower prices and promote more efficient use of shared facilities. Consortia may include ineligible entities provided that no E-rate funding is requested for the services provided to the ineligible consortia members. Through the aggregation of demand, it is hoped that consortia will receive lower pre-discounted prices for services and equipment.

Consortia vary in the services they provide. For example, a consortium may be a bidding consortium, where the consortium lead only submits the Form 470 and negotiates the master vendor contract, but where the schools sign individual contracts, file their own E-rate Form 471 applications, and pay the vendor directly for their services. Alternatively, a consortium could be a bidding and a purchasing consortium, where the consortium lead submits the Form 470, negotiates the master vendor contract, submits the Form 471, and pays the vendor directly on behalf of the consortium member.

At its most basic level, consortia could be as small as two E-rate eligible Billed Entities (like a school district and a library, or two school districts) coming together to bid services. Some consortia, for example, library consortia, may have been formed originally for reasons unrelated to the E-rate Program.

Consortium Lead Member

One entity should be designated as the lead member of the consortium. The consortium leader may or may not be eligible for discounts.

The consortium leader is responsible for ensuring that necessary certifications are made on the relevant E-rate forms, and responding to USAC inquiries on behalf of the consortium members during both pre- and post-commitment processes, as dictated by the consortium type (bidding/bidding-buying).

The consortium leader also has certain record-keeping responsibilities and, unless membership in the consortium is specifically required by state statute or authorized in some other way, must retain a Letter of Agency (LOA) or other documentation from each consortium member to demonstrate that that member was aware of, and had expressly authorized, the action that would be taken on its behalf by the consortium leader. A Letter of Agency may be a multi-year document, but must have a finite ending date (which is typically the end of the contract).

If services are shared by both eligible and ineligible entities, the consortium lead member must perform a cost allocation to ensure that only the eligible entities receive the benefit of discounted services.

Pre-Commitment Responsibilities

When the consortium leader makes the Form 471 certifications, the leader is certifying that, among other things:

- Each member has secured access to all the necessary resources (i.e., computers, training, software, maintenance and electrical connections) to make effective use of the requested discounts.
- Each member has complied with state and local procurement laws as well as all E-rate Program rules.
- That the most disadvantaged schools and libraries receive an appropriate share of benefits from shared services.

The leader may be asked during a Program Integrity Assurance (PIA) review to provide documentation that supports these certifications.

The consortium leader is also responsible for ensuring that the services for which the consortium requests discounts are the services that the consortium is authorized to procure on behalf of its members. Failure to do so may result in the denial or modification of funding requests for consortium members.

Post-Commitment Responsibilities

The consortium leader must collect from each consortium member a signed Form 479, Certification by Administrative Authority to Billed Entity of Compliance with the Children's Internet Protection Act, every year to establish that member's status under the Children's Internet Protection Act (CIPA). After all Forms 479 have been collected, the consortium leader can complete the Form 486, Receipt of Service Confirmation and Children's Internet Protection Act and Technology Plan Certification Form. Form 479s are not completed in EPC, and are not required to be submitted to USAC prior to completing the Form 486. However, consortia leads are required to retain the signed Form 479s for a period of ten years after the last date to receive service, and submit the signed Form 479s to USAC upon request.

The Form 479 is not required if the consortium requested funding only for services to which CIPA does not apply.

Records must be retained for a period of ten years after the last day of service delivered for a particular funding year and may be requested during an audit or other review process.

Documentation of Consortium Member Participation

Each consortia lead must demonstrate to SLD that the consortia lead is authorized to act on behalf of the members in submitting a FCC Form 470 and Form 471. There are two requirements to demonstrating this authorization:

- 1) Each consortia member must be linked to the consortium in the E-rate Productivity Center (EPC). The linkage may be made by the consortium leader on behalf of the member, or by the consortium member. See screenshots at the end of this document showing how to link consortium members to consortia in EPC.

- AND -

- 2) In the case where a consortia lead is authorized by statute or regulation to procure technology on behalf of a group of entities, the consortia lead can rely on that statutory or regulatory authorization and not obtain prior written authorization from consortium members if

questioned by SLD. Where there is no explicit statutory or regulatory authorization, the consortia lead should have the consortia members sign a Letter of Agency prior to the submission of the Form 470 application. A sample LOA is included in this tab of the E-rate Resource Binder.

There may be some situations where a consortium member may wish to participate in a Form 470 consortia procurement but may not yet be prepared to decide to be part of a Form 471 application. In other situations, the consortia lead will conduct the Form 470 procurement and the members will enter into their own agreements for services and/or equipment and submit their own Form 471 applications.

In these other situations, the consortia lead should request each consortia member to confirm the member's agreement to be part of the Form 470 application. This may be done by email or letter provided that the member makes clear they are aware and consent to being included in the Form 470. Later, if the member decides to become part of a consortia Form 471 application, the member should be required to sign a LOA before the Form 471 application is submitted.

Consortium Member Letter of Agency

A consortium LOA is most commonly signed by consortium members and kept on file by their consortium leader to verify their knowledge of their membership and participation in the consortium. Consortium members and agents can also use a project agreement, a contract, a letter agreement, or other similar document to establish this authorization.

The consortium LOA must be signed and dated on or before the date the FCC Form 471 was certified.

The document establishing the above authorization must contain all of the following:

- The name of the person filing the application (the consortium leader)
- The name of the person authorizing the filing of the application (the entity who will receive discounted services, such as a consortium member)
- The specific timeframe the LOA or authorizing document covers (for example, Funding Year (FY) 2018)
- The signature, signature date, and title of an official who is an employee of the entity who is authorizing the filing of the application (the entity who will receive discounted services, such as a consortium member); and
- A description of type of services covered by the LOA or authorizing document (the description of services can be as general as "all Schools and Libraries (E-rate) Program eligible services" or it can be more restrictive).
- The timeframes of these authorizations cannot be open-ended, such as "until terminated by either party."

In certain situations, other documentation may be accepted as proof of authorization. For example, for consortium applications, the consortium lead member must either collect LOAs from each consortium member or be able to provide some other proof that each consortium member knew it was represented on the application.

Consortia which have a statutory or regulatory basis and mandatory participation by schools or libraries must be able to provide documentation supporting this certification, including copies of the relevant state statute or regulation.

How to Link Consortia Members to Consortia in EPC

