

From David DeSchryver
Re: Federal Education Technology: EETT and E-Rate Update
Date: January 23, 2007

Appropriations

The fiscal year (FY) appropriations set the stage for discretionary programs, so it is critical to understand the status of the annual appropriations bills. This year's (FY 2007) is particularly unreasonable because the 109th Congress failed to pass a budget altogether, which forced Congress to pass stopgap continuing resolutions (CR) until they manage to pass a budget. That has not yet occurred.

The current CR for FY 2007 expires on February 15th. By that date, the new Chairmen of the Senate and House Appropriations Committees, Senator Byrd (D-WV) and Representative Obey (D-WI), plan to have a final CR ready for passage. The final CR, unlike its three predecessors, will not stick to the "lowest of" formula. Instead, the appropriators intend to make "limited adjustments" providing additional funding where necessary. In theory, the CR will begin basing spending levels off the FY 2006 levels, leaving appropriators with additional funds under the \$873 billion cap set by the Republicans in the last session. Although appropriators are unsure exactly how much money they will have for these adjustments, they plan to provide increases to priority areas, specifically for veterans' health plans and Pell grants. Remaining funds will be dispersed among health, labor and education programs, though it is not yet clear how much programs will receive. At the worst, every program will receive the FY 2006 funding levels.

The chairmen stated their intention to keep all earmarks out of the final CR for FY 2007. All earmarks and special projects placed in the unfinished FY 2007 spending bills will be eligible for consideration for FY 2008. This is part of the appropriators' plan to place a moratorium on all earmarks in the appropriations committee until a new lobbying/ethics reform package is passed through the 110th Congress

ESEA Title II Part D – Enhancing Education Through Technology (EETT)

In FY 06, EETT received \$272,250,000. In FY 07 the program was in jeopardy. The President and the House proposed to cut the program and the Senate proposed to level fund it. The proposals, however, never went to conference because neither the House nor the Senate passed a budget on the floor during the 109th Congress.

It now appears that EETT will be level funded (at \$272,250,000) when Congress extends the current CR for the remainder of the fiscal year. There is distant hope that the program can capture some of the "limited adjustments" for education, but it is very distant. Congressional staff report that any funding increase will likely go to ESEA Title I, IDEA and student aid programs.

E-Rate – No Changes

There was anticipated change to E-rate during the 109th Congress but it never manifested. E-rate was part of the Telecommunications Act reauthorization that went before the Senate Committee on Commerce, Science and Transportation and the House Committee on Energy and Commerce.

The proposed changes to the law would have promoted E-Rate by stabilizing the Universal Service Fund (USF), solving the Anti Deficiency Act (ADA) problem and directing the FCC to address the fraud and waste concerns that haunt E-Rate.

As background, the \$7 billion USF program faces a shrinking funding base as long distance rates fall and consumers abandon land lines for cell phones and Internet calling. The Schools and Libraries Program of the Universal Service Fund, commonly known as E-Rate, is administered by the Universal Service Administrative Company (USAC) under the direction of the Federal Communications Commission (FCC), and provides discounts to assist most schools and libraries in the United States to obtain affordable telecommunications and Internet access. It is one of four support programs funded through a Universal Service fee charged to companies that provide interstate and/or international telecommunications services.

The E-Rate language in the telecommunications bills, however, became caught in more difficult and controversial discussions about "network neutrality" and the implications of digital content on video (television) franchising rights. By the end of the 109th Congress, the battle over "net-neutrality" was too difficult (and very complicated) to manage and the bills failed to move. All proposed changes to the E-Rate program also failed.

The 110th Congress is now in the process of picking up the pieces from the 109th Congress and drafting its own telecommunications agenda. The new Chairman of the Senate Committee on Commerce is Daniel Inouye (D-HI) and he is a strong proponent of E-Rate. While his committee's agenda is not yet certain, it will likely consider E-Rate and stabilizing the USF. The Energy and Commerce Committee, under new Chairman John D. Dingell (D-MI), is also expected to look at shoring up the USF. In any event, E-Rate does not require additional legislative action to continue to operate and because its funding comes from the Universal Service fee it is not reliant on appropriations.

Finally, there is a pending rulemaking on Universal Service at the FCC that has been in the works for over a year, but there is no expectation that the FCC will finalize it any time soon.

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