

**MITEL CODE OF CONDUCT ADDENDUM**  
**E-RATE**

**I. Introduction**

All Company employees must comply with all E-Rate policies and regulations whenever they are involved with a project that will or may be paid for with E-Rate funds. Specifically, all employees are required to adhere to all government laws and regulations and Company policies in the proposal and procurement process, and maintain all notes and records as required by the same.

All Company United States (U.S.) direct sales offices have the ability to participate in E-Rate at this time. Because of this, the Company requires its U.S. employees, and those non-U.S. employees that aid in E-Rate administration, to become familiar with the rules governing E-Rate funding, and to certify that they will comply with this E-Rate Code of Conduct, for several purposes: (1) to permit employees to recognize that a school or library may seek E-Rate funding for projects in which the Company is involved; (2) to become familiar with the procedures, policies and rules surrounding E-Rate opportunities; and (3) to comply with all government laws and regulations that may be applicable to an E-Rate opportunity.

Mitel's Legal Department serves as the central point of contact for a) documenting and distributing E-rate program requirements; and b) monitoring changes in E-Rate rules and regulations. You should consider the Legal Department your most important resource for information regarding the Company's participation in projects involving E-Rate funds.

Should you learn of or suspect that an action taken by a person(s) involved with a project to be paid for with E-Rate funds violates E-Rate program rules or this Code of Conduct, is unethical, or inhibits fair competition, you are required to report the action immediately to the Compliance Office or the Ethics Line

- Ethics Line Toll-free Telephone: (866) 617-4448 (toll free)
- Ethics Line Web-site Access:
  - <https://www.compliance-helpline.com/welcomePageMitel.jsp>

The most current version of this E-Rate Code of Conduct can be requested from the Legal Department. The E-Rate Code of Conduct may be amended, supplemented or revised periodically. If you have a question about the E-Rate Code of Conduct, you should contact the Legal Department.

**II Overview of E-Rate Program**

The E-Rate program was established by Congress as part of the Telecommunications Act of 1996, and provides funding for schools and libraries to help them obtain affordable telecommunications and Internet access. It is run by the School and Library Division (the "SLD") of the Universal Service Administrative Company ("USAC"). Their website, which contains details as to the program, is [www.usac.org/sl/](http://www.usac.org/sl/).

The fundamental principle on which the program is based is fair and open competition between the service providers selling equipment and services to the schools. Schools apply for and compete for limited government E-Rate funds. Because requests for these funds generally exceed available funding, the Government requires a competitive bidding process on every project to

ensure fair distribution of limited resources. If competitive bidding on E-Rate projects is disregarded, schools and libraries may pay higher prices, schools and libraries may receive lower quality products, and fewer schools and libraries may receive funding or a reduced amount of funds. The E-Rate program specifies that fair and open competition does not exist if the applicant has a relationship with a service provider prior to bidding that would unfairly influence the bidding process, furnish the service provider with “inside” information, or otherwise allow the service provider to compete unfairly.

## **Program Process:**

### **1. Who is Eligible to Receive Discounts?**

- a. Schools** – In order to be eligible to receive discounted services, schools must meet the statutory definition of an elementary or secondary school found in 20 U.S.C. 7801(18) and 7801(38). They must not be operating as a for-profit business, and may not have an endowment exceeding \$50 million. Examples of eligible schools include: public schools, non-public schools, private schools, parochial schools, charter schools, and intermediate units. Examples of ineligible school programs include: home school programs, institutions of higher education, and private vocational skills schools.
- b. Libraries** – In order to be eligible to receive discounted services, libraries or library consortia must be eligible for assistance from a state library administrative agency under the Library Service and Technology Act, and they must not be operating as a for-profit business. Examples of eligible libraries include: public libraries, private libraries, and certain research libraries. An example of an ineligible library is an academic library (college/university) unless their budget is completely independent of the academic budget.
- c. Consortia** – A school or library can apply for discounts on services as part of a consortium with other entities within its community (e.g., with other schools, libraries, governmental entities). It may also apply as part of a consortium with private, for-profit entities. That is, consortia may include both eligible and ineligible entities. Ineligible entities are those members of a consortium that are not entitled to a discount.

### **2. Level of Discounts:**

- a.** Eligible schools and libraries may receive discounts on eligible telecommunications services and equipment from 20 percent to 90 percent, depending on the entity’s economic need and location. The level of discount is based upon a percentage of students eligible for participation in the National School Lunch Program or other federally approved alternative mechanisms contained in the Improving America’s School Act. Libraries use the discount percentage of the school district in which they are located. Determination of eligibility percentage is the responsibility of the school/library and confirmed and approved by the SLD.

### **3. Services/Equipment Eligible for Discount:**

Each year, SLD publishes a comprehensive list of services and equipment eligible to receive discounts through the E-Rate program:

- a. Priority 1 – Telecommunications Service.** Eligible services include but are not limited to commercially available telecommunications services (basic local and long distance services), internet access and T-1, 56K, ISDN lines.

- b. Priority 2 – Internal Connections.** Internal connections are components located at the applicant site that are necessary to transport information to classrooms, publicly accessible rooms of a library, and to eligible administration areas or buildings. Components at applicant site are eligible only if they are an essential element in the transmission of information within the school or library. Eligible services include cabling and connectors used for eligible voice, video and data transmission, , , hubs, , certain operating system software, certain routers, certain switches, voicemail, wireless LAN controllers, installation and basic maintenance (as long as it relates to eligible equipment), PBX. Examples of ineligible items include but are not limited to: end points (telephones), asbestos removal, broadcast and cable television equipment, electrical system upgrades, intercoms and PA systems, spare parts, test equipment, consumable kits, network interface cards to the extent they support end user equipment, phone modems, lightning arrestors, surge protectors, power strips, disaster recovery and environmental monitoring components.

TotalSolution Program solutions are somewhat eligible for E-Rate funding. The method of getting through the process is complex. Any managed service solution that is for an E-Rate proposal must be prepared in conjunction with the Compliance Office. There are many complex regulations as to lease eligibility that need to be reviewed during proposal preparation. A few ineligible portions of the TotalSolution Program include the portion of the factor that represents finance charge, certain maintenance charges, end user equipment, etc.

#### **4. Competitive Bidding Process:**

- a.** To ensure a fair and open competitive bidding process certain activities and behaviors should be avoided. Examples of behaviors to be avoided include: a relationship with an applicant that would unfairly influence the outcome of the competition or would furnish the service provider with inside information, an applicant giving the service provider the responsibility for ensuring a fair and open competitive bidding process, and an applicant playing a role in the bidding or selection process when that applicant has an ownership share in one of the service providers.

#### **5. Gift Restrictions:**

- a.** A service provider in or seeking to participate in the bidding process may not offer or provide any gifts, gratuity, favor, entertainment, loan or any other thing of value. Small items of low value may be permissible. Examples of permissible gifts include: modest refreshments (not offered as part of a meal), items with little intrinsic value that are intended solely for presentation, and items worth \$20 or less, including meals, if the total of all items received by any individual is no more than \$50 per funding year.
- b.** This rule applies to gifts given by service providers to individuals at eligible institutions who are involved in the application and selection process. Examples of individuals to whom this gift rule applies include: employees, consultants, school board members, individuals who prepare, approve or submit E-rate applications and staff responsible for monitoring compliance with the E-rate program. Examples of individuals to whom this does not apply include: family members or friends who fit into the above categories if the gifts are motivated by a personal relationship or are not connected to the business relationship.

- c. Charitable donations to a school are permitted so long as the contributions are in no way related to the E-rate procurement activities or decisions.

**6. E-Rate Process:**

- a. **Step 1** –The school or library must file an FCC Form 470 (Description of Services Requested and Certification) with the SLD. This Form indicates what services and equipment the school or library is seeking and should provide sufficient information to enable bidders to determine the needs of the applicant. The services and equipment that is being sought is for the next funding year. **The service providers, i.e., Company personnel, CANNOT be listed as the contact person on the Form 470 and cannot assist the school or library in preparing or submitting their Form 470 or any technology plan or other document accompanying the Form 470.** [A technology plan is only required for Priority 2 Services.]The FCC Form 470 will be posted online by the SLD at least 28 days before any contract relating to the Form 470 can be awarded. Service providers can review filed Form 470s online at SLD’s [Form 470 Search Engine](#). Company personnel must send all Form 470s for review to the [email CMG@mitel.com](mailto:CMG@mitel.com) as they are government entities and require review prior to starting to work on the response.
- b. **Step 2** – Service providers respond to the Form 470 either by responding to an RFP linked to the Form 470 or by responding directly with a quote to the Form 470. Company policies/procedures discussed below require that any response to a Form 470 is reviewed and approved by the Contract Management Group ([CMG@mitel.com](mailto:CMG@mitel.com)) prior to submission to the customer. During this review, the breakdown of eligible versus ineligible product will be made. Mitel On Line has the ability to indicate the E-Rate eligibility on a line by line basis for a Mitel configuration. Company personnel must comply with all state and local procurement requirements and RFP requirements when responding to the school or library’s Form 470.
- c. **Step 3** – The school or library awards a contract based on responses. As stated above, this cannot occur until the Form 470 has been posted for at least 28 days with the SLD. Remember that the services and equipments awarded cannot begin until at least July 1 of the next year. **Service providers cannot be involved in the bid evaluation or vendor selection process in any way.**
- d. **Step 4** -
  - 1) The school or library files an FCC Form 471 (Services Ordered and Certification) with applicable attachments (Item 21 attachments) with the SLD. This document gives the SLD information related to the awarded services and equipment. Only eligible services/equipment can be applied for on the Form 471.
  - 2) Each year the SLD establishes a “window” of time in which the Form 471 must be filed for the next funding year. Applicants that file early in the “window” have a better chance of being funded earlier in the process.
  - 3) As discussed below, the Company employee responsible for that particular transaction is responsible for getting a copy of the filed Form 471 and any attachments from the customer and passing that to the Contract Management Group ([CMG@mitel.com](mailto:CMG@mitel.com)) .

- e. **Step 5** – The SLD sends a Receipt Acknowledgment Letter (RAL) to both the service provider and school or library.
- f. **Step 6** – The SLD reviews the Form 471. During this period, the school or library may need to supply additional information relating to their Form 471 request, but in many cases will only have 15 days to submit the required information. The service provider can assist the school or library in providing information to the SLD in this phase. However, the service provider (the Company) cannot assist with questions related to the technology planning process or the competitive bidding process.
- g. **Step 7** – The SLD makes a determination as to the Form 471 and sends a Funding Commitment Decision to both the service provider and the school or library which commits the funds that will be provided. An appeals procedure is in place to appeal these decisions. Service providers can assist schools or libraries in appealing decisions. SLD allocates E-Rate funds according to rules of priority with first priority provided to requests for telecommunications services and Internet access (Priority 1 Services). The remaining available funds are allocated to requests for support for internal connections and basic maintenance of internal connections (Priority 2 Services). Requests for Priority 2 Services are allocated first to applicants eligible for 90 percent discount levels, then to those eligible for 89 percent discount levels, and so on, until the available funds are exhausted. Historically, the point at which funding for Priority 2 Services are exhausted has varied from 70 to 86 percent. However in Funding Year 2010, all Priority 2 Service requests were funded. In addition, the SLD has a “Two Out of Five Rule” started in Funding Year 2005 – this new rule states that eligible entities will only be able to receive support for Internal Connections in two out of every five funding years.
- h. **Step 8** – To help USAC ensure that Universal Service Fund support is paid only for services that have actually been delivered, applicants must verify the start date of services and submit an FCC Form 486 (Receipt of Service Confirmation Form). The Form 486 is required to be postmarked no later than 120 days after the Service Start Date identified on the Form 486 or 120 days after the date of the Funding Commitment Decision Letter from USAC, whichever is later.
- i. **Step 9** – Product Verification. Prior to installation of equipment, the contract award and equipment listing must be reviewed. If product substitutions need to be made (due to discontinuance of previously proposed equipment or newer version equipment), there is a product substitution methodology that must be followed prior to any work being done under the transaction. The Company works with the school or library to prepare the appropriate paperwork for this substitution. Installation CANNOT occur until the Company receives the SLD’s approval on the substitution. Product substitution must have same functionality. Substitution must be consistent with contract provisions and state/local procurement laws. There can be no increase in the percentage of ineligible services. The substitution must be consistent with Form 470 posting and RFP used, if any. The service provider must disclose a reduction in cost of service resulting from product substitution and return funds or revise future billing to account for the reduced cost.
- j. **Step 10** – Service and Installation are performed.

- k. Step 11 – Invoicing.** There are two methods of invoicing in the E-Rate program.
- a. The method most used by the Company is the BEAR form method. In this method, the school or library pays its invoices in total. Once services are completed, the school or library completes an FCC Form 472 (BEAR Form) and submits that to the Company (to the Compliance Office directly). The Contract Management Group ([CMG@mitel.com](mailto:CMG@mitel.com)) confirms that the information on the BEAR Form is correct and the Company certifies the Form. The Company returns the certified Form to the school or library who in turn submits it to the SLD. The SLD sends the reimbursement to the Company which passes through the reimbursement to the school or library by check. Invoice requests must be postmarked no later than 120 days after the last date to receive services or 120 days after the date of the Form 486 Notification Letter, whichever is later.
  - b. The method that is not commonly used by the Company but will be considered on installation transactions is the SPI Form method. Use of the SPI method of billing must be pre-approved by the Contract Management Group ([CMG@mitel.com](mailto:CMG@mitel.com)). In this method, the school or library is only invoiced the amount of the services or installation that they would pay after SLD reimbursement. Once services are completed, the school or library has submitted its Form 486, and the Company has provided the discounted bills to the school or library, the Company will submit an FCC Form 474 (Service Provider Invoice) to the SLD. Payment will be sent to the Company directly from the SLD. Invoice requests must be postmarked no later than 120 days after the last date to receive services or 120 days after the date of the Form 486 Notification Letter, whichever is later.

Once the service provider is selected and enters a contract with the applicant to provide services, the service provider is required to maintain communications with the applicant throughout the life of the contract. The SLD requires all documents be retained for five (5) years from the last day of service delivered. Documents included are the RFP, quotes, contracts and purchase orders, bills to applicant, and payments received from applicants. Company personnel should ensure that the Contracts Management Group has these documents for retention.

### **III. The Company's E-Rate Policy and Procedures**

Employees must determine in advance of becoming involved in a school or library sales opportunity in any manner whether the prospective customer will or may be using E-Rate funds for the project. In the event E-Rate is allowed on a particular transaction, all employees working on contracts involving E-Rate funds must comply with the following requirements:

1. Submit all bids, responses to RFP, quotes or contracts to the Contract Management Group for review **before sending** to the customer by emailing the document to the email [CMG@mitel.com](mailto:CMG@mitel.com). The Contracts Management Group will verify that all E-Rate rules were followed in preparing the bid and all related contractual materials, including but not limited to the appropriate separation of ineligible and eligible E-Rate products and services. The Contracts Management Group will maintain a copy of these verifications for a period of 5 years. Failure to comply with this review requirement will be grounds for termination of employment.

2. If awarded the contract, you are required to obtain a copy of the Form 471 from the customer and submit it to the Contracts Management Group for review prior to installation or beginning of service by emailing the document [to CMG@mitel.com](mailto:CMG@mitel.com). The Contracts Management Group will determine whether the Form 471 can be reconciled to the company's responsive bid and to the resulting contract for eligible items. The Contracts Management Group will maintain a copy of these reconciliations for a period of 5 years. Failure to comply with this review requirement will be grounds for termination of employment.
3. If changes or substitutions need to be made to the equipment or services at any time during the process, you must inform the Contracts Management Group. The Contracts Management Group will work with you and the customer to seek appropriate approval from the E-Rate program prior to installation or service initiation. Failure to comply with this requirement will be grounds for termination of employment.
4. It is prohibited to waive or offer further discounts or offer billing concessions to a school or library once that school or library has filed their Form 470 relating to the transaction. Failure to comply with this review requirement will be grounds for termination of employment.

The Company requires that all U.S. employees certify that he or she has received, read, understood and acknowledged the principles and standards of this E-Rate Code of Conduct Addendum. Additionally, all employees must reaffirm annually in writing that they have reviewed, fully understand, and will adhere to the E-Rate Code of Conduct Addendum.

All employees are expected to resolve questions or concerns they may have regarding compliance with E-Rate regulations or the E-Rate Code of Conduct Addendum to the Legal Department.

Employees must report all suspected violations of the E-Rate Code of Conduct Addendum to the Legal Department, Compliance Office or the Ethics Line for investigation. Reports to the Ethics Line may be made anonymously. The Compliance Office will undertake all reasonable and necessary investigations arising from any such report.

#### **IV. Disciplinary Action**

Employees will be held accountable for failure to adhere to this E-Rate Code of Conduct Addendum. The Company will promptly and consistently enforce the E-Rate Code of Conduct Addendum through appropriate means of discipline. Disciplinary actions which may be taken include, but are not limited to, counseling, written warnings, probation, suspension without pay, demotion, reduction in salary, termination of employment and restitution.

Persons subject to disciplinary actions shall include the violator, other person(s) involved in the wrong doing such as a) persons who fail to use reasonable care to detect a violation, b) persons who purposely withhold information regarding a violation, and c) management who approve or condone the violations or attempt to retaliate against employees or others for reporting violations or violators.

## **V. Reporting Suspected Violations**

Employees are required to report all suspected violations of the E-Rate Code of Conduct Addendum to the Legal Department, Compliance Office or to the Ethics Line. Employees may contact the Ethics Line anonymously.

The Legal Department and the Compliance Office will consider all reports received, including those made via the Ethics Line, and, where appropriate, the Director of Internal Audit or the Chief Financial Officer in order to determine the appropriate type of investigation to be undertaken.

- Compliance Office - Greg Hiscock; VNET. 2182 ([email: greg\\_hiscock@mitel.com](mailto:greg_hiscock@mitel.com))
- Ethics Line Toll-free Telephone: (866) 617-4448 (toll free)
- Ethics Line Web-site Access:
  - <https://www.compliance-helpline.com/welcomePageMitel.jsp>

All communications will be treated with the highest regard for confidentiality. It is against Company policy to retaliate against any employee who provides a report, information or testimony relating to any matter that he or she reasonably believes to be a violation of law or the Code of Conduct or its Addendums.

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