

On-Premise, Priority 1 Equipment

In general, equipment that is located at the applicant site is considered for funding under the eligibility requirements for Internal Connections. However, if the on-premise equipment is an integral part of an end-to-end Priority 1 service (i.e., Telecommunications Services or Internet Access), then the equipment may be eligible for funding as a part of that Priority 1 service.

Strict conditions apply to such on-premise equipment. Only certain types of equipment and configurations meet the eligibility requirements for Priority 1 services. This document provides guidance to help applicants and service providers understand these requirements, so that funding requests for on premise Priority 1 components will comply with SLD program rules.

The conditions required for eligibility of on-premise Priority 1 equipment are known as the "Tennessee Test," from an order released by the FCC involving a challenge by the state of Tennessee. (*Order* in CC Dockets 96-45 and 97-21, FCC 99-216, Released August 11, 1999.) The term "on-premise Priority 1 equipment is also known as "on-premise equipment for end-to-end service."

1. The Underlying Principle of On-premise Priority 1 Equipment

It is important to understand what characteristics distinguish on-premise equipment eligible as Priority 1 from Internal Connections equipment (Priority 2). Components of Internal Connections are "necessary" to transport information within a school campus or library branch. Internal Connections do not include connections extending beyond a school campus or library branch. This is explained in Section 54.506 of the FCC rules, which indicates that, "[t]here is a rebuttable presumption that a connection does not constitute an internal connection if it crosses a public right of way." Thus, connections beyond an applicant's facilities are presumed to be a part of Priority 1 Services (either Telecommunications Services or Internet Access), and connections within an applicant's facilities are presumed to be Internal Connections.

In the normal application of this rule, the actual demarcation point between the local network and the Priority 1 services is typically at a wiring closet or computer room within the facilities. This is consistent with historical precedent of network systems, which traditionally rely on a specific dividing line, or demarcation, between a location's inside facilities and outside facilities. (A demarcation at the exact property boundary line would not be practical.)

The Tennessee Order provides increased (but not unlimited) flexibility for applicants in choosing the demarcation point. In the Order, the FCC affirmed that components located at the applicant site were presumed to be internal connections, but also discussed the basis by which this presumption could be overcome. The specific conditions indicated by the FCC are described in the next section. In addition, several underlying requirements are an integral part of the approach, and these are described in the section following.

2. Eligibility Conditions for On-premise Priority 1 Equipment

The on-premise Priority 1 equipment must be an integral component of the telecommunications or Internet access service. SLD funding for on-premise Priority 1 equipment also requires compliance with the following conditions:

- A. The on-premise equipment will be provided by the same service provider that provides the eligible telecommunications or Internet access service of which it is a part.
- B. Responsibility for maintaining the equipment rests with the service provider, not the school or library.

- C. Ownership of the equipment will not transfer to the school or library in the future, and the relevant contract or lease does not include an option to purchase the equipment by the school or library.
- D. Upfront, capital charges of the on-premise equipment are less than 67% of total charges (recurring plus non-recurring) in the funding year.
- E. The equipment will not be used by the school or library for any purpose other than receipt of the eligible telecommunications or Internet access service of which it is a part.
- F. The Local Area Network for data communications of the school or library is functional without dependence on the equipment.
- G. There is no contractual, technical, or other limitation that would prevent the service provider from using the on-premise data communications equipment in part for other customers.

Further details about each of these conditions are provided in the next several paragraphs.

A. Same Service Provider. The on-premise Priority 1 equipment is part of the service provider's infrastructure that is used to provide an eligible telecommunications or Internet access service. All parts of this eligible telecommunications or Internet access service must be obtained from a single service provider.

Requests for services on Form 471 require the applicant to identify a single service provider for each funding request, so this provision is automatically enforced when the full service is described by a single funding request (i.e., a single Form 471, Block 5).

An applicant is allowed to describe a single telecommunications or Internet access service with on premise equipment in more than one funding request of a Form 471, but only if the applicant provides clear information in the attachments required by Item 21 of the Form 471, so that the SLO understands the nature of the complete configuration. These multiple funding requests must be featured on a single Form 471. Each separate funding request that makes up such a complete telecommunications or Internet access service must specify the same service provider. In other words, the same Service Provider Identification Number (SPIN) must be indicated in each request.

B. Maintenance is the Responsibility of the Service Provider. Since the on-premise components are merely a part of service provider infrastructure used to provide a telecommunications or Internet access service, then the service provider must maintain the components as a part of the service provided. The charges of the service provider can include a separate maintenance fee. The applicant may not contract with a different party for maintenance of the service provider facilities, nor may the applicant provide its own maintenance of service provider components.

C. No Transfer of Ownership or Lease-purchase Option. The on-site components cannot be owned by the applicant at any time in the future. An explicit or implicit option for the applicant to purchase the components must not exist.

If a transfer of ownership is discovered at a future date, the SLD will require the return of any funds improperly obtained. Criminal penalties may also apply.

D. Initial Capital Costs Cannot Exceed Certain Thresholds. Service providers are limited in their ability to recoup the initial costs of construction or installation. Such upfront reimbursements must be limited to less than 67% of total charges. This 67% limit is evaluated by dividing the initial capital costs by all charges of the service over the fund year, subject to these further criteria:

- Initial capital costs include costs for equipment and its installation, but not reasonable costs for maintenance.
- The initial capital costs comprising the numerator for this calculation include only the costs for onsite equipment and its related installation. Initial capital costs for equipment and installation located outside of applicant facilities need not be included.

- An applicant cannot avoid requirements regarding upfront charges by merely spreading what would otherwise be a one-time charge over multiple recurring payments in a single funding year. The SLD will compare monthly charges during the first year of a contract with monthly charges in subsequent years when making this evaluation.

Additionally, contracts that require applicants to pay most or all of the cost of service provider infrastructure over an abbreviated time period raise the issue of whether the most cost-effective service has been selected.

Note that an additional program rule may require that initial capital costs be amortized. This additional requirement applies regardless of whether any service provider infrastructure is located at the applicant site. See the [Wide Area Network <WAN> Fact Sheet](#) for further information about the amortization requirement.

E. On-site Components Cannot Be Used for Any Other Purpose. Since the on-premise Priority 1 components are a part of the service provider's infrastructure, not the applicant's, the components cannot be used by the applicant for any purpose beyond the telecommunications or Internet access service being obtained from that service provider.

For example, assume that a network router located at the applicant site is a part of a telecommunications or Internet access service under the on-premise provisions. This router cannot be used to distribute any other information, such as local area network traffic, beyond the Priority 1 telecommunications or Internet access service. The on-premise Priority 1 equipment must present a single demarcation point to the applicant's local network.

Further, assume that routers at multiple school or library locations are interconnected in order to provide Internet access to these locations. The routers would be eligible as a part of on-premise Priority 1 Internet access only if the WAN links are limited to the provision of Internet access. If information is exchanged directly among the school or library locations across the WAN links, none of the routers would be eligible as Priority 1 equipment. (WAN links used to provide Internet access also must be the most cost-effective means for obtaining Internet access.)

F. The Local Data Network is not Dependent on the Equipment. If the on-premise Priority 1 components are removed, the local area data network must continue to function. In addition, applicants cannot overcome this requirement by installing redundant components, because that would be contrary to the requirement to select the most cost-effective service.

On-premise components such as network hubs and network switches that are used to distribute data signals to multiple locations within a local area network would not meet this requirement, because if they were removed then the communication paths among the various network points would be broken. Notice that this condition applies to the local data network, and does not apply to an applicant's telecommunications system that is limited to voice (or traditional fax) communication. Voice capability can be delivered to the applicant site through "plain old telephone service," cellular, Centrex, key systems, and private branch exchange (PBX). Allowing shared infrastructure components for traditional voice services ensures a technologically neutral approach for the commercially available methods of providing these circuits.

G. Must Allow Sharing of Facilities. The underlying concept of the on-premise Priority 1 approach is that service providers can choose to locate some of their own infrastructure at the applicant site, if certain conditions are met. The FCC requires that service providers must have the flexibility to make this infrastructure available on a shared basis to other customers, since such sharing arrangements can result in reduced costs. The applicant may be the only party accessing the equipment, but there can be no contractual, technical, or other limitation that would prevent the service provider from using the on-premise data communications equipment in part for other customers. Applicants must be willing to accept the possibility that the service provider would use the on-premise Priority 1 equipment for additional purposes.

As indicated in the previous subsection, this condition applies to the local data network, and does not apply to an applicant's telecommunications system that is limited to voice (or traditional fax) communication.

3. Fundamental Requirements for Eligibility as Priority 1

The conditions described above have several logical implications. Additionally, overall SLD program rules and eligibility requirements apply, regardless of whether on-premise components are included.

Limited to WAN components. The FCC decision involved the demarcation between local area network and wide area network. Components that are a part of a local area network are not included in the approach.

Must have a specific demarcation. A single dividing line between the local and wide area networks is an implicit and fundamental part of the FCC decision. For example, internal wiring (or wireless capability) that connects multiple locations within a school or library is inherently a part of the local network.

Must be continuous. The components that make up the end-to-end service must be architecturally directly connected, and cannot have cabling, network hubs, or other components within this directly connected architecture, unless these other components are also a part of this end-to-end service and meet all requirements.

Must be economically justifiable. Configurations that attempt to meet the conditions by including redundant components, or components that do not provide reasonable functional utility, are contrary to program requirements to choose the most cost-effective service.

Must meet the program definitions for a telecommunications or Internet access service. To be eligible as a telecommunications service, a service must meet the legal definition of telecommunications, and it must be commercially available. Telecommunications is defined in 47U.S.C. 153 as "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." Eligible Internet access is limited to "basic conduit access" to the Internet, including e-mail. (See the FCC's 1997 decision establishing the Schools and Libraries Support Mechanism at paragraphs 436, 444 and 445. *Report and Order* CC Docket 9645, FCC 97-157, Released May 8, 1997.) Separate charges for content or additional information services, and capability that goes beyond basic conduit access, are not eligible.

See the [Eligible Services List](#) for further information about how these definitions are interpreted.

4. How the SLD Administers On-Premise Priority 1 Funding Requests

SLD staff may evaluate three initial areas when determining the eligibility of an on premise Priority 1 funding request:

- Has the applicant demonstrated compliance with each specific condition as provided in Section 2 of this document?
- Is cost information sufficient to confirm compliance with the requirement that upfront, capital charges are less than 67% of total charges in the funding year?
- Is the location and configuration of equipment consistent with the requirements for on premise Priority 1 equipment? A diagram that shows how the components are interconnected with an applicant's internal connections components may be required to confirm that the proposed configuration is acceptable.

The Form 471 Item 21 attachment is used to provide information required in the above review. Applicants can speed the review process by including clear and sufficient information in this attachment, including an indication of which components of the funding request are on-premise (both on-premise equipment and installation of on-premise equipment).

If, during the SLD review process, any on-site components are determined to not qualify as a part of Priority 1 services, they will be considered as internal connections. Thus, a funding request could be found to contain a combination of a Priority 1 service and internal connections. In this circumstance, the funding request is evaluated based on the procedure described in the SLO document "**Service Categories: SLD Adjustment Process.**"

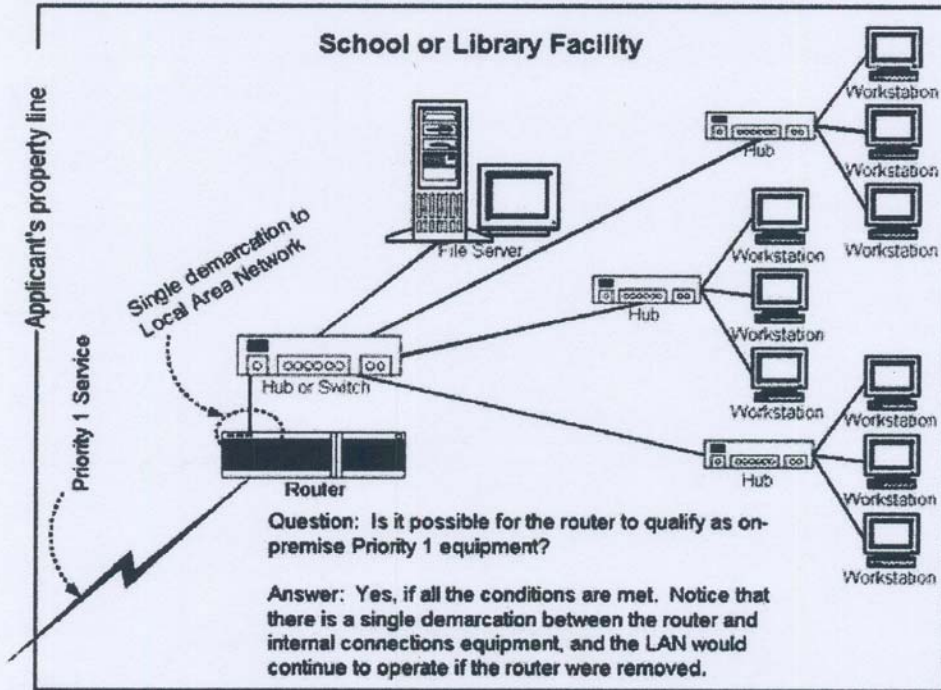
This adjustment of service categories can result in the denial of all or a part of the funding request. For this reason, applicants should ensure that the requests for funding for on-premise Priority 1 services are consistent with the administrative procedures outlined in this document.

5. Examples of Acceptable and Unacceptable Configurations

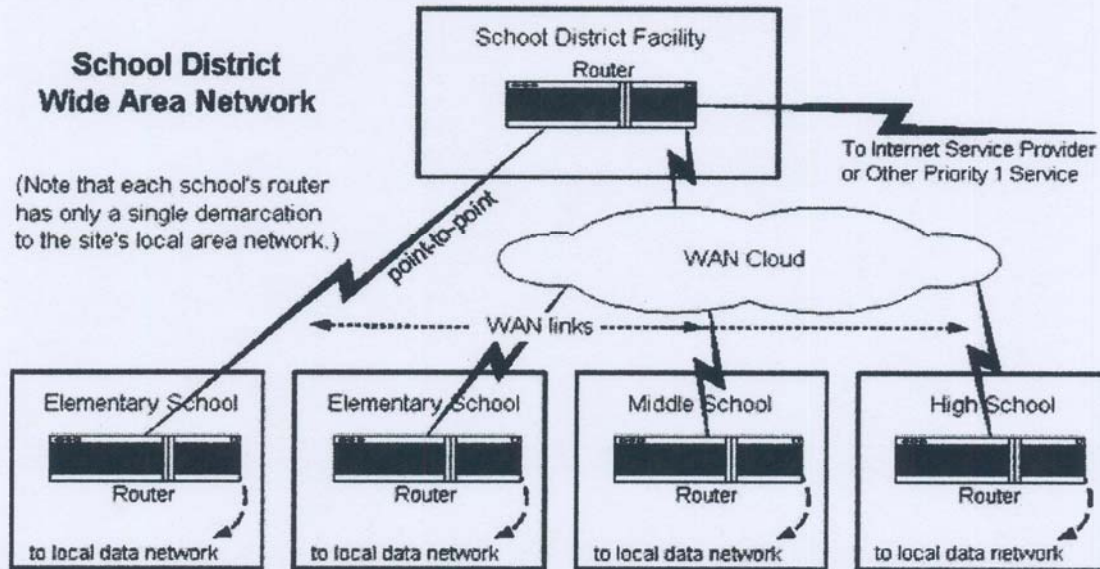
The following diagrams have been created to assist applicants and service providers in understanding the acceptable and unacceptable configurations for on-premise Priority 1 equipment:

- **Router that does not meet the on-premise Priority 1 condition.**
- **Router that may meet the on-premise Priority 1 conditions.**
- **Wide area network configuration that might be able to meet the on-premise Priority 1 conditions.**

Router that MAY meet the on-premise Priority 1 conditions



**Wide area network configuration
that MIGHT be able to meet the on-premise Priority 1 conditions**



Question: What equipment can potentially qualify for on-premise Priority 1?

Answer: The routers can meet FCC conditions only if the information transmitted over this equipment is limited to that associated with the end-to-end Priority 1 service. For example, if the Priority 1 service is Internet access, then data could not be exchanged directly among the sites across the WAN links.

