Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Modernizing the E-rate	)	WC Docket No. 13-184
Program for Schools and Libraries	)	

Reply Comments of the State E-rate Coordinators' Alliance
Regarding
Notice of Proposed Rulemaking

Contents

I. Introduction and Summary 3

II. The Primary Goal Of All Streamlining Measures Should Be More Prompt Issuance of Funding Commitment Decisions Letters for Priority 1 Requests Before July 1 Each Year. 3

III. Procurement 4

IV. Program Streamlining Measures Must Include Improvements to the PIA Process and More Transparency In The Application Review Process. 8

A. Evergreen Form 471 Applications. 8

B. Automated Review and Approval of "Routine" Applications 9

C. Improvements to the Application Status Tool Are Vitally Needed 10

D. Deadlines should be established for SLD's processing of all forms and appeals. 10

E. There Must Be An Overhaul of Procedures To Avoid Asking Duplicative Questions of Applicants Concerning Form 471 Applications. 11

F. The Whistleblower Process Must Be Revamped To More Fairly Treat Applicants Who Are Subject to Anonymous Accusations of Improprieties 12

V. District Wide Simple Average Discount Calculation Should Be Adopted. 13

VI. Coordination Among the Existing USF Mechanisms Is Essential In Order To Improve Efficient Use Of E-rate and Other USF Funds, And To Facilitate The Ubiquitous Availability of Broadband Throughout The Country 14

VII. The NSLP Community Eligibility Option Must Be Integrated Into The E-rate Discount Methodology In A Fair And Equitable Manner. 18

VIII. Commitment Adjustment Decision Letters And Recovery Of Improperly Disbursed Funds Should be Re-examined So As To Result In More Equitable Treatment Of Applicants That Commit Inadvertent And Unintentional Program Infractions. 20

IX. Direct Payment to Applicants Are Legally Authorized By Statute And Should Be Implemented. 22

X. Signatures and Certifications 25

XI. The Children's Internet Protection Act 25

XII. The Purchase Of Wide Area Networks Should Be Eligible For E-rate Funding For Applicants That Seek This Option And Where Procurement Results Show That The Purchase Option Is Most Cost-Effective. 27

XIII. Wireless Community Hotspots 35

XIV. Emergency Procedures 36

XV. The Per Pupil/Per Building Funding Proposals Raise Many Questions And Concerns That Have Not Been Adequately Addressed By Proponents 38

XVI. Conclusion 48

I. Introduction and Summary

The State E-rate Coordinators' Alliance ("SECA") is pleased to submit these Reply Comments in response to the Federal Communications Commission ("FCC" or "Commission") Notice of Proposed Rulemaking to modernize the Schools and Libraries Universal Service Support Mechanism, commonly referred to as "E-rate."

SECA reiterates its request that once the FCC completes its review of the parties' comments and reply comments, those issues that are capable of being resolved without overhauling the program should be announced in an Order, and a Further Notice of Proposed Rulemaking, or at the very least, a Public Notice should be issued to describe more specifically which proposals are actively being considered by the agency. The FNPRM or Public Notice would provide parties with the needed opportunity to submit comments that reflect integrated holistic reform proposals rather than the extremely broad (and sometimes conflicting) parameters under review in the current proceeding. The FCC followed a similar path when it reformed the Universal Service Support Mechanism for Rural Health Care Providers. After comments were received to the initial NPRM, a Further NPRM was published to solicit comments on more detailed and specific proposals.

II. The Primary Goal Of All Streamlining Measures Should Be More Prompt Issuance of Funding Commitment Decisions Letters for Priority 1 Requests Before July 1 Each Year.

The single biggest complaint and concern of applicants is the timeliness of their receipt of their funding commitment decisions letters. Coupled with this concern is the overarching need to ensure that the program is operated as efficiently as possible. SECA believes that the single most important measure to improve efficiency is to have the administrator issue all or nearly all funding commitment decisions letters for Priority 1 requests by July 1 each year.

Applicants would be able to have the confidence to rely on approved funding to proceed with the purchase of their E-rate services and equipment. In the absence of a funding commitment decisions letter, the applicant faces an untenable set of choices: either delay the project and risk losing a portion of their E-rate funding for recurring services, since that funding is either use or lose; or proceed with the project and risk being denied funding and having to pay for the full cost of the project out of their own budget.

There are numerous E-rate processes that could be minimized with timely issuance of funding commitment decisions letters. The need for service delivery deadline extensions, service substitutions, SPIN changes and Form 500 filings to change contract expiration dates would all be minimized.

For internal connections funding which is classified as non-recurring costs, applicants frequently find that the equipment that was approved for funding has already become obsolete and must be updated, thereby necessitating the submission of a service substitution request. This process takes more time and resources on the part of the applicant and administrator and further postpones the time when the applicant can proceed with the purchase and installation of the equipment. Also in these situations the applicant frequently must file a Form 500 to extend the contract expiration date for the equipment because so much time has passed. Again this is yet another administrative hurdle that could be avoided with timelier issuance of all funding commitment decisions letters.

III. Procurement

In its initial comments, SECA expressed its support for reform of the procurement process. Our recommendations addressed support for "evergreen contracts," consortium purchasing, State Master Contracts (SMCs), procurement regulation and multi-year contracts. SECA believes support for these issues will reduce the administrative burden on applicants and USAC and will help achieve

the stated goal of streamlining the E-rate process. Consortium purchasing and SMCs will increase purchasing power and reduce prices. SECA recommended that SMCs should be exempt from FCC procurement rules and, rather, should be governed by state procurement laws and procedures, which are often much more stringent than E-rate procedures. In addition, "evergreen contracts" and multi-year contracts will result in the reduction of PIA review and accompanying delays by extending approval for at least three years or longer. While not comprehensive, we provide the following as illustrative of those whose positions on these issues we support.

Adoption of the "Evergreen Status" process for the life of the contract similar to the Rural Healthcare program was urged by the Texas Education Telecommunications Network (TETN). [1] Similarly, the Wisconsin Department of Public Instruction[2] stated that they "strongly agree with the FCC's proposal allowing applicants to file a single "evergreen" Form 471 for multi-year contracts but prefer the contract length be five years rather than three years.

Consortium purchasing and use of State Master Contracts (SMCs) were addressed and supported by numerous commenters who endorsed the position that USAC should offer incentives for those filing consortia applications. Besides the benefit of securing better pricing by bulk purchasing, consortium applicants should receive prioritization during the application review process. AT&T agrees that the FCC should encourage bulk buying opportunities[3] and Internet2 recommends that the FCC "incentivize" applicants that enter into consortia and "take advantage" of these opportunities. [4] Among the many others expressing support for consortium purchasing and SMCs are West Virginia Department of Education, South Dakota Department of Education, Florida Department of Management Services, CSM, American Library Association, EducationSuperhighway,

---

[1] Texas Education Telecommunications Network Initial Comments, page 2
[2] Wisconsin Department of Public Instruction Initial Comments, page 16
[3] AT&T Initial Comments, page 10
[4] Internet2 Initial Comments, page 19

Iowa Department Of Education, Education Coalition, SETDA, New York City Department Of Education, South Carolina K-12 School Technology Initiative, NASCIO and TETN.

Incentives for SMCs and multi-year contracts were also given approval by many commenters who favored expedited review of SMC applicants and exemption from E-rate bidding requirements. Specifically, there is strong support for streamlining the review process for multi-year contracts. While there is a divergence of opinion on the number of years a multi-year contract should be exempt from PIA review after initial approval, there is very strong sentiment that such exemptions would greatly reduce the burden on applicants and reviewers, lead to better advanced planning because of certainty in funding approval and more timely funding commitment decisions letters.

For example, the Wisconsin Department of Public Instruction[5] and California Department of Education[6] both support a five year exemption, while Florida Department of Management Services, New York City Department of Education and Los Angeles Unified School District support approval during the first year of the contract to extend for the entire duration of the contract.

There is also very strong support for exemption from the E-rate competitive bidding requirements for those applicants who comply with their state procurement rules and procedures. The American Library Association[7] supports allowing applicants to use state or local procurement requirements instead of E-rate rules, as does the South Dakota Department of Education, Florida Department of Management Services, West Virginia Department of Education and Wisconsin Department of Public Instruction. The National Association of State Chief Information Officers[8] expressed their support for "creating a process that allows applicants that follow state competitive bidding requirements to be exempted from E-rate competitive bidding rules, particularly in

---

[5] Wisconsin Department of Public Instruction Initial Comments, page 16
[6] California Department of Education Initial Comments . page 16
[7] American Library Association Initial Comments, page 25
[8] NASCIO Initial Comments, page 3

situations when the state and local requirements are deemed to exceed those of the E-rate program, are redundant, or even potentially create conflicts."

SECA also supports the comments made by the Pennsylvania Association of Intermediate Units that state commodity/equipment contracts should be treated as E-rate eligible, even if no Form 470 was posted, and even if price was not the most heavily weighted factor. State purchasing power alone guarantees extremely low equipment rates. However, it is common for state contracts to be bid by agencies that cannot match the E-rate bidding and contract signing deadlines and for years, these contracts have gone unused as a result.

And finally, we also agree with the Pennsylvania Association of Intermediate Units that the FCC's Queen of Peace Decision should immediately be repealed for state master contracts. When this decision was issued in October 2012, it required all Form 470s/RFPs to use the words "or equivalent" which nullified state master contracts for equipment purchases when such contracts bid dozens or hundreds of product lines and therefore cannot use the term "or equivalent" in its bidding documents. We do not believe the Commission originally intended for Queen of Peace to invalidate all state master contracts, but this has been the result. The intent of Queen of Peace was to ensure that schools had the opportunity to purchase equivalent products that may be less expensive and not restrict themselves to a single vendor responding to an RFP. In our opinion, state master contracts that contain dozens or hundreds of equivalent manufacturer's product lines provide this opportunity and therefore meet this test.

SECA believes the measures discussed above should be implemented by the FCC in order to encourage the use of state master contracts and all consortium applications, particularly those that use state master contracts.

IV. Program Streamlining Measures Must Include Improvements to the PIA Process and More Transparency In The Application Review Process.

SECA wholly agrees with those commenters who proposed streamlined processing of routine applications, substantive solutions for some of the most common PIA process pitfalls, and more transparency concerning the status of applications when they are pending, in order to facilitate the issuance of more timely funding decision letters.

SECA can speak very candidly about the high anxiety felt by applicants in the field who do not understand why their applications languish and no substantive information is available about the processing of the applications between the time of submission and the issuance of a funding commitments decisions letter.

One of the common questions State E-rate Coordinators receive from the applicants is, "Why does it take so long for my application to get approved?"[9] Knox County Schools crystallized this effect in their comments stating, "It is not uncommon for these delays to span a manufacturer's refresh cycle…which require service substitution requests…for which the filing and review of routinely adds nine (9) months or more to the project's deployment."

A. Evergreen Form 471 Applications.

SECA strongly supported the FCC's proposed Form 471 evergreen applications for multi-year contracts in our Initial Comments and were pleased to see other stakeholders felt similarly. We agree with the American Library Association's (ALA) recommendation "of a more expedited review process for multi-year contracts" (¶239). As this recommendation has been made by many organizations for many years, we strongly encourage the Commission to adopt it in this proceeding. We agree with the FCC's proposed language in paragraph 241 to allow applicants to file a Form 471 once for multi-year contracts. We also agree with ALA that applicants will understand that multi-

---

[9] Knox County Schools Initial Comments, pp. 18-19.

year funding commitments are conditional on funds being available in subsequent years and thus do not see this as any impediment to implementing an "evergreen" 471 process (¶242).

The West Virginia Department of Education stated "this proposal is a great opportunity for cost savings, relating to time and effort, for smaller and large districts, alike." We also support their request "that applicants be afforded an option/opportunity to update amounts as the districts needs may grow so as not to stifle, for example bandwidth. If this occurs, schools could complete a new mini-review that would only be for the increase requested since the rest of the application had already been vetted and the appropriate adjustments made."[10]

B. Automated Review and Approval of "Routine" Applications

The State of Arkansas comments suggest that the review process be automated for routine applications.[11] The recurring costs of services usually only increase because of a change in prices or taxes. The USAC system should automatically compare applicants' funding requests against the previous year's application. If the funding request has gone up by 5% or less or the discount change is less than 2% the request should move to automatic approval.

Similarly, the E-rate Management Professional Association suggests eliminating review of funding requests (FRNs) which, in the prior funding year, were for the same BEN, the same Service Provider (SPIN), and for nearly the same pre-discount cost (perhaps within 5%).[12] This provision might be repeated for only two successive years, with the FRN being reviewed again every third year.

Both of these measures would significantly expedite the processing of Form 471 applications and would pose little risk of compromising program integrity.

---

[10] *See also,* Initial Comments of the Quilt and Knox County Public Schools.
[11] State of Arkansas Initial Comments, page 23
[12] E-Rate Management Professionals Association Initial Comments, page 17

C. Improvements to the Application Status Tool Are Vitally Needed.

Currently the application status tool is limited to Form 471 applications and does not explain adequately the sequence of application processing. Applicants have no discernible way to ascertain the progression of their application. There are to be no metrics associated with how long an application is subject to each status. In order for applicants to be able to meaningfully track their applications they must monitor daily the application status tool.

Each application status should show the date on which the status was set so that the applicant can more easily track the progress of the application. An email alert should be sent to the contact person for the application whenever there is a change in status. Also, the application status tool should be expanded to also include the status of Form 486, Form 472, Form 500 and appeals.[13]

D. Deadlines should be established for SLD's processing of all forms and appeals.

SLD's processing of forms should be subject to deadlines or processing intervals established by the FCC and the deadlines and processing intervals should be made public so that all stakeholders are informed and have reasonable expectations when they will receive notification from the SLD that the applicant's form has been processed. Applicants experience consequences when they fail to meet an E-rate deadline yet there appears to be no comparable mechanism in place to provide an incentive for USAC to promptly process forms. Such guidelines may exist but they are not evident to E-rate stakeholders and such information, if it does exist, should be made public. If such guidelines do not exist, they should be established and USAC should be publicly accountable for reporting its performance. One suggested approach is to require USAC to issue a decision within a certain number of days of the applicant's submission of any Form (including Form

[13] SECA submitted extensive comments concerning the redesign of the SLD website in its Initial Comments and in the IT modernization call for comments by USAC, One of the critical aspects of the redesign is the need for stakeholders to be involved with the redesign. SECA urges the FCC to direct USAC to seek input of stakeholders and to allow them to participate in user acceptance testing of the new systems.

471) and USAC should be required to report its performance in publicly filed reports submitted to the FCC.

E. There Must Be An Overhaul of Procedures To Avoid Asking Duplicative Questions of Applicants Concerning Form 471 Applications.

As stated by several commenters and as experienced by SECA members and the constituents we serve, if an application sits too long in a reviewer's queue, all too often the responses to questions that were asked and answered in an earlier stage of review are asked again. This inefficiency contributes to delays in the issuance of funding commitment decisions letters.

SECA particularly agrees with Houston ISD's comments regarding the need to re-evaluate the seemingly endless circle of questions asked throughout an application's review regarding closed or merged schools.[14] SECA has commented on this particular topic regularly as it relates to individual applicant's applications and specifically its effect on statewide and/or consortium applications. The underlying assumption of these questions is that if a school is closed after the submission of a Form 471 application, there must be a reduction in the amount of requested funding. This assumption is often times incorrect because the services for which funding is requested are often not directly correlated to the number of school buildings in a district but rather are sized based on the student enrollment. If students are transferred from a closed building to another building, the need for E-rate services most frequently does not change in any way. Moreover, even if there is a decrease in the amount of services that will be delivered to the district, the amount of E-rate discounts recouped from the program is capped by the actual amount of charges incurred. If there are fewer services, then less E-rate funds are disbursed. The inordinate amount of time devoted to school closings and the fallacious underpinnings of the questions being asked is a colossal waste of program resources and exacerbates delays in the issuance of funding commitment decisions letters.

[14] Houston ISD Initial Comments, pp. 4-5.

F. The Whistleblower Process Must Be Revamped To More Fairly Treat Applicants Who Are Subject to Anonymous Accusations of Improprieties.

While we understand that it is prudent to have a process by which persons can report suspected waste, fraud and/or abuse of the program's resources, the "Code 9" hotline has seemingly become a way for disgruntled service providers to simply wreak havoc on an applicant's E-rate application approval process, or exact their revenge upon an applicant for not awarding a contract or project to them. The resulting communication that is sent to the applicant involved in the "hotline" call is almost always presented in such a manner as to require them to *prove a negative.*

In other words, the analytical framework for Code 9 accusations is to proceed with the assumption that the accusation is factually correct. Initially what is most troubling is that there is often a lengthy delay between the time of the complaint and an investigation and resolution of such a complaint. During this interval no information is shared with the applicant despite the fact that the applicant may figure out that all of its various applications have been stayed by the SLD.

Second, there appears to be little or no screening of these complaints to initially determine whether a further investigation is warranted. It appears to applicants that each complaint is accepted as truthful on its face and when finally contacted by the SLD the applicant is required to disprove the veracity of the complaint. The applicant is guilty until proven innocent. There is certainly no benefit of the doubt or presumption of innocence afforded to an applicant that is subject to an anonymous complaint of wrongdoing.

SECA urges the FCC to re-examine the procedures governing USAC's handling of whistleblower complaints and to require a screening process to be undertaken to ensure that any such complaints of wrongdoing are credible before a full scale investigation and expenditure of associated resources are undertaken.

V. District Wide Simple Average Discount Calculation Should Be Adopted.

As stated in our initial comments and as supported by several commenters, SECA strongly supports doing away with the weighted average discount method of computing district discounts and implementing a simple average method just like libraries use to compute their discounts. This single change will help achieve better program efficiency, simplification and equity. The simple average discount would compute a district's discount based on the total number of enrolled students who qualify for a National School Lunch Program subsidy divided by the total number of enrolled students in the district. This NSLP percentage would be correlated to the E-rate discount matrix and the applicable discount would govern all buildings in the district. This approach also correlates to the manner in which districts and library systems maintain and administer a centralized budget that governs all of their buildings.

Commenting parties offered substantial support of the simple average district calculation. American Library Association, Houston Independent School District, West Virginia Department of Education, South Dakota Department of Education and CSM Consulting, to name just a few, favored this change.

Some commenters, however, have misgivings about this proposal. For example, the Council of Great City Schools expressed concerns that this approach would shift away E-rate funds from high poverty school buildings. [15]

SECA disagrees and sees equity achieved by computing discounts on the basis of the manner in which districts administer their budgets. Although there may be differences in the poverty levels of students enrolled in different schools which would influence the *building's* E-rate discount, the district has a consolidated budget and resources to support all of its buildings. Tax bases are calculated on an entire district population, not just those of a subset of schools. School districts are the administrative authorities over all of their schools. The revised district-wide discount formula

[15] Council of Great City Schools Initial Comments, p. 6.

is based on a district's actual accounting practices and organizational structure. A district wide discount calculation, therefore, is a more equitable and accurate funding approach rather than on the basis of individual buildings.

Kellogg & Sovereign Consulting suggested that if this change were to be implemented the discount bands would need to be modified to include additional bands and discount increments.[16] This suggestion is worthwhile to consider as the FCC proceeds to examine changes to the discount matrix but should the FCC decide not to implement more discount increments, this concern should not be a reason to prevent implementation of the simple average discount calculation.

We encourage the Commission to think of the district-wide discount calculation beyond ease of discount calculation and realize the program efficiencies and streamlining that can be realized. The calculation of a simple average discount requires the total number of enrolled students and total number of NSLP-eligible students to be reported on Block 4. It would no longer be necessary to list building-specific enrollment and NSLP-eligibility student information which is used today to compute the weighted discount of each building. There would be no need at all for applicants to list individual school buildings on their Form 471 applications in order to compute the district-wide discount. The program could be saved from the onerous school building closure PIA procedures and even the transfer of equipment requirements by changing this one small requirement, thus making the program simpler for many applicants.

VI. Coordination Among the Existing USF Mechanisms Is Essential In Order To Improve Efficient Use Of E-rate and Other USF Funds, And To Facilitate The Ubiquitous Availability of Broadband Throughout The Country.

In the NPRM the FCC asked for comments on whether greater coordination of E-rate funding with funding from other universal service programs could multiply the impact of these

[16] Kellogg & Sovereign Consulting, LLC Initial Comments, p. 11.

other programs to support the goals of E-rate. NPRM, ¶167. In our Initial Comments, SECA advocated that E-rate and Connect America Fund need to be integrated so as to prevent duplicate funding disbursed.

The recent transformation of the old High Cost Fund to the Connect America Fund ("CAF"), coupled with reforms recently adopted for the Health Care Fund, as well as proposals being considered for E-rate, offer a unique opportunity to integrate the goals of these programs – and their operational mechanics – for the first time. When the E-rate program and Rural Health Care Mechanisms were first established following passage of the Telecommunications Act of 1996, there was no experience from which to draw in order to consider integrating the programs. We now have 17 years of experience with funding disbursements and program mechanics that enable policy makers to grapple with this next step of better coordinating the operations of the programs.

Since its inception, E-rate has paid for the build-out of public telecommunications infrastructure that was needed to provide services to K12 schools and libraries. Schools historically have been and will continue to be heavy users of bandwidth and their needs are simply expanding with the move to online student assessments, cloud computing, and expansion of 1:1 initiatives. Once the public infrastructure is constructed, service providers are then able to use these facilities to provide service to other customers located in the same geographic vicinity of the schools.

The crux of the issue facing the E-rate program is this: in light of the funding crisis that E-rate is experiencing, it seems patently unfair that the school customers (and the E-rate fund) have to bear 100% of the special construction charges for the build-out of telecommunications infrastructure that, by definition, is *public infrastructure* and available for use by common carriers to serve other customers. The same concern holds true with respect to the Health Care Fund but given the historic under-subscription of that program the problem is not nearly as critical.

Until recently when the High Cost program was transformed into the broadband-centric Connect America Fund, E-rate and the Health Care Funds were the only sources of universal service funding for broadband build-out.

There are two key challenges for better integrating the allocation of funds between E-rate and CAF. The first has to do with the different recipients of the program dollars. The second has to do with the large bandwidth needs of schools.

The E-rate and HCF programs are customer driven, and these customers are the primary beneficiaries of the programs. Customers determine their own needs and contract with service providers to obtain their services including the payment of special construction charges to build out infrastructure when required to obtain the desired services. Service providers receive E-rate funding as a form of payment for a portion of their services but receive these funds only if the customer contracts with the vendor and is approved for E-rate funding.

On the other hand the direct recipients and direct beneficiaries of the Connect America Fund are the service providers on the theory that they will deploy broadband services to the benefit of their customers. Customers have little input into the specific infrastructure deployment decisions of the vendor recipients of CAF.

For the past 15 years not only has E-rate paid for the build-out of broadband across this country, our schools and libraries have paid for it as well since schools and libraries are required to pay the non-discounted portion of those E-rate funded projects. During this same period, the High Cost Program did not subsidize the installation of facilities needed to provide broadband services, since the program primarily subsidized voice low bandwidth services.

The second coordination challenge has to do with the lower bandwidth services that CAF is subsidizing compared to schools' and libraries' higher bandwidth needs. The CAF model subsidizes build-out for 4 mbps downstream and 1 mbps upstream for residential customers. Schools and libraries have *much* greater bandwidth needs. Although some FCC documents indicate that

funding for broadband to community anchor institutions is included in the CAF cost model, it is not altogether clear what bandwidth capacity is included for these institutions.

Identifying these two challenges allows for solutions to be developed and to overcome these challenges. In other words, these challenges are by no means insurmountable.

SECA believes that CAF needs to be refined to be aligned with the E-rate program reforms that arise from the current proceeding.

We believe that all broadband build-out costs incurred to meet the bandwidth needs of schools and libraries (including the proposed performance goals of 1 Gbps for 1000 students in five years) should be borne by the Connect America Fund. Just as CAF pays for the total amount of the computed subsidy per the cost model to companies, the full amount of these build-out costs should be subsidized for schools and libraries. Some schools and libraries have been unable to pay for the non-discounted portion of the build-out costs which has been an insurmountable obstacle for these organizations to obtain their needed bandwidth.

All four programs should work collaboratively to ensure broadband is made available to everyone, and the programs should work collaboratively to reduce the costs to the recipients of broadband services. Of the four programs, one of them has the ability to fund the "high cost" of building out infrastructure and it does not place an unfair financial burden on its beneficiaries. The collaboration efforts start with the FCC, and would be implemented through USAC. An example of how this might be able to work is as follows.

1) A school, library, district, or consortium would establish a contract, or seek a quote from an existing contract, for broadband deployment to serve a school or library.
2) Once the Form 471 was filed all service providers would know what and where services are being requested from them.
3) Service providers could determine if infrastructure build-out will be required.
4) Service providers could request CAF funds for the build-out.
5) When the CAF program receives an application for funding, it could inform the E-rate program that funding is being requested for its eligible entities to ensure there are not duplicative funding requests.

6) Once CAF funding has been approved and awarded to the service providers then broadband construction can begin.
7) When July 1st arrives, the schools and libraries will have broadband services available to them and the E-rate program will assist in funding the recurring charges.
8) The community, including Rural Health Care providers, now has access to broadband.
9) USAC has become an organization with a single collaborative goal rather than an organization with four separate goals.

VII. The NSLP Community Eligibility Option Must Be Integrated Into The E-rate Discount Methodology In A Fair And Equitable Manner.

SECA and several other commenting parties urged the FCC to develop a permanent rule change specifically to address the manner in which school districts that participate in the in the Community Eligibility Option ("CEO") presently, and that may begin using CEO in the 2014-2015 school year as part of the national expansion of CEO should compute their E-rate discounts.

The Alaska Department of Education supports the Direct Certification Methodology because, *inter alia,* Direct Certification confirms through official data the number of students that qualify for a free lunch and would alleviate the need for districts to conduct income surveys. It seems inefficient and burdensome and would undermine one of the streamlining benefits of the CEO option to require districts to collect income information when they no longer are required to collect NSLP forms.

The Council of Great City Schools recommended that schools be permitted to use the CEO measure of poverty as adjusted by the USDA-approved 1.6 multiplier to account for students who would qualify for free or reduced price meals, but who do not participate in a program which allows them to be directly certified as school lunch-eligible. These schools should not be required to conduct an income survey to gather alternative income information to substantiate the number of students with family income that qualifies for NSLP (at or below 185% of the federal poverty level).

The New York City Department of Education warned "that any long-term solution the FCC adopts must avoid reinstating the burdensome collection of annual income forms on both the

LEAs/schools and low-income parents."[17] They also recommended that the NSLP eligibility of its student population could be determined based on actual data collection of student poverty once every four years, in line with the first year of a school opting into CEO. In order to appropriately include additional students, and in Years 2 through 4, New York City suggests that the data should be adjusted using the Consumer Price Index. At the school district level, as an option, New York City also suggests that the Census poverty data can be used as a proxy with annual adjustments for inflation using the CPI.

While we agree that allowing districts the option to exercise these as additional options, dramatic changes in economies could cause some areas to be negatively impacted by this methodology. We do not concur in establishing these suggestions as the sole method for determining need for CEO schools, but rather they could be options for districts to consider.

E-rate Central has provided excellent documentation of data sets and information that should allow the FCC enough information to establish utilizing the direct certification data with the USDA multiplier as the means by which schools in the CEO program would provide data; however, they did raise concerns that "no good mechanism [exists] for calculating discounts on new CEO schools for which there is no historic NSLP data." Allowing the utilization of direct certification with the multiplier would eliminate this issue for new schools participating in CEO. They also stressed that only CEO schools should have the option of using the CEO direct certification multiplier to determine their percentage of eligible students. SECA concurs with this approach.

When researching 47 CFR 54 § 54.505 (b)(1), we found that while the current E-rate rules state that schools may use a "federally-approved alternative mechanism," we note that Title I is not cited as one of those options. While these rules do not cite federal code, the Form 471 application

[17] New York City Department of Education Initial Comments, p. 8.

Instructions do cite 7 CFR § 266.23 for "more information." When investigating this code, the resulting CFR data no longer showed any Part within the 260 range.[18]

There is, however, existing language in E-rate regulations that allows for use of a "federally-approved alternative mechanism."[19] We propose that the FCC recognize Section 104(a) of the Healthy, Hunger Free Kids Act of 2010 amended section 11(a) (1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a (a) (1)) (the law)[20] [which provides] an alternative to household applications for free and reduced price meals in high poverty local educational agencies (LEAs) and schools as an approved alternative mechanism for purposes of compliance with the already established statute within the CFR.

In conclusion, SECA reaffirms that the USDA established CEO multiplier should be recognized as an alternative discount mechanism for determining need. This multiplier should mirror what is required or approved by the USDA (United States Department of Agriculture) for use in each situation.

VIII. Commitment Adjustment Decision Letters And Recovery Of Improperly Disbursed Funds Should be Re-examined So As To Result In More Equitable Treatment Of Applicants That Commit Inadvertent And Unintentional Program Infractions.

SECA agrees with E-rate Central that full funding recovery is an excessive penalty for funds disbursed in error under non-fraudulent conditions. [21] One of the biggest shocks that applicants may face is the fact of a full-recovery COMAD when they have made a non-fraudulent mistake or have imperfectly understood or followed program rules. Full recovery from an applicant that had received services which have ultimately benefitted students and library patrons at large can be

[18] http://www.ecfr.gov/cgi-bin/text-idx?SID=6b341e9d9bfa1f9941a5270bfc1e4bd6&c=ecfr&tpl=/ecfrbrowse/Title07/7cfrv4_02.tpl
[19] 47 CFR § 54.505 (b) (1)
[20] '(vii) MULTIPLIER-
'(I) PHASE-IN- For each school year beginning on or before July 1, 2013, the multiplier shall be 1.6.
'(II) FULL IMPLEMENTATION- For each school year beginning on or after July 1, 2014, the Secretary may use, as determined by the Secretary--
'(as) a multiplier between 1.3 and 1.6; and
'(bb) subject to item (as), a different multiplier for different schools or local educational agencies.
[21] E-rate Central comments page 12

devastating, particularly for publicly-funded schools and libraries that have been experiencing budget shortfalls for years. As E-rate Central noted, a full-recovery COMAD is worse than never having been funded at all.

There should be some measure of mercy or common-sense penalty that does not lead to full recovery in non-fraudulent conditions and should ultimately result in fewer appeals filed with the FCC. If it is found during an audit or review that there clearly was not the intent to perpetuate waste, fraud or abuse, then there should be some leniency shown to the applicant. Below is a non-exhaustive list of scenarios that do not warrant full recovery of funds:

1. Obvious clerical errors during the competitive bidding process such as inaccurate cost computations and evaluation matrix computations.
2. Issues in implementation of services such as moving from one provider to another that don't fall exactly within the funding year framework.
3. Contract execution dates not in compliance with the Form 471 window.
4. Errors with 28-day competitive bidding window such as the interpretation of the "cardinal change" rule.
5. Competitive bidding violations where the state and local procurement guidelines are in conflict with FCC rules.
6. Ministerial errors that would have been correctable.

When determining whether leniency should be shown to an applicant found to be in violation of the Commission's rules, the following considerations should be examined:

1. Does the applicant have a record of rule violations on more than one funding request, i.e. is there a pattern of rule violations?
2. Does the rule violation appear to be an isolated incident with extenuating circumstances such as those listed in the examples above?
3. Would recovery of funding from the applicant be in the public interest?
4. Has the FCC and USAC's interpretation of the rule changed over time? Is there precedent in appeal decisions that would favor leniency?

SECA believes that audits provide value by identifying where there are problems in program rules and administration that could be improved or changed to minimize waste, fraud and abuse of valuable E-rate funds. However, overly punitive results such as full-recovery COMADs in

non-fraudulent situations do not help promote these goals and ultimately the students and library patrons suffer when funds must be paid back. USAC and the FCC should examine the cumulative results of audit findings on a regular basis to determine:

1. Should the rules be refined?
2. Are the rules valid in the context of the program today and recent FCC decisions and guidance?
3. How can there be better outreach to applicants so that further rule violations do not occur?

SECA agrees with West Virginia Department of Education that a public database of rule violations found during audits and applicant reviews would be extremely helpful in providing preventative guidance based upon specific examples to the greater applicant community and would further promote the FCC's stated goal of greater program transparency and streamlining. [22]

IX. Direct Payment to Applicants Are Legally Authorized By Statute And Should Be Implemented.

We agree with the West Virginia Department of Education[23] that there are multiple examples where sending the BEAR check to the service provider is not the best method to reimburse funds. Examples of service providers going out of business or ending up in bankruptcy have all affected applicants. In some cases, applicants have been able to utilize a Good Samaritan provider to process the reimbursement; however, in the case of the bankruptcy, those funds were lost. These situations could have all been avoided by returning funds directly to the applicant. Once the service provider certifies on the reimbursement form that they have received their portion of the funding, they should no longer play a part in the process.

The American Library Association states, "We think one of the best proposals to streamline the program is to allow applicants using the BEAR payment process to receive their E-rate funds

[22] West Virginia Department of Education Initial Comments, p. 91
[23] West Virginia Department of Education Initial Comments, p. 100.

directly from USAC (¶261). Implementing this proposal will be of benefit to both applicants and service providers." [24] ALA, like SECA, believes that Section 254 of the Telecommunications Act of 1996 gives the Commission broad discretion on how to design the E-rate program and the law does not in any way prohibit direct payment to applicants. We agree with ALA that a declaration to this effect can be included via a revised BEAR.

There is simply no valid legal or policy reason to justify the current practice of prohibiting applicants from directly receiving BEAR checks. When it was first conceived, the development of the BEAR form was undertaken by the Administrator, with oversight and approval of the FCC and Office of Management and Budget ("OMB"). The BEAR form was originally developed to address those situations that arose frequently and regularly during the first funding year, and fell into three general categories. First, because of the pre-existing contract rule, which exempted contracts that were executed on or before July 1, 1997 from the competitive bidding process, some applicants already had been obliged to pay for telecommunications, Internet access and internal connections. Those applicants fully paid for those services using their funds. Second, and similarly, other applicants received funding commitment decisions letters well after the start of the first program year, and decided to commence the receipt of and concomitant payment for services under contracts in anticipation of receiving a favorable decision letter. Third, the majority of service providers had not been able to establish the billing systems necessary to apply discounts on applicant bills during the first funding year, and therefore, relied on the BEAR form as a means of providing discounts to their E-rate customers.

Importantly, none of these situations was contemplated by the FCC in issuing its May 8, 1997 Report and Order where it initially directed that service providers would provide discounts to applicants and seek reimbursement from the fund.

[24] American Library Association Initial Comments, p. 30.

SECA members are aware that there is a longstanding opinion of the Office of General Counsel that concludes that the universal service statute prohibits the disbursement of payments directly to applicants. We believe that this is an excessively narrow reading of the plain language of the statute. The only mention of discount payments in Section 254 relates to telecommunications carriers. Section 254(h)(1)(B)(i) and (ii) provide that group of carriers with the option to receive payment for discounted services treated as an offset to their universal service contribution obligation or to receive reimbursement. There is no mention whatsoever of the designated recipients of reimbursements for services provided by *non-telecommunications common carrier companies* such as Internet Service providers or Priority 2 equipment and service providers that likewise are not telecommunications common carriers. Indeed the statute is completely silent on this point.

Even though the statute does not mention anywhere the possibility of making payments to non-telecommunications common carriers, this absence obviously did not preclude the FCC from designating these companies as eligible to receive reimbursements. There is no reason why this same logic should not be equally applicable to applicants. The entire scheme of E-rate the E-rate program never contemplated the possibility that applicants would pay in full for their E-rate eligible services and then seek reimbursement directly from the fund. That approach too is not mentioned in the statute yet the FCC has authorized it by necessity. It just does not seem legally logical or consistent to us to suggest that although non-telecommunications common carriers are not mentioned in the statute they are nonetheless permitted to receive direct payments from the fund but the same does not hold true for applicants.

SECA urges the FCC to reconsider the opinion of the Office of General Counsel and conclude that there is no statutory prohibition to preclude applicants from receiving direct BEAR payments. This modification of the program rules will greatly improve the efficiency of the program.

X. Signatures and Certifications

SECA agrees with commenters suggesting that requiring a corporate officer to sign forms may not be needed and might run counter to the FCC's goal of streamlining the program. [25] While it is important that individuals responsible for signing relevant forms have authority to certify these forms, it is also critically important that they have detailed awareness and knowledge of the E-rate program, as well as the ability to process, review and sign forms in a timely manner to insure that forms are completed correctly and can quickly move through the system. The potential for creating a bottleneck at the signature point, as the signatory moves up the administrative ladder, may increase on the applicant side when determining signatories for state-wide and other large consortium based applications and on the service provider side when considering the large number of signatures required on Form 472 BEARs that need to be reviewed and processed in a relatively short time.

In addition, SECA supports comments submitted by numerous parties that advocated for the FCC to prohibit any consultants from signing forms on behalf of applicants. [26] SECA believes that the nature of the certifications on E-rate forms – as described, for applicants, in Certification No. 22 on the Block 5 of the Form 470 and No. 33 on the Block 6 of the Form 471 - require *explicit* agreements by the applicants that are not appropriate to assign to any party outside the principal applicant entity.

XI. The Children's Internet Protection Act

SECA has found widespread agreement among other NPRM respondents with SECA's original position regarding CIPA and the ownership of devices. SECA proposed:

---

[25] Windstream Initial Comments, Pages 8-9; National Cable & Telecom Association Initial Comments, Page 15; E-rate Central, Initial Comments Page 9.

[26] E-rate Central Initial Comments, p. 9; Alaska Department of Education and Early Development and the Alaska State Library Initial Comments, p. 18; American Library Association Initial Comments, p. 30; Houston Independent School District Initial Comments, pp. 5-6;; Kellogg & Sovereign Consulting, LLC Initial Comments, p. 9; State Educational Technology Directors Association Initial Comments, p. 22; Utah Education Network Initial Comments, pp. 19-20, West Virginia Department of Education, pp. 103-104; Wisconsin Department of Public Instruction, p. 17; PA Association of Intermediate Units, p. 14.

> All school-owned devices using an Internet connection of a school that receives E-rate funding for Internet access or internal connections must be filtered. If the device is not owned by the school and is using a school Internet connection, then CIPA does not compel the device to be filtered, but the school may opt to impose the filtering requirement as part of its acceptable use policy. For devices that are not school owned and are not using a school Internet connection (for example, a student owned laptop with an air card or Smartphone with a data plan), CIPA does not compel filtering but again the school may choose to impose this requirement at the local level. Off-campus filtering of school-owned devices is not addressed by CIPA and this too should be a local school board decision whether to require the devices to be filtered off campus. If the school requires the device to be filtered off-campus, then the school should be free to decide whether it will provide the filtering or require the student (or hi/ her family) to provide the filtering as a condition of receiving the school device for off-campus use."[27]

SECA recognizes and agrees with the American Library Association's statement that CIPA compliance only pertains to devices owned by the school or library. "Our position on CIPA compliance is straight-forward and we believe it is fully supported by the language in the law. In brief, we believe that— when read in the context of the law—the phrase 'any of its computers with Internet access' clearly refers to school or library owned devices (¶274). Therefore, CIPA applies to devices owned by the school or library but does not apply to devices owned by students, staff or library patrons. If libraries or schools want to filter devices they do not own, that is a local decision but is not a requirement of the law."[28]

Further, SECA recognizes the value of a 21st century education, including recognizing the need for digital citizenship and responsible use of digital devices that includes keeping students safe while online. This aligns with the Wisconsin Department of Public Instruction's statement that "…nothing precludes a school or library from having more restrictive filtering policies."[29] The Utah Department of Education endorsed Wisconsin's comments.[30] Similarly, the Pennsylvania

[27] SECA Initial Comments, p. 49
[28] American Library Association Initial Comments, p. 30.
[29] Wisconsin Department of Public Instruction Initial Comments, p. 17.
[30] Utah Education Network Initial Comments, pp. 19-20.

Association of Intermediate Units stated, "We should note that nothing precludes a school or library from having more restrictive filtering policies."[31]

The Houston Independent School District is also aligned with the SECA position that CIPA compliance pertains to the devices owned by a school, not with Bring your own Devices (BYOD) that the students bring to school.[32] In addition, the Iowa Department of Education supports local decisions for devices. Iowa concludes their CIPA comments with "The Department concludes that the best place to determine further interpretation is at the local level where educators and their community dialogue about Internet safety and educational aspects of the Internet."[33]

SECA believes that the public largely supports the need to define parameters of CIPA requirements for school or library-owned devices and it is too restrictive to require CIPA compliance for non-owned devices. In addition most respondents agree that the local school district is responsible for creating and upholding an Acceptable Use Policy (AUP).

XII. The Purchase Of Wide Area Networks Should Be Eligible For E-rate Funding For Applicants That Seek This Option And Where Procurement Results Show That The Purchase Option Is Most Cost-Effective.

Information and evidence brought forth in parties' initial comments, as well as additional information that SECA members have compiled, demonstrate there are definitely instances where it is more cost-effective for applicants to build or purchase their own WANs rather than lease the facilities and services from a vendor. Even more compelling are the instances where some applicants lack any option to lease broadband WAN service. Unless these applicants constructed and owned the WAN facilities, and undertook the maintenance responsibility for it, the applicants would have had to forego this service altogether. With the mandatory online testing requirements

[31] PA Association of Intermediate Units (PAIU) Initial Comments, p. 9.
[32] Houston Independent School District Initial Comments, pp. 5-6.
[33] Iowa Department of Education Initial Comments , p. 16.

facing all schools in the 2014-2015 school year,[34] schools cannot be left in the situation with no option to have adequate broadband connectivity. SECA believes, therefore, it is imperative that similar to the Health Care Universal Service Fund, the FCC must allow applicants to purchase WAN facilities when it is shown that this option is most cost-effective.[35]

SECA knows of schools in Wisconsin, Utah, Pennsylvania and Iowa that have had great success with cost effective installation and ownership of their own fiber WAN facilities. Each of these institutions has the savvy and expertise to oversee the deployment and ongoing maintenance of these facilities. While this option may not be one that all districts may wish to pursue, these illustrative examples make a very compelling case in favor of allowing for an E-rate option for funding of the purchase of WAN facilities when this approach is cost effective.

The Wisconsin Department of Public Instruction explained that based on data from a BTOP grant, the University of Wisconsin Extension found that the return on investment for fiber ownership was between 3.7 years and 5.4 years. Once this time had passed, the anchor institutions' ownership of fiber was far less expensive than leasing the fiber facilities from a service provider.[36]

Red Lion School District in Pennsylvania found that the total cost of ownership of fiber facilities would be less expensive – even without E-rate discounts – than leasing facilities that were subject to E-rate discounts. The District purchased three one-quarter mile runs of dark fiber to interconnect three buildings for a one-time cost of $30,000 including equipment and facility maintenance service. The District does not incur any monthly recurring costs.

The Carlisle Area School District is located in a suburban area of Central Pennsylvania. The District undertook an extensive feasibility study, with the assistance of an expert engineer and other technology professionals, to determine whether the purchase or leasing of broadband WAN

---

[34] *SETDA (2011). Technology Requirements For Large-Scale Computer-Based And Online Assessment: Current Status And Issues.* See also SETDA Initial Comments, p. 10.

[35] In initial comments, SECA did not take a position in favor or against the eligibility of purchased WANs and stated that *if* the FCC allowed E-rate to fund purchased WANs this option must be shown to be more cost-effective than the leasing of WAN service. SECA Initial Comments, p. 19.

[36] Wisconsin Department of Public Instruction Initial Comments, p. 9.

connections was most cost-effective to interconnect seven of its school buildings. The District evaluated the leasing of wired and wireless facilities as well as the purchase of wired and wireless facilities. They evaluated the costs of leasing versus building and owning the facilities over a one year, five year and fifteen (15) year horizon. They concluded that for all seven buildings the cost of purchasing and owning the broadband wired facilities was the most cost-effective option.

The Carlisle Area School District has had to become proficient in the language and regulatory requirements for permitting and siting of facilities at both the state and local levels. They required the approval of two local government jurisdictions in order to install the facilities. They also had to evaluate whether the installation of underground facilities would be more cost-effective than installing above-ground facilities (which required learning about pole attachment prices and the process for obtaining access to utility company poles). They also recognized that they needed to make arrangements for ongoing maintenance of the facilities and have included these costs as part of their evaluation.

The District's proficiency and experience makes clear that the purchase option certainly requires an applicant to acquire knowledge and expertise about the process for installing and owning fiber facilities. More importantly this anecdote makes clear that an applicant that is interested in the purchase option has the resources and wherewithal to oversee and coordinate such a project. At the same time, it shows that this level of involvement and time commitment for the purchased WAN option may not be appealing to applicants that do not have sufficient resources to undertake such an endeavor. And perhaps most importantly, this experience demonstrates that the leased WAN option likely will be more appealing to most applicants by virtue of the fact that it requires less time commitment on behalf of the applicants.

Wasatch County School District located in rural Utah has eight schools, one charter school, a district office and the Northern Utah Educational Services (NUES) Regional Service Center for public K12 schools which serves eight rural school districts. This District established its own fiber

WAN through a construction project that resulted in the District's ownership of the facilities. The extent of their fiber WAN is limited to the Heber City and Midway, UT communities where roughly 5,500 students attend public schools and other residents in the area attend (the precise number is unknown to us) Utah Valley University – Wasatch Campus.

The fiber WAN project construction put in place 24, 48, or 96 pair fiber bundles to locations that included schools, public buildings, and electric utility locations. Taking a phrase from AT&T's comments, the District has built a bridge to the state education network/Internet, the city and county have built a bridge to the state government network/Internet, and the utility has built a bridge to the smart grid network. All construction costs were fully capitalized and maintenance of the facilities requires the District to maintain the network at the modest cost of $5000 per year. Just like commercially leased services that experience occasional service outages, this network have experienced some outages due mainly to weather or accidents but they have been rare. The longest outage ever experienced was six hours due to a truck cutting a fiber line.

This fiber network was installed 15 years ago by the County and used both burial and aerial facilities. The capitalized costs included fusion splicing and OTDR test equipment which enabled the District to have the technical capability to repair and test their fiber WAN.

Recent preventative maintenance testing shows that even 15 year old fiber still performs at peak capacity and plenty of excess fiber capacity remains available for other uses and or/users, should they choose to do so. Indeed, the network continues to operate with tremendous reliability – so much so the District recently upgraded their interface equipment and now provides 10,000 Mbps (10 Gbps) connections to all of their schools. Not one penny of E-rate funds has ever been used to build or operate this fiber WAN.

Numerous school districts – at least 30- of the 348 districts - in Iowa own their WAN facilities primarily because they had no other choice to obtain affordable broadband connectivity.

In other instances the districts needed anywhere from 100 MBPS to 10 gig to meet their bandwidth needs but this level of service was not available from any service provider.

In other situations, a community anchor institution (CAI) such as a local government was in the process of installing fiber facilities and the district was able to cost effectively partner with the CAI.

Of the 30 districts polled by the Iowa E-rate Coordinator, none regretted their decision to purchase WAN facilities. Further, contrary to service providers' allegations that small districts lack the expertise to light and maintain their own fiber, none of the 30 districts (and the majority are quite small) has cited any examples of difficulty with owning/operating fiber.

The following specific information is offered. The names of the districts have not been provided herein but can be provided should the FCC wish to receive this information.

- Small southern rural school district installed fiber at a cost of $140,000 to interconnect two buildings. As a point of comparison, the leased circuit to a different building costs $1790 per month for a 10 mbps circuit. There is no fiber available to the different building. This district has not had any annual costs to maintain the fiber that it owns.

- Large urban district in Central Iowa installed fiber facilities between 16 buildings for the cost of $1,000,000 as part of a city-wide fiber installation project. Annual maintenance costs primarily arise when the State Department of Transportation has construction that requires the fiber facilities to be moved, at the sole cost and expense of the district. They are currently running at least 1 gbps to each bldg. and up to 4 gbps to the high schools. It took about 11 to 12 years to realize the savings of installing their own fiber. The district has experienced lower maintenance, electrical and software costs overall as a result of the fiber installation.

- A small suburban district in Eastern Iowa installed fiber to its three schools several years ago. More recently in 2012, they installed fiber from the high school to another facility, approximately 500 feet, for $2,000 and have 1 gbps connectivity district-wide. As a point of comparison, the bid - in 2011 for a 5mbps leased circuit was $1,295 per month from the local phone company.

- A small rural district in North Central Iowa that has school buildings in two towns installed nine miles of fiber between the schools - at a cost of $250,000 in 2010. They are currently running 5 gbps service. They do not know what the cost of a leased circuit might be, but they know the ownership has already been more cost effective given the level of service they currently are providing to their buildings.

This information and evidence brought forward from Wisconsin, Utah, Pennsylvania and Iowa makes clear that schools do have the aptitude and fortitude to oversee the installation of fiber and responsibly manage the ongoing operation of these facilities.

In contrast, none of the commenters that opposed the purchase WAN option provided any data or anecdotal information to refute the notion that a purchased WAN option is more cost-effective than a leased solution.

There seems to be three primary objections raised by commenters against E-rate eligibility of the purchase of WAN facilities by applicants.

First, some parties believe that it is a bad regulatory policy and flies in the face of universal service principles. United States Telecom Association posited that since the organization continues to oppose the classification of dark fiber as a telecommunications service or information service, no funding for dark fiber should be provided by E-rate.[37] Verizon and Verizon Wireless offered a similar position based on their concern that schools or libraries "are not best suited to building telecommunications networks."[38] CenturyLink and AT&T argue that the funding of construction of WAN connections is for private networks and will undermine- universal service principles by taking away potential revenue of community anchor institutions from service providers.[39]

These claims, however, seek to either re-litigate settled law (that is, dark fiber is classified as an eligible service by the FCC) or assume that the purchase option will take away revenue from service providers for ongoing leased service. Yet there is irrefutable evidence in the Connect America Fund proceeding that there are some areas of the country that are entirely unserved by any broadband company. If a school or library is located in an unserved area and has no cost-effective option for leasing of broadband facilities, these applicants must no longer be left without

---

[37] United States Telecom Association Initial Comments, p. 16.
[38] Verizon and Verizon Wireless Initial Comments, pp. 17-18.
[39] CenturyLink Initial Comments, pp. 5-6; AT&T Initial Comments, pp. 5-8.

any recourse or remedy, and must be allowed to fund the construction of these facilities, along with owning them, in order to obtain needed broadband connectivity.

Moreover the classification of these facilities as private networks is a misnomer. All point to point broadband circuits are considered "private line" service. The only difference between the services provided by telecommunications companies and non-telecommunications companies is that leased private line service from a common carrier is a telecommunications service whereas the same service provided by a non-common carrier is considered the provision of telecommunications. The FCC made this distinction clear in the Sixth Report and Order in CC Docket No. 05-195 when it authorized the leasing of broadband circuits from non-telecommunications companies. The purchase of the WAN facilities, when most cost-effective, is entirely consistent with and builds on the rationale set forth in the Sixth Report and Order.

Second, some commenters such as AT&T, CenturyLink and the National Cable Telecommunications Association suggest when all costs are factored into the calculus, the cost of purchasing WAN facilities is not more cost-effective than leasing the facilities.[40] While no tangible proof of this broad claim is offered, SECA nonetheless agrees that when evaluating cost-effectiveness the total cost of ownership must be considered. Consistent with the Wisconsin comments, a four to five year time horizon should be employed to evaluate the lease versus own option. Of course, if there are no leased options available, there will be no comparison required of the purchase WAN option.

Third, some commenters subtly suggest that school applicants lack the sophistication and expertise to oversee the construction and ongoing maintenance of WAN facilities.[41] SECA agrees that before an applicant undertakes a project to oversee the construction and installation of WAN

---

[40] AT&T Initial Comments, pp. 5-8, CenturyLink Initial Comments, pp. 5-6 and NCTA Initial Comments, pp. 12-13.

[41] Verizon and Verizon Wireless Initial Comments, pp. 17-18: "Using E-rate to fund construction by schools and libraries-which are not best suited to building telecommunications networks in any event – will unnecessarily divert funds that other schools and libraries could use to obtain high capacity connections. CenturyLink Initial Comments, pp. 5-6: "It is more cost effective to secure services from an experienced provider that can provision efficiently and manage and operate reliability and cost effectively."

facilities, the applicant must ensure it has sufficient resident knowledge and resources. There is no reason to believe that these applicants will not be able to capably replicate the experiences of the school districts in Pennsylvania, Wisconsin, Utah and Iowa that have been cited above as illustrations of the success of cost effective WAN purchases.

SECA agrees with the FCC that the safeguards enacted in the Health Care Connect Order should serve as the foundation of the rules for the E-rate program. Specifically SECA believes that the school or library-owned infrastructure option may be employed only where self-construction is demonstrated to be the most cost-effective option after competitive bidding based on the following requirements:

1. Applicants interested in pursuing self-construction as an option must solicit bids both for services and for construction.
2. Applicants must also issue a Request for Proposal to solicit bids in addition to posting a form 470.
3. The Request for Proposal must contain sufficient detail so that the applicant will be able to show either that no vendor has submitted a bid to provide the requested services, or that the bids for self-construction were the most cost-effective option.
4. RFPs must provide sufficient detail so that cost-effectiveness can be evaluated over the useful life of the facility, if the applicant pursues a self-construction option.
5. Applicants that received no bids on a services-only posting may pursue a self-construction option.
6. Non-recurring costs in excess of $500,000 must be amortized over a minimum of three years consistent with existing E-rate requirements.

SECA also believes that the FCC should articulate the specific factors that need to be considered in evaluating the cost-effectiveness of the self-construction option compared to a leasing option:

- Life cycle of the cost-effectiveness analysis should be four to five years.

- Cost categories to be included: facility costs, construction (labor) costs, permitting costs, pole rental costs (if applicable), maintenance, on-premise equipment to use the service, network monitoring service.

- The Pennsylvania Association of Intermediate Units (PAIU) whose members manage 26 regional wide area networks in Pennsylvania made a good point that if the Commission allows for the purchase of fiber networks, they also should regard the purchase of microwave as the same as the purchase of fiber. They state that in many cases, purchasing microwave is the most cost effective technology for schools in rural areas and even those in non-rural areas who encounter extremely high vendor telephone pole lease costs or where the poles are too full. SECA agrees with this statement.

In general, SECA agrees with the FCC's observations in the *Healthcare Connect Fund Order* that the self-construction option should rarely be needed or utilized. But for applicants that lack any other way to obtain broadband service, this option is their only hope and must be available to them.

XIII. Wireless Community Hotspots

Upon further reflection of the efficacy of the FCC's inquiry about whether schools should be permitted to open their networks to create community hotpots, SECA believes it would be useful for the FCC to gather more information about any potential technical or legal concerns with such an approach. While in theory the idea is appealing, its implementation may pose some practical concerns such as whether the hotspot signal will transmit a sufficient distance from the school that local community members would be able to use the WIFI access (other than if located in the parking lot of the school); whether there are any legal liabilities that the school would be at risk for if community members downloaded content that infringed on copyright protections; whether there are any legal concerns as to whether the school or library would be perceived as providing a service that may be viewed as running afoul of state municipal broadband limitations. While these concerns may warrant further consideration before adopting a permanent rule change, SECA believes that the FCC should follow the same path as the community use rule change and first establish a rule waiver to allow for the establishment of community hotspots and ask those E-rate applicants to report on their experiences to the FCC. Then the FCC should make the final decision as to whether to make a permanent rule change to allow for community hotspots. The same limitations that govern community use should govern the waiver in favor of community hotspots (as articulated in the NPRM).

XIV. Emergency Procedures

SECA reiterates the importance of establishing procedures for applicants directly affected by national disasters as declared by the federal government. Because these natural events occur many times without warning, having a guideline to follow will provide stability and an anchor to those applicants affected by chaos. We use Hurricane Katrina as an example because it was the first time the Commission addressed the need for special consideration in areas that lost, among other things, citizens, homes, and the anchors of the community – schools and libraries.

In our initial comments, SECA encouraged the Commission to establish rules that do the following:

- The procedures for providing relief from natural disasters should be invoked whenever a Presidential Disaster Declaration is made, for the schools and libraries located in the area included within the Declaration; Identify a lead agency in the impacted state that will agree to examine affected facilities and to certify that E-rate eligible damage and/or destruction occurred;
- Require affected applicants to certify that the services and products on this application will be solely used to restore the network to the same pre-disaster degree of functionality;
- Require affected applicants to certify that any duplicate funding (i.e. insurance, FEMA, community resources) in excess of 90% of the cost for products or services requested on this application will be returned to the Universal Service Fund;
- Provide flexibility and rule waivers to allow applicants to dispose of equipment, obtain service substitutions to redirect funding where it is needed, allow transfer of services and equipment to other buildings, recognize that students may be transferred to other buildings;
- Waive documentation retention requirements for affected applicants;
- As noted above, the period of time for using the E-rate funding for disaster recovery should be extended to accommodate the time frame of the reconstruction efforts.
- The FCC should also ensure, if it has not done so already, to appoint a liaison with the Federal Emergency Management Agency who is familiar with E-rate and who can assist applicants.

We offer further clarification to our Initial Comments that, as in the Katrina Order, applicants should be required to solely use funds to restore the network to the same pre-disaster degree of functionality. We recommend that applicants should be required to restore the network to the current industry standard of functionality in place at the time of restoration. Experience

from Hurricane Katrina shows us that it can be years before a network is restored and technology likely will have evolved during that time. Schools and libraries should not be required to restore their networks to the pre-disaster degree of functionality if in fact a different cost-effective functionality exists and is considered the industry standard at the time of restoration.

SECA supports the comments made by ALA in identifying the library and school as anchors of communities. In the aftermath of Hurricane Katrina we saw libraries become FEMA application centers and communications centers as evacuees re-established connections with their families in other areas. Schools that were still open took on more students, which caused a need for increased bandwidth and other resources.

We reiterate our comments and support the comments of the Iowa Department of Education[42] that recommend using the Katrina Order as the roadmap for emergency procedures going forward. However, depending on the disaster, it may take years to rebuild. Aid from other programs was slow to reach the rebuilding states after Hurricane Katrina, and eight years later there are still areas that have not recovered from the storm. Therefore, we humbly request that the Commission provide E-rate funding to rebuilding entities using the official rebuild timeline to establish deadlines rather than the "cookie-cutter funding" year approach. Disaster relief should remain in effect until Disaster Recovery has been declared by the federal government. We understand the need for time parameters and propose that relief should expire five (5) years from the date of the disaster declaration, but extensions for applicants who show cause should be permitted.

E-rate Central pointed out the challenges of site substitution and equipment disposal in implementation of the Katrina Order. [43] We support the suggestions that the Commission allow equipment disposal for removal of damaged equipment. Additionally, in some cases entities were

---

[42] Iowa Department of Education Initial Comments , 17
[43] E-rate Central Initial Comments , page 9

forced to merge or exist together in a building. Entity substitution issues were a nightmare. If students are forced to migrate to another school during the funding year because of a disaster, it is logical to assume that the increase of population will increase the need for bandwidth resources. Currently, a school is not allowed to increase bandwidth during a funding year because it is a violation of competitive bidding rules. An emergency procedure should allow increase of resources where needed without penalty to the host entity. This affects libraries as well. Those libraries that became centers for FEMA applications as well as communication centers stretched their resources to the extreme to serve refugees and needed increased bandwidth for some time.

Although we used Hurricane Katrina as an example, these points can be made for any natural disaster. One of the central tenets of the E-rate program is the school and library as anchor institutions. During a disaster these institutions become crucial to the rebuilding and the re-settling of displaced citizens. We ask the FCC to implement these procedures as an integral part of the re-establishment of the community unit.

XV. The Per Pupil/Per Building Funding Proposals Raise Many Questions And Concerns That Have Not Been Adequately Addressed By Proponents.

As Alice Munro, 2013 Nobel Prize recipient for Literature has stated, "The complexity of things — the things within things — just seems endless." This apt statement encapsulates the situation that the FCC is facing with respect to the per pupil/per building funding allocation proposal.

Funds For Learning ("FFL"), the E-rate Reform Coalition ("ERC"), and some school districts[44] have proposed and/or supported significant changes in the structure of E-rate based on annual per student or per library budgets or funding limits for each applicant. The proposed structure, it is argued, provides fair and flexible access to E-rate funding by all applicants in a

[44] Additional filings include Initial Comments by Miami-Dade County Public Schools and early, template-based, Reply Comments.

manner that is both cost-effective and easy to implement within the current USAC's current procedures and systems.

SECA supports the concepts of fairness, flexibility, and simplicity in the E-rate program, but questions whether such goals can be achieved under the FFL/ERC proposals. SECA questions, for example, whether "fairness" can best be defined by budgetary equality or, as has long been the case in E-rate, by basing discounts -on applicant's actual cost of service. As discussed below, SECA is also highly skeptical of FFL/ERC's claims of simplicity in implementing its proposed changes.

Were the Commission to seriously consider FFL/ERC's conceptual approach, a number of details would have to be resolved. We assume that before undertaking structural changes of this magnitude, the Commission would undertake additional analysis and seek at least one round of public comment on the proposed details. These following analysis is intended to highlight the many areas of concern — including changes in applicant incentives which could thwart the most important FCC goal of adequate and affordable broadband deployment throughout our nation's schools and libraries.

Undoubtedly, the following is only the start of the questions which would have to be addressed to turn FFL/ERC's concepts into a viable regulatory E-rate system.

1. How would total available funding be established each year?

FFL/ERC proposes to calculate the total available funds each year, *prior* to the opening of the application window, based on the inflation-adjusted annual E-rate collection cap plus roll-over. This amount would then used to calculate the school/library funding allocation, the school Funding Floor, and the per-student and per-library budget caps. What rules and/or procedures would have to be changed to accomplish this? In particular:

- Currently the carry-forward decision is made in the second calendar quarter of each year. 47 C.F.R. §54.507(a)(3)(ii). Under the new proposal, this decision would need to be made in the third quarter of the prior calendar year, to provide sufficient time to perform the required calculations. What would have to be changed to advance the USAC/FCC's roll-over

determination by roughly three-quarters of a year? At least in the first year, wouldn't this greatly reduce the availability of unused funds? This appears to require a rule change.

- How would the per-applicant accumulation of unused funds (see below) affect the USAC/FCC's ability to identify funds available for roll-over?

- If funds are to be pre-allocated using the FFL/ERC formulas, which are based on available data for the total number of K-12 schools and traditional public libraries (or, perhaps more appropriately, on estimates of the actual number of eligible applicants rather than the lower number of actual applicants), how conservative will these projections have to be?

- To avoid being overly conservative, leading to a greater underutilization of available funding, would the FCC reconsider taking advantage of the recurring ADA exemption (and perhaps advocate for a permanent exemption) to permit the over-commitment of funds? Otherwise this proposal would definitely exacerbate the current challenge regarding committed but unused funds.

2. How would – or even should --- available funding be split between schools and libraries?

The FFL/ERC budget calculations start by splitting the available funding between schools and libraries. Conceptually, we question whether the E-rate funding pool should be split into two parts (or into three parts to accommodate another FFL/ERC proposal to set aside a specific amount of funding for state networks). Accepting the 2-3 part funding allocation, the following questions arise:

- To the extent not all schools and libraries apply for E-rate, do the allocation formulas result in an excessive funding set aside which will aggravate the utilization problem?

- Are the average funding requirements of a school and a library roughly equivalent, particularly for the subset of libraries that confine their funding requests to telecommunications services in order not to be subject to CIPA?

- The school site count is limited to K-12 sites. What about separate educational service agency (ESA), Head Start, Pre-K, juvenile detention, and adult education sites which are eligible in many states?

- Does the school site count assume that NIFs (or NIFs with classrooms) are ineligible?

- Does the library count[45] include only traditional public libraries, or does it also include the many special purpose, but public, LSTA-eligible libraries? How would the funding needs of regional library systems (the equivalent of school ESAs) be addressed?

3. Would budget caps adequately reflect real differences in service costs between individual applicants?

The FFL/ERC proposals reflect only one allowable circumstantial difference between applicants, namely the doubling of the budget cap factor for schools (but not libraries) located in "remote rural" areas. This raises questions and issues such as the following:

- Why is there a special remote rural provision for schools, but not for libraries?
- Are there other real differences in costs of services between applicants, other than geographic school location, which should be considered? Realistically, other factors might include:
  - Startup costs for new schools or libraries
  - Cost of living factors, such as in large urban areas (particularly with prevailing wage requirements)
  - School construction (e.g., cabling costs for older buildings)
- Is a doubling of the budget cap in remote rural areas appropriate? If not, is it too high or too low? Note the following:
  - Under the current funding structure, rural applicants in the mid-matrix discount rate bands enjoy a slight advantage over urban applicants, but all can apply for discounts on the full costs of their eligible services. Thus cost differences between rural and urban areas are not an issue at all. Under the FFL/ERC remote rural cap proposal, a major advantage would be given to certain rural applicants.
  - The proposal to double the cap on remote rural schools is based on the assumption that their telecommunications, Internet and equipment costs are about twice that of other applicants. Where is the evidence to support this? SECA members are aware of schools in many small, rural communities where these costs—while somewhat higher—are not nearly twice as much. Conversely, there are rural areas (e.g., Alaska) where costs are well beyond twice as much as urban areas. It is certainly not clear that the average costs of all eligible, non-telecommunications, services are double. Further, broadband costs in remote rural areas are likely to fall with ongoing support from the Connect America Fund.

[45] Note that the proposed library budget calculations, with respect to both total library funding and individual library budgets, is critically dependent on the assumed number of libraries to be covered.

4. **How do you count students and allocate school funding?**

The FFL/ERC Per-Student Budget Calculation for Schools starts with the United States K-12 Student Population of 53,988,330 --- a deceptively precise number. This number, of course, changes every year. But that is far from the only problem. As a start, the following questions arise:

- In many — but not all — states, just as with sites as discussed above, ESA, Head Start, pre-K, juvenile justice, and/or adult education students are considered eligible for E-rate purposes. Wouldn't these students — particularly the growing number of Head Start and pre-K students — have to be incorporated in the total student count on a state-by-state basis?

- Many ESA students attend their ESA schools part time and attend classes in their home districts other times. For per-student budgeting purposes, would such double counting (which is not a problem under the current system) be permitted, or would the funding per student need to be allocated between the ESA and district? How would that work? Wouldn't that under-allocate funding to both organizations?

- How do you count students for new schools which have no students at all when they first apply for E-rate? Would it be appropriate to use the Funding Floor in these cases?

- With a slight adjustment for remote rural schools, the formula for calculating the Funding Floor for "small" schools is essentially based on providing those schools with a cap equal to the average amount any school could obtain. Note that based on this math, a "small" school might have up to 464 students.[46] Is this a small school?

- More importantly, this funding formula just doesn't work. Given the total amount of school funds available, this providing average funding to all small schools would means that not enough dollars would remain to fund the larger schools with more than 464 students. How is this workable? If the "smaller" schools receive average funding, the "larger" schools can't receive above average funding. Assume, for example, that 75% of the U.S. K-12 school sites have 464 or less students, and the remaining 25% of the schools average 900 students. Then the total requirement for school funding, using the FFL/ERC numbers and ignoring the extra funding for rural remote schools, would be over $4.5 billion compared with $2.7 billion deemed available for schools.[47]

  To make the math work, the Funding Floor for smaller schools would have to be administratively set below the average funding available for all schools; an accurate estimate would have to be made of the number of schools qualifying for minimum funding; and the Per-Student Budget Factor for the larger schools would have to be calculated

---

[46] Based on the FFL/ERC formula, "small" size really means average size, i.e., the K-12 student population divided by the number of K-12 school sites (53,988,330 / 116,240 = 464) or, almost equivalently, the funding floor divided by the per-student budget cap ($31,422 / $67.65 = 464).
[47] The calculation is 75% of school sites times the funding floor, plus 25% of school sites times 900 students times the per-student budget cap ((.75 x 116240 x 31,422) + (.25 x 116240 x 900 x 67.65) = $4,510,431,660)

accordingly. This is not an impossible task, but the estimation process would be somewhat more complex and less precise than suggested by the FFL/ERC formulas. [48]

5. How would library funding be allocated?

Early FFL proposals for per-student school funding incorporated a per-patron equivalent for library funding. The use of a per-patron measure would avoid the requirement to split total program funding into school and library parts, but raises other questions that FFL apparently recognized, including:

- What is a patron?
- Must it be someone with a library card? If so:
  - Do all libraries have cards?
  - How would PIA validate card counts?
  - Would libraries, like credit card companies, start mailing out unsolicited cards?
- Would it be based on the population within a library's boundaries? If so:
  - Does even a traditional public library have a defined service boundary or a defined service population?
  - How would a main library and its branches be handled?
  - How would more special purpose libraries -serving a diverse patron base be handled?
  - How would regional library systems be handled?
  - How would PIA validate these patron counts?

Given all these questions, FFL apparently decided to go with a simpler per-site budget approach. This is clearly simpler, but it grossly distorts the adequacy of funding for various sized libraries. We expect that the size difference between library sites varies by at least two orders of magnitude. The one overriding question is: Can this be fair?

Note that the individual library budget amount ($30,536) calculated in the FFL/ERC proposals (to be applied to <u>all</u> libraries) is less than the small school Funding Floor ($31,422). Note

[48] One other small problem with the FFL/ERC funding formula is that the remote rural adjustment factor appears to be incorrect. Instead of (total schools – rural schools) / (total schools), we believe it should be: (total schools) / (total schools + rural schools).

also that the FFL/ERC proposals make no mention of doubling the budget amount for remote rural libraries.

SECA believes that funding budgets for libraries have not been adequately addressed in the FFL/ERC proposals and would have to be reconsidered. There are probably other per-something approaches for libraries (e.g., size expressed in square footage), but all would seem to raise questions of their own.

6. How would an individual school or library Form 471 application be structured and reviewed?

Based on the existing Form 471 process, and given that an individual applicant has a single pre-discount budget, an applicant would have to allocate its available funding between different FRNs. Here are some questions that would arise:

- As both FFL and ERC point out, many applicants today are applying for less funding than would be available to them under the proposed budget cap. In some cases, this may be because Priority 2 funding opportunities are simply not available. In other cases, however, it may be because they don't need additional eligible services. How would applicant filing incentives change under the FFL/ERC proposals?

  SECA's concern is that the budget cap would come to be seen as an entitlement, encouraging applicants to apply up to their budget caps. Pressure to do so would come, not only internally, but from vendors and other third parties. Eliminating the priority funding structure and expanding the eligible services list, as proposed by FFL/ERC, would fuel the move to full cap requests, which has the potential to exacerbate issues of waste, fraud and abuse. On the other hand if the total amount of available funding was not requested, the amount of unused funds would be carried forward, which would exacerbate and not improve program efficiency.

- Once funding is requested on a per FRN basis, will an applicant have an opportunity to re-allocate FRN funding for other than a clerical or ministerial error? Such permission would be consistent with the concept of budget flexibility, but might create procedural complexities. For example:
  - On a pre-commitment basis, would a decision by PIA to deny or reduce funding for one FRN permit an applicant to shift the affected funding to another FRN?
  - On a post-commitment basis, could funding be shifted between FRNs as actual expenditure levels are realized?

- If the re-allocation of FRN funding is not permitted, how would this affect an applicant's filing strategy? Our sense is that it would encourage applicants to conservatively allocate

funding requests to existing services with known funding requirements. Applying for twelve months' worth of new high bandwidth service, which might not actually be installed for six months while an application was under review, would be a waste of that year's E-rate budget resources.

Important Note: A budget cap process, which would discourage applicants from applying for new services, would be inconsistent with the Commission's broadband goals.

Another implication of a funding mechanism encouraging conservative estimates of FRN requests is that it may complicate the vendor SPI process (and the applicant budget process). Currently, the best applicant strategy for requesting FRN funding is to estimate slightly above expected needs so that actual funding needs are not exceeded. For recurring services, and from a vendor perspective, this avoids the need to terminate discounted bills midway through a funding year. FRN-by-FRN budget caps, requested conservatively, would turn this strategy on its end.

- How would the FFL proposal to permit "applicants to roll over unused funds from one year's budget to the next for up to two years" work? In particular:
    - Would this apply to both recurring and non-recurring services?
    - How would PIA determine the reasonability of a funding request for the same or similar service in a subsequent year without knowing how much funding was, or was to be, used from a previous year?
    - How would invoicing be administered if an applicant's discount rate changed from year to year?
    - Would this provide an additional incentive for every applicant to apply up to its funding cap each year?
    - Would this place an additional burden on USAC to process service substitutions, SPIN changes, service delivery date extensions, invoice deadline extensions, etc.?
    - Wouldn't this essentially create a pool of unused funds attributed and controlled by each applicant? If so, what impact would this have on USAC and FCC determinations of available funds for annual roll-over purposes?
- To what extent would the implementation of any of the FFL/ERC proposals have on the design of USAC's IT systems and the timing of its overhaul?

7. How would consortium applications be handled?

It is clear from the E-rate 2.0 NPRM that the FCC recognizes the importance of consortia in meeting its goals of cost-effectiveness and broadband deployment. It is less clear, as in the case with libraries, that the FFL/ERC budget proposals have paid adequate attention to the problems inherent with applying budget caps to consortia. FFL/ERC propose that consortia funding be handled in either (a) by setting aside a specific portion of each year's total available funding for

state networks, and/or (b) by requiring consortium members to "assign all or portion of their applicant funding budget each year to…eligible consortia applying on their behalf." SECA is *very* concerned with the complexities and workability of such procedures. The following questions would have to be addressed:

State Networks:

- How would a "state network" be defined? Would a state network have to be a single integrated network run by a recognized state agency? Could it also include interconnected (or even standalone) state regional networks, perhaps run by ESAs?

- How much of total available funding each year would be set aside for state networks? Would it be a fixed amount or a fixed percentage? Would the funding set aside come from the school and/or library portions of available funds as calculated in FFL/ERC's proposed allocation formulas? If a set aside was dependent on the nature of a consortium's membership, how would it apply to a consortium made up of both schools and libraries?

- Would each consortium be subject to some type of budget cap? Would such a cap also be based on per-student or per-library calculations? How would such allocations work for consortium made up of both schools and libraries?

- Would an attempt be made to equate per-site budget caps for consortia to match those of individual schools or libraries? What complexities would this introduce in the calculations of individual applicant budget caps or in the total school/library/consortium allocation? If consortium budget caps were not equal to individual applicant caps, how would the difference be established?

- Would different procedures and funding amounts apply to state networks funded directly by the states and those funded directly or indirectly?

Applicant Apportionment:

- How practical would it be to obtain agreement from all consortium members to forego a portion of their individual budget caps for the benefit of one or more consortia? Would a consortium be able to refuse membership to a potential member not willing to allocate a preset or minimum portion of its budget cap? Even, how much of a disincentive would this entire budget allocation be for consortium leaders and/or members because of this increased layer of complexity and responsibility?

- Recognizing that many consortium applications include multiple FRNs, often with overlapping member participation, wouldn't member budget cap assignments have to be made on an FRN-by-FRN basis? If so, how difficult would it be for consortium leaders and consortium members to coordinate funding cap allocations in the final stages of application preparation?

- How will consortium discount rates be calculated? If the process for setting individual applicant discount rate for schools or districts is changed to a total student matrix discount,

would a school-based consortium discount still be based on a membership average? If so, would this continue to be a simple average, or would it have to be weighted to reflect different percentages of member budget cap allocations to avoid giving equal weight to members.

- How will consortium applications be processed? Most specifically, what will PIA have to do to confirm that the budget cap for a consortium, or worse yet for each consortium FRN, does not exceed the amount allocated to that consortium by each of its members? Will this mean that a consortium application will not be reviewed until all individual member applications are reviewed? How would this encourage consortium applications?

For all of the above reasons, SECA believes that the FFL/ERC proposals would prove to be a major disincentive to consortium applications.

8. How would the Eligible Services List and category priorities be realigned under the FFL/ECR proposals?

As a part of a goal of increased applicant flexibility, FFL/ERC proposes, not only to eliminate the distinction of Priority 1 and Priority 2 services, but to expand the number and nature of eligible products and services. SECA agrees with some of these proposals including the elimination of the Two-in-Five rule and the need for giving equal priority to certain basic Internal Connections equipment. SECA questions, however, whether the expansion of the Eligible Services List would advance the Commission's, the President's, and the Congress' goals for broadband connectivity.

In conclusion, SECA believes that the FFL/ERC per-student (and per-library) proposals represent an intriguing alternative to the current E-rate funding process that is fraught with complexities and inequities that would have to be addressed first in a thoughtful and holistic manner before it could ever advance from concept to reality. The seemingly simple changes to CFR Part 54 suggested by ERC in its Appendix A are illusionary.

SECA has real reservations about whether the proposal would help facilitate achievement of the proposed goals of E-rate. To the contrary, we believe that the proposal would increase program complexity and would not establish any opportunities for streamlining. At the very least before such a proposal can move forward, the numerous questions and issues raised above would have to

be addressed at a much more detailed regulatory and procedural level and with considerable input from the school and library community.

Should the Commission decide to pursue the conceptual reform advocated by FFL/ERC, SECA believes that a preliminary step should be to convene an E-rate community task force comprised of federal and state representatives, applicants, service providers, and consultants. The objective of the task force would be to fully explore the feasibility of a budgeted funding mechanism and, if feasible, to develop the basis for a subsequent Notice of Proposed Rulemaking. SECA, through its membership, would be pleased to participate in this effort should it be undertaken.

XVI. Conclusion

The State E-rate Coordinators' Alliance respectfully requests the Federal Communications Commission to adopt an Order consistent with the recommendations set forth above.

Respectfully Submitted by:

/s/ Gary Rawson

Gary Rawson, Chair
State E-rate Coordinators' Alliance
Mississippi Department for Information Technology Services
3771 Eastwood Drive
Jackson, Mississippi 39211
601-432-8113
Gary.Rawson@its.ms.gov
November 8, 2013