



April 9, 2018

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Modernizing the E-rate Program for Schools and Libraries – WC Docket No. 13-184
Schools and Libraries Universal Service Support Mechanism – CC Docket No. 02-6
Ex Parte Submission

Dear Secretary Dortch:

The Schools, Health & Libraries Broadband Coalition (“SHLB”) supports the recent filings, initiated by the *ex parte* notice of March 16, 2018 submitted by the Ohio Information Technology Centers (“Ohio ITCs”), concerning the problematic and inconsistent guidance from the E-rate administrator concerning the drop-down menu and the FY 2018 approach for requesting competitive bids for various Internet access service options.¹ We applaud Ohio ITCs for meeting with Commission staff to explain and raise awareness of this very important issue in mid-March – an issue that has not yet been resolved.

This issue is of preeminent importance to ensure FY 2018 applicants are not unjustly denied funding, and to make much-needed revisions to the FY 2019 Form 470 online application so the problem does not recur in the upcoming application cycle.

The confusion stems from changed requirements for how to request Internet service bids on the FCC Form 470. In August of 2017, without warning or cause,² the FY 2018 Form 470 choices for applicants seeking Internet access services changed dramatically, and not in a logical,

¹ State E-rate Coordinators’ Alliance Ex Parte Letter (March 19, 2018); Funds for Learning, LLC Ex Parte Letter (March 19, 2018); CSM Consulting Ex Parte Letter (March 20, 2018); Kellogg and Sovereign Ex Parte Letter (March 20, 2018). SHLB’s diverse members, which include a range of participants and interested groups involved with E-rate, including school and library applicants, service providers, consultants and outreach organizations, all agree that the FY 2018 Form 470 bidding process for Internet service was confusing and may have impeded robust competition.

² In past years, whenever the FCC Form 470 was approved by OMB in accordance with the Paperwork Reduction Act, there were accompanying instructions developed and submitted for approval. The Paperwork Reduction Act provides for prior notice and opportunity to comment on forms and instructions. Since no instructions were submitted, there was no such forum for input. Moreover, after the originally approved Form 470 was developed and implemented in the online filing system beginning in FY 2016, there was a mid-course change in the directions and definitions of how to post service requests for Internet access service. Had there been published instructions these substantive changes would have been required to be submitted to OMB for approval, and there would have been prior notice and opportunity to comment.

streamlined or simplified way.³

Prior to FY 2018, there were two relatively straightforward ways to request Internet service bids – one option where the request was for a bundled end to end service and the other option where the request was to purchase direct Internet access that did not include a circuit (commonly referred to as bandwidth or commodity Internet).

In FY 2018, however, the FCC Form 470 dropped the single, combined option for ‘bundled Internet’ and instead required applicants seeking Internet delivered via fiber to select “Leased Lit Fiber” and then describe in the narrative section that they were seeking X amount of Internet bandwidth delivered via fiber. To be unequivocally clear, applicants requesting Internet service delivered over fiber had to somehow know to select the service description – “*Leased Lit Fiber*” that did not include the word “*Internet*.”

The changed requirements created confusion where previously none existed, and now creates the very real concern that funding denials will result from applicants’ failure to understand and implement the new requirements. This is **not** simply a ministerial change. There is an important correlation between Form 470 applications and Form 471 applications. Services that are requested for funding on Form 471 must be supported by an establishing Form 470. If there is a mismatch, and the requested service was not included on an establishing Form 470, this may be grounds for denial of funding.⁴

To rectify this situation, SHLB has two specific requests that we encourage the FCC to swiftly implement:

- With respect to **FY 2018 pending Form 471 applications**, we support SECA’s recommendation that there be a “hold harmless” solution that allows applicants to rely on posted Form 470s for Internet access service as long as their cited Form 470 has at least one Internet service request or one leased lit fiber service request. This approach will reward applicants that were able to follow the new guidance while at the same time not penalize applicants that posted for Internet in the same way they have done in prior years.
- For the **FY 2019 Form 470**, SHLB encourages the FCC to quickly instruct USAC to modify the Form 470 service request options to ensure they clearly describe the services being requested, and that the services are displayed in a logical order. Such direction is needed as soon as possible as the FY 2019 Form 470 must be available on July 1, 2018. Continuing to utilize the FY 2018 Form 470 drop down options should not be considered, no matter how much outreach is conducted to applicants and service providers.

³ See SLD News Briefs of August 22 and 25, 2017.

<https://www.usac.org/sl/tools/news-briefs/preview.aspx?id=786> (August 22, 2017);

<https://www.usac.org/sl/tools/news-briefs/preview.aspx?id=788> (August 25, 2017).

⁴ The change in Internet Access Service requests on the Form 470 have contributed to the complexity of the application process rather than promoted simplification. By inadvertently failing to comply with obscure and confusing guidance, applicants have been presented with another “gotcha” that may turn into grounds for denial due to a ministerial oversight.

Our **preferred approach** is to reinstitute a single description of bundled Internet access service to be inclusive of all types of circuits including both fiber and non-fiber circuits such as **“Internet Access Bundled with Circuit (including Fiber and Non-Fiber Circuit such as cable modem, DSL, etc.)”** This language makes clear that this service request includes Internet service that may be delivered over any type of circuit, including fiber.

If our preferred approach is not acceptable, then we recommend an **alternative approach for FY 2019** as set forth in the below chart.⁵

FY 2019 FORM 470 CATEGORY 1 PROPOSED SERVICE REQUESTS	
TRANSPORT CIRCUITS	Leased Lit Fiber Circuit
	Non-Fiber Circuit(s) (not including Internet Access), such as copper, satellite, fixed wireless, microwave, etc.
	Leased Dark Fiber and Leased Lit Fiber (must bid both)
	Self-Provisioned Network (Applicant Owned and Operated Network) and Services Provided Over 3 rd Party Networks (must bid both)
INTERNET ACCESS	Internet Access Bundled with Leased Lit Fiber Circuit
	Internet Access Bundled with Non-Fiber Circuit, such as cable modem, DSL, etc.
	Internet Access: Bandwidth Only (no circuit included)
	Internet Access: Cellular Data Plan/Air Card Service
OTHER	Category 1 Network Equipment of a Dark Fiber or Self-Provisioned Network
	Category 1 Maintenance and Operations of a Dark Fiber or Self-Provisioned Network
	Other

We believe that both options for FY 2019 clearly set forth the specific categories and subcategories of Internet Access and Data Transmission service, along with ancillary services and equipment, and faithfully implement the 2014 E-rate Modernization Orders. Further, the

⁵ Regardless of which option is accepted, the modification should govern only the FY 2019 Form 470 since the form expires on December 31, 2018. The next version of the FCC Form 470 data collection should be subject, at a minimum, to the Paperwork Reduction Act’s prior notice and opportunity to comment. Given the importance of this issue, SHLB encourages the FCC to issue a Public Notice to invite comments on the next version of the FCC Form 470 even before the proposed version is initially submitted to OMB for review. This will enable all interested parties to offer their suggestions.

Unlike the current OMB approved submission that contains only general field descriptions, the new version of the form must contain the specific options and choices for Category 1 Needs or Services Requested. This is the only way in which interested parties will have the opportunity to provide meaningful comment before the data collection is finalized. Also, this will ensure that any future substantive changes to the Category 1 service requests from one year to the next cannot and will not be implemented without first providing notice and opportunity for comment, and also obtaining OMB approval.

proposed service options are ordered/grouped in a more logical manner and provide accurate, yet plain-language descriptions of the services that all applicants – particularly the smallest, less technology-savvy schools and libraries – can understand.

We hope that our proposed solutions to address the concerns we have described above are met with favorable consideration. We look forward to meeting with FCC and USAC representatives to further discuss these recommendations and encourage the Commission to act quickly on these recommendations.

Respectfully submitted,



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