

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**In the Matter of:**

Modernizing the E-Rate Program for  
Schools and Libraries

WC Docket No. 13-184

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**REPLY COMMENTS OF  
THE E-RATE MANAGEMENT PROFESSIONALS ASSOCIATION**

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**INTRODUCTION**

The E-Rate Management Professionals Association (E-mpa®)<sup>1</sup> respectfully submits reply comments on the Commission’s Notice of Proposed Rulemaking regarding the establishment of a permanent Category 2 budget cap, and the potential transition to a systemwide budget, replacing the five-year “per entity” budget in place from FY 2015 until FY 2019.

E-mpa was struck by the near unanimity of opinion regarding many of the issues brought forward by the Commission, and we will summarize those points here, with a sampling of the corporations and organizations who commented on the issue.

**A SHORT SUMMARY OF COMMENTS**

The overwhelming majority of the commenters who expressed an opinion stated that the 5-year budget should be continued. Commenters in support of the 5-year budget included the American Library Association (ALA), the E-Rate Management Professionals Association (E-mpa), the Council of Great City Schools (CGCS), Funds for Learning (FFL), the Education Super Highway

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<sup>1</sup> The E-Rate Management Professionals Association (E-mpa) is an association of E-rate professionals and consultants whose mission is to promote excellence and ethics in E-rate professional management and consulting through certification, education and professional resources. E-mpa members assist one-third of E-rate beneficiaries with their applications.

(ESH), the California Department of Education (CDOE), Kentucky Department of Education (KDOE), West Virginia Department of Education (WVDOE), the Statewide E-rate Coordinators Alliance (SECA), the Schools, Health and Libraries Broadband Coalition (SHLB), the California Educational Technology Professionals Association (CETPA), the State of Alaska Department of Education & Early Development (Alaska) and many others.

Most of the commenters, including those cited above, endorsed the 5-year budgetary block, rather than the rolling budget method.

Most of the commenters responded that the new budget should not be delayed until FY 2021, but should start in FY 2020.

All of the commenters cited above, except for CETPA and the CDOE, believe that the Commission should move to a “per district/system” basis, instead of the “per building” basic currently in use.

Last, there was unanimous agreement, among those expressing an opinion, that Basic Maintenance of Internal Connections (BMIC), Managed Internal Broadband Services (MIBS), and Caching should continue to be eligible for discounts. In addition, many commenters advocated for the inclusion of Next Generation Firewall Services in future ESLs (E-mpa, FFL, ESH, CDOE, KDOE, SECA, SHLB, WVDOE, and others).

There was broad support for increasing the per pupil allotment, but variance in the amount of the recommended increase.

E-mpa, SECA, SHLB, FFL and CGCS advocated for a minimum increase to \$250.00 per pupil level, whereas WVDOE, CDOE, ESH, and CGCS advocated for “more” without a set figure.

Finally, there was broad support to raise the minimum building amount to at least \$25,000.00, with E-mpa, SLHB, SECA, and the CDOE supporting an increase to \$30,000.00.

## ELIGIBILITY RESTRICTIONS VERSUS BUDGETARY RESTRICTIONS

The E-Rate Modernization Order that established the Category 2 budget also significantly winnowed the Eligible Services List, phasing out voice services, and removing web hosting services and email services from Category 1, and removing voice hardware, video hardware, file servers and email servers from Category 2, in an effort to reduce the demand on the program. Broadly speaking, the strategy was successful. The 2 in 5 Rule, implemented in the 3<sup>rd</sup> Report and Order, was implemented to restrict the years in which an applicant could apply for Category 2 services. Both approaches were, at a high level, attempts to restrict what an applicant could receive funding for, or when the applicant could receive funding for it. This approach, while successful in the past, became unnecessary with the implementation of the Category 2 budget.

Numerous commenters, in the past, and in this NPRM, have advocated for the inclusion of various products or features into the ESL (e.g. advanced firewall features, DNS/DHCP servers) and the Commission, rightfully concerned about the effect of that inclusion on the sustainability of the fund, has declined to expand the ESL. E-mpa replies that the Category 2 budget, at a high level, not only obviates the need for harsh eligibility restrictions, but allows the Commission to allow a wider ESL with the surety that the Category 2 budget will do its job and protect the Fund from applicant overspending.

## STREAMLINING SUB-CATEGORIES

EducationSuperHighway<sup>2</sup> commented under “Merge or Eliminate Subcategories,” that the existence and administration of subcategories of service within Category 2 leads to confusion and denials. E-mpa agrees and recommends that the Commission Collapse the Category Two categories of Internal Connections (IC), Basic Maintenance of Broadband Internal Connections (BMIC), and Managed Internal Broadband Services (MIBS) into a single Category Two category.

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<sup>2</sup> <https://www.fcc.gov/ecfs/filing/10816989913595> (Education Super Highway Comments, WC 13-184, Aug 16, 2019)

E-mpa<sup>3</sup> had previously raised similar points in comments to the FY 2019 Draft Eligible Services List last year for consideration and expands on this discussion as follows.

### DENIALS OF SERVICE

Applicants frequently purchase a piece of hardware and do not realize they need to select Category Two: BMIC at the same time they select Category Two: IC. Additionally, manufacturers have moved support services to the cloud and frequently require operating licenses that have functionalities of all three: IC (operating software), BMIC (software downloads and fixes), and MIBS (network monitoring). Manufacturers also sell their licenses as a single price that may cover the equipment for up to five years. If the applicant did not select all three possible functionalities from the drop downs on the Form 470, USAC will have to deny some of the funding request. If more than one year is included in the license, USAC must also determine what portion is related to the operating software license which is allowed multi-year funding compared to the BMIC and MIBS portions which are only funded for one year at a time. The administrative time spent determining these costs and removing them from the E-Rate applications is significant.

For example, an applicant purchases a network switch for \$2500. The license that provides software fixes and network management costs \$250 and covers the equipment for a period of five years. The USAC reviewer must determine how much of the license is operating software, maintenance, or network management and monitoring. They must also then allocate out 4/5 of the cost of the BMIC and 4/5 of the cost of the MIBS. For purposes of this exercise, assume that the applicant did not select MIBS, but they did select IC and BMIC on their Form 470. Also assume, that after several weeks of inquiries and discussions with the manufacturer, it is determined that \$50 is for the operating software, \$120 is for software fixes and downloads, and \$80 is for network management of the switch. Since the applicant did not select MIBS on their Form 470, USAC will need to remove \$80 from the request. The \$120 for maintenance must be moved to a separate FRN and divided by 5 to determine the allowable amount for the year = \$24 and then divide by 12

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<sup>3</sup> <https://ecfsapi.fcc.gov/file/10911790015476/EMPA%20FY%202019%20Reply%20to%20ESL%20Comments%2C%2009-7-2018.pdf> (E-mpa Reply Comments, 13-184, September 12, 2018)

to list this service as recurring service of \$2/month. The remaining \$50 for operating software is considered IC and may remain with the original cost of the switch which results in the original pre-discount amount of \$2500 plus \$50=\$2550. The amount of administrative time to make all of these changes and then to monitor the minimal remaining eligible \$2.00 per month charge for the BMIC over the funding year is significantly greater than the \$80 that was removed for MIBS, the \$96 that was removed for 4/5 of the maintenance cost or the \$2/month that has to be moved to a separate FRN and tracked monthly throughout the year.

If this same piece of equipment was installed at the district's network operations center, the administrative complexities are compounded as the costs must then be allocated across all the sites in the district. In the example above if the switch is installed at the network operations center, the operating license maintenance portion of \$2/month would have to be allocated across all of the school sites who share the network switch. Assuming there are 10 school sites with allocation evenly divided, the maintenance alone would be allocated  $\$0.20$  per school site per month  $\times 10 = \$2.00/\text{month} \times 12 = \$24/\text{year}$ .

E-mpa members have worked on applications where literally cents are distributed to the various supporting school sites which must be tracked during installation and implementation then all documentation saved for at least ten years. Under the current rules, all of this administrative work must be performed in order for the applicant to purchase a functioning piece of equipment.

### **PROCUREMENT FLEXIBILITY**

If an Applicant wishes to procure maintenance services for eligible equipment that they own, and selects C2: BMIC on their Form 470, a service provider who wishes to provide an alternative MIBS solution is discouraged from doing so because MIBS was not selected on the Form 470 and USAC will not be able to approve funding for the MIBS funding request. This is an unintended consequence in that the MIBS solution may actually be more cost effective than the BMIC service.

### **PROPOSED SOLUTION**

E-mpa comments that the solution to eliminating confusion and excessive administrative costs for Category Two funding is as follows:

## **ELIMINATE THE SUB-CATEGORIES OF CATEGORY 2**

Collapse the Category Two categories of Internal Connections (IC), Basic Maintenance of Broadband Internal Connections (BMIC), and Managed Internal Broadband Services (MIBS) into a single Category Two category. This would give USAC the flexibility to make more administrative changes and significantly reduce denials of funding due to applicants not making the correct selections on the Form 470 for Category Two sub-services.

## **CATEGORY TWO: RECURRING AND NON-RECURRING**

In the 3<sup>rd</sup> Report and Order, the FCC indicated that they wished different service delivery windows for different types of service. Adding the designations, “Recurring” or “Non-Recurring” would allow the program to retain the granularity and specificity that the FCC implemented in 2003, while giving USAC significantly more flexibility during PIA to make these minor administrative changes and reduce the number of denials. In short, with this solution, USAC reviewers will have the flexibility to alter Funding Requests from C2: Recurring to C2: Non-Recurring, or vice versa, as appropriate, where currently they cannot alter funding requests from C2: BMIC to C2: MIBS of C2 if the applicant did not properly select these sub-services on the original FCC Form 470.

## **ADOPT A REBUTTABLE PRESUMPTION THAT ALL CATEGORY 2 EQUIPMENT REQUESTS INCLUDE A REQUEST FOR THE MAINTENANCE OF THOSE PRODUCTS**

Since maintenance should always be included with new products, it is best practice and industry standard that all equipment includes maintenance of the product. There are various levels of maintenance that can be required from a standard warranty to on-site maintenance of the equipment. However, in all cases, there will be at least some maintenance included with any purchase of Category Two equipment. For example, if an applicant purchases a router, E-mpa proposes that the FCC would presume that the applicant may wish to either purchase maintenance on that product or as a minimum there will be a standard manufacturer’s warranty included at no additional cost.

## SUMMARY

E-mpa appreciates the opportunity to file these reply comments, and applauds the Commission's hard work and dedication in seeking the broadest constellation of comments from the larger community before issuing its rulemakings. E-mpa supports the overwhelming majority of commenters who advocated for the permanency of a five-year Category 2 budget, the rejection of a transition year for FY2020, the need for increased budget multipliers and building minimums, and the transition to a school district-wide or library system-wide budget. E-mpa agrees with the commenters that called for the expansion of the Eligible Services List, although E-mpa recommends that an incremental approach would be best. Finally, E-mpa agrees with the EducationSuperHighway that sub-categories of Category 2 are unnecessary and result in unintended consequences of funding denials along with discouraging competitive solutions and options for applicants.

Respectfully submitted:



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Deborah J. Sovereign  
President, E-Rate Management Professionals Association  
[www.E-mpa.org](http://www.E-mpa.org)  
[dsovereign@kelloggllc.com](mailto:dsovereign@kelloggllc.com)  
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