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 CSM Consulting, Inc.
Regarding
FCC Notice of Proposed Rulemaking on Category Two Budgets FCC 19-58
September 3, 2019

CSM, Inc. ("CSM") is submitting these reply comments in response to the Commission's Notice of Proposed Rulemaking on Category Two Budgets (FCC 19-58). CSM thanks the Commission for providing this opportunity to comment on a critical source of technology infrastructure funding for schools and libraries ("applicants") nationwide.

CSM is an E-rate management firm assisting applicants throughout the country achieve and maintain compliance with the myriad of rules, regulations, timelines, and documentation requirements associated with the Schools and Libraries Program. We have been providing these services as a firm since 2003, though the firm's principals have been involved in the program since its inception as applicants and coordinators for school districts and county offices of education (also known as educational services agencies). We work with 384 school and library applicants including the Tennessee and Hawaii Departments of Education and California's statewide consortia of schools and libraries. In Funding Year 2019, we filed over 4,200 funding requests totaling over $250 million. Our client base consists solely of applicants including consortia and public, private, and charter school systems ranging from 21 to more than 200,000 students as well as individual libraries and library systems.

In 2017, CSM submitted extensive reply comments to the Commission's Public Notice DA 17-921.[1] Our position on these comments has not changed. In this filing CSM is joining with many E-rate stakeholders on the record to support making Category Two budgets permanent, to move to system-wide budget allocations, to increase the per-student allocation and increase the floor for small entities, and to make other changes that will enable schools and libraries to make the most effective and appropriate use of Category Two funding.

I. Make Category Two Budget Allocations Permanent

We agree with the vast majority of commenters[2] in support of making the Category Two Budget program a permanent change. Category Two has afforded predictable access to much-needed funding for on-campus broadband infrastructure for many, many more schools and libraries when compared to the historically oversubscribed and unpredictable Priority Two program.

II. Increase the Per-Student Budget to $250 and the Budget Floor for Small Entities to $30,000

As indicated by multiple comments in the record, the current per-student multiplier and budget floor are not adequate to meet the needs of most applicants.[3] While we understand the current budget multiplier may appear sufficient on the surface, the amounts requested on FCC Form 471 funding requests do not reflect the true demand for most applicants. Applicants make hard choices before they begin their competitive bidding process, knowing that at most, E-rate

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[1] See CSM Reply Comments: https://www.fcc.gov/ecfs/filing/110607195241.

[2] See comments of American Library Association ("ALA"), State E-rate Coordinator's Alliance and Schools, Health and Libraries Broadband Coalition ("SECA/SHLB"), California Department of Education ("CDE"), Pennsylvania Department of Education ("PDE"), West Virginia Department of Education ("WVDE"), E-rate Management Professionals Association (E-mpa), Council of Great City Schools ("CGCS"), EducationSuperHighway ("ESH"), Funds for Learning ("FFL"), Aruba, A Hewlett Packard Enterprise Company ("Aruba"), Cisco Systems, Inc ("Cisco"), Fortinet, Inc. ("Fortinet"), Vector Resources dba VectorUSA ("Vector"), among others.

[3] See comments of ALA, SECA/SHLB, CDE, PDE, WVDE, E-mpa, CGCS, ESH, FFL, among others.

will subsidize only a portion of what is needed. Consequently, applicants prioritize E-rate funding for their highest priority requests, deferring less urgent, but equally important projects to be funded locally.[4]

Furthermore, applicants have been instructed since the beginning of the Category Two pilot that funding requests in excess of their available budget allocations would be denied, and this is reflected as a common reason for denial for Category Two funding requests.[5]

CSM agrees with multiple commenters proposing to raise the budget allocation to $250 per student and the budget floor for small locations to $30,000. This increase will give applicants the opportunity to better plan for their hardware upgrades and to maximize leverage for internal budget cycles and applicant matching funds to expedite the implementation of next generation infrastructure critical for the success of their schools.

III. Move to System-wide Category Two Budget Allocations

Consistent with our reply comments to the 2017 Public Notice, and in support of multiple comments submitted,[6] CSM supports moving from individual per-school budget allocations to a system-wide budget allocation. As illustrated in the record, moving to system-wide Category Two budget allocations would vastly simplify the administration of Category Two funding and would be the single most effective improvement moving forward in a permanent Category Two program. System-wide budgets would offer applicants the flexibility to allocate funds where they are most needed and enable decision-making at the local level, which has been a long-established standard for school systems in the United States.[7]

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[4] See Appendix A: A Tale of Two Applicants.

[5] Per USAC's FRN Status Tool, a common reason for complete denial of a Category Two funding request is for failure of applicant to reduce a funding request to meet the Category Two budget allocation. See also comments of ESH (page five) and FFL (page seven): "Nearly a third of FY 2018 C2 applications were denied because applicants did not reduce the scope of their C2 projects to meet the per-site budget."

[6] See comments of ALA, SECA/SHLB, PDE, WVDE, E-mpa, CGCS, ESH, FFL, among others. CSM agrees with the budget calculation protocol proposed by SECA/SHLB in footnote 13 and WVDE on page nine.

[7] See PDE comments (page six) and the U.S. Department of Education website, https://www2.ed.gov/about/overview/fed/role.html: "Education is primarily a State and local responsibility in the United States. It is States and communities, as well as public and private organizations of all kinds, that establish

As highlighted in multiple comments, needs for infrastructure upgrades are often driven by factors such as age of facilities and distribution of buildings which cannot be easily associated with a simple enrollment factor.[8] Establishing a system-wide budget allocation would enable the applicant to allocate funding based upon factors that actually impact costs but are not easily observed or reported on the FCC Form 471.

Moving to system-wide budgets would greatly reduce the administrative burden for both USAC and applicants thus leading to faster commitments and utilization of funds. Faster funding commitments would allow schools to begin Category Two projects much earlier and use that valuable time during the summer when most students are not on campus to manage complicated network transitions/outages. It would also alleviate some of the post-commitment processes associated with extended service delivery and invoice deadlines, thus increasing program efficiency.

IV. Independent Charter Schools and Charter Organizations Should Have Their Own Category Two Budget Allocations

CSM wholeheartedly agrees with comments[9] submitted regarding sole access of Charter Schools and Charter Organizations as "Independent Charters" to Category Two Budget allocations associated with the schools they govern and operate. If state law considers a charter school or schools to be "Independent," USAC allows Independent Charters to be established as the Billed Entity ("BEN") of record with child schools having their own Category Two budgets. However, in other states where state law considers charter schools to be "Dependent," USAC requires that the child schools be associated with the chartering agency's Billed Entity Number ("BEN"), even when that agency (often a school district) is not the actual "Billed Entity" for the schools. This practice has forced the "Dependent" charter school(s) to structure their applications as consortia, when in reality, they do not meet the definition of consortia. This is a false outcome

schools and colleges, develop curricula, and determine requirements for enrollment and graduation. The structure of education finance in America reflects this predominant State and local role."

[8] See comments of CDE (page two), CGCS (page three), and FFL (page four).

[9] See E-mpa comments (page 10).

driven by the foundational parent/child structure in USAC's E-Rate Productivity Center Portal and, it is applied very inconsistently in application reviews.

CSM further asserts that if the charter school or charter school system is legally authorized to enter into contracts on behalf of its school(s), then it **is** the *de facto* "Billed Entity"[10] and thus is authorized apply for E-rate funding and receive discounts on behalf of its schools. The artificial structure dictated by USAC and EPC circumvents this fact. If the charter school (or charter school system) can prove that it in fact ***operates*** independently from its chartering agency/school district and has full authority in entering into contracts for service, then it follows that the Category Two budget allocation for its schools would be available only to the charter school(s), not the chartering agency/school district. Thus, it is appropriate to allow the charter school or charter school system to be established as a "School" or a "School District" Billed Entity in EPC with the associated Category Two budget for the school(s) it governs.

V. Category Two Services should be Eligible for Support at All Eligible Locations When Used Primarily for Educational Purposes

In our 2017 Reply Comments, CSM suggested that the Commission normalize the eligibility of entities across Categories One and Two, and that non-instructional facilities be should eligible for Category Two services to promote further program simplification. Our position has not changed and is supported by various comments[11] submitted to this NPRM.

The Commission's *Sixth Report and Order* made a permanent exemption from the requirement that eligible products/services be used **solely** for educational purposes when it adopted the "Community Use" provision. [12] Thus, we agree with commenters that if the activities

[10] See https://www.usac.org/sl/applicants/beforeyoubegin/entity-number.aspx.
[11] See comments from SECA/SHLB, PDE, WVDOE, FFL and E-mpa.
[12] See FCC-10-175A1 adopted September 23, 2010, paragraph 22: "We conclude that we should revise our rules to permanently allow schools to open their facilities, when classes are not in session, to the general public to utilize services and facilities supported by E-rate. Specifically, **we revise sections 54.503 and 54.504 of our rules to require applicants to certify that "[t]he services the applicant purchases at discounts will be used primarily for educational purposes**." (emphasis added). We also note that current guidance on USAC's website does not reflect this change to the rules and currently cites "for educational purposes" and not "primarily for educational purposes" (https://www.usac.org/sl/applicants/beforeyoubegin/eligible-services/educ-purposes.aspx).

at the eligible location receiving services meet the definition of being used “primarily for educational purposes,” there should be no requirement for cost allocation of Category Two funding for use at an eligible non-instructional facility. CSM further agrees with comments[13] stating that requiring cost allocation of cable drops associated with certain types of equipment are nonsensical if those drops are installed at an eligible facility and are being used primarily for educational purposes.

VI. Implementation of System-wide Category Two Budgets Would Effectively Eliminate the Equipment Transfer Rule

Consistent with our Reply Comments from 2017 and with comments to this NPRM,[14] we agree that the implementation of a system-wide Category Two budget allocation will enable applicants to deliver services where they are needed most to any of its eligible locations. CSM agrees that moving to a system-wide budget will render obsolete the ‘Three-Year Equipment Transfer Rule.’ We acknowledge that this in no way de-obligates the applicant from tracking the location of E-rate funded equipment for the minimum five-year period and that applicants must still comply with the ten-year documentation retention rule.

VII. Category Two Budget Allocations Should Be on a Fixed Five-Year Cycle Starting in Funding Year 2020

CSM agrees with comments[15] that support a fixed five-year Category Two budget allocation versus a rolling ‘look-back’ cycle effective Funding Year 2020. CSM also agrees that an upfront inflation amount be added to the per-student/per-square feet multiplier and budget floor at the beginning of the five-year cycle and not change until a new five-year cycle begins.

CSM does have some concerns about how effective a Funding Year 2020 Category Two ‘re-start’ would be if the FCC does not issue its rulemaking by November of 2019. With an

[13] See comments of PDE (page 20) and WVDE (pages four through six).
[14] See comments from ALA, SECA/SHLB, PDE, E-mpa, FFL, and Cisco.
[15] See comments from ALA, SECA/SHLB, PDE, WVDOE, E-mpa, and Cisco.

estimated FCC Form 471 window close in late March, any significant delays in releasing guidance on Category Two after November 2019 will impact many applicants' ability to effectively competitively bid and contract for services by the filing deadline for FY 2020, effectually creating a "four-year budget cycle".

As proposed in the NPRM, CSM supports the movement to make the inflation-adjusted per-student/per square foot amount an actual dollar amount by only extending the product to two decimal places. We have also found that the extended inflation-adjusted per-student/per square foot amounts have caused rounding issues in EPC, further confusing Category Two budget calculations.

While CSM agrees with commenters that 'locking in' a system-wide Category Two budget allocation in the first year of the five-year cycle is a good idea for simplification purposes, we see the need for applicants to have the ability to make updates when necessary during the cycle. Enrollment and square footage totals may fluctuate due to unforeseen circumstances and may be impacted by opening of new schools and libraries. CSM proposes that, in the event applicants deem it necessary, they may make adjustments to their enrollments and child entities during the five-year budget cycle, resulting in increases to their Category Two budget. However, if the applicant does not experience any substantial changes during the five-year period, they would not be required to make updates to their EPC profiles (enrollment or NSLP) until a new five-year Category Two budget cycle begins.

VIII. Category Two Equipment and Services Should be Consolidated Under a Single Category

CSM strongly agrees with commenters to this NPRM as well as historic comments in the record that all Category Two service types should be consolidated under a single category called "Category Two."[16] Elimination of the Two-In-Five rule *de facto* makes having separate subcategories under Category Two obsolete.

[16] See comments of SECA/SHLB, PDE, WVDOE, ESH, Cisco, and Fortinet.

IX. Reform Basic Maintenance of Internal Connections Funding Process

CSM agrees with comments[17] submitted about improving and streamlining the funding process for Basic Maintenance of Internal Connections ("BMIC"). Because of the effective elimination of the 'Two-in-Five' rule, we agree that it is no longer necessary to classify BMIC as a recurring service, when in fact many eligible service contracts consist of a one-time up-front charge. We also agree that any eligible multi-year agreements with a single up-front charge be treated similarly to how multi-year licensing agreements are treated.

CSM thanks the Commission and the Bureau for the opportunity to submit these comments and suggestions to help make the E-rate program more effective, efficient, streamlined and simplified for all constituents and we welcome an opportunity to discuss these and other ideas at your convenience.

Warmest Regards,
/s/
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[17] See comments of PDE (page 19), Aruba and Cisco.

Appendix A: A Tale of Two Applicants

What would it take for an applicant to do a full technology refresh using E-rate funding? By full technology refresh, we mean replacing firewall at the applicant's office, routers at the applicant's office and local sites, switches within school buildings, internal cabling, wireless controllers and wireless access points—all eligible under E-rate. We identified several applicants which had performed the competitive bidding process for a substantial systemwide refresh—of which we highlight two applicants here.

Applicant A is an urban school system of seven schools and a district office in Los Angeles with a Free and Reduced Lunch percentage of 94%, Category One discount percentage of 90% and Category Two at 85%, with a student population of 6,286 students. At $150 per student budget, the combined total category two budget for the entire district is $942,900. Competitive bids were evaluated for cabling, network electronics, and wireless access points. Several bids for all services combined were received and the lowest combined bid for all services was for $3.46 million. E-rate funding covered 27.25% of the total applicant project. Ultimately, the applicant chose to use E-rate funding for the cabling portion of the project and defer purchasing network electronics and wireless access points until they could secure additional local funding through a general obligation bond.

Even with awarding just the cabling project which was for $1.77 million, E-rate funding only covered 51% of the total cost of the project. The applicant chose to reduce the scope of the project and not to install as many cabling runs as needed and to eliminate some classrooms and common areas from the wiring project.

Had the full scope of the system-wide refresh been implemented, the per-student cost would have been $550.31. Even with the reduced scope containing just the cabling contract, the per student budget amount was $282.19. The applicant made tough decisions to eliminate needed services based on available E-rate Category Two funding.

Applicant B is a large suburban California school applicant with 61 school sites a student enrollment of 49,083 and a total Category Two budget of $7,540,492. The applicant is eligible for a 50% discount for both Category One and Category Two services and received a combined bid of $19,873,080 for a system-wide refresh for network electronics and cabling. Assuming all available E-rate Category Two funding is utilized, the applicant is responsible for $12.33 million considered over-E-rate budget in addition to the applicant share. The true per-student cost for this project is $404.89. To cover the shortfall, the applicant opted to use bond funding and applicant funds, as well as delay implementation on some components for up to two years to allow for adequate budget funding to be secured.

In both scenarios, the $150 per student Category Two budget allocation fell far short of the amount that would be necessary to cover the actual cost of the system-wide hardware upgrades. As a result, critical projects necessary for student education and state mandated testing were deferred and delayed until adequate funding was approved through alternate channels.