Before the
Federal Communications Commission
Washington, D.C.

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

Comments of Funds For Learning, LLC *on* the Draft Eligible Services List for FY2020

Funds For Learning® (FFL) appreciates the opportunity to submit comments regarding the Commission's draft Eligible Services List for Funding Year 2020. Additional comments regarding the eligible services framework may be found in our reply comments to the *Category Two NPRM.*

Category Two "Subcategories" Should Be Eliminated

Funds For Learning agrees with the majority of commenters to the Commission's Category Two NPRM that Managed Internal Broadband Services (MIBS) and Basic Maintenance of Internal Connections (BMIC) should continue to be eligible for Category Two discounts. If these services remain eligible on a permanent basis, the Eligible Services List (and E-rate funding application process) can be simplified by including the descriptions for these services as eligible services within a single Category Two section.

The current use of Category Two "subcategories" can be confusing to program participants, as it is common for the functionality of a single product or service to span multiple subcategories. For example, a Managed Internal Broadband service may include the operation and management of applicant-owned Internal Connections equipment but may also include services which have historically been classified as Basic Maintenance of Internal Connections, such as the installation software bug fixes, patches, and updates. While both functions are clearly eligible, applicants who do not include both subcategories on their Forms 470 are at risk of denial due to failure to include a complete description of services in their competitive bidding documentation. On the other hand, when applicants file Forms 470 which include line items in both the MIBS and BMIC subcategories (in order to ensure that a complete scope work is bid), it can then be difficult for bidders to interpret the applicant's intent (for example, does the applicant need BMIC for some components and MIBS for others? Do they instead need both types of services for the same equipment?)

Ultimately, the eligibility of a MIBS or BMIC service is inextricably tied to the *product or service being managed or maintained.* This treatment is identical to that of many other eligible Internal

Connections products, such as UPS battery backups or equipment racks/cabinets. We therefore see no reason why a separate subcategory is necessary for some services whose eligibility is tied to specific pieces of equipment but not others. Instead, we feel that program participants are better served by a single Category Two section of the Eligible Services List (and similar treatment on the Form 470) which lists the types of data distribution functionality eligible for funding (switching, routing, and wireless access, for example), and then indicates the eligible related components and services which can accompany those functions (maintenance, management, licensing, racks and mounting hardware, UPS devices, and so on.)

Basic Maintenance Should Be Treated as a Non-Recurring Service

The most common type of commercially available Basic Maintenance service for eligible Internal Connections equipment is a manufacturer service agreement. Sold as a one-time purchase for a particular coverage term, these agreements often include some combination of access to bug fixes, security patches, and software/firmware updates, basic technical support, documentation and other support resources, and extended warranty or advance hardware replacement services. In virtually all cases, these service agreements are tied to a specific piece of hardware and are sold using a part number or SKU in exactly the same manner as the purchase of the hardware itself.

Forcing all maintenance services to be treated as recurring services creates significant and unnecessary complexity for applicants, since the coverage period for manufacturer service agreements typically aligns with the installation (or in-service) date of the equipment being maintained. As an example, suppose that an applicant contracts for the purchase of ten new network switches (model SW-2424) along with ten one-year manufacturer service agreements for those switches (service part number SVC-2424-1Y.) Further suppose that applicant avails themselves of the opportunity to install the switches "early" (as early as April 1 per the FCC's *Seventh Report and Order*) and completes installation on May 1 prior to the Funding Year start date of July 1.

The terms of most manufacturer service agreements require that the service be started (or activated) from the time the covered equipment is installed or put in service. But when the E-rate program treats all maintenance services as recurring, the service delivery timeframe requirements for recurring services seriously complicate the application process. In our example above:

- Two months' service (May and June) would be ineligible since they would be rendered prior to the July 1 start date for recurring services.
- Ten months' service (July through April) would qualify for discounts during the Funding Year. The applicant would then need to renew the service coverage for another term, but would likely not have bid a service renewal 12 to 18 months prior.
- This pattern is exacerbated by the fact that applicants may not always be able to know exactly when their equipment will be installed, and they may also be renewing services for equipment which went into service at various dates in the past.

Manufacturer service contracts most commonly have coverage terms expressed in an even number of years (one- and three-year terms are common) where coverage is initiated upon the installation/activation of the covered equipment. The effect of treating maintenance contracts as recurring services is that that an applicant who needs uninterrupted maintenance coverage on its equipment it is always dealing with two maintenance coverage periods (and contracts, and possibly service providers or resellers) per Funding Year, unless it somehow manages to only install equipment on July 1. This problem manifests itself for the life of the equipment, since most manufacturers require coverage to be contiguous (e.g. service cannot be renewed if there is ever a lapse in coverage.)

We think that this complication can easily be avoided by allowing applicants to request discounts on maintenance services as a non-recurring charge, thereby allowing them to align the coverage period of their maintenance services with the installation/in-service date of the covered equipment (or the renewal of expiring coverage, as applicable.) As an ancillary benefit, this treatment would be identical to how the program currently funds right-to-use *software licenses* for equipment (which are also sold in coverage periods of one or more years from the in-service date of the equipment.)

Taken together, allowing maintenance services to be requested as non-recurring charges and collapsing the Category Two 'subcategories' into a single category would eliminate the need for the administrator (let alone applicants or service providers) to vet what "kind of license" is being purchased[1] and allow applicants to request E-rate discounts for software licensing and maintenance on an equipment lifecycle basis, which is consistent with how those services are sold and delivered in the marketplace.

Respectfully submitted,

/s/*John D. Harrington*

____

John D. Harrington
Chief Executive Officer
Funds For Learning, LLC

jharrington@fundsforlearning.com
405-341-4140

2575 Kelley Pointe Parkway, STE 200
Edmond, OK 7313

[1] https://www.usac.org/sl/tools/news-briefs/preview.aspx?id=882