**Before the**

**Federal Communications Commission**

**Washington, DC 20554**

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In the Matter of |

|

Modernizing the E-Rate Program | WC Docket 13-184

For Schools and Libraries |

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November 7, 2017

**Reply Comments of the US Educational Technology Purchasing Alliance**

**In Regards to;**

**Wireline Competition Bureau Seeks Comments on Category Two Budgets**

**US Educational Technology Purchasing Alliance**

The USETPA is a non-profit nationwide consortium that was originally founded in consultation with the North Carolina Association of School Superintendents. The consortium was founded with three goals in mind; to maximize member’s purchasing power, to streamline the procurement process, and to ensure legal compliance with state and local procurement laws and regulations.

The USETPA maximizes purchasing power through the issuance of RFP’s which are open to all state and local governments, K-12 education, libraries, community colleges (depending on individual state rules) and Head Start organizations. RFP’s are issued and managed for technology goods and services which includes E-Rate eligible as well as non-eligible items. We have successfully helped clients in 23 states obtain the best value for their needs. Our contracts include multiple choices in both manufacturers and channel partners. We actively aggregate demand and work to obtain greater discounts than those listed on our contract for everyday purchases. We believe that competition at all phases of the purchasing process yields the greatest discounts.

In order to streamline the procurement process, the alliance has issued competitively bid RFPs and corresponding E-Rate 470’s. Before forming the USETPA, we met with senior staff members at the FCC to discuss how E-Rate rules would apply to the consortium. After issuing RFPs and Form 470s, we then met with senior members of the USAC staff in order to obtain feedback and ensure that applications using the USETPA Form 470s would be E-Rate compliant and would therefore pass through PIA review without any holdup. In both instances, the USETPA found staff members to be very engaged and open in providing comment and guidance. The use of The USETPA Form 470 and USETPA RFPs has allowed numerous users to significantly reduce the time spent on the procurement process and allowed them to concentrate on determining which products and services represented the best value for their specific needs.

In order to ensure compliance with state and local laws, the USETPA sought guidance from the UNC School of Government (<https://www.sog.unc.edu/resources/microsites/local-government-purchasing-and-contracting>) and obtained their input into the formation of the consortium as well as the specifics of the RFP process. We were able to obtain their opinion that the USETPA meets the requirements of a competitively bid purchasing program (<http://www.usetpa.org/contracts.html>) . We further consulted with both our Washington based FCC law firm as well as local law firms in several states.

The US Educational Technology Purchasing Alliance has issued contracts that have proven to be a powerful tool for a wide array of technology goods and services. We have taken all of the necessary steps to ensure that are contracts are completely compliant with state, local, and E-Rate rules and regulations. Users of the contract have been able to successfully streamline the procurement process and ensure best value pricing while reducing the risk of adverse audit rulings and bid protest.

**Response to comments made by The Friday Institute for Educational Innovation**

The USETPA strongly supports the notion that the current $150 per student budget is not adequate for smaller schools. This is particularly true for small rural schools that need any significant amount of cabling upgrades to support high speed wireless access. The USETPA has a number of small public charter schools along with many private schools which have been unable to address but a small percentage of their upgrade needs based on the current funding formula.

The USETPA strongly supports the idea that consortia should have an expedited review process. We do not however believe that just because a contract is a state contract that it has been configured in a way that is most consistent with the use of tax dollars versus other public or privately managed consortia. The State of Idaho Internet contract that resulted in a bid protest, law suits and the loss of $21.8 million in E-Rate funding would be a good example of a state contract that did not work for its members.

The USETPA would suggest creating a formal program whereby consortia could meet with USAC staff and review Form 470s and RFPs ahead of time in order to expedite the review process. We have had success with this approach and believe that formalizing it into procedures would help empower group purchasing. All applications would of course still need to be subjected to some form of review to ensure individual compliance with such things as a properly conducted mini bid.

The USETPA strongly supports those states who have chosen to match the undiscounted share of Category Two purchases. This has been a great asset for empowering schools to get high speed wireless to students. We do not however believe that states should be allowed to mandate that applicants use any particular contract to access these funds. These mandates have the potential to limit competition resulting in applicants being forced to contract with vendors who do not represent the best value to the district or charter. This has often resulted in wasted tax dollars, poor service, a failure to properly address local needs and unnecessary constraints placed on Category Two budgets.

Over the past three years applicants in the State of North Carolina have been required to use the state contract in order to access matching funds. This was mandated without direction from the Legislature and was done at the sole discretion of the Department of Public Instruction. The result has been a lack of competition which has directly impacted the cost of equipment. Applicants could have received greater discounts using other contracting vehicles or by issuing their own Form 470’s. For instance, the discount on their contract for the manufacturer who holds the dominant share of the access point market in the state is 40%. Applicants could have received the access points from numerous well established partners at a discount between 48% and 52%. Over the three year period, this represented an overpayment of approximately $2.6 million in total funding. The overpayment was a waste of both taxpayer dollars and Category Two budget space.

Furthermore, the Friday Center states that their contract has a 59% discount from a major hardware manufacturer. The USETPA was able to obtain discounts between 65% and 70% for that same manufacturer in other states. This was done for both large and small applicants.

North Carolina Applicants also suffered from poor service as a result of state mandated contracts. The contracts were awarded without taking into account how many applicants might choose any specific vendor which resulted in some vendors being awarded more business than they could handle. As a result, the vendors had to subcontract out installation to third parties that had not been awarded a contract and with whom the applicants would not have independently selected to perform installation and configuration. This created unnecessary delays, exposure to audit risk (when equipment ID numbers did not match invoice numbers), and frustration from many applicants.

Furthermore, addressing networking decisions at the state level rather than the local level resulted in a lack of flexibility on what equipment would optimize the applicant’s network. A major national switch manufacturer was not included on the contract. This prevented at least one of the state’s largest districts from being able to access funds for its switches. It also does not take into account changing technologies as applicants are locked into the contract awards for the term of the state contract and thus discouraged from pursuing new solutions that might better suit their needs.

Mandating the use of a state contract (or any specific contract) limits competition in a similar fashion to allowing vendors to pay the undiscounted share of an award. The idea that a state agency is free from political or bureaucratic influences and will always act in the interest of individual applicants is not correct. States should not be able to use the lure of “free” money to impede the decision making process of applicants. Applicants should be encouraged to make decisions which lead to the best value for the applicant, the E-Rate program and the taxpayer. This can best be accomplished through competition and individual applicant choice of procurement methods.

In conclusion, the USETPA strongly supports the efforts of the FCC and USAC to make Wi-Fi available across the country. We believe that small rural schools in particular need additional budget allocations and that cooperative purchasing and consortia are a powerful tool which should be encouraged through expedited PIA review. We do not believe that it is in the applicant’s or the E-Rate program’s best interest for choices and competition to be unnecessarily limited.

Additional information and support documentation may be obtained by contacting;

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