

**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
Wireline Competition Bureau and Office of the Managing Director Seek Comment on
Improving FCC Form 470 Drop-Down Menu (DA 19-986)
November 15, 2019**

CSM, Inc. (“CSM”) is submitting these reply comments in response to the Commission’s request for comment on the FCC Form 470 drop-down menu selections. CSM thanks the Commission for asking for feedback on drop-down selections that are at best confusing and at worst cause unwarranted and unexpected funding denials of vital E-rate funds for schools and libraries.

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.

While few comments have been submitted to this proceeding, CSM notes that the comments of the State E-rate Coordinators Alliance (SECA) were developed with input from numerous stakeholder organizations. Therefore, CSM wholeheartedly supports the comments submitted by SECA and find that they offer a reasonable and practical course for making modifications to the FCC Form 470 drop-down menu selections. In particular, CSM agrees with SECA that any changes to the drop-down menu selections be consistent with the language and structure of the Eligible Services List and eliminate or minimize requirements that create “gotchas” to unwitting applicants leading to later funding denials or recovery actions. Overall, CSM feels that if the Commission adopts SECA’s proposals it will greatly assist both E-rate applicants and service providers better achieve success in the E-rate program.

CSM would like to address additional comments submitted to this proceeding.

I. Mismatch between Quantities Indicated on the FCC Form 470 and FCC Form 471 Should Never Be the Basis for Funding Denial

In their comments, both SECA and Centurylink voice concerns regarding the listing of quantities on the FCC Form 470, and CSM agrees that this has long been a problematic area of the form. For many E-rate eligible services, an applicant listing absolute quantities on an FCC Form 470 for the purpose of soliciting bids is futile when technologies proposed are based upon the unique characteristics of a service provider’s or manufacturer’s solution. Applicants may understand what services they need to achieve the results they are seeking, for example total bandwidth needed at a school or campus-wide WiFi, but how to achieve this and in what quantities is in reality up to the types of solutions proposed by the service providers.

One might argue how then can service providers understand the scope of what is to be bid? The answer is to review any Request for Proposal (RFP) documents, participate in bidding

events offered by the applicant, and to ask questions which are all part of the dynamic competitive bidding process. It is more common than not that there is substantial interplay during the competitive bidding process between applicants and service providers through a question and answer period, bidders' conferences, and/or site job walks. All of these activities assist bidders to better and more fully understand the needs of the applicant. The FCC Form 470 is limited in facilitating a competitive bidding process partly because it is a static form that lacks the flexibility required in conveying information needed for bidders, partly because the narrative sections of the form are very limited in character count(s) and types of characters that can be used, nor is it legally binding in any fashion. Most applicants choose to use a more comprehensive procurement process and other documents supplementing the limitations of the Form 470 to meet this need and the RFP, addenda, and service provider's bid become part of the legally binding agreement between the applicant and service provider. If an applicant's quantities listed on an FCC Form 471 are supported by the legally binding agreement resulting from an open and fair competitive bidding process, this should prevail over any quantities listed on an FCC Form 470.

Centurylink, a Category One service provider, recommends eliminating circuit quantities altogether because listing of quantities may limit the ability of service providers to bid. CSM agrees that it is more important to list the range of bandwidths sought by eligible location rather than prescribing the number of circuits needed. If the applicant has specific network requirements, this is typically described in the RFP as the FCC Form 470 is too limiting to convey this level of information to bidders. For Category One services, SECA also recommends listing minimum quantities "or greater" to allow applicants the flexibility to purchase additional quantities throughout the life of any resulting contract, if needed. CSM agrees that listing a minimum quantity as a best estimate and allowing for the applicant to order more or less than the estimate based upon its legally binding agreement offers a reasonable and consistent path for applicants and service providers alike.

In its comments on listing of quantities of Category Two products and services, SECA proposes allowing applicants to list estimated quantities "or greater" or to list the estimated number of buildings needing service. CSM agrees that listing estimated quantities "or greater"

will give service providers a good starting place to develop bids and will also give applicants the flexibility to order more or less based upon each service providers' proposed solutions and the applicant's available Category Two budget. As noted above, due to the limitations of the FCC Form 470, most applicants choose to convey additional information regarding services sought through an RFP or other document that is uploaded into the FCC Form 470. Due to each service provider's or manufacturer's unique proposed solution, quantities ordered may differ greatly than the estimates stated on the FCC Form 470. Furthermore, applicants may estimate how many devices fit within their Category Two budgets for the purpose of filing the FCC Form 470, but may actually order more devices if the competitive bids come in lower than expected. We do not believe that an applicant ordering more quantities than what was listed on the FCC Form 470 due to unexpected low pricing – this is after all the benefit of a competitive marketplace – should be penalized with any kind of funding reduction or denial simply due to a mismatch of quantities listed.

Based on the comments in the record, CSM asks that if the Commission retains a quantity requirement on the FCC Form 470 that it instruct USAC not to deny FCC Form 471 funding requests for quantity mismatch between the FCC Form 470 and FCC Form 471 if the legally binding agreement supports the quantities requested on the FCC Form 471.

II. Any Modification to Category One Drop-Down Selections Must Address Eligible Digital Transmission Services to Statewide Networks and within Statewide Networks

Both Centurylink and EducationSuperHighway (ESH), propose new drop-down selections that differentiate between Category One Internet Access and Wide Area Network (WAN) services. While we appreciate their efforts in offering simplified drop-down selections for schools and libraries, neither of these choices is appropriate for all E-rate eligible Category One services.

Currently, if an applicant connects to a statewide research and education network through a digital transmission service where the cost of Internet Access is not included in the cost of the service, the applicant has two choices on the FCC Form 470: "Leased Lit Fiber (with or without

Internet Access)" or "Transport Only – No ISP Service Included (Non-Fiber)." Furthermore, on the current FCC Form 470, there is no requirement for the applicant to state a purpose for the use of the service. Rather, this is reported under the FCC Form 471 funding request as “Data connection(s) for an applicant’s hub site to an Internet Service Provider or state/regional network where Internet access service is billed separately.” By limiting the selections to Internet Access Service or WAN Service, the proposed drop-downs do not clearly address this third option available to applicants who wish to connect to a statewide network with digital transmission service (that is not part of their “WAN”), and do not require Internet Access service. We are concerned this will again cause a mismatch circumstance for USAC’s review processes.

Furthermore, eligible middle mile digital transmission services within statewide networks do not fit into the Form 470 drop-down selections proposed by Centurylink and ESH. Middle mile circuits that do not include bundled Internet Access do not meet the description of Internet Service or WAN Service as defined in the Eligible Services List. CSM asks that if the FCC adopts the proposals of Centurylink and ESH, that there be additional drop-down choices that enable applicants to identify the options of connecting to a statewide network without bundled Internet Access and for statewide networks seeking middle mile connections.

III. Adding a Location Requirement in the FCC Form 470 Should Only Be Required if Locations are Not Already Listed in the Associated Request for Proposal (RFP) Documents and Other Administrative Considerations

USTelecom has requested that the FCC Form 470 be modified to identify the service delivery addresses of Category One services within the FCC Form 470 itself. While it is understandable that service providers need the service delivery addresses of eligible locations in order to formulate their bids, we question adding this new requirement as stated without also 1) providing alternative options to applicants that have formal bidding documents; 2) making modifications to USAC’s current treatment of entity profiles in the E-rate Productivity Center (“EPC”) and to address current limitations of EPC; and 3) addressing service delivery addresses that are not directly linked to a specific school, library, annex, or non-instructional facility (NIF)

in EPC. Note that in these reply comments CSM is proposing avenues of providing bidders information they need without creating additional “gotchas” that may harm applicants.

As previously mentioned, many applicants use Requests for Proposal (RFPs) or other formal solicitation documents in conjunction with the FCC Form 470. These documents are considered by most applicants and service providers as legally binding, while information presented in an FCC Form 470 is not. Therefore, if an applicant has an RFP or other solicitation document that lists service delivery addresses, the applicant should be able to refer service providers to those documents rather than identifying a separate list of service delivery addresses within the FCC Form 470.

If the FCC adopts USTelecom’s proposal to use current information in EPC entity profiles as drop-down selections for service delivery addresses on an FCC Form 470, there are important and perhaps unknown considerations that must be addressed. First, entity profiles are dynamic and are subject to change by the applicant or USAC on an almost daily basis except during the FCC Form 471 window when profiles are “locked” and then only USAC may make changes to the profiles at the request of the applicant through the Client Services Bureau. Furthermore, USAC performs a data push out and over-rides entity information each fall before the “Administrative Window” opens during a time when many applicants are posting their FCC Forms 470. We have grave concerns about the integrity of any data being pulled from profiles into the FCC Form 470 while these processes occur and whether there will be unintended consequences to the applicant if entity profile information changes while the FCC Form 470’s 28-day competitive bidding cycle is open.

We believe that USTelecom’s intent is for service providers to obtain reliable data on service delivery addresses for the purpose of formulating bids and we are concerned the EPC profiles are not currently structured to reliably capture this information. The current fields under “Contact Information” for each entity in EPC allow for only a physical address and a mailing address. In order to validate a school as an eligible entity, USAC requires that the physical address listed in EPC match what is formally on record with any state department of education for that school. However, a service delivery address for a school may be completely different

from its official physical address due to where the site's entrance facilities and service provider's demarcation point are located, even when on the same contiguous campus. Unless USAC makes modifications to the current profiles in EPC to allow for users to identify or add separate service delivery addresses, requiring applicants to use the information 'as is' will not provide the result desired.

Finally, there are eligible service delivery addresses that are not tied to any specific entity profile in EPC. For statewide and regional networks, connection points such as aggregation node and hub sites are not "entities" and thus would not be captured by an entity or annex address in EPC. If the FCC adopts USTelecom's proposal there will be a need to provide an alternative avenue to make this information available on the FCC Form 470.

CSM thanks the Commission, the Managing Director, 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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