



- A. The program should be competitively neutral as to technology, vendors, and procurement processes.
- B. The educational interests of the applicants should guide determination of which services are eligible or ineligible.
- C. Cost effectiveness of current technology solutions for the applicant should govern the determination of eligible services, not whether services are leased, purchased or secured with a lease/purchase option.
- D. Where there is conflict between these principles, the outcome should be determined in the best interests of the applicant.

The EED believes these principles should be guiding factors in any decisions related to program improvement. They are principles that should work to simplify administration, ensure equitable distribution of program funds and reduce fraud, waste and abuse.

## II. Answers to Requests for Comment

### A. Application Process

- a. **What changes to the eligible services process should the Commission implement that relate to the application process and will serve to improve program operation and oversight of the program?**

In Paragraph 14, the Commission requests comment on the efficiency and fairness of the process now in place for determining the eligibility of particular products and services. 47 U.S.C. Section 254(h)(2) specifies that “[t]he Commission shall establish competitively neutral rules [emphasis added].... to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms, health care providers, and libraries; and ...to define the circumstances under which a telecommunications carrier offers its network to such public institutional telecommunications users.”

EED submits that SLD through its Program Integrity Assurance (PIA) office has brought such specificity to the eligibility list as to make it bewildering to applicants. Instead of delineating eligibility by function and allowing the use of any equipment and service which will accomplish that function, PIA lists separate pieces of equipment which it then notes may or may not be eligible according to specific uses. While some of these equipment decisions are publicly listed in the Eligible Services List (ESL), others are maintained by PIA in an operational handbook.

The effect of this listing is to drive applicants in Alaska toward applying for older technology with proven eligibility status or to put design and decision making into the hands of vendors who presumably would have more experience in finding "safe" equipment or services. Cost effectiveness takes second place to ensuring that services will at least meet the eligibility test.

In addition, the EED believes that an early interpretation of a November 20, 1997 policy statement from the Schools and Libraries Corporation Board of Directors regarding the “educational purpose” of the program as bringing E-rate connectivity to the classroom, has produced unintended consequences. In trying to ensure that large administrative and clerical networks were not funded to the detriment of the actual school buildings, the eligibility list has consistently been interpreted as though the word "educational" were actually "instructional". Thus some employees, who work with children or supply direct support to those who do, are not eligible to use the basic telecommunications services which would make their jobs easier and more effective. School bus drivers may not carry E-Rate supported cell phones to help with safety issues on ice-coated roads during long dark arctic mornings and afternoons although students could not be instructed or educated without being delivered to school. Maintenance men may not have supported phone

service although students may not gather in a building whose furnace boiler has frozen. Nurses' phone lines have to be deducted from a building's E-Rate request although they provide crucial support services.

It is our belief that the business of a school district is education and that all who contribute to that education, whether they instruct, council, feed, transport, coach, manage, discipline, repair, install, clean or provide other services that allow children to learn should be included in the definition of education. Allowing support for all sections of a school district which offer either instruction or support for that instruction would not expand the definition of eligibility to home schooling or other types of child care institutions.

It would also have the effect of simplifying the application process for schools which would not need to sort through the bewildering (to a neophyte) set of eligibility rules or the equally obtuse phone bill in order to determine the correct amount to request for E-Rate support. Service providers would receive the same relief in figuring the eligible amounts of bills. More importantly, PIA staff could stop requesting and then perusing reams of phone bills, looking for minor mistakes in listings of eligible lines. This change would provide better service and streamline work for schools and libraries, service providers and the SLD.

**b. Should the FCC require a computer list of eligible services that is accessible online? If so, what is the feasibility of such a system? How often should it be updated and how can interested parties provide input on an ongoing basis?**

As identified above, EED believes that functionality is the most important principle governing the eligibility of services and products. We do not favor a specific list of approved products. Products are not approved for unlimited use, some uses may be eligible, others not. This has led to tremendous confusion among E-rate applicants who, referencing the current eligible services list, cannot discern whether the item in question is eligible.

It would appear that there is no way to keep such a "laundry list" up-to-date without disadvantaging some applicants. Will those who sign contracts early be able to void them and sign new ones when a cheaper and more effective technology appears on the list late in the application process? Will a small vendor with a new technology who either does not know to or can not afford to have his product vetted by the PIA lose business because it does not appear on the list?

The maintainance and timeliness needed for such a list would necessitate personnel assigned directly to it. Would such personnel need specialized training before becoming arbiters of what is and is not allowed as technology advances?

- c. Should the Commission reconsider or modify the current selection of products and services eligible for support in the E-rate program?**
- d. In particular, should the Commission improve the selection mechanism by changes in its current eligibility policies regarding (a) Wide Area Networks, (b) wireless services, and (c) voice mail?**

Yes, the Commission can improve the selection mechanism by changing its current eligibility policies regarding these specific services. These changes should include:

1. Eliminate the distinction between purchased and leased services and between wired and wireless access;
2. Include transport components whether purchased or leased, as part of Priority 1 services;
3. Simplify application processing.

Wide Area Networks (WANs): Wide Area Networks (WANs) are used by school districts to deliver standard curriculum districtwide, to communicate between far-flung buildings, to ensure access of all students and staff to the same resources, to coordinate activities and records and to supply Internet access. These are legitimate educational needs for school districts and should not be eliminated. In Alaska, as in other states with poor rural school districts which cover enormous geographic areas, the district WAN is the only practical way to connect schools and efficiently deliver services.

These same districts are almost always the ones least able to fund such networks. The ability to lease the needed equipment and arrange contracts which include maintenance of service quality agreements has allowed them to offer services to staff and students in all the schools of the district. In remote locations in which infrastructure has never existed before, there are now classrooms doing research on subject matter for which resources had not previously been available and students are experiencing in real time what life is like in other places. WANs deserve to be maintained as Priority 1 services because the service they provide is the primary goal of the program.

Currently, if applicants need a WAN, it would be foolish to attempt to build their own network since Priority 2 items that tie a network together are less likely to be funded. Program history suggests that while all applicants have been able to count on Priority 1 telecommunications and Internet services, Priority 2 internal connections are not funded as broadly. This leads applicants to understand that if they want to maximize their discounts, thereby reducing their costs, they need to utilize Priority 1 services as often as possible. For WANS this means leasing whatever is offered from a telecommunications provider.

The current policy is also unfair because it holds applicants' hostage to the abilities of their telecommunications carriers. If the telecommunications carrier does not have the capital and infrastructure to provide an applicant a solution for their needs, the applicant has no option available to them.

The EED recommends a policy change that would help to solve this problem. First, eliminate the current rule stating that purchased WANs are ineligible since the only justification for it seems to be that it is competitively advantageous to telecommunications carriers. Second, change the distinction between Priority 1 and Priority 2 to reflect transport vs. internal connections, not telecommunications and Internet vs. internal connections. This would allow purchased parts of transport functions to be classified as Priority 1.

Enacting these recommendations will improve the efficient use of program funds because applicants will be able to utilize the most cost effective alternative available, not simply the most discountable alternative. This will reduce the funds allocated toward a particular project leaving more funds for other applicants. It will not significantly increase demand on the fund because that demand is already increasing as applicants and state coordinators have become familiar with the *Tennessee* and *Brooklyn* Orders.

Finally, these recommendations will provide effective oversight to prevent waste, fraud and abuse because applicants will be able to apply for the most cost-effective solution to their needs, not that which is most likely to be discounted.

Wireless: Wireless solutions are often used by rural schools and libraries for whom wireline technology is not an adequate solution and by older schools and libraries with asbestos concerns. However, the current Priority 1 and Priority 2 distinction causes most cost effective wireless solutions to suffer from the same discrimination identified in the WAN discussion above. If the FCC included the components necessary for wireless transport in Priority 1 because their use is external to the building, rather than distinguishing what a district buys vs. leases, the competitive nature of the service solution will be greater. Further, those schools and libraries for whom there is no wireline solution would have a reason to apply for E-rate funds. This would broaden the pool of applicants to include some which have never applied before. This would begin to help extend access into last mile areas.

Voice mail: The Commission notes at Paragraph 18 of the Notice of Proposed Rulemaking that “[t]he increasing need for, and prevalence of, voice mail as a way of communicating with school and library staff for educational purposes raises the issue of whether voice mail, which serves a similar purpose as email...should also be eligible. The EED appreciates the Commission’s recognition of the important role voice mail holds as part of the continuum of service to students, parents and patrons and agrees with the Commission that allowing voice mail as an eligible service would improve the operation of the program. It is burdensome on the applicant to break out voice mail charges as a component of a basic phone bill, and it is burdensome on the ADMINISTRATOR to verify that voice mail has not been included in the discount request, particularly given the costs involved. It is most likely that the costs associated with review by both on the applicant complying with the policy and the ADMINISTRATOR in verifying compliance with the policy is a greater cost than the voice mail service would add to requests.

However, it is important to note that the inefficiencies associated with reviewing an application to assure that voice mail is not included in the discount request also apply to a number of other services listed on a basic phone bill including E911 service, and unlisted phone numbers. In the past year, SLD has reclassified several services which were once considered ineligible; ie., custom calling services (3-way calls, forwarding, waiting, etc.) calling cards, directory assistance, access to 911, homework hotlines that are not voice mail, direct inward dialing, 900-976 call blocking, and 800 service. Items NOT ELIGIBLE for discount which routinely show up on a basic services bill are 900 service,

911/E911 trunks or lines, burglar alarm telephone line, directory advertising, directory listing, and a fire alarm telephone line. Ironically, the bulk of these items are concerned with the safety and security of the students while they are at school. For administrative efficiency, it is also reasonable to consider allowing these expenses as well. Service providers, including large corporations such as BellSouth and small LECs such as the members of the Alaska Telephone Association, have indicated that these additional services are indeed a minor portion of an average phone bill. The additional costs of these services are small in relation to the cost of reviewing, verifying and refiguring phone bills for providers, applicants and the Administrator..

**2. Should the Commission allow for Internet Access when bundled with content subject to rules requiring consideration of cost, reliability and other factors where price is the primary factor?**

At Paragraphs 19-21, the Commission requests guidance on the current policies regarding Internet Access when bundled with content. The EED believes the current policy of the Commission is appropriate. If program staff need to simplify the items and services which must be reviewed in order to make the program more efficient to administer, it is not reasonable to add the extensive review which would be needed to make decisions as to what kind of content could be allowed.

**3. Should the Commission change the current application review policy of utilizing a 30% benchmark when reviewing funding requests that include both eligible and ineligible services?**

At Paragraphs 22 and 23, the Commission requests guidance on the current application review policy, its benefits and burdens and possible alternatives. Although the answer to this question could be very different if the eligibility list were to be reoriented toward functionality rather than specificity, the EED believes that it is very difficult for applicants who are not telecommunications specialists to always distinguish what is and is not eligible. As such, the 30% benchmark policy has provided some degree of comfort to those who warily list a service in a request. The limited flexibility of this decision process serves to decrease the administrative burden of reviewing and denying applications. Applicants have worked with this percentage for two years now and seem satisfied with it. The EED believes this benchmark should be utilized unless and until the underlying structure of the eligibility process is changed.

**4. Should the Commission incorporate provisions to require compliance with statutory requirements of the Americans with Disabilities Act (ADA) as a condition of receipt of universal service discounts?**

At Paragraphs 24 and 25, the Commission requests guidance regarding applicant conditions for discounts. It has been proposed by the National Council on Disability states that the FCC should “revise its E-rate application form and Web site to include the specific requirement and assurance from schools and libraries that they will adhere to federal accessibility mandates. In addition, FCC and DOJ should ensure that recipients of federal funds under the E-rate program for the past three years comply with federal accessibility mandates.” (National Disability Policy: Progress Report November 1999- November 2000)

The EED applauds the National Council on Disability in its far-reaching and comprehensive advocacy on behalf of persons with disabilities. The EED is aware of the concerns raised by advocates that the laws for which it is seeking compliance, particularly the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act, have been difficult to enforce.

Nonetheless, the E-Rate program is concerned with telecommunications transport and with infrastructures. Most of those elements of the program for which discounts are paid are intangible and cannot be touched. Indeed, there is a maxim common to E-Rate applicants that if a child can put their hands on "it", "it" isn't eligible. End user equipment, which should be ADA compliant, is not E-Rate eligible. Schools/libraries are already working toward compliance with state and local ADA regulations. The need for a checkbox on an E-Rate form seems superfluous and trying to enforce "ensure" mandates would only add to the cumbersomeness of the program.

## **B. Post Commitment Program Administration**

### **a. Should the Commission specify that service providers must offer applicants the option of discount or completing a Billed Entity Applicant Reimbursement (BEAR) Form?**

At Paragraphs 30-31, the Commission requests comment on whether program rules should clarify that applicants should have the option of a discount or completing a BEAR Form. The EED urges the Commission to specify this choice in program rules. As the Commission recognizes, there are instances where applicants are being forced into payment arrangements that are burdensome and difficult for them. In addition, applicants face the problem of delayed payment in the BEAR Form process, even when the applicant has confirmed that the service provider has received the check from the Administrator.

The EED acknowledges that administratively there may be instances where small service providers are burdened by the multi-step process that occur when an applicant chooses to complete a BEAR Form. However, an additional programmatic change can accommodate provide a streamlined process for applicants and service providers. This change would allow service providers to assign BEAR payments directly to the applicant rather than the current two-step process of payment to the service provider who, in turn, pays the applicant.

As identified in the Notice of Proposed Rulemaking in paragraph 31, in certain cases, service providers have failed to remit these payments to applicants until well past the currently proscribed 10-day limit. The option of direct assignment would also reduce these occurrences and would decrease the need for enforcement measures related to BEAR payment remittals.

The most efficient way to accommodate the BEAR process is by implementing direct assignment to the applicant. This would reduce the time within which an applicant receives payment and the administrative burden on the service provider and the Administrator. It would reduce the administrative burden on the service provider by eliminating the need for the service provider to both deposit one check and send another check to the applicant. It would reduce the administrative burden on the Administrator by eliminating the need for the Administrator to shepherd the check delivery process on behalf of applicants.

**2. Should the FCC establish rules prohibiting or limiting transfer of equipment to other eligible entities for three years? One option would limit transfers to every three years. Another option would prohibit requests for discount every two years.**

In Paragraphs 33-36, the Commission expresses concern that some recipients are replacing, on a yearly or almost-yearly basis, equipment obtained with universal service discounts, and transferring that equipment to other schools or libraries that may not have been eligible for such equipment. In addition, it offers some potential solutions to this activity, which could be considered unfair to other applicants.

The EED prefers the option of prohibiting requests for discounts every two years when the prohibition is site specific (individual school/library), applies to only non-recurring costs (such as removable equipment) and does not interfere with ongoing maintenance or yearly agreements. This restricted application option would be simple to implement, since all applications identify affected sites and the Administrator can electronically validate each site for which a discount has been requested. The computer system could block or flag additional non-recurring requests every other year for each site which would make compliance automatic. Trying to enforce a limited transfer rule would set up new enforcement guidelines and audit situations, thus increasing administrative costs and efforts.

**C. Appeals**

**1. Should the Commission extend appeals to 60 days and deem an appeal filed on the date it is postmarked instead of the date it is received?**

The EED strongly supports the Commission's willingness to entertain the appeal extension and the postmark date as the filing date. Since the inception of the program, E-Rate applicants and their state coordinators have pled for an extension of this time. In places such as Alaska where mail delays are frequent, the hardship of meeting delivery

deadline was recognized early by the FCC and led to the changed rule for filing application forms. The appeals process is a legal step applicants take to resolve issues they feel were inadequately addressed by the Administrator. However, most applicants are neither telecommunications nor legal experts and they have been frustrated by the streamlined 30-day appeal window available to them. Applicants do not want to file frivolous appeals. Without time to research the issue and understand the context in which a decision was made, it has been necessary to file appeals simply to maintain the applicants' rights.

In addition, since almost every other E-rate deadline has been based on the postmarked date, such as the filing deadlines for the Form 470 and the Form 471, some applicants have been confused about the differing deadlines for appeals. The EED greatly applauds the Commission's flexibility and willingness to incorporate these changes to assist applicants participation in a process mostly foreign to them.

## **D. Enforcement Tools**

### **1. Independent Audits**

In Paragraphs 54 and 55, the Commission seeks comment on improving oversight capacity to guard against waste, fraud and abuse. Specifically, it seeks comment on a proposal requiring "independent audits of recipients and service providers at recipients' and service providers' expense, where the Administrator has reason to believe that potentially serious problems exist, or is directed by the Commission." (NPRM at 59)

Although a great deal of comment is generated by both SLD staff and groups of E-Rate coordinators and applicants whenever this topic is brought up, the evidence from reports of auditors already working within and without the program that actual fraud and abuse occurs is minute. Wasteful practices are probably more prevalent, but can most often be blamed on the complexity of the application process and rules coupled with the dire consequences for failing to perform perfectly during the process. Punishing students with the loss of service because of the administrative shortcomings of one or two individuals seems excessive. In determining remedies we should remember the purpose of the program.

Although it is obvious that such a large program may attract fraud and abuse, lack of evidence indicating that it is widespread makes such serious steps unsupportable. Far more justifiable would be the use of punitive fines for those who are found guilty of fraud or abuse during an audit process. However, given the complexities of the application process and the arcane knowledge needed to avoid mistakes, added to the untrained personnel who are saddled with the application process in many small applicant situations, the bar for establishing willful intent to defraud should be set very high.

## **E. Unused Funds**

### **1. General Overview**

In Paragraphs 59-62, the Commission describes the current funding commitment process and comments on the fact that a significant amount of committed funds remain unspent, 18% from the first year (NPRM at 60) and around 29% from the second year as of June 30, 2001. The Commission requests suggestions for administrative modifications that would improve program operation to ensure a fair and equitable distribution of funds, or to guard against waste, fraud and abuse.

The EED offers suggestions for several program improvements that would increase participation, streamline program administration and guard against waste, fraud and abuse.

Establish a mid-point cost estimation standard or +/- 10%: Some costs can not be exactly figured at the time of application. All applicants quickly learned that the only way to be sure of covering a year's worth of fluctuating bills is to use the largest bill as the multiplier for monthly cost. This, of course, results in larger requests than necessary, but from the applicants point-of-view is a sound fiscal approach.

Allow applicant's access to previous year's 471 forms: Often applicants are applying for the same services each year for the same set of eligible entities. In order to streamline the process for both applicants and Administrator's staff, a simple change of allowing applicants to update their 471 forms from previous years would reduce the administrative burden for the applicant and the Administrator. In addition, another field could be inserted to the on-line process so that an application field that was identical to a previous year's application could be flagged as a duplicate. Since an approved 471 form from previous years would have already passed minimum processing standards, this would simplify the process significantly. A use of this same process at the field for Attachment documents would allow PIA to note that the contract for the service in question is an ongoing contract with no changes and does not have to be re-examined. Because the funding process pools applications and does not use a first-come, first-served allocation, these applications would not be favored in the funding allocation process. This improvement would not require a rule change.

Offer applicants the choice of reducing the administrative burden of the Form 486: According to the Administrator, "the Form 486 informs the Fund Administrator, the Schools and Libraries Division of the Universal Service Company, when the Billed Entity and/or eligible entities that it represents is receiving, is scheduled to receive, or has received service in the relevant Funding Year from the named Service Provider (s). Receipt by the Administrator of a properly completed Form 486 triggers the process for Administrator to receive invoices." (Administrator Form 486 Instructions, July 2001) There may be cases where the applicant continues to need the protection that the Form 486 affords. However, there are many services, such as ongoing phone services, which applicants receive regularly for which this additional step is merely a burden.

Therefore, the EED recommends that the Administrator offer applicants the option of completing the requirements of the Form 486, including the Children's Internet Protection Act (CIPA) compliance, on the Form 471. These could be included as specific

check boxes next to each described service and CIPA certification could be included in a format similar to the technology plan certification. This change would simplify the application process while maintaining program integrity regarding CIPA compliance and appropriate utilization of services. This improvement would not require a rule change.

Reform the Form 470 Competitive Bidding Process Requirements: The Administrator stated in its trainings this year that the primary reason for funding denials is an applicants' inability to comply with the E-rate Program's competitive bidding requirements, particularly the 28 day window. The EED recommends that the Commission institute a review of the Form 470 with a view toward streamlining the process for the applicant without losing the impetus toward competition. When the program was implemented there was a presumption of a "growing competitive marketplace" of which schools and libraries were expected to avail themselves. (Universal Service Order, Paragraph 575) In addition, to further expand the reach of competition beyond local competitors, the Commission required that an application describing the school or library's technology needs should be posted on a website maintained by the program administrator. (Universal Service Order, Paragraph 576, 47 CFR 54.511) In addition, the Commission believed that in order to provide access to any potential bidder, requests should be posted on the website at least 28 days. (Universal Service Order, Paragraph 579)

However applicant experience with this process has been dismal. First, in remote rural areas, applicants have rarely received response from additional bidders interested in offering services. Indeed, many smaller applicants have not received any response to the posting, even from the only provider eligible to provide service, the local telecommunications carrier. Applicants are required to proactively seek out bids and offers of service from vendors. This has caused applicants to view the Form 470 as merely paperwork to be checked off a list rather than an opportunity for broader access to relevant and competitive services.

While competition must and should be encouraged, the process for doing so should not set up a major stumbling block for applicants. The EED, therefore, suggests simplifying the Form 470 so that it is merely a public notice of intent, which many school districts already employ. This form could be updated annually. This would streamline the application and review process while maintaining fair and equitable access for all service providers. Because this would be a reform, not an elimination of the Form 470, this improvement would not require a rule change.

Provide better access to program data: Currently, it is difficult to obtain meaningful data from the Administrator on a regular basis. However, ongoing support for the program is dependent on a reasonable understanding of how the program affects individual applicants. It would be of great benefit to the applicant community if on-going working data (applications in process, names of current service provider participants, reasons for applicant failure, many other types of data) could be made available, even if on a limited basis to those who provide coordination and advice for applicants. State and regional coordinators are in a position to see mistakes forming before they become application

errors, to catch problems before they arrive at decision points and otherwise help both applicants and the Administrator avoid waste, fraud and abuse as well as making the entire program more efficient. This can happen only if the coordinators have access to the basic data being collected.

Provide support for out-reach and training: At the beginning of the E-Rate program, many state education and library agencies assigned coordination of the program to a staff member and assumed the costs of training, travel, and clerical support for that person. Frequently, this "other duties as assigned" task was an addition to the already full-time position. The Alaska State Library assumed that the burden of supporting the E-Rate program would probably be a two year commitment. Due to the complexities of the program, the changing nature of the rules and processes, and the transient population of the school and library offices which do the applications, at the beginning of Year 5 of the program, the coordination commitment is greater than ever. Rather than decreasing, the need for training, information, advice, and shepherding has grown. The ultimate goal of the program should be to simplify the process to the point where a new employee, fresh on the job, has as equal an opportunity to complete the application process successfully as a five year veteran of the program. Until that point is reached, the FCC should recognize the contributions of the state coordinators and set some method of financial support.

Eliminate Block 3 on the Form 471: Block 3 of the Form 471, the Schools and Libraries Universal Service Services Ordered and Certification Form, provides misleading information. It is our understanding that this Block was supposed to provide a rough understanding of the impact a certain application would have on improving the connectivity of schools and libraries. However, because schools and libraries are represented on more than one Form 471, Block 3 has the potential to double count the numbers of students and library patrons served. In addition, it is unclear how this information has ever been used. In order to simplify the application process and reduce the misinformation that may result, EED recommends eliminating Block 3 from the application process.

Reform the process of collecting student eligibility data: While the EED recognizes the necessity of verifying eligibility data, the present situation of questioning even minor deviations in student enrollment and lunch figures from numbers turned in to EED at some undetermined time in the past makes unnecessary work for all parties involved. The PIA representative must gather some form of third part verification that enrollment at X School is actually 47 (as listed by the school applicant) rather than 49 (as listed on the state website). A faxed and signed letter on letterhead explaining that the Jones family moved between the times the two numbers were generated is an exercise in make-work. This type of exercise is extremely frequent for states which do not have a 100% participation in the National School Lunch Program (NSLP). Again, some allowance should be made for a +/- difference, but the factor should take into consideration that 2 children enrolling or leaving a school of 30 students will generate a large percentage swing.

Provide relief for libraries caught in eligibility quagmires: Libraries need some relief from the the eligibility situation as well. As they are currently constrained by program rules to use the entire district's weighted average, that average may not match the economic realities of the actual location which they serve. Particularly in rural Alaska, our village libraries are as isolated as the rest of the community. Their economic situation reflects only the single location in which they are sited. These libraries should be allowed to use that data rather than the weighted district average if it provides a more realistic picture of the economic status of the community in which they are located. In light of federal movement toward replacing NSLP with federal poverty statistics in qualifying for many programs, this seems a logical move. Indeed, libraries should be able to divorce themselves from any reliance on NSLP if it does not fit their best interests.

If such a reform is not possible, it would be at least a help in the application process if the district average could be located on the SLD database and automatically inserted into the application. For a volunteer librarian, 300 miles from school district headquarters, learning the source of district data, making a long distance call and asking for the information to be sent as a courtesy to a stranger is a stressful action and certainly one that does not have to be done.

An additional circumstance which adversely affects the discount rate available to public libraries occurs when the district in which the library is located operates a correspondence or distance education program. In many cases, collecting income data from such students is difficult at best. Although the district has the option of not using student numbers from the remote program if it does not ask for E-Rate support of the services used in that program, the public library does not have that liberty. While these students are, by definition, not within the service area of the library, their numbers, as reported by the school district, have to be used to figure the discount allowed for the library. A tiny public library located in Nenana, Alaska, is required to use the weighted average of the local school (some 182 students of whom 96 are eligible) and the far larger correspondence school (with 1602 students and no eligibility data). The district does not apply for support for the correspondence school and will receive a discount of 70% for the local school. The library, without an option, will receive a weighted average discount of 30%. Some mechanism for allowing libraries to delete numbers which have no relation to their geographic location and the population served must be formulated.

Reassess the role of distance education in modern pedagogy: As distance education, virtual schools, correspondence programs and other variations of school programs delivered electronically proliferate all over the country, the Commission should review the regulations which affect support for services for students who are not located at the traditional school site. Students in classrooms receive the benefit of telecommunications and Internet access while students who must learn at a distance do not. This very complex issue requires and deserves study and action.

## 2. Reduction of Unused Funds

In Paragraphs 63 and 64, the Commission outlines the new process to address program resource under-utilization that will allow the Administrator to estimate potential commitments that will exceed the funding level of \$2.25 billion so that historical funding disbursement shortfalls will diminish. The Commission expresses interest in why applicants and provider may fail to fully use committed funds and whether it is necessary to adopt procedures to address a situation in which more funds are committed and used than are available for disbursement.

The EED agrees that there is a significant amount of funding that remains unspent in the E-rate program. A large part of this under-utilization relates to the disjointed cycles of the E-rate process and the school district and state budgeting process. In most cases, states and school districts, while operating on the same funding cycle as the E-rate, cannot make final funding decisions until after the state legislature has completed its budgeting process, typically April or May of the same year. The E-rate requires contracts and agreements to be in place by January of that year. Therefore, in order to maximize discount possibilities, some applicants apply for services they can afford, presuming certain budgetary possibilities, but choose to reduce services when budgetary limitations are put into place.

Second, some services, particularly usage-sensitive long distance and Internet services must be estimated since usage varies month to month. Again, in order to fully utilize E-rate discounts, those estimates must presume maximum possible usage.

Third, E-rate funds have historically been allocated after the program funding year has begun. Even though schools and libraries may count on some E-Rate funding each year, there is no guarantee that any specific project will be funded. When funding commitments have not been received before the application period of the following year, a prudent applicant will reapply for that project again. When both applications are finally funded, one of the funding amounts isn't utilized.

Fourth, because E-rate funding commitments have traditionally occurred after the program funding year has begun, many projects are delayed due to lack of funds. In the case where a project has recurring and non-recurring costs, implementation is dependent on the date when the non-recurring costs are incurred. When they are delayed, recurring costs associated with the projected may be less than anticipated because the project life during the funding year is shorter than estimated, perhaps 6 months instead of 12 months, for example.

Finally, staff turnover and program complexity can cause some applicants to simply leave the process at some point during a program year. In these cases, the cost of educating a new staff person to reach a competent level of involvement can significantly outweigh any benefit. The risk of potential misunderstandings that could occur is too high.

## 3. Treatment of Unused Funds

In Paragraphs 65 and 66, the Commission reiterates its rules governing unused funding authority and asks for comments on how unused funds should be treated: either credited back to service providers or distributing them in subsequent years. In this case, the EED believes Commissioner Copps' dissent is entirely accurate. "In each year, the Administrator of the E-rate program collects funds up to the cap to meet demand. Yet, although initial estimates were that demand would not exceed the cap for nearly a decade, the program has been so successful that since the first year, requests from our nation's schools and libraries have exceeded the available funding. All funds, however, are not disbursed for a variety of administrative reasons or because individual schools and libraries do not fully use the money committed to them. Our rules were designed to ensure that funds would be used for their intended purpose or returned *so that other deserving schools could benefit* (emphasis added)

Since demand consistently outstrips available funding, it is not appropriate to return unspent E-rate funds to telecommunications carriers. In addition, the EED finds it hard to reconcile the Commission's concerns about fully funding successful appeals given the funding scenario defined here. If a series of funds are consistently unused, those funds should be available for the appeals. If, however, the Commission has been returning unused funds to telecommunications carriers, the EED would argue that those funds should be returned to the fund to meet the demand for that funding year.

### **III. Conclusion**

The EED reiterates its appreciation for the support the Commission has provided to the Universal Service Program for Schools and Libraries. The E-rate program has made an historic difference to the children and future of the State of Alaska. The Commission has provided extraordinary leadership during very difficult times. We stand ready to assist the Commission on these and other issues as the program moves forward.