Before the
Federal Communications Commission
Washington, D.C. 20554

JUN 17 2005

In the Matter of	)	
	)	
Comprehensive Review of Universal Service Fund Management, Administration, and Oversight	)	WC Docket No. 05-195
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6
	)	
Rural Health Care Support Mechanism	)	WC Docket No. 02-60
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Changes to the Board of Directors for the National Exchange Carrier Association, Inc.	)	CC Docket No. 97-21

NOTICE OF PROPOSED RULEMAKING AND FURTHER NOTICE OF PROPOSED RULEMAKING

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By the Commission: Chairman Martin and Commissioners Copps and Adelstein issuing separate statements.

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I. INTRODUCTION

1. In this Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking ("NPRM") we initiate a broad inquiry into the management and administration of the Universal Service Fund ("USF"), as well as the Commission's oversight of the USF and the USF Administrator. In particular, we seek comment on ways to improve the management, administration, and oversight of the USF, including simplifying the process for applying for USF support, speeding the disbursement process, simplifying the billing and collection process, addressing issues relating to the Universal Service Administrative Company ("USAC" or the "Administrator"), and exploring performance measures suitable for assessing and managing the USF programs.[1] In addition, we seek comment on ways to further deter waste, fraud, and abuse through audits of USF beneficiaries or other measures, and on various methods for recovering improperly disbursed funds.

2. Our goal is to find ways to improve the program, both from the perspective of USF beneficiaries and from the perspective of safeguarding the fund itself. We recognize that some parties have raised concerns ranging from mismanagement to intentionally defrauding the program, and we take these concerns seriously. In this proceeding, we intend to address these concerns by finding constructive ways to continue meeting the needs of those who depend on the USF, while at the same time ensuring that the public is confident that the funds are used for their intended purpose. To accomplish this, we are seeking input from all interested parties, including experienced participants in the USF programs, on improving the management, administration, and oversight of the four universal service programs. We

[1] There are four USF support mechanisms: Schools and Libraries, Low Income, High Cost, and Rural Health Care. Throughout this NPRM we refer to these four mechanisms as "programs" or "mechanisms."

intend to determine whether any rule changes are necessary in order to manage and administer the USF programs more efficiently and effectively, while deterring waste, fraud, and abuse. We are interested in rule changes that can be applied, to the greatest extent possible, consistently across all programs. Furthermore, to the extent commenters' suggestions can be accomplished without rule changes, we may do so after evaluating the record in this docket.

II. BACKGROUND

3. A key goal of universal service is to ensure affordable telecommunications services to all Americans, including consumers living in high-cost areas, low income consumers, eligible schools and libraries, and rural health care providers.[2] Prior to adoption of the Telecommunications Act of 1996,[3] universal service was achieved largely through implicit support mechanisms.[4] States kept residential service rates low through geographic rate averaging and higher rates for businesses, intrastate access, intrastate toll service, and vertical features.[5] In addition, federal access charges provided implicit support for the interstate portion of joint and common costs.[6] Section 254 of the Act required explicit federal universal service mechanisms and also enlarged the scope of the program.[7] Telecommunications carriers providing interstate telecommunications services are required to contribute to the USF.[8]

4. Pursuant to prior Commission orders, USAC, a subsidiary of the National Exchange Carrier Association ("NECA"),[9] is the private not-for-profit corporation created to serve as the Administrator.[10] USAC administers the universal service support mechanisms and is responsible for billing contributors and collecting contributions to the universal service support mechanisms. USAC administers the USF in accordance with the Commission's rules and orders. USAC also engages in frequent consultations with the Commission. Currently, one division in the Wireline Competition Bureau ("Bureau"), the Telecommunications Access Policy Division, works with USAC to implement USF administration. Personnel from other Commission bureaus and offices such as the Office of the Managing Director

[2] *See* 47 U.S.C. § 254(b).

[3] The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat 56 ("1996 Act"), amended the Communications Act of 1934 ("the Act").

[4] *See Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8784-85, ¶¶ 10-12 (1997) ("*First Report and Order*").

[5] *See First Report and Order,* 12 FCC Rcd at 8784-85, ¶¶ 10-12.

[6] *See id.*

[7] 47 U.S.C. § 254.

[8] Under section 254(d), the Commission can exempt carriers from universal service contribution requirements if the contributions would be *de minimis*. 47 U.S.C. § 254(d). The *de minimis* threshold is currently $10,000. *See Federal-State Joint Board on Universal* Service, CC Docket No. 96-45, Fourth Order on Reconsideration in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, 13 FCC Rcd 5318, 5482, ¶ 297 (1997) ("*Fourth Reconsideration Order*"); 47 C.F.R. § 54.708.

[9] NECA is an association of incumbent local exchange carriers ("LECs") established by the Commission to administer interstate access tariffs for companies that do not file separate tariffs and to collect and distribute access charge revenues for those companies. *See* 47 C.F.R. §§ 69.601, 69.603. The NECA Board of Directors is "prohibited from participating in the functions of the [universal service fund] Administrator." 47 C.F.R. § 54.703(a).

[10] *See Changes to the Board of Directors of the National Exchange Carrier Association*, Third Report and Order in CC Docket No. 97-21, Fourth Order on Reconsideration in CC Docket No. 97-21 and Eighth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058, 25063-66, ¶¶ 10-14 (1998) ("*USAC Appointment Order*"); 47 C.F.R. § 54.701(a).

("OMD"), the Enforcement Bureau, and the Office of the Inspector General ("OIG"), also assist with managing and overseeing the USF and USAC. The Commission provides USAC with oral and written guidance, as well as regulation through its rulemaking process.

5. Since 1997, USAC has disbursed approximately $30.3 billion to implement section 254 of the Act.[11] The USF consists of four programs, each administered by USAC: (1) the universal service mechanism for high cost areas, providing financial support to carriers serving high cost areas; (2) the universal service mechanism for schools and libraries (also known as the E-rate program), providing for discounted services (local and long distance telephone service, Internet access, and internal connections) to eligible schools and libraries; (3) the universal service mechanism for low income consumers, assisting low income consumers with discounted installation and monthly telephone services; and (4) the universal service mechanism for rural health care, providing discounted services to rural health care providers.

6. Since the inception of these four explicit universal service mechanisms, we have conducted several rulemaking proceedings examining policy, administration, management, or oversight issues.[12] In addition, USAC has conducted six annual audits of its operations and accounts under the Bureau's oversight.[13] Various entities, including USAC, independent auditors, and the Commission's OIG[14] have conducted more than 222 audits examining E-rate beneficiary compliance. Moreover, USAC has conducted three audits of High Cost program management and operations, eight audits of High Cost program beneficiaries, 67 audits of Low Income operations, 56 audits of Rural Health Care beneficiaries, and 42 audits of contributor compliance.

7. In addition to the efforts noted above, USAC has performed its own reviews of its operations.[15] For example, USAC coordinated an evaluation of possible anti-fraud measures in 2003.[16]

[11] This amount was disbursed as of April 30, 2005.

[12] *See, e.g.*, *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912 (2003) ("*Third Report and Order*"); *Lifeline and Link Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302 (2004) ("*Lifeline/Link-Up Report and Order*"); *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Second Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 24613 (2005); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46 (rel. Mar. 17, 2005).

[13] *See, e.g.*, Deloitte & Touche LLP, INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES, Exhibit XXXXV (Jun. 23, 2004) ("D&T 2004 PART 54 AUP REPORT") (providing AUP engagement program); Deloitte & Touche LLP, UNIVERSAL SERVICE ADMINISTRATIVE COMPANY (USAC) AUDITED FINANCIAL STATEMENTS FOR THE YEARS ENDED DECEMBER 31, 2003 AND 2002 AND INDEPENDENT AUDITOR'S REPORT (Jun. 23, 2004); *see also* Letter from Lisa M. Zaina, Chief Executive Officer, Universal Service Administrative Company to Barbara Guiltinan, Deloitte & Touche, LLP (Jul. 19, 2004) (responding to audit findings).

[14] *See, e.g.*, OIG audit reports: "Report on Audit of E-rate Program at Annunciation Elementary School," Aug. 12, 2004; "Report on Audit of E-rate Program at United Talmudical Academy," June 7, 2004; "Report on Audit of E-rate Program at Children's Storefront School," Apr. 5, 2004; "Report on Audit of E-rate Program at St. Augustine School," May 19, 2004; "Report on Audit of E-rate Program at Southern Westchester Board of Cooperative Educational Services (SWBOCES)," May 25, 2004. OIG audit reports are available on the Commission's website at http://www.fcc.gov/oig/oigreportsaudit/html.

[15] *See* USAC 2003 Annual Report, posted on USAC's website, http://www.universalservice.org/Reports. For example, USAC established an Internal Audit Division and the USAC Board of Directors has an audit committee to provide additional oversight.

[16] *See* "USAC – Schools and Libraries Support Mechanism Interim Response to the Recommendations of the Task Force on the Prevention of Waste, Fraud, and Abuse," CC Docket No. 02-6, Nov. 26, 2003 ("Response to Task Force").

USAC's board of directors reviews financial and operating data related to program management on a quarterly basis. USAC's board of directors also has quarterly meetings that, under the Commission's rules, are open to the public.[17]

8. Other government organizations have performed investigations and reviews of the USF. The United States Government Accountability Office ("GAO") has conducted examinations of USF issues, primarily the E-rate program.[18] The Congressional Budget Office ("CBO") recently released a study of the USF.[19] In this proceeding, we seek to build on the lessons learned from these prior efforts. If we determine, based on the record in this proceeding, that we can improve program management and better safeguard the USF, we will implement any necessary rule changes or take additional measures that may not require rule changes.

III. DISCUSSION

A. Management and Administration of the USF

9. In this section, we broadly seek comment on measures the Commission can take to improve management and administration of the program. The effectiveness and efficiency of our management and administration of the USF is influenced by the organizational structure used to carry out the missions of the USF, the methods used to measure and evaluate program performance, and the program operations, including the application process, the contributions process, and the disbursement process.[20] As explained below, we encourage parties to comment on the Commission's past practices and submit proposals for improving the management and administration of the program. We also invite comments and suggestions on any aspect of this NPRM from USAC, including its views on its performance as Administrator.[21]

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[17] 47 C.F.R. § 54.703(e).

[18] *See* GAO, Telecommunications, Greater Involvement Needed by FCC in the Management and Oversight of the E-Rate Program, GAO-05-151 (Washington, D.C.: Feb. 9, 2005) ("GAO 2005 E-Rate Report"); GAO, Schools and Libraries Program: Update on State-Level Funding by Category of Service, GAO-01-673 (Washington, D.C.: May 11, 2001); GAO, Schools and Libraries Program: Application and Invoice Review Procedures Need Strengthening, GAO-01-105 (Washington, D.C.: Dec. 15, 2000); GAO, Schools and Libraries Program: Actions Taken to Improve Operational Procedures Prior to Committing Funds, GAO/RCED-99-51 (Washington, D.C.: Mar. 5, 1999); GAO, Telecommunications and Information Technology: Federal Programs That Can Be Used to Fund Technology for Schools and Libraries, GAO/T-HEHS-98-246 (Washington, D.C.: Sept., 16, 1998); GAO, Schools and Libraries Corporation: Actions Needed to Strengthen Program Integrity Operations Before Committing Funds, GAO/T-RCED-98-243 (Washington, D.C.: Jul. 16, 1998); GAO, Telecommunications: Court Challenges to FCC's Universal Service Order and Federal Support for Telecommunications for Schools and Libraries, GAO/RCED/OGC-98-172R (Washington, D.C.: May 7, 1998); GAO, Telecommunications: FCC Lacked Authority to Create Corporations to Administer Universal Service Programs, GAO/T-RCED/OGC-98-84 (Washington, D.C.: Mar. 31, 1998). In addition, the GAO touched on the E-rate program in GAO, Telecommunications Technology: Federal Funding for Schools and Libraries, GAO/HEHS-99-133 (Washington, D.C.: Aug. 20, 1999). *See also* GAO, Telecommunications: Application of the Antideficiency Act and Other Fiscal Controls to FCC's E-Rate Program, Testimony before the Committee on Commerce, Science, and Transportation, U.S. Senate, GAO-05-546T (Washington D.C., Apr. 11, 2005).

[19] Congressional Budget Office, "Financing Universal Telephone Service" (Mar. 2005).

[20] We stress that through this proceeding we do *not* intend to evaluate the underlying USF policy considerations. Instead, we plan to focus our attention and efforts on the mechanics of the program—that is, how well the Commission performs its duties and what steps the Commission can take to ensure that the program runs well.

[21] Under section 54.702(d), USAC "may advocate positions before the Commission and its staff only on administrative matters relating to the universal service support mechanisms." 47 C.F.R. § 54.702(d).

1. Universal Service Fund Administrator

a. Background

10. The Commission's rules provide for the appointment of a permanent Administrator of the USF.[22] In 1998, the Commission appointed USAC the permanent Administrator of the federal universal service support mechanisms.[23] Under the Commission's rules, the Administrator is responsible for administering each of the USF mechanisms.[24] As part of its duties and subject to Commission rules and oversight, the Administrator bills contributors to the USF, collects USF contributions, disburses universal service support funds, recovers improperly disbursed USF moneys,[25] submits periodic reports to the Commission (including quarterly reports on the disbursement of universal service support funds), maintains accounting records, conducts audits of contributors and beneficiaries, creates and maintains an Internet site, collects information, and provides access to information it collects to the Commission.[26] Aggrieved parties may file appeals of actions taken by the Administrator.[27] Under the Commission's rules, USAC is required to maintain its books of account in accordance with generally accepted accounting principles ("GAAP") and to account for the financial transactions of the USF in accordance with government generally accepted accounting principles ("GovGAAP").[28] The Administrator must also maintain the accounts of the USF in accordance with the U.S. Government Standard General Ledger ("USGSGL").[29] Pursuant to Commission rules, the Administrator is prohibited from making policy, interpreting unclear provisions of the statute or the Commission's rules, or interpreting the intent of Congress, and may only advocate positions before the Commission and its staff on administrative matters.[30]

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[22] 47 C.F.R. § 54.701(a); *see USAC Appointment Order*, 13 FCC Rcd at 25069-70, ¶ 20.

[23] 47 C.F.R. 54.701(a); *USAC Appointment Order*, 13 FCC Rcd at 25069-70, ¶ 20. *See* H.R. Conf. Rep. 105-504 (stating Congressional expectation that the Commission would comply with the reporting requirements of an unadopted Senate bill (S. 1768), directing the Commission to submit a report to Congress proposing a revised structure for the USF and providing that "[T]he revised structure shall consist of a single entity.")

[24] 47 C.F.R. § 54.702(a).

[25] *See Changes to the Board of Directors to the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism*, CC Docket Nos. 97-21, 96-45, 02-6, Order on Reconsideration and Fourth Report and Order, 19 FCC Rcd 15252, 15259, ¶ 22 (2004) (stating that if USAC allows funds to be disbursed in violation of the Act or a rule, it is within its administration and disbursement duties to seek recoupment in the first instance); *Changes to the Board of Directors to the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21, 96-45, Order, 15 FCC Rcd 22975, 22979-981, ¶¶ 9-15 (2000); *Changes to the Board of Directors to the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21, 96-45, Order, FCC 99-291 (rel. Oct. 8, 1999).

[26] *See* 47 C.F.R. §§ 54.702(b)-(m), 54.711, 54.715.

[27] 47 C.F.R. § 54.719.

[28] *See* 47 C.F.R. § 54.702(n); *Application of General Accepted Accounting Principles for Federal Agencies and Generally Accepted Government Auditing Standards to the Universal Service Fund*, CC Docket No. 96-45, Order, 18 FCC Rcd 19911, 19912-13, ¶¶ 4-6 (2003) ("*GovGAAP Order*").

[29] *GovGAAP Order*, 18 FCC Rcd at 19912-13, ¶¶ 4-6.

[30] 47 C.F.R. §§ 54.702(c)-(d).

b. USF Administrative Structure

11. We seek comment on whether modifications to our rules are needed to ensure efficient, effective, and competitively neutral administration of the USF. The Commission appointed USAC the permanent Administrator "subject to a review after one year by [the Commission] to determine that the Administrator is administrating the universal service support mechanisms in an efficient, effective, and competitively neutral manner."[31] The Commission intended to review USAC's performance after one year; however, the one-year review did not take place.[32] We therefore seek comment on USAC's performance since the inception of the USF program, as well as the Commission's management and oversight of USAC. We seek comment on whether USAC has administered the USF in an efficient, effective, and competitively neutral manner. In addition, we seek comment on whether additional rules or amendment of existing rules are needed to provide clarity to the scope and content of the Administrator's functions. Commenters should address USAC's successes as well as any weaknesses in USAC's performance or areas that need improvement.[33]

12. *Administrative Structure.* We take this opportunity to evaluate the current administrative structure to determine whether any changes are needed in order to enhance management of the USF. Commenters should discuss whether their experience in other government programs suggests a more effective mechanism for administering a subsidy program the size of the USF. We seek comment on whether we should replace the permanent, designated Administrator with another type of administrative structure or entity. For example, we could retain USAC as Administrator pursuant to a contract or subject to a Memorandum of Understanding. We could seek competitive bids[34] for another entity to administer the USF, subject to replacement after a period of time. Alternatively, we could appoint a different entity or organization to permanently administer the USF instead of USAC, or we could retain the current structure for USF administration so that USAC would continue to administer the USF. If we retain the current structure for USF administration, how can we improve the Commission's oversight of the USF and management of the program? Commenters should address the pros and cons of a permanent administrative entity as well as the pros and cons of alternative administrative structures and arrangements. Commenters should discuss the advantages and disadvantages of competitive procurement and of having the same entity administer the USF programs over a lengthy period of time.[35] We seek comment on whether USAC should apply, to the extent practicable, the policies and procedures embodied in the Federal Acquisition Regulation ("FAR").[36] Commenters should also discuss how Commission oversight would be implemented if alternative arrangements were adopted.

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[31] 47 C.F.R. § 54.701(a).

[32] *USAC Appointment Order*, 13 FCC Rcd at 25069-70, ¶ 20 (stating that we "adopt the proposal set forth in the Commission's Report to Congress to review USAC's performance after one year to ensure that it is administering universal service in an efficient, effective, and competitively neutral manner.") *See* GAO 2005 E-Rate Report at 12, note 21.

[33] *See* GAO 2005 E-Rate Report at 11-18 (criticizing E-rate program structure and the extent to which the Commission has delegated program functions to USAC).

[34] Commenters advocating competitive procurement should also discuss the minimum qualifications for potential bidders and the advantages or disadvantages of including a renewal provision in the contract.

[35] We note that in the *USAC Appointment Order*, the Commission found that "[p]roviding permanence to the revised structure will ensure USAC's ability to continue to attract and maintain qualified personnel and to prevent unnecessary disruption to contributors and beneficiaries." *USAC Appointment Order*, 13 FCC Rcd at 25069-70, ¶ 20.

[36] The FAR is Chapter 48 of the C.F.R. The FAR governs the contractual acquisition of supplies and services for use by the federal government. This does not suggest that FAR applies as a matter of law; we seek comment on

(continued....)

13. In addition, we seek comment on whether using a not-for-profit corporation as the permanent Administrator of the USF has worked successfully. Commenters should address the pros and cons of using a not-for-profit entity as the USF Administrator. We note that the Commission has experience using contracts to administer certain programs. For example, section 251(e) of the Act directs the Commission to "create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis."[37] The Commission concluded that it was free to select the National Pooling Administrator on a competitive basis, as it did in choosing the North American Numbering Plan administrator in 1997.[38] The entities that administer telecommunications numbering and thousands block number pooling for the Commission do so pursuant to a contract and we believe that such contracts have provided certain cost benefits, such as the lower costs that can be achieved through the competitive bidding process.

14. Part 54 of the Commission's rules are designed to promote universal service in a competitively neutral manner. The Commission's rules apply a number of requirements to the USF Administrator to ensure effective, efficient, competitively neutral administration.[39] This ensures that support is made available on a technologically neutral basis to eligible service providers. The Commission concluded, when appointing USAC permanent administrator, that "subject to the modifications set forth in this Order, USAC fairly represents all interested parties, including a broad range of industry, consumer, and beneficiary groups."[40] We seek comment on how any proposals to change the current administrative structure would affect the independence and neutrality of the USF program administration. The Commission's rules provide for an experienced Board of Directors representing a balance of different interests. The Commission's rules describe the functions of USAC, which are limited to "administering the schools and libraries support mechanism, the rural health care support mechanism, the high cost support mechanism, the low income support mechanism, the interstate access universal service support mechanism . . . and the interstate common line support mechanism."[41] In addition, USAC is responsible for "billing contributors, collecting contributions to the universal service support mechanisms, and disbursing universal service support funds."[42] The rules also prohibit USAC from making policy or interpreting the intent of Congress, and bar USAC from lobbying on anything other than administrative issues. We seek comment on whether we should modify our rules to more clearly delineate USAC's administrative functions.

15. We seek comment on whether we should modify our rules addressing meetings of the Administrator's Board of Directors. We seek comment on whether the current board composition results in effective, efficient, and competitively neutral management of the USF. Commenters should provide specific recommendations for modifying the composition of the Administrator's Board of Directors and describe the benefits of implementing such proposals. Section 54.705 of the Commission's rules requires USAC to have three committees: a Schools and Libraries Committee, a Rural Health Care Committee,

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whether we could apply rules based on FAR as a matter of policy in arrangements between the Commission and USAC.

[37] 47 U.S.C. § 251(e). *See also Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7639-643, ¶¶ 148-155 (2000)("*Numbering First Report and Order*").

[38] *Numbering First Report and Order*, 15 FCC Rcd at 7640-41, ¶ 150.

[39] 47 C.F.R. § 54.701(b).

[40] *USAC Appointment Order*, 13 FCC Rcd at 25069-70, ¶ 20.

[41] 47 C.F.R. § 54.702(a).

[42] 47 C.F.R. § 54.701(b).

and a High Cost and Low Income Committee.[43] We seek comment on whether additional committees or fewer committees would be administratively efficient and useful. USAC also has an audit committee, an investment committee, and an executive committee, which are not required by our rules. We seek comment on whether we should revise the rules to clarify or specify the organizational structure of the Administrator's committees.

16. We also seek comment on whether we should adopt rules to require the Administrator to implement ethics standards and procedures for addressing conflicts of interest, or if we should adopt specific rules governing the ethics standards and conflicts of interest for officers and/or employees of the Administrator.[44] We seek comment on whether to adopt rules addressing the Administrator's procedure for handling confidential information, including confidential information related to the federal government.[45] Finally, we seek comment on whether the Administrator's Board of Directors should be permitted to enter into closed sessions in which the Commission and members of the public are excluded.[46] Although the Commission's rules state that all meetings of the Administrator's Board of Directors are to be public,[47] there may be instances where a private meeting is warranted. Should we adopt procedures and rules to identify appropriate instances of when the Administrator's Board of Directors may hold a closed sessions? If so, what should those instances be?

17. *Filing and Reporting Requirements.* Under our rules, the Administrator must submit periodic reports to the Commission. Section 54.702(g) requires USAC to submit an annual audit report. Section 54.709(a) requires USAC to submit, 60 days prior to the start of the quarter, financial and accounting data, including projected administrative expenses and projected program demand (*i.e.*, amount of moneys USAC expects to disburse in the upcoming quarter for each USF mechanism).[48] Section 54.709(a) also requires USAC to submit, 30 days prior to the start of each quarter, its estimate of contributor base.[49] USAC prepares and submits additional reports, both to the Commission staff on an ad hoc basis and to its Board of Directors on a quarterly basis. We seek comment on whether we should revise the content or frequency of the Administrator's reports. For example, we could require these reports be filed on a monthly, quarterly, or annual basis. We seek suggestions from USF stakeholders about the appropriate types of publicly available information that we should require from USAC. For example, should we require publicly available, periodic performance measurement and financial reports?

18. The Bureau calculates the proposed quarterly contribution factor, based on USAC's submissions, and announces it in a Public Notice fourteen days before the beginning of each quarter.[50] This proposed contribution factor is deemed approved when the fourteen-day period ends, if the Commission takes no action to change the contribution factor.[51] USAC uses the contribution factor to

[43] 47 C.F.R. § 54.705.

[44] USAC has ethics standards and procedures in the USAC employee handbook.

[45] We note that USAC provides support to law enforcement agencies and special procedures pertaining to investigations may be necessary.

[46] Section 54.703(e) provides that "[a]ll meetings of the Administrator's Board of Directors shall be open to the public and held in Washington, D.C." 47 C.F.R. § 54.703(e).

[47] 47 C.F.R. § 54.703(e).

[48] 47 C.F.R. § 54.709(a)(3).

[49] *Id.*

[50] *See, e.g.*, "*Proposed First Quarter 2005 Universal Service Contribution Factor*," CC Docket No. 96-45, Public Notice, 19 FCC Rcd 24045 (2004).

[51] *See* 47 C.F.R § 54.709(a)(3).

bill carriers on the sixteenth of each month during the quarter. USAC requires carriers to pay their invoices by the fifteenth of the following month. We seek comment on whether we should revise our rules to change any of these time periods or to modify the content of USAC's filings.

19. *Contributor Delinquency.* We also seek comment on whether we should revise our rules to address the issue of a carrier's delinquent contributions. Should we adopt a rule on how a carrier's payments are assigned to current and delinquent amounts due the Administrator? The Administrator's practice is to apply partial payments to the oldest debt first,[52] instead of the current billed amount. Should we direct USAC to modify this practice? We also seek comment on whether we should adopt rules to allow USAC to charge interest and assess penalties for a carrier's failure to file the FCC Form 499-A, Telecommunications Reporting Worksheet ("Form 499-A").

20. *Borrowing Funds.* Our rules currently provide that USAC "shall request borrowing authority from the Commission to borrow funds commercially" if contributions received in a given quarter are inadequate to meet the amount of universal service program payments and administrative costs for that quarter.[53] We note that USAC has never requested such authority nor has the Commission authorized such borrowing. Is this rule, to the extent it authorizes borrowing of funds to pay for the USF, inconsistent with federal financial accounting rules that apply to the USF? We seek comment on whether we should eliminate this rule. We think it is unlikely that the Commission would be unable to meet program payment requirements and administrative costs in any quarter because we evaluate the program demand (including administrative expenses) before we establish the contribution factor and we can control to a large extent the amount of USF disbursements in a given quarter. Nevertheless, we believe that we should consider and account for that contingency.

21. Moreover, we note that to the extent we modify our rules to permit other entities to administer the USF, there may be a need to permit borrowing under certain circumstances, *e.g.*, for administrative expenses or other non-program reasons and without jeopardizing program funds. We therefore seek comment on what process to establish, in lieu of the existing borrowing authority in section 54.709(c), to address situations in which the amount of available USF is insufficient to accommodate program demand and administrative expenses. For example, we could maintain a cash reserve that would be used only in that event. At the same time, given the relatively low risk of the occurrence, we question whether it would be prudent to tie up funds for that purpose. We seek comment on what an appropriate reserve level would be. We have no rules regarding interfund borrowing. Should we adopt a rule prohibiting or allowing interfund borrowing? We seek comment on whether to establish limitations or constraints on the Administrator's ability to borrow funds in permissible circumstances and in a manner consistent with federal law. We seek comment on other ways to ensure that universal service funds are sufficient to cover costs and administrative expenses. For example, in the event that funds are insufficient to cover costs and administrative expenses, should we seek to collect additional funds and postpone payments until sufficient funds have been received? We also seek comment on the potential impact that any such proposal could have on fund beneficiaries. Finally, we seek comment on whether the Commission should adopt rules or requirements governing the investment practices and policies of the Administrator. For example, should we adopt requirements restricting USAC investments to non-interest bearing accounts or Treasury bills?

22. *Administrative Procedures.* We seek comment on whether we should codify certain USAC administrative procedures in the Commission's rules. In the *Schools and Libraries Fifth Report and*

[52] *See North American Telephone Network, LLC*, Forfeiture Order, 16 FCC Rcd 4836, 4838, ¶ 8 & n.12 (2001); *Intellicall Operator Services*, Forfeiture Order, 15 FCC Rcd 21771, 21772, ¶ 6 & n.8 (2000).

[53] 47 C.F.R. § 54.709(c).

Order, we directed USAC to identify all Schools and Libraries program procedures and we are currently evaluating USAC's list.[54] As we discussed in the *Schools and Libraries Fifth Report and Order*, we are concerned about recovery of funds disbursed after applicants failed to follow USAC administrative procedures.[55] Certain USAC procedures have since been incorporated into the Commission's rules. This issue has not yet been raised in the context of administrative procedures related to contributions or in the context of the High Cost, Low Income, and Rural Health Care programs. Under the Commission's rules, the Administrator may not "make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress."[56] To assist our analysis, we will require USAC to file a list of its administrative procedures for the contributions process and the High Cost, Low Income, and Rural Health Care programs as an ex parte filing in this proceeding, within 60 days of the publishing of this Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking in the Federal Register.[57] USAC's administrative procedures may involve collection or disbursement policies and practices that affect beneficiaries and service providers.[58] We believe that there is a fundamental difference between ministerial errors and intentional fraud, and that greater clarity in USAC's rules and procedures will help reduce ministerial errors. We seek comment on how a beneficiary's compliance or lack of compliance with USAC non-codified administrative procedures should be treated in the auditing context. We are seeking proposals from commenters as to whether any of USAC's procedures or policies should be codified. We anticipate that it will be useful to continue to evaluate whether other USAC administrative procedures should be codified into our rules. We ask that commenters consider whether any proposal for the Commission to codify USAC administrative procedures, or other proposals in this NPRM, would facilitate or restrict the ability of the administrator to perform its duties in a flexible and responsive way.

23. *Continuity of Operations.* Federal agencies are required to develop continuity of operations ("COOP") plans to ensure that essential services will be available in emergency situations.[59] Disruptions from a variety of sources, including severe weather conditions, can result in interruptions in services. We seek comment on whether we should adopt a rule to require USAC to develop and maintain a COOP plan for dealing with emergency situations. We also seek comment on whether any modifications to our rules are needed to ensure that the Administrator can continue to perform its mission-critical functions in the event of an incident or emergency situation. Commenters should describe the pros and cons of any proposals.

2. Performance Measures

24. We recognize that effective program management requires the implementation of meaningful performance measures. Clearly articulated goals and reliable performance data allow the Commission and other stakeholders to assess the effectiveness of the USF programs and to determine

[54] *See Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Rcd 15808, 15835, ¶ 80 (2004) ("*Schools and Libraries Fifth Report and Order*").

[55] *Schools and Libraries Fifth Report and Order*, 19 FCC Rcd at 15834-35, ¶ 79.

[56] 47 C.F.R. § 54.702(c).

[57] To the extent that USAC's administrative procedures contain any confidential or sensitive information, USAC should seek confidential treatment pursuant to the Commission's rules.

[58] *See* GAO 2005 E-Rate Report at 27-30 (observing that some USAC procedures arguably rise to the level of policy decisions and that enforcement problems could arise when audits uncover violations of USAC procedures).

[59] *See, e.g.*, GAO, Continuity of Operations Improved Planning Needed to Ensure Delivery of Essential Government Services, GAO-04-160 (Washington, D.C. Feb. 27, 2004).

whether changes are needed.[60] The Commission is in the process of compiling USF performance measures, particularly for the Schools and Libraries program and the High Cost program, in order to comply with the Office of Management and Budget ("OMB") Program Assessment Rating Tool ("PART") requirements. We seek comment on additional performance measures and goals that we can use to track progress and efficiency for all the universal service programs. Proposed performance measures should be highly relevant in measuring program value, accomplishments, and results. We also seek comment on whether we should establish specific performance goals or targets for the Administrator or for participants in the USF programs. We must be careful to measure only the goals of the program and not stray beyond our jurisdiction. Under the Act, universal service is defined as an "evolving level of telecommunications services" that includes advanced services.[61] For the various USF programs, we should focus on measuring access to an evolving level of telecommunications services in the performance measure context.

25. The OMB's PART guidance sets forth three types of performance measures: (1) outcome measures, (2) output measures, and (3) efficiency measures.[62] Outcome measures "describe the intended result from carrying out a program or activity."[63] Output measures describe the level of activity, such as applications processed, number of housing units repaired, or number of stakeholders served by a program. Efficiency measures capture a program's ability to perform its function and achieve its intended results relative to the resources expended.[64] These performance measurements should be intrinsically linked to the purpose of the program and the strategic goal to which it contributes.[65] The GAO has also published a number of reports addressing the use of performance measures in the management of government programs.[66] We seek comment on establishing the most useful and valid outcome, output, and efficiency measures for the USF and each of its mechanisms, as well as the administration of the program. Commenters should address the objectives of any recommended performance measurements and goals. Commenters should also discuss whether we should revise our information collection process, including any of the forms applicable to the USF mechanisms, in order to collect sufficient information to measure the performance of the programs and identify potential areas for program improvement.

26. *E-Rate.* We seek comment on suitable outcome, output, and efficiency measures for the E-rate program. In the past, the Commission used the percentage of public schools connected to the Internet as a measure of the impact of the E-rate program and its success, and we seek comment on continuing to use connectivity as a measurement.[67] As prescribed in section 254(h), the statutory goal of the E-rate

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[60] *See* GAO 2005 E-Rate Report at 19-26 (criticizing the Commission for failing to develop useful performance goals and measures for the E-rate program).

[61] 47 U.S.C. § 254(c).

[62] *See* Memorandum from Clay Johnson III, Deputy Director for Management, Office of Management and Budget, to Program Associate Directors, Budget Data Request No. 04-31 (Mar. 22, 2003) ("*OMB PART Guidance Memorandum*"); http://www.whitehouse.gov/omb/part/index.html. The most current PART guidance, referred to herein as "2005 PART Guidance," is: http://www.whitehouse.gov/omb/part/fy2005/2005_guidance.doc.

[63] *See* 2005 PART Guidance at 9.

[64] The 2005 PART Guidance states that "[m]eaningful efficiency measures consider the benefit to the customer and serve as indicators of how well the program performs." *Id.* at 10.

[65] *Id.* at 8-9.

[66] *See, e.g.*, Government Accountability Office, *Effectively Implementing the Government Performance and Results Act* (Jun. 1996).

[67] *See* Office of Management and Budget, Program Assessment Rating Tool: Schools and Libraries – Universal Service Fund, §§ 2.1-2.4 (2003) ("*FCC E-Rate PART Report*"). The connectivity measurement was of limited usefulness; however, because it did not apply to all program participants, such as libraries and private schools. In

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program is to provide discounts to eligible schools and libraries for educational purposes. The Commission used this goal in developing and submitting its prior PART analysis to the OMB.[68] We seek comment on the value of continuing to use this goal for the purposes of measuring the impact of the E-rate program.[69] We seek comment on whether we should also measure the connectivity of libraries or private schools. We seek comment on whether alternative or supplemental goals may be more appropriate than connectivity. Universal service is an "evolving level of telecommunications services" that includes advanced services.[70] We seek comment on how we can take the evolving level of services into account in adopting performance measures. We also seek comment on ways to measure the extent to which broadband services have been deployed to classrooms, through the E-rate program. One possibility for measuring the impact of E-rate moneys on schools and libraries would be to collect data on the use of E-rate supported services. For example, we could measure the number or percentage of students that access the Internet or the number or percentage of teachers using supported services in their classrooms. Likewise, we could measure the number or percentage of library patrons who use supported services during a library visit. We seek comment on relevant performance measures for the E-rate program. We note that the Department of Education already collects information on the use of the Internet in classrooms, but does not collect information on broadband. We do not want to expend resources for a repetitious inquiry. We therefore seek comment on how we should design performance measurements to measure broadband connectivity. Commenters should also propose definitions of "broadband" for our performance measurements. We also seek comment on how we can be sure to measure only schools and libraries that get support from the program, rather than measuring all schools and libraries. Furthermore, we seek comment on how the Commission can determine which schools currently have no connectivity at all so that we can improve the program by reaching these unconnected schools.

27. We note that the U.S. Department of Education uses performance measures to evaluate the implementation of the Enhancing Education Through Technology ("EETT") program.[71] The EETT program funds initiatives that are designed to integrate technology into classrooms in ways to improve the academic achievement of students. These performance measures allow the Department of Education to respond to Government Performance and Results Act ("GPRA") reporting requirements. We seek comment on whether these measures are instructive for E-rate purposes.

28. We also seek comment on meaningful ways to distinguish the impact of E-rate funds from other governmental and non-governmental programs that support services or facilities similar to the E-rate program.[72] Is there an effective way to isolate and measure the impact of the E-rate program on schools and libraries?

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addition, once a significant number of public schools achieved Internet connectivity, the value of using this measurement to assess the on-going impact of the E-rate program diminished. As a result, the Commission stopped measuring the impact of the E-rate program in this way. *See* GAO 2005 E-Rate Report at 20-22.

[68] *FCC E-Rate PART Report* at § 1.1.

[69] *See* GAO 2005 E-Rate Report at 20-22.

[70] 47 U.S.C. § 254(c).

[71] The National Educational Technology Trends Study will examine the implementation of the EETT program. For a description of the issues, *see* http://ctl.sri.com/projects/displayProject.jsp?Nick=netts.

[72] While there is no other federal program that provides similar discounted access to advanced telecommunications and information services for schools and libraries, other programs provide funding for equipment and/or training that builds upon availability of advanced telecommunications services. Thirteen states and, possibly, a few local governments, as well as private organizations, also fund similar or complementary efforts to provide information technology hardware and software once access to advanced telecommunications and information services is

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29. We also seek comment on ways to measure the efficiency and effectiveness of the E-rate program. For example, we could implement a measurement to capture the cost in E-rate funds disbursed per student or library patron. We note that the timing of the Commission's and USAC's processes may be critical to schools and libraries. Lengthy intervals for processing or reviewing applications could have a disruptive effect on the budget or procurement schedule for schools or libraries. Delay can complicate the USAC application process for schools and libraries, leading to ministerial errors on subsequent applications, complicating auditing, and undermining our ability to combat waste, fraud, and abuse. We seek comment on timing issues that need improvement. Commenters should discuss particular deadlines that should be modified. Should we create new deadlines for Commission or USAC action in various phases of the E-rate process? Should we set deadlines for progressing from the completion of an application to the funding commitment decision letter ("FCDL"), or for completion of appeals? In submitting their responses and proposals, commenters should focus on the need, if any, to modify our information collection processes, and the burden any such modification would place on stakeholders in the program, particularly small entities.

30. *High Cost, Rural Health Care, and Low Income.* We also seek comment on adopting meaningful outcome, output, and efficiency measures for the High Cost, Rural Health Care, and Low Income programs.[73] Because these mechanisms have different goals and purposes than the E-rate program, we expect to adopt different performance measures and goals for each program. We note that participants in each USF mechanism may receive support from other sources (*e.g.*, loans from the Department of Agriculture's Rural Utility Service or the Department of Education) or may seek USF support for only a portion of their telecommunications needs. We seek comment on whether and how we should account for these factors in crafting performance measurements for each of the mechanisms so we can evaluate the impact of each USF dollar disbursed. Commenters should suggest measures for each of the statutory goals listed in section 254(b)(3): "Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas."[74] We also seek comment on ways to measure the efficiency of each support mechanism. How do we best determine whether the programs are accomplishing the statutory goals in a cost-effective manner? Relevant performance measures for the Low Income program may include the percentage of eligible households that receive low income support and telephone subscribership rates for low income consumers. We seek comment on these suggestions and we request commenters to submit alternative proposals for performance measures. Suitable performance measures for the High Cost program may include telephone subscribership in rural areas (and comparing such rates to telephone subscribership in urban areas) or the comparability of rural and urban rates. We seek comment on these possibilities and request parties to submit alternative proposals for performance measures. Relevant performance measures for the Rural Health Care program may determine the comparability of rural and urban rates, the number or percentage of eligible rural health care providers receiving USF support, and the number of patients served by rural health care providers participating in the program. We seek comment on these possibilities and request parties to submit alternative proposals for performance measures.

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established through the E-rate program. *See* GAO, Federal and State Universal Service Programs and Challenges to Funding (GAO-02-187) (Feb. 2002). This report is found at: http://www.gao.gov/new.items/d02187.pdf.

[73] These programs are codified in Part 54 of the Commission's rules. The High Cost program is in Subpart D, the Low Income program is in Subpart E, the Schools and Libraries program is in Subpart F, and the Rural Health Care program is in Subpart G.

[74] 47 U.S.C. § 254(b)(3).

31. *USF Administration.* Finally, we seek comment on establishing suitable performance measurements for evaluating the administration of the USF program. Under the Commission's rules, the Administrator is responsible for performing certain functions under the Commission's oversight. In particular, the Administrator bills contributors, collects USF contributions, disburses USF moneys, and administers the USF's accounts and transactions.[75] When the Commission appointed the permanent Administrator, we noted our expectation that the Administrator would perform its duties in an efficient, effective, competitively neutral manner.[76] Although the Commission adopted various reporting requirements applicable to the Administrator, it did not adopt metrics to measure the Administrator's performance of its duties.[77] Relevant performance measures may include the number of applications for USF support processed within a particular period of time, the percentage of applications rejected by the Administrator for errors or other reasons, the average number of days required to process an application, the accuracy of bills issued to contributors, or the number of errors made in disbursing funds to USF beneficiaries. We seek comment on these possibilities and request that commenters submit alternative proposals. We also seek comment on ways of measuring how cost-effectively the Administrator operates.

3. Program Management

32. We seek comment from all interested parties on ways we can improve the management, administration, and oversight of the USF programs, including the billing and collection process and the process of disbursing funds. We welcome input from service providers, beneficiaries, and others who have had experience with the USF programs. We also seek comment from other agencies and governmental entities about their experiences with program administration and management that may offer guidance in the context of the USF programs. We seek comment on the accessibility of our applications and disbursement processes for persons with disabilities. We recognize that our efforts to improve USF management may entail an administrative burden on USF program participants, and we invite comment on ways to achieve more efficient administration and management, while continuing our efforts in deterring waste, fraud, and abuse.

33. We seek comment on whether the E-rate and Rural Health Care distribution processes should more closely track those of the High Cost and Low Income programs. For example, we could change our rules to use a formula to distribute funds directly to schools and libraries according to their size and allow funds to be used in a more flexible way, *e.g.*, for communications-related services and equipment, or training on how best to use such service and equipment, rather than requiring applications that identify needed services and equipment and their cost. Would such a formulaic approach further the goals of the program? Would it create substantial additional challenges? We believe that any changes should not disadvantage stakeholders, including private, parochial, rural, and economically-challenged schools or libraries. We seek comment on whether a formulaic approach would disadvantage stakeholders of these programs. We also seek comment on whether a formulaic approach would make detecting waste, fraud, and abuse more difficult.

[75] 47 C.F.R. § 54.702(b).

[76] *See USAC Appointment Order*, 13 FCC Rcd at 25069-70, ¶ 20.

[77] As a matter of practice, USAC has adopted a number of performance measures for its own managerial purposes, and it regularly prepares reports that are disclosed publicly at quarterly meetings of the board of directors.

a. Application Process

(i) E-Rate

34. Under the Schools and Libraries program, eligible schools, libraries, and consortia that include eligible schools and libraries, may receive discounts for telecommunications services, Internet access, and internal connections.[78] The schools and libraries support mechanism is capped at $2.25 billion annually;[79] however, annual requests for funds frequently exceed the annual cap.[80] Applicants may receive discounts ranging from 20 to 90 percent of the price of eligible services, based on indicators of need, *i.e.*, percentages of students eligible for free or reduced price lunch through the National School Lunch Program, or a federally approved alternative mechanism.[81] In addition, rural applicants receive enhanced discounts, ranging from 25 to 90 percent of the pre-discount price for the eligible services.[82]

35. The application process generally begins with a technology assessment and a technology plan.[83] After developing the technology plan, the applicant must file the FCC Form 470 ("Form 470") to request discounted services such as tariffed telecommunications services, month-to-month Internet access, cellular services, or paging services, and any services for which the applicant is seeking a new contract.[84] The Form 470 must be posted on USAC's schools and libraries division website for at least 28 days.[85] The applicant must then comply with the Commission's competitive bidding requirements set forth in

[78] 47 C.F.R. § 54.505. To promote greater transparency in what is eligible for support under the schools and libraries support mechanism, on December 23, 2003, the Commission adopted a rule that formalizes the process for updating the eligible services list, beginning with Funding Year 2005. Under this rule, USAC is required to submit annually a draft of its updated eligible services list for the following year. *See* 47 C.F.R. § 54.522. Pursuant to section 54.522 of the Commission's rules, the Commission released a Public Notice on August 13, 2004, seeking comment on USAC's proposed eligible services list for Funding Year 2005. *Pleading Cycle Established For Eligible Services List For Universal Service Mechanism For Schools And Libraries*, Public Notice, CC Docket No. 02-6, 19 FCC Rcd 16013 (2004). After review of the record, the Commission released the final Funding Year 2005 Eligible Services List for Funding Year 2005. *See Release of Funding Year 2005 Eligible Services List for Schools and Libraries Universal Service Support Mechanism*, Public Notice, CC Docket No. 02-6, 19 FCC Rcd 20221 (2004) ("*Eligible Services PN*").

[79] 47 C.F.R. § 54.507(a).

[80] *See, e.g.*, Letter from George McDonald, Vice President, Schools and Libraries Division, USAC to Lisa Gelb, Deputy Chief, Wireline Competition Bureau, FCC (Apr. 15, 2005) (stating that USAC's estimate of demand for Schools and Libraries support mechanism for funding year 2005 is $3.65 billion).

[81] 47 C.F.R. § 54.505(b).

[82] 47 C.F.R. § 54.505(c).

[83] 47 U.S.C. § 254(h)(1)(B); 47 C.F.R. § 54.504. Applicants seeking discounts only for telecommunications services do not need to develop a technology plan. *See Request for Review of the Decision of the Universal Service Administrator by United Talmudical Academy, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, CC Docket Nos. 96-45, 97-21, Order, 16 FCC Rcd 18812, 18816, ¶ 11 (2001). In August, 2004, the Commission revised its rules concerning technology plans. *See Schools and Libraries Fifth Report and Order*, 19 FCC Rcd at 15826-830, ¶¶ 51-63.

[84] If the technology plan has not been approved when the applicant files the Form 470, the applicant must certify that it understands that the technology plan must be approved prior to commencement of service. 47 C.F.R. § 54.504(b)(2)(vii).

[85] 47 C.F.R. § 54.504(b)(4).

sections 54.504 and 54.511(a) of the Commission's rules.[86] The applicant then files the FCC Form 471 ("Form 471"), after entering into agreements for eligible services.[87]

36. After receiving the Form 471, USAC assigns a "funding request number" to each request for discounted services. USAC reviews the Form 471 and then, if the request is approved, issues funding commitment decision letters advising the applicants of the discounts that the applicants will receive under the rules. The FCC Form 486, Receipt of Service Confirmation Form ("Form 486"), is filed after the school or library begins to receive the service from the vendor.[88] The FCC Form 472, Billed Entity Applicant Reimbursement ("BEAR") Form may be filed if the school or library needs reimbursement of discounts due on approved services for which it has paid full price. Alternatively, the applicant can pay only the non-discounted portion of the bill and the vendor can seek reimbursement from USAC by filing the FCC Form 474, Service Provider Invoice Form ("Form 474").[89]

37. *Application Process.* We seek comment on the application process for obtaining support from the schools and libraries mechanism.[90] In particular, we seek proposals on ways to improve the administration of the application process while maintaining an effective review system to ensure that USF moneys are disbursed properly. We invite suggestions for streamlining the application process, such as shortening, combining, or eliminating forms. Commenters should discuss, for example, whether we should streamline applications for priority 1 services, establish a different application cycle for applicants with repeat requests, or limit the current application form to applicants seeking priority 2 services and develop a simpler application process for priority 1 services. We seek comment on whether the burden on applicants would be reduced by creating a streamlined form for certain circumstances and only requiring full applications when changing technology plan criteria or ordering new services. It appears, based on the information we have at this time, that relatively few instances of waste, fraud, and abuse occur in requests for priority 1 services. We tentatively conclude that we should adopt a streamlined multi-year application for priority one services. Commenters should address whether such a streamlined process may create the potential for waste, fraud, and abuse, and if so, how we can mitigate such risk. We seek comment on whether the complexity of the application process leads some small schools and libraries to choose not to participate in the E-rate program. In addition, we seek comment on whether the Administrator should provide applicants and service providers more, or less, information regarding the status of applications and if we should establish deadlines or target dates for processing applications. We note that there may be practical limitations to establishing firm deadlines for processing applications, which are typically submitted in batches. We ask commenters to consider these concerns in their comments. We also seek comment on suggestions for using technology to improve the application process, such as receiving electronic-only notifications and status reports. Commenters should discuss the costs and benefits of alternative proposals or modifications to the current system.

[86] 47 C.F.R. §§ 54.504, 54.511(a).

[87] This form is to request discounts on those services and it contains the discount calculation worksheet and the discount funding request. The Form 471 must be filed each time a school or library orders telecommunications services, Internet access, or internal connections.

[88] In the Form 486, the applicant must certify that the technology plans on which purchases were based were approved before receiving service. *See Schools and Libraries Fifth Report and Order*, 19 FCC Rcd at 15827-28, ¶ 56.

[89] *See* 47 C.F.R. § 54.514 (allowing billed entity to choose payment method).

[90] The Commission has previously sought comment on ways to streamline the application process. *See, e.g., Third Report and Order*, 18 FCC Rcd at 26938-39, ¶¶ 63-66; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Notice of Proposed Rulemaking and Order, 17 FCC Rcd 1914, 1920-1928, ¶¶ 12-32 (2002). We encourage parties who have filed comments in response to E-rate Notices of Proposed Rulemaking to refresh their comments on these issues in this proceeding.

38. As noted above, the timing of various parts of the USAC and Commission processes is critical to schools and libraries, many of which operate according to strict State or municipal budget and procurement schedules. When USAC or the Commission cause delay, schools and libraries can be thrown off their mandated budget or procurement schedules. This can have a significant negative impact on schools' and libraries' ability to achieve connectivity goals. Sometimes delay can complicate the USAC application process for schools and libraries, leading to ministerial errors on subsequent applications, complicating auditing, and undermining our ability to combat waste, fraud, and abuse. What are the timing and delay issues that the Commission should address in this proceeding? How can we improve timing problems and delays? While the dedicated staffs of USAC and the Commission work hard, do USAC and the Commission have adequate staff resources to combat delay? Should we create new deadlines for Commission or USAC action in various phases of the E-rate process? Current deadlines for resolution of appeals are rarely met. How can we improve? Should we set deadlines for particular phases of the USAC and Commission process, such as deadlines for progressing from the completion of an application to FCDL, or for completion of appeals at the Commission?

39. We seek comment on what guidance, if any, we should provide to define a completed application for E-rate money. We note that, since the inception of the program, parties have experienced problems with meeting the requirement to submit a complete application during the filing window. The Administrator has rejected applications that were not complete, including applications that were not signed. We seek comments on what rules, if any, we should adopt to provide clarity to program applicants. In addition, we seek comment on whether to establish minimum processing standards with which the Administrator must comply (*e.g.*, requiring the Administrator to verify that the applicant's technology plan was signed by an authorized entity). We note that failure to sign an application may implicate law enforcement activity, as well as the enforcement of the Commission's governing rules.

40. *Competitive Bidding.* We seek comment on modifying our current rules requiring competitive bidding. In particular, we request commenters to submit alternative proposals or suggestions for improving our competitive bidding rules to ensure that program participants obtain the best value for USF support provided. We seek comment on whether to limit the obligation to issue a competitive bid should apply only to applications above a particular dollar value threshold. Would this be an appropriate way to balance administrative burdens on applicants with the need for competitive bids? We seek comment on the process for establishing and administering the eligible services list.[91] We seek comment on the pilot on-line eligible products list that USAC established pursuant to a Commission order, and whether this project has materially streamlined or simplified the application process. Commenters should discuss ways to handle the list of eligible services in a more administratively efficient way, while at the same time ensuring that USF moneys are provided only for eligible services. Commenters should also discuss whether we should publish service life, or depreciation, guidelines for equipment.[92] In addition, we seek comment on how the E-rate technology planning process can be reviewed in accordance with other federal technology planning requirements.[93] We also seek comment on whether the Good Samaritan E-rate program policy is an efficient method of disbursing funds.[94]

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[91] *See "Eligible Services PN."*

[92] *See* Response to Task Force at 3.

[93] *See id.* at 2. The Task Force recommended reviewing the E-rate technology planning process in accordance with the technology goals and planning requirements of the U.S. Department of Education and the U.S. Institute for Museum and Library Services. *Id.*

[94] If the BEAR Form cannot be processed because the service provider is no longer in business, USAC permits the applicant to obtain BEAR payments through a substitute service provider, known as a Good Samaritan. The Good Samaritan policy is a procedure that USAC has implemented to address specific situations in which the services

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41. *Forms.* Commenters should discuss the Forms 470, 471, 472, 473, 474, 486, and 498 and address whether more or less information should be required on these forms, if any of these forms could be consolidated or eliminated, and if any other forms would be helpful.[95] We seek comment on whether the Form 470 facilitates the competitive bidding process, and whether our rules should continue to require this form and its public disclosure. We seek comment on whether forms can be combined in an effort to improve the process, *e.g.*, combining the Form 472 and Form 474. We note that the Bureau is proposing revisions to the Forms 472, 473, and 474 in order to combat waste, fraud, and abuse.[96] We seek comment on the certification requirements in the E-rate forms. Specifically, commenters should discuss whether we should revise the Form 473, so that the applicant paying on an installment plan would be required to certify that, as of the time of the final invoice payment, all of the services covered by the invoice or invoices had been provided. In addition, commenters should discuss how we can ensure that the certifications by the applicant and the service provider in the Form 472 are executed independently. Commenters should also discuss whether we should add a signature requirement to the Form 474. We also seek comment on whether any of these forms should be optional.

42. *Timing of Application Cycle.* Commenters should address whether we should better synchronize the application and disbursement process with the planning and budget cycles of the schools and libraries benefiting from this program. For example, the instructions to the Form 471 state: "Provide the number of students eligible for the National School Lunch Program ("NSLP") as of the October 1st prior to the filing of this form, or use the most current figure available."[97] Commenters should discuss whether this date for data, October 1st or the most current, is reasonable, or if a different date should be used. We seek comment on whether there are inconsistencies between Commission rules (or USAC procedures) and state or municipal rules, including state or municipal procurement rules. Commenters should discuss ways to reconcile any such inconsistencies. We seek comment on whether an annual application cycle is necessary or whether it would be more efficient to permit multi-year application cycles. Commenters should address the costs and benefits of an annual cycle or multi-year cycle.

43. *Service Providers and Consultants.* We seek comment on the process as it pertains to service providers and consultants. We specifically seek comment on whether we should establish certain criteria, such as quality standards or standards of conduct, for participating service providers and consultants. Adopting quality standards or standards of conduct for service providers and consultants could help deter waste, fraud, and abuse by, for example, ensuring program participants maintain effective procedures for complying with our rules. In addition, we seek comment on whether we should

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have been rendered and paid for by the applicant at the undiscounted rate and the original service provider is out of business or in bankruptcy. The Good Samaritan obtains the BEAR payment from USAC and passes the reimbursement to the applicant. The Good Samaritan does not receive any payment for its services. *See BellSouth Corporation Petition for Clarification of Request for Immediate Relief Filed by the State of Tennessee, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 18 FCC Rcd 24688, 24689 & note 7 (2003).

[95] In addition to the Schools and Libraries forms discussed above, service providers must submit forms for reimbursement: the Form 473, Annual Service Provider Certification Form, which confirms that the service provider's invoice forms are completed in accordance with Commission rules and the Form 474, Service Provider Invoice Form, which informs the fund administrator of the amount of discounts for which the service provider seeks universal service support. The service provider must have performed the service and submitted a discounted bill to the applicant prior to submitting the Service Provider Invoice Form. In addition, the applicant must have already filed a Form 486, Receipt of Services Confirmation Form.

[96] *See "Wireline Competition Bureau Seeks Comment on Proposed Revisions to FCC Forms 472, 473, and 474,"* CC Docket 02-6, Public Notice, 20 FCC Rcd 4172 (2005).

[97] Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471) p. 16 (Nov. 2004).

impose specific standards or a certification process for consultants for E-rate and consultants used by other USF beneficiaries.[98] Commenters should also discuss any other measures we should adopt to deter fraudulent actions by service providers or consultants. Commenters should discuss the costs and benefits for any proposal submitted.

(ii) High Cost

44. The High Cost support mechanism provided approximately $3.4 billion in support in fiscal year 2004.[99] Under the statute and the Commission's rules, only Eligible Telecommunications Carriers ("ETCs") may receive High Cost support. Under section 214(e) of the Act, a state commission can designate a common carrier as an ETC for a service area designated by the state commission.[100] An ETC is eligible for universal service support and must offer the services supported by universal service support mechanisms using its own facilities or a combination of its own facilities and resale of another carrier's services.[101] In addition, the ETC must advertise the availability of such services.[102]

45. The High Cost support mechanism is made up of five components: high cost loop support,[103] local switching support,[104] interstate access support,[105] forward-looking, or model, support for non-rural[106] carriers, and interstate common line support ("ICLS") for rate-of-return carriers.[107] A telecommunications carrier seeking High Cost support for the first time[108] must do the following: (1) obtain a service provider identification number ("SPIN") by using Form 498,[109] (2) obtain ETC status and submit a copy of the ETC designation order to USAC, (3) submit line count information, (4) have a valid

[98] *See* Response to Task Force at 6.

[99] In fiscal year 1999, this mechanism provided approximately $1.7 billion; in 2000, $1.9 billion; in 2001, $2.6 billion; in 2002, $2.8 billion; in 2003, $3.3 billion. *See* CBO, "Financing Universal Telephone Service" (Mar. 2005) at table 1.1.

[100] 47 U.S.C. § 214(e).

[101] 47 U.S.C. § 214 (e)(1)(A).

[102] 47 U.S.C. § 214(e)(1)(B).

[103] High cost loop support provides support for the "last mile" of connection for rural companies in service areas where the reported average cost per loop exceeds 115 percent of the national average cost per line. *See* 47 C.F.R. §§ 36.601-36.631. High cost loop support for non-rural carriers is "interim hold harmless support." Interim hold harmless support is the greater of the amount that a carrier would receive under the embedded mechanism or the amount provided in the forward looking mechanism

[104] Local Switching Support provides interstate assistance designed to reduce the high fixed switching costs for companies serving fewer than 50,000 lines.

[105] Interstate Access Support helps to offset interstate access charges for price cap carriers.

[106] Any carrier that does not meet the definition of a rural carrier is a non-rural carrier. Section 3 of the Act defines a rural carrier. *See* 47 U.S.C. § 153(37).

[107] High cost loop support also includes two subcategories: safety valve support and safety net additive support. *See* 47 C.F.R. §§ 36.605, 54.305. In addition, High Cost support included Long Term support ("LTS"), until July 1, 2004, after which LTS was incorporated into ICLS. *See Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order and Second Further Notice of Proposed Rulemaking, 19 FCC Rcd 4122, 4150, ¶ 61 (2004).

[108] In most cases, this will be a competitive ETC, not the incumbent LEC.

[109] This form also requires carriers to provide specific remittance information so that USAC will know where to send payments.

certification on file, and (5) submit the Forms 499-A and 499-Q, in which the carrier reports interstate and international end user telecommunications revenue.[110]

46. We seek proposals from stakeholders on ways to improve the High Cost program application process and participation by reducing or eliminating the administrative burden on carriers. Commenters also should discuss whether we should permit High Cost carriers to file annual, biannual, or triennial applications for support to provide for a more efficient administration of the High Cost program while minimizing the burden on carriers. Because support levels may change from year to year, a multi-year process, with annual true-ups and filing revisions, could cause administrative burdens on the Administrator and the carriers. If we adopt a multi-year application process, should we make it mandatory? If not, should we require carriers that opt for a multi-year process to retain the same level of support over the multi-year term, without an opportunity for true-up?

47. We seek comment on whether any rule changes are needed to permit the High Cost support mechanism to operate in a more efficient and effective manner while ensuring that USF moneys are used for their intended purpose. Should we adopt forms in lieu of the "Line Count Sample Letters" available on USAC's website?[111] Is there additional information we should collect from carriers to prevent waste, fraud, and abuse? We also seek comment on whether the Commission should adopt additional standards or deadlines (applicable either to carriers or the Administrator) to ensure more efficient management of this program. Commenters should discuss the costs and benefits of alternative proposals or suggestions. We note that our rules pertaining to the High Cost support mechanism are contained in both Part 36 and Part 54. We seek comment on whether we should modify our rules to consolidate all High Cost program rules in a single section.

48. *High Cost Loop Support.* We seek comment on whether we should modify the administrative process for participating in the High Cost Loop support mechanism. Specifically, we seek comment on whether we should modify the timing and the content of the reporting requirements imposed on High Cost companies for the purpose of administering the High Cost loop support mechanism. Local exchange carriers ("LECs") receiving this support are required to submit certain investment and expense data, including line count information, to NECA on July 31 of each year for participation in the High Cost loop support mechanism.[112] Non-rural High Cost carriers must submit updated data quarterly.[113] Rural High Cost carriers may voluntarily submit updated data.[114] Currently, NECA processes the information and performs the necessary calculations, but does not provide the supporting documentation to USAC.[115]

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[110] All carriers providing interstate telecommunications services file these forms, not just those seeking High Cost support. The 499-Q is due on February 1, May 1, August 1, and November 1. The 499-A is due on April 1.

[111] *See* http://www.universalservice.org/hc/forms.

[112] 47 C.F.R. § 36.611.

[113] Line count data must be submitted as follows: July 31 filing for line counts as of December 31 of the previous year; September 30 filing for line counts as of March 30; December 30 filing for line counts as of June 30; March 30 filing for line counts as of September 30 of the previous year.

[114] 47 C.F.R. § 36.612(a). If these carriers have a competitive ETC serving in their study areas, the rural carriers must file line counts on a quarterly basis. *Id.*

[115] In the context of annual access tariff filings, the Commission found that NECA failed to provide company-specific Part 32 accounting information specified in a Designation Order. *See July 1, 2004 Annual Access Charge Tariff Filings*, WC Docket No. 04-373, Memorandum Opinion and Order, 19 FCC Rcd 23877 (2004) ("*2004 Annual Access Order*"). In the *2004 Annual Access Order*, the Commission observed that NECA had asserted that the requested disaggregated accounting data were not available because NECA did not maintain these data itself but only stored certain information in its computer systems for a limited period of time. *2004 Annual Access Order*, 19 FCC Rcd at 23883-84, ¶ 17.

Does this lack of supporting information impede auditing efforts? We seek comment on whether investment and expense information should be submitted to USAC in addition to or instead of NECA.[116] We also seek comment on whether we should revise or clarify the calculation of line count information; for example, should we use an average annual line count instead of an end-of-year line count? In addition, we seek comment on whether we should make the voluntary update filings requirement mandatory, or eliminate this requirement altogether.[117] We also seek comment on whether we should harmonize the filing dates and requirements so that rural and non-rural companies are subject to the same deadlines and billing requirements.

49. High Cost loop support and local switching support are based on an incumbent LEC's costs at the study area level.[118] Rural carriers submit line count information at the study area level.[119] We also seek comment on whether we should revise section 36.611 of our rules, which describes the data collection requirements applicable to High Cost carriers.[120] Commenters should discuss whether revisions to NECA's data collection form are needed in order to accomplish the goals of the program. Finally, we seek comment on whether we should modify the quarterly reporting requirement for rural High Cost LECs in whose service area a competitive ETC has initiated service and reported line count data. These LECs must update their line count data quarterly (but not the investment and expense data).[121] We invite comments and proposals on what measures we can implement to balance the filing burden on High Cost companies with our need for information to run the program.

50. *Local Switching Support.* We seek comment on the administrative process pertaining to the Local Switching Support mechanism, including the timing of and scope of the information submitted by program beneficiaries to administer this program. A cost company serving fewer than 50,000 lines must submit the Form LSSc, an average schedule company serving fewer than 50,000 lines must submit the

[116] NECA collects line count and cost data from incumbent LECs; USAC collects data from competitive LECs and other data for rate-of-return carriers. *See* 47 C.F.R. §§ 36.611, 36.612, 54.307, 54.903. In 1999, USAC proposed, *inter alia*, that the Commission assign USAC the Part 36 data collection function, which would enable USAC to exercise appropriate oversight responsibility. *See* Letter from D. Scott Barash, Vice President and General Counsel, USAC to Irene Flannery, Chief, Accounting Policy Division, Common Carrier Bureau, FCC (Dec. 10, 1999). We seek comment on USAC's proposal.

[117] Under section 36.612, 47 C.F.R. § 36.612, rural High Cost companies are allowed to make up to three update filings to NECA each year. Whereas the initial filing reports audited account balances for the previous calendar year, these update filings reflect unaudited account balances on a rolling year basis (*i.e.*, treating March 31, June 30, and September 30 respectively as the end of the year). These update filings are voluntary. In theory, companies can file such updates only to the extent that the filing improves their support. In addition, NECA implements the update filings retroactively. The initial filing due to NECA on July 31 each year is mandatory and is the basis for providing support to companies with higher than average loop costs. The high cost fund is capped; therefore, companies that improve their support through update filings are doing so at the expense of other companies that do not file updates. The additional filings also require NECA to recalculate the National Average Cost per Loop and resulting support flows to all carriers each quarter.

[118] A study area is a geographic segment of an incumbent LEC's telephone operations and generally corresponds to the entire service territory within a state. The Commission froze study area boundaries effective November 15, 1984. In some cases, a holding company may have multiple study areas within a state if it had the multiple study areas before the effective date of the freeze or if it acquired a new study area.

[119] 47 C.F.R. § 36.611(h).

[120] 47 C.F.R. § 36.611.

[121] 47 C.F.R. § 36.612(a). This quarterly reporting requirement is to prevent overpayment of support if an incumbent carrier's market share has decreased due to competition.

Form LSSa.[122] We seek comment on these forms. We seek comment on whether we should shorten, combine, revise, or eliminate these forms. Commenters should discuss whether we should revise section 54.301 to limit projected growth in accounts based on actual past performance.[123] In addition, commenters should discuss any other revisions to the LSS data collection form and whether the quantity and timing of information requested is appropriate. The Commission's rules require incumbent LECs receiving Local Switching Support to provide data to the Administrator by October 1st of each year.[124] We seek comment on this process and specifically on the deadlines for submitting Local Switching Support data. We seek comment on whether carriers should receive a pro-rated portion of LSS, if the LSS information is filed late. We also seek comment on whether we should adopt rules to ensure the accuracy and reliability of these data. We seek suggestions for improving the process while at the same time promoting measures to ensure that Local Switching Support is used for appropriate purposes.

51. *Interstate Access Support.* Only price cap carriers[125] or competitive LECs serving in the area of a price cap carrier are eligible for Interstate Access Support. Price cap carriers must submit information on line counts, revenue information, UNE zone rates and UNE zone maps, and carrier certification.[126] Line counts are the number of lines served within each price cap LEC study area in which it serves.[127] We seek comment on the application process, the timing and scope of the information carriers must file, and whether we should impose greater or lesser reporting requirements on participants. We seek comment on whether we can administer Interstate Access Support with less information than we currently collect and still ensure that funds are used appropriately.

52. *Forms.* Applicants for funds from each of the universal service support mechanisms must comply with various certification requirements. Generally, these consist of statements certifying that information provided on the forms themselves are accurate and complete, and that funds received will be used for their intended purpose. We invite comment on whether the certification language in existing forms that must be submitted by applicants are sufficient to ensure that funds are used in their intended manner, in the absence of waste, fraud, and abuse.[128] Would additional forms or modified language in

[122] Cost companies receive pool revenues from NECA revenue pools for interstate access services based on their actual interstate investment and expenses, calculated each year from cost studies. 47 C.F.R. § 69.605. The pool revenues of average schedule companies are determined on the basis of a series of formulas. 47 C.F.R. § 69.606. For qualifying small companies, the average schedule option avoids the expense of preparing cost studies.

[123] 47 C.F.R. § 54.301.

[124] 47 C.F.R. § 54.301(b).

[125] Price cap regulation is a method of regulation of dominant carriers, *i.e.*, carriers with power to control prices, provided in sections 61.41 through 61.49 of the Commission's rules.

[126] 47 C.F.R. § 54.802. Price cap LECs and competitive LECs serving lines in the service area of a price cap LEC must file a certification with the Commission and USAC stating that all interstate access universal service support will be used for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The certificate, which may be in the form of a letter, must be filed annually. 47 C.F.R. § 54.809.

[127] The March 30 filing must have the number of lines served for October through December of the previous year. The June 30 filing must show the number of lines served for January through March of the current year. The September 30 filing must have the number of lines served for April through June of the current year. The December 30 filing has the number of lines served for July through September of the current year.

[128] The high cost and low income programs generally do not have the number and type of forms used in the schools and libraries and rural health care programs. *See* Worksheets LSSc and LSSa, and FCC Forms 507, 508, and 508 (high cost); FCC Form 497 (low income); FCC Forms 465, 466, 466-A, and 467 (rural health care); FCC Forms 470, 471, 479, 486, 500, and 472 BEAR (schools and libraries). These forms are available on USAC's internet site. *See* http://www.universalservice.org/forms/.

existing forms further protect the high-cost universal service support mechanisms against waste, fraud, and abuse? We request that commenters propose specific additional certification language they believe would further these goals, along with an explanation why the current certification language is insufficient. We also seek comment on the administrative burden (particularly on rural and small entities) of any proposed new forms and certifications.

(iii) Low Income

53. The Low Income program provided approximately $800 million to carriers in fiscal year 2004 in order to promote subscribership among people of limited means.[129] Only ETCs are eligible to receive Low Income support.[130] In our *Lifeline/Link-Up Report and Order*, we observed that only one-third of the households currently eligible for Lifeline/Link-Up assistance actually subscribe to this program.[131] In that proceeding, we expanded the eligibility criteria and adopted federal certification and verification procedures to minimize potential abuse of these programs.[132] We also adopted outreach guidelines to target low income consumers more effectively.

54. The Lifeline program reimburses carriers for discounting low income consumers' monthly telephone bills. This program allows low income consumers to save up to $10.00 per month on their telephone bills.[133] Low income consumers living on tribal lands may qualify for additional monthly discounts ranging from $30.25 to $35.00.[134] The Link-Up program reimburses carriers for providing discounted connection charges to eligible low income consumers. Qualifying consumers are eligible to save up to 50 percent on installation fees (not to exceed $30).[135] Low income consumers living on tribal lands may qualify for a discount of up to an additional $70.[136]

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[129] In fiscal year 1999, this mechanism provided approximately $500 million; in 2000, $500 million; in 2001, $600 million; in 2002, $700 million; in 2003, $700 million. *See* CBO, "Financing Universal Telephone Service" (Mar. 2005) at table 1.1.

[130] 47 U.S.C. § 254(e).

[131] *Lifeline/Link-Up Report and Order*, 19 FCC Rcd 8302, ¶ 1.

[132] Eligible consumers establish their qualification for Lifeline/Link-Up through certification and verification. States with their own Lifeline/Link-Up program have their own certification requirements. Some states have automatic enrollment. Federal default states, which are states or territories that have elected to use the federal criteria as their default standard, require an individual to self-certify to his or her carrier, under penalty of perjury, that he or she is enrolled in a qualifying assistance program. 47 C.F.R. § 54.409(b). Lifeline subscribers in default states are also required to notify their carriers when they cease to participate in a qualifying program. In the *Lifeline/Link-Up Report and Order*, the Commission imposed a requirement that all states, including federal default states, adopt certification requirements to document income-based eligibility for Lifeline/Link-Up enrollment. *Lifeline/Link-Up Report and Order*, 19 FCC Rcd at 8319-320, ¶ 28. Federal default states must also have an officer of the ETC certify, under penalty of perjury, that the ETC has procedures in place to review income documentation and that the presented documentation showed that the consumer's income was at or below 135 percent of the Federal Poverty Guidelines. *Id.* at 8321, ¶ 31. The Commission also adopted a verification requirement for all states, including federal default states. *Id.* at 8322, ¶ 33. ETCs must, for federal default states, verify annually the eligibility of a statistically valid sample of their Lifeline subscribers. *Id.* at 8323, ¶ 35.

[133] 47 C.F.R. § 54.401(a)(2).

[134] 47 C.F.R. § 54.403(a)(4).

[135] 47 C.F.R. § 54.411(a)(1).

[136] 47 C.F.R. § 54.411(a)(3).

55. We seek comment on the process for participating in the Low Income support mechanism.[137] In particular, we seek comment on whether we should revise the information requested and the frequency of carrier submissions. Carriers must submit the FCC Form 497, Lifeline and Link-Up Worksheet ("Form 497"), for reimbursement. In the Form 497, carriers report the number of Lifeline and Link-Up customers served, for each tier of support. This form must be submitted quarterly, by April 15th, July 15th, October 15th, and January 15th of each year. Commenters should discuss whether we should simplify the application process to require annual or semi-annual reporting instead of quarterly reporting. Low income rules appear in both Part 54 and Part 36 of our rules. We also seek comment on whether we should consolidate the Low Income rules. In addition, we invite comments and proposals on what measures we can implement to balance the filing and advertising burdens on companies with low income end users with our need for information to run the program effectively.

56. *Forms.* Applicants for funds from each of the universal service support mechanisms must comply with various certification requirements. Generally, these consist of statements certifying that information provided on the forms themselves are accurate and complete, and that funds received will be used for their intended purpose. We invite comment on whether the certification language in existing forms that must be submitted by applicants for funds from the low income support mechanism are sufficient to ensure that funds are used in their intended manner, in the absence of waste, fraud, and abuse.[138] Would additional forms or modified language in existing forms further protect the low income universal service support mechanisms against waste, fraud, and abuse? We request that commenters propose specific additional certification language they believe would further these goals, along with an explanation why the current certification language is insufficient. We also seek comment on the administrative burden (particularly on rural and small entities) of new forms and certifications.

(iv) Rural Health Care

57. In the Rural Health Care program, eligible health care providers apply for discounts on telecommunications services, in a procedure similar to that for the schools and libraries.[139] The Rural Health Care support mechanism provided approximately $18 million thus far to carriers in fiscal year 2003.[140] The program reimburses carriers that "provide telecommunications services which are necessary for the provision of health care services in a State, including instruction relating to such services, to any public or nonprofit health care provider that service persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas in that State."[141] This

[137] We have already sought comment on increasing participation in the Lifeline/Link-Up programs. *See Lifeline/Link-Up Report and Order*, 19 FCC Rcd at 8331-33, ¶¶ 56-58. We encourage parties to refresh the record in this proceeding.

[138] The high cost and low income programs generally do not have the number and type of forms used in the schools and libraries and rural health care programs. *See* Worksheets LSSc and LSSa, and FCC Forms 507, 508, and 508 (high cost); FCC Form 497 (low income); FCC Forms 465, 466, 466-A, and 467 (rural health care); FCC Forms 470, 471, 479, 486, 500, and 472 BEAR (schools and libraries). These forms are available on USAC's internet site. *See* http://www.universalservice.org/forms/.

[139] Under the Rural Health Care support mechanism, universal service support is provided for Internet access, as long as it is reasonably related to the health care needs of the facility and is the most cost-effective method of meeting those needs, but it does not provide support for the purchase of internal connections, computer equipment, or other telecommunications equipment.

[140] In fiscal year 1998, this mechanism provided approximately $3.3 million; in 1999, $4.3 million; in 2000, $10.3 million; in 2001, $18.6 million; in 2002, $21.3 million. As of May 12, 2005, approximately $.9 million more in disbursements are expected for fiscal year 2002. Disbursements for fiscal year 2003 are expected to reach $24.4 million. USAC has just begun disbursing funds for fiscal year 2004.

[141] 47 U.S.C. § 254(h)(1)(A).

design ensures that health care providers in rural areas obtain the benefits of the Internet and telecommunications through universal service support. Rural health care providers often use rural health care support to implement telemedicine programs, *i.e.*, medical treatment supported by advanced telecommunications services and information services. Telemedicine programs allow rural health care providers to consult with specialists in an effective manner. Carriers are not required to be ETCs to participate in this program; all Internet service providers and common carriers may participate, including interexchange carriers. This program is capped at $400 million per year.[142]

58. We seek comment on ways to improve and streamline the application process.[143] Currently, health care providers must file the FCC Form 465, Description of Services Requested and Certification Form and the FCC Form 466, Funding Request and Certificate Form. We seek comment generally on these forms. Commenters should address whether more or less information should be required on these forms and whether any of the forms could be consolidated or eliminated, and whether any other forms would be helpful. We tentatively conclude that we should adopt a streamlined multi-year application for rural health care providers. Our experience suggests that few problems of waste, fraud, and abuse exist in the Rural Health Care program. Commenters should discuss whether adopting multi-year applications would raise significant waste, fraud, and abuse concerns in this program. We seek comment on whether the current application process deters participation, particularly by small health care providers.[144] In addition, commenters should discuss the feasibility of using additional automation in the administrative process; for example, requiring the Administrator to e-mail commitment letters instead of using traditional methods such as the U.S. Postal Service to notify applicants of funding decisions.

59. *Forms.* Applicants for funds from each of the universal service support mechanisms must comply with various certification requirements. Generally, these consist of statements certifying that information provided on the forms themselves is accurate and complete, and that funds received will be used for their intended purpose. We invite comment on whether the certification language in existing forms that must be submitted by applicants for funds from the rural health care support mechanism are sufficient to ensure that funds are used in their intended manner, in the absence of waste, fraud, and abuse.[145] Would additional forms or modified language in existing forms further protect the rural health care universal service support mechanisms against waste, fraud, and abuse? We request that commenters propose specific additional certification language they believe would further these goals, along with an explanation why the current certification language is insufficient. We also seek comment on the administrative burden (particularly on rural and small entities) of new forms and certifications.

b. USF Disbursements

60. We seek comment on whether we should adopt rules to better ensure that the disbursement process is administered in an efficient, effective, and competitively neutral manner. Commenters should discuss whether experience has shown that the Administrator disburses the correct amount of funds in a

[142] 47 C.F.R. § 54.623(a).

[143] We note that we have previously sought comment on ways to streamline the application process. *See Rural Health Care Support Mechanism*, WC Docket 02-60, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 18 FCC Rcd 24546, 24580, ¶ 69 (2003).

[144] To date, discounts requested under the Rural Health Care program have never exceeded the annual cap.

[145] The high cost and low income programs generally do not have the number and type of forms used in the schools and libraries and rural health care programs. *See* Worksheets LSSc and LSSa, and FCC Forms 507, 508, and 508 (high cost); FCC Form 497 (low income); FCC Forms 465, 466, 466-A, and 467 (rural health care); FCC Forms 470, 471, 479, 486, 500, and 472 BEAR (schools and libraries). These forms are available on USAC's internet site. *See* http://www.universalservice.org/forms/.