

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

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| In the Matter of |) | |
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| Comprehensive Review of the Universal Service |) | WC Docket No. 05-195 |
| Fund Management, Administration, and Oversight |) | |
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**REPLY COMMENTS ON NOTICE OF INQUIRY FOR THE
SCHOOLS AND LIBRARIES UNIVERSAL SERVICE MECHANISM
(FCC 08-189)**

E-Rate Central submits these Reply Comments in response to the FCC’s Public Notice released September 12, 2008 (designated FCC 08-189) seeking comment on the Universal Service Fund Management, Administration, and Oversight.

E-Rate Central is an independent firm providing E-rate application and consulting services to schools and libraries nationwide. It also provides E-rate support services for several states and is an active member of the State E-Rate Coordinators’ Alliance (“SECA”) and the E-Rate Management Professionals Association, Inc. (“E-MPA”).

E-Rate Consultant Registration: Support and Concerns:

As a long-standing and experienced E-rate consultant, E-Rate Central noted with interest — and some concern —USAC’s initial comments to this NOI indicating its continued support of a program to register consultants. In summary, USAC proposed to “...define ‘consultant’ broadly to include persons not employed by the entity requesting funding who assist in the preparation of forms, who provide advice on how to complete forms, and who provide advice on how to answer questions posed by USAC during the application review process.” USAC’s proposal would require a consultant to obtain a Consultant Identification Number (“CIN”), and would require an

applicant to so identify its use of a consultant in an added CIN data field of its Form 471 application(s).

In broad concept, E-Rate Central supports the registration of E-rate consultants and the identification of the roles of such consultants in the applicant application and funding process. Such a registration would go a long way in recognizing and formalizing the growing use of E-rate consultants by applicants. Over the past few years, E-Rate Central has become increasingly troubled by the prospect that a few inexperienced — and, perhaps, unethical — consultants have or will reflect poorly on our profession.

As a practical matter, however, E-Rate Central is concerned about two aspects of the USAC proposal, as discussed separately below. Most importantly, E-Rate Central cannot support consultant registration unless and until its due process concerns are appropriately addressed.

Definition of Consultant:

As contemplated by USAC for registration purposes, the definition of an E-rate consultant is far too broad. There is a wide variety of individuals and organizations — state school and library E-rate coordinators, national educational and library associations (e.g. ALA and EdLiNC), educational service agencies, Certified Technology Plan Approvers, IT managers or business officials from neighboring schools, etc. — who provide free advice and/or training for E-rate applicants. Subjecting such entities to the bureaucracy of formal consultant registration would discourage, rather than encourage, these entities from providing valuable support. Requiring applicants to keep track of who had provided them with any E-rate assistance, obtaining their CINs (if they even had them), and listing such CINs on their applications would be a pointless exercise — probably leading only to an entirely new set of delay or denial reasons.

E-Rate Central itself fulfills many of these broadly-defined consulting roles. In addition to providing full-service E-rate consulting services for a fee to individual applicants, it also provides statewide E-rate support functions in four states under contract with those states' education departments. Such functions may include applicant training, outreach on deadlines, technology plan review, Web sites and newsletters, and a variety of problem resolution support activities on request by applicants (and sometimes by service providers or the SLD's PIA staff). E-Rate Central is not unique in this regard. State employees and other consultants also provide a broad array of state E-rate coordinating roles. Typically in these roles, when dealing with individual applicants, the state coordinators are providing assistance on specific situations, often with little knowledge and/or no responsibilities with respect to those applicants' overall E-rate

operations. Although E-Rate Central does its best to assist applicants on a statewide basis, it would be deeply concerned if a CIN registration system was initiated that would tie its reputation to the activities of any applicant it assisted.

E-Rate Central believes that the definition of E-rate consultant should be limited strictly to those providing fee-based E-rate consulting services directly to applicants. Should this definition ultimately prove to be too narrow, it could be expanded. Initially, however, this definition would appear to be, not only the most workable, but one that would address the most concerns.

As an alternative, or even as an initial step, consideration should be given to allowing individuals and organizations to define themselves as E-rate consultants thereby permitting, not requiring, them to register for CINs. E-Rate Central views this as a market-based registration system. It would encourage applicants to use registered consultants who are willing to subject themselves to greater scrutiny.

Under any consultant definition or registration approach, E-Rate Central recommends that CIN data fields be included on all applicant forms, not just the Form 471. Any person or firm listed as either a contact and/or signer of such forms, who is not an employee of the applicant, should be required to have a CIN.

Due Process Concerns:

E-Rate Central's primary concern with the registration of E-rate consultants is that such a process could easily lead to a substantial delay (or even denial) of funding for many applicants and/or to the loss of livelihood for associated consultants.

Lack of due process is already a serious problem with the service provider identification number (SPIN) system. In an effort to combat waste, fraud, and abuse — in and of itself an admirable goal — USAC apparently employs an internal system to flag applications associated with SPINs assigned to vendors suspected of rule violations, typically competitive bidding problems. When a potential problem is detected, USAC typically defers funding decisions on applications and/or invoices for all applicants using that service provider. Often, the funding deferrals apply not only to the specific requests for that SPIN, but to all pending funding requests for that applicant, even those on completely separate applications. Delays, when they do occur, can stretch over many years. Further, when a SPIN is flagged, USAC may seek commitment adjustments (COMADs) to recover or deny funding awarded earlier in the year, or years in the past.

Unfortunately, USAC has few investigative tools, and only limited staff resources, to efficiently deal with suspected vendor problems. The most common approach is to subject the associated applicants to Selective Reviews (or retroactively to Special Compliance Reviews) seeking extensive information on contract, bids, bid evaluations, budgets, and technology plans. Not only does this process delay funding of each applicant's own applications, but it may also delay funding decisions on consortium applications in which those applicants are members.

Throughout this extended delay process, the flagged service providers have little opportunity to respond to USAC allegations. In most cases, the service providers are not even formally advised that there are problems, much less told what the allegations might be.

Even without a CIN registration system, USAC has reportedly found a way to flag one consulting firm suspected of numerous violations. While such allegations may well be justified in this case, the process has unfairly impacted at least two of our clients. In one case, FY 2008 funding for a 60-member consortium is apparently being held up because of one member's use of that consultant on its own application. In another case, and applicant's BEAR invoices for FY 2007 are apparently not being paid because of the use of that consultant in a much earlier year.

This lack of due process is of serious concern to E-Rate Central. If similar procedures are applied to suspected consultant behavior under a CIN system, applicant funding problems could multiply. From a consultant's viewpoint, the result of unsubstantiated allegations delaying funding for all its clients would be devastating. Unlike most service providers, who may be able to fall back on a larger base of non-E-rate customers, many E-rate consultants are sustained only by their E-rate business.

Conclusions:

E-Rate Central's support for consultant registration is conditioned on the pre-establishment of due process procedures providing timely resolution of suspected consultant problems. Such a registration system should not be put in place until USAC can demonstrate that it can resolve suspected service provider problems on a fair and timely basis.

For registration purposes, the definition of E-rate consultant should be narrowly construed to those individuals and firms providing fee-based consulting services directly to applicants.

Before approving any aspects of USAC's consultant registration proposals, E-Rate Central asks that USAC be required to submit all procedural details to the Commission, and that such a filing be subjected to public comment.

Respectfully Submitted by:



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