

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

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In the Matter of)	
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Broadband Needs in Education, including)	CC Docket No. 02-6
Changes to the E-Rate Program to Improve)	WC Docket No. 05-195
Broadband Deployment)	
_____)	

**REPLY COMMENTS ON PUBLIC NOTICE SEEKING COMMENTS
ON BROADBAND DEPLOYMENT AND E-RATE
(DA 09-2376)**

E-Rate Central submits these Reply Comments in response to the FCC’s Public Notice released November 3, 2009 (designated DA 09-2376) seeking comment on broadband needs in education and on prospective changes to the E-rate program to encourage broadband deployment.

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”).

First, Do No Harm:

Almost without exception, the initial responses to this Public Notice agreed that the E-rate program is working. It has been providing, and continues to provide, critical funding for establishing, upgrading, and maintaining broadband services to schools and libraries. E-rate funding has sped the development of fiber optic-based wide-area networks for both schools and libraries, many of which have already been integrated into regional or state networks.

The #1 objective when considering changes to the E-rate program should be “do no harm.”

Increase the Cap:

There was widespread agreement in the initial responses that, to more fully support broadband in all schools and libraries, the annual funding cap must be raised (at least in line with inflation since the program began). Although Priority 1 funding for broadband deployment has been adequate, the demand for and/or the effective use of broadband requires Priority 2 funding to bring broadband into and throughout school and library buildings. Priority 2 funding must be made available to a broader spectrum of existing applicants.

Although an unusual amount of roll-over funding for FY 2009 should lower this year's Priority 2 funding threshold to under 80%, this level of additional funding is neither adequate nor sustainable. Many desperately poor applicants have been cut off from Priority 2 funding throughout the program's history. Without additional funding, the trends are not encouraging. In particular,

1. The demand for Priority 1 funding continues to rise. This, in itself, is not bad because it reflects the growing educational investment in broadband. But every additional dollar for Priority 1 reduces funding for Priority 2.
2. The demand for Priority 2 funding, which had abated for a few years as a consequence of the Two-in-Five Rule, is again on the rise.
3. Funding awards, as a percent of initial demand, are also increasing. In large part, this is the result of more flexible application review procedures brought about by the Commission's *Bishop Perry Order* and subsequent Global Resolution Orders. These changes have made the program much more user-friendly, but have, if anything, increased demand.

No thought should be given to expanding E-rate support to computers and/or staff training, or to a broader base of applicants, until adequate funding for existing services and applicants can be assured.

Redefine "Educational Purpose:"

Using E-rate to support broadband in the schools and libraries, at least indirectly, promotes broadband deployment in the communities as a whole. More direct community support can be achieved by broadening the definition of "educational purpose" to permit school broadband facilities to be used as community resources (as do libraries) outside of school hours. With no or little increase in funding, this would permit E-rate to serve a wider broadband role.

Eliminate Disincentives:

E-Rate Central was surprised that the initial responses paid so little attention to procedural disincentives within the E-rate program that may be retarding the effective funding of broadband services. The following two points in particular should be noted:

1. Consortia are a cost-effective way to procure, fund, and use broadband services on a large scale. Unfortunately, current E-rate procedures effectively penalize consortium applications by: (i) imposing additional requirements such as LOAs, Form 479s, and member tech plan tracking; (ii) delaying annual awards into later funding waves, often deferring action pending reviews of individual member applications; and (iii) subjecting higher-dollar applications to greater risks of extensive audits.
2. Broadband and other funding is languishing for an increasing number of large applicants, or groups of applicants, who have fallen into “black holes,” thus delaying funding for years. In some cases, these black holes are the making of a few individuals, who have already been punished, but who continue to haunt the applicants (e.g., Atlanta and Dallas). More insidious are the delays affecting groups of applicants unfortunate enough to have legitimately selected certain vendors that the administrators will not identify nor offer any due process solutions.

Conclusion:

E-Rate Central fully supports the Commission efforts to develop a National Broadband Plan to make ever increasing broadband resources universally available and affordable throughout our nation. It is hard to conceive, had such a plan been included in the Telecommunications Act of 1996, that the educational community could have ever been better served than by the E-rate program as we now know it. It has been a tremendous success and it has more work to do. We urge the Commission to learn from E-rate, continue to improve it, but take no actions that would put the program at risk.

Respectfully submitted by:



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