



August 19, 2011

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Ex Parte Filing in:

Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6

A National Broadband Plan For Our Future, GN Docket No. 09-51

Dear Ms. Spade:

The State E-Rate Coordinators Alliance (“SECA”) is submitting this *ex parte* filing to discuss in its recommendations for topics to be included in a future E-rate Reform NPRM. The information is presented in a White Paper format. This information was discussed collaboratively during meetings and follow-up conference calls of SECA members that were held in the spring and summer of this year.

SECA accomplishes its work through the resources of its 98 individual members who provide statewide E-rate coordination activities in 46 states and 2 U.S. territories. Representatives of SECA typically have daily interactions with E-rate applicants to provide assistance concerning all aspects of the program. SECA provides face-to face E-Rate training for applicants and service providers. As state E-rate coordinators, members serve as intermediaries between the applicant and service provider communities, the Administrator, and the Federal Communications Commission (FCC or Commission). SECA members typically provide more than 1300 hours of E-rate training workshops annually to E-rate applicants and service providers. In addition to the formal training hours, SECA members spend thousands of hours offering daily E-rate assistance to individual applicants through calls and e-mails.

Further, several members of SECA work for and apply for E-rate on behalf of large, statewide networks and consortia that further Congress' and the FCC's goals of providing universal access to modern telecommunications services to schools and libraries across the nation.

In addition to their roles as State E-rate trainers and coordinators, most SECA members also presently provide the following services to the program: technology plan approval; applicant verification assistance to the Administrator's Program Integrity Assurance (PIA) Division; verification to the Administrator of applicable state laws confirming eligibility of certain applicant groups; contact of last resort to applicants by the Administrator; and verification point for free/reduced lunch numbers for applicants.

SECA members are thoroughly familiar with E-Rate regulations, policies, outreach and the operation of the program at virtually all levels of the program.

SECA asks that the Bureau carefully consider these suggestions for program improvements. As very involved professionals working with E-rate applicants across the country, we think these suggestions provide the greatest opportunity for program change that will increase program participation and the success of applicants in successfully applying for and receiving E-rate funds in a manner that is respectful of and in furtherance of protection of program resources against waste, fraud, and abuse.

We would be happy to discuss these recommendations with the Commission and/or address any questions you may have.

Sincerely,

/s/ Gary Rawson
Gary Rawson, Chair
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Recommended Subjects to Be Included in Further NPRM

SECA White Paper – August 2011

Introduction to the Issues:

This White Paper discusses proposed reform topics that SECA encourages the FCC to include in a forthcoming further NPRM as anticipated by the National Broadband Plan’s Recommendation No. 26 to conduct a NPRM to further reform E-rate for FY 2012. Further, in *Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, CC Docket No. 02-6, GN Docket No. 09-51, FCC 10-75 (Order Released September 28, 2010) (hereinafter referred to as “2010 E-rate Reform Order”), when the FCC announced changes and improvements that applied to the then upcoming FY 2011 E-rate program year, the FCC characterized the Order as “a first stage in a multi-stage upgrade of the E-rate program.” *Id.* at ¶7.

Each topic includes a discussion of the issue, the challenges and problems arising from the issue, and proposed solutions to resolve the issue. The issues include:

1. Invoice Improvements
2. Priority 2 Reform
3. Creation of a Modernized, 21st Century Online E-rate Portal
4. Comprehensive Requirements Manual
5. Further Form 470 Revisions

1. Needed and Overdue Invoice Improvements

Each year, hundreds of millions of dollars of committed E-Rate funding never reach applicants. In fact, the GAO’s March 2009 Report to Congress 09-253, included a major section on the problem of committed but unused funding. According to their findings, of the \$19.5 billion in E-rate funding committed to schools and libraries between 1998 and 2006, \$5.0 billion—more than one-quarter—was not disbursed. While the cause of unused funding can be attributable to several issues, SECA believes that one major reason is the structure and procedures of the current USAC invoicing system. SECA recommends the FCC seek comment on the following:

Direct BEAR Reimbursement Payments to Applicants

Form 472 Billed Entity Applicant Reimbursement (BEAR) funding disbursement policies were developed based on the principle that applicants are not permitted to receive direct payments from the Universal Service Fund. While this principle may have originated from an unduly

narrow reading of the Telecommunications Act of 1996, it initially served as a protection for applicants via the 1999 *COMAD* Order that recoupment of improper disbursements would be sought only from service providers “because, unlike schools and libraries that receive discounted services, service providers actually receive disbursements of funds from the universal service support mechanism.”¹ This quid pro quo reflected parity: all payments should be remitted to service providers and all improperly disbursed funds should be recovered from service providers.

But in July 2004, the FCC reconsidered the *COMAD* Order and concluded that repayments may be sought from *either applicants* or service providers: “[R]ecover actions should be directed to the party or parties that committed the rule or statutory violation in question. We do so recognizing that in many instances, this will likely be the school or library, rather than the service provider.”² No concomitant change was made, however, to allow applicant to receive BEAR payments directly from USAC.

The current BEAR reimbursement process requires applicants to submit BEARs to service providers for approval before being sent to USAC. USAC then reviews, approves, and sends payment – not to the applicant – but to their service provider. The service provider then must remit an entirely new – company-issued – check to the applicant within 20 business days from their receipt of payment from USAC.³ This circuitous payment process for BEAR invoices is problematic for several reasons. It allows for USF payments to be placed in too many hands and presents obstacles to applicants’ receipt of these funds that do not help thwart and can actually contribute to waste, fraud and abuse.

The vendors typically rely on the Form 471 or 486 *contact* name and mailing address for remitting payments of the BEAR checks instead of the name and address of the school or library that may be listed in their customer records. This contact person is often a third party independent consultant whose address is different from the applicant’s which results in BEAR reimbursement checks being mailed to someone who should not be involved in any way with the handling of E-rate funds. In some high profile cases, vendors have issued and mailed BEAR checks that are payable to the third party consultants and unscrupulous consultants cashed BEAR checks, never forwarded funds to applicants, and defrauded the program of millions of dollars until their crimes were uncovered and prosecuted.⁴

On a fairly regular basis, vendors go out of business at some point after receiving a BEAR payment from USAC but prior to issuing a BEAR check to the applicant, which results in the applicant becoming a creditor in the bankruptcy proceedings. While the Commission has enacted “Good Samaritan” regulations, once USAC has submitted payment to a vendor, such regulations

¹ *Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21, 96-45, FCC 99-291 (Order Released October 8, 1999) at ¶ 8.

² *Federal-State Joint Board on Universal Service, Order on Reconsideration and Fourth Report and Order*, CC Docket Nos. 96-45, 97-21, 02-6, FCC 04-181 (Order Released July 30, 2011).

³ The twenty (20) business day rule is antiquated because it was enacted prior to the advent of mandatory electronic funds transfer payments from USAC to vendors. Vendors no longer have to deposit and allow for USAC checks to clear their accounts before they issue a check to the applicant in the same amount as the payment received from USAC. Should the FCC conclude that BEAR payments should continue to be made to service providers, the 20 business day period should be shortened substantially, to between five and ten (10) business days.

⁴ Denise Babcock pled guilty to embezzling funds including E-Rate BEAR checks on May 11, 2011; Jon Slaughter received BEAR payments and failed to forward funds to school districts in Florida, Oklahoma and North Carolina.

are unenforceable and applicants lose E-Rate money. In some cases, particularly with small vendors that lack familiarity with the E-rate program, payments are not passed to applicants due to vendor confusion over program rules. The vendor may mistakenly believe, in good faith, that the payment is theirs to keep, requiring applicants to convince the vendor that the money is due to the applicant. In other cases, vendors may not have an accounts payable system that routinely issues BEAR checks and although the vendor knows of its obligation to remit payment to the applicant, the applicant must remind the vendor, sometimes repeatedly, to issue and mail the check to the applicant. Finally, vendors may mistakenly make BEAR checks payable to the form 471 or 486 contact person rather than to the applicant (Sue Smith verses Big Valley School District), which causes further confusion for applicants and service providers alike, and creates tempting situations for individuals to defraud the program by misappropriating funds to which they are not entitled.

The time has come for the Commission to enact regulations allowing for direct BEAR payments from USAC to applicants. Additional regulations or policy reforms are needed to ensure BEAR payments are made to applicants rather than third party consultants or individuals. Once the Commission issued the Commitment Adjustment Order requiring USAC to recover improperly disbursed funds from the party that violated the rules, SECA noted there was no statutory or regulatory barrier preventing direct payments to applicants.⁵

Automatic Deadline Extensions for \$0-Funded Invoices

SLD reports that 20-25% of the BEAR and SPI payments are \$0-funded. As an example of the magnitude of these denials, according to the SLD Data Retrieval Tool for FY 2009 (downloaded on May 25, 2011), eight FRNs in Virginia had zero-funded invoices that amounted to over - \$600,000 and fourteen FRNs in North Carolina totaling over \$500,000. Zero funded figures for other states include: Texas, \$2,730,000; Illinois, \$873,000; and New Jersey, \$1,865,000.

Zero-funded BEARs are often not detected by applicants because of innocuous language in BEAR Notification letters resulting in undisbursed funds. Applicants are waiting for retroactive funds to be delivered but payment had never been made by USAC.

Should applicants receive a \$0-funded BEAR, they often view it as a denial of funding and do not realize that it is most likely a form-error rejection and they should resubmit the invoice with corrections. For applicants that have enough experience to realize they can and should resubmit the BEAR, it is very difficult to discern the reason for the denial because the standard denials reasons lack clarity or a true explanation of what should be corrected. And if the invoice deadline for the FRN has passed, the applicant must go through the arduous process of first submitting an invoice deadline extension to USAC, waiting for the request to be approved, and then resubmitting the corrected invoice –that is, if the original BEAR contact is still employed by the applicant or is still acting in the capacity of the E-rate contact for the school or library.

⁵ SECA Initial Response to the Commission's Comprehensive Review of Universal Service Fund Management, Administration and Oversight, WC Docket No. 05-195, submitted October 17, 2005, Page 39.

By reducing the number of \$0-funded invoices and providing an automatic invoice deadline extension for \$0-funded BEARs, it would remove increase disbursement rates and remove several layers of processing and paperwork on both the applicant and USAC.

Problem Resolution Outreach to Correct BEAR Errors

The administrator reviews invoices submitted by applicants and service providers for correctness, and to ensure payments are made in accordance with program rules. When a USAC invoicing reviewer encounters an issue with a BEAR, however, the procedures generally do not permit the reviewer to reach out to the BEAR contact and manually fix the error to avoid rejection. A simple e-mail or phone call – such as those established during the Form 471 Problem Resolution process – would alleviate a significant number of \$0-funded BEARs. This problem resolution process was in place during the first several years of the E-rate program, but USAC claims it was eliminated when pressure mounted from service providers to issue payments more quickly. With that decision came very quick invoicing processing (98% of invoices are processed within 30 days) but “processed” does not mean “funded.” SECA recommends that the problem resolution process should be reinstated for BEAR invoices so as to reduce the number of \$0-funded BEARs and to reduce the administrative burden on the administrator, applicants and service providers associated with the current requirement of having to resubmit BEARs when they are \$0-funded.

Enhancements to the Online BEAR Form Application and Features

USAC developed the online BEAR form to improve the efficiency of processing these forms and while it was a welcome enhancement, it can and must be vastly improved.

The form should operate just like other E-rate applicant forms in that the certification process should occur at the end of the form instead of during a “sign-in” process. This enhancement would allow third-parties to create the online form and allow the applicant to certify and submit it. Currently, consultants cannot use the online BEAR because applicant PINs are not permitted to be used by anyone other than the person who owns the PIN.

The service provider certification step should be altered to reduce the frequency of inadvertent cancellations. The current process is confusing and many service providers unintentionally disapprove a BEAR certification when they intend to approve it, which requires the applicant to begin again with a new BEAR form.

Applicants should have the ability to modify an online BEAR between the time the applicant submits it to the service provider and the time the service provider certifies it. Currently, it is not possible to modify an online BEAR once the applicant hits “submit.” A service provider may discover the applicant’s calculations are incorrect or the applicant may realize they have made a clerical error. The only option that currently exists is for the applicant to initiate an entirely new online BEAR as it cannot modify an existing BEAR in any way.

Recommended Changes

- BEAR payments should be sent directly to applicants rather than service providers. This will eliminate the need for Good Samaritan regulations; reduce the number of lost payments; and reduce the potential for embezzled payments.
- The administrator should be required to provide problem resolution outreach to applicants with the opportunity to correct invoices containing clerical or ministerial errors in the spirit of the Bishop Perry Order
- All \$0-funded BEARs should be granted automatic invoice extensions.
- Online BEARs should be permitted to be started by an individual who does not have a PIN. A security code should be assigned to incomplete BEARs in order to be able to retrieve an incomplete, saved BEAR. The security code can also be used to access the form in order for the applicant's representative to certify the form.
- Applicants should be contacted within 20 days after an FRN's invoice deadline has passed and given the opportunity to submit an invoice without penalty.

2. Priority 2 Reform

Based on the trends of the last few years concerning demand forecasts and funding commitments, the current program regulations, if left intact without any modification, will result the possibility that Priority 2 funding will be available only at the 90% level, if at all. Although the FCC took steps to try to curb this possibility, by enacting the 2-in-5 year rule, SECA urges that further modification is necessary to allow for other applicants to receive the benefit of Priority 2 funding.

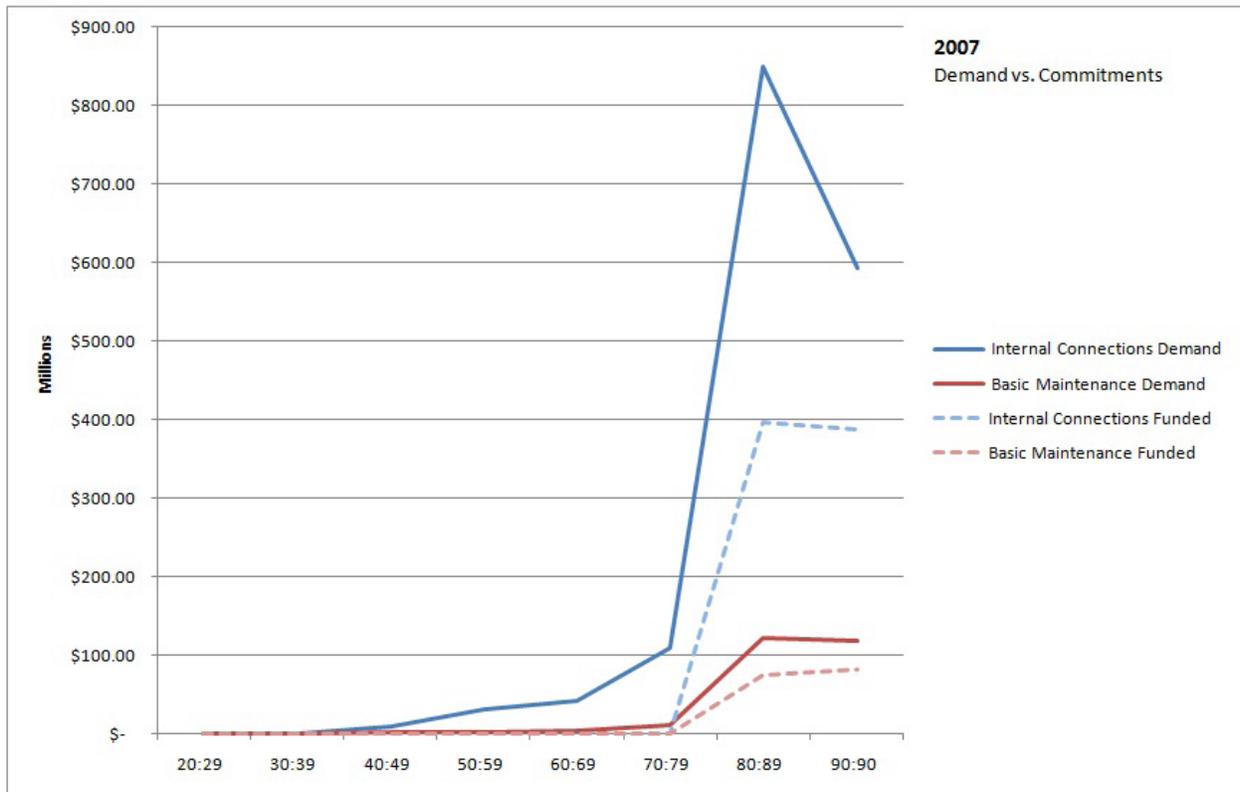
E-rate funding for Internal Connections and Maintenance on Internal Connections has been limited to the highest discount applicants for all but one year of the E-rate program. SECA believes a disproportionate amount of waste, fraud, and abuse is associated with high discount Internal Connection fund requests because applicants are not sufficiently vested in the funding requests.

Recommended Changes

SECA proposes to lower the maximum discount from 90% to 75% for Priority 2 funding requests. The discounts would follow the same methodology as the current matrix: declining for each discount band with the lowest discount remaining at 20%. All applicants under this suggested schedule would have to supply a greater percentage of funding in order to utilize Priority 2 funding. SECA believes that greater ownership, along with greater access to Priority 2 funding creates an overall gain to most applicants. We believe that increased financial commitment on the part of the applicant would help to reduce the incentive to abuse the program through premium ordering and transferring of equipment to non-eligible locations beyond the 3-year requirement.

Data suggests that districts with only pockets of 90% schools will have an overall increase in their funding availability. The proposed changes will more evenly distribute funds to a greater number of underfunded entities, while at the same time encouraging thoughtful, meaningful and purposeful purchases. Applicants would need to make a greater financial investment, which would translate, we believe, to a greater incentive to properly manage and maximize applicant investment, thus reducing abuse of the program.

Currently there is a disparity between demand for Priority 2 services and the funding available to support that demand. By restructuring the discount matrix, more applicants will be able to receive some funding for Priority 2. A look at FY2007 Priority 2 demand shows just how far apart demand is from the currently available funding.



The proposed changes will more evenly distribute funds to a greater number of entities, while at the same time encouraging thoughtful, meaningful and purposeful purchases. Applicants would need to make a greater financial investment, which would translate, we believe, to a greater incentive to properly manage and maximize applicant investment, thus reducing abuse of the program.

We suggest the following with respect to the Priority 2 discount matrix, so that more of the unfunded P2 applicants can be served.

INCOME	URBAN LOCATION	RURAL LOCATION	P2 Discount	
Measured by % of students eligible for the National School Lunch Program	P1 Discount	P1 Discount		
If the % of students in your school that qualifies for the National School Lunch Program is...	...and you are in an URBAN area applying for Priority 1 services, your discount is	...and you are in a RURAL area applying for Priority 1 services, your discount is	If your P1 Discount is.....	Your P2 Discount will be....
Less than 1%	20%	25%	20-29%	20%
1% to 19%	40%	50%	30-39%	30%
20% to 34%	50%	60%	40-49%	40%
35% to 49%	60%	70%	50-59%	50%
50% to 74%	80%	80%	60-69%	60%
75% to 100%	90%	90%	70-79%	65%
			80-89%	70%
			90%	75%

3. Creation of a Modernized, 21st Century Online E-rate Portal

SECA believes that the online systems need to be overhauled. In prior comments this recommendation has been received positively in the E-rate stakeholder community and SECA was informed that there would be new systems enhancements coming online to address many of these recommendations. Because achievement of these recommendations has not yet occurred and we do not know what future system enhancements are being discussed, we believe that this issue is appropriate to be addressed in an upcoming further NPRM so that all stakeholders may offer comments on this important topic. It is imperative to allow stakeholders to provide input into the needs and user requirements for any system upgrades and overhauls. This approach is consistent with the FCC’s recent overhaul of its own website for the first time in about 15 years.

When the E-rate program’s systems were first designed, many of the program requirements and processes had not been finalized. The technology available in 1996-1998, when the Form 470 and 471 online interfaces were developed is primitive in comparison to today’s standards. As requirements were added, the systems had to be added onto in order to accommodate these new processes. Consequently, not due to anyone’s fault or failure, the online E-rate processes have evolved into a hodgepodge of online and paper processes that are disjointed, and difficult to navigate. Some interactions require specific forms while others require letters formatted in various ways and addressed to one of three divisions within the Schools and Libraries Division. Item 21 Attachments may or may not be available for viewing with applications depending on how the Item 21 Attachments are delivered to the SLD.

SECA envisions a virtually paperless E-rate application process where all current functions would be conducted online via the E-rate Portal, comparable to a commercial online banking or other online accounting system. We believe that a paperless E-rate process can be created with a fraction of the funds that the Administrator spends annually processing paper applications and certifications and it can be a reality in the near future.

Applicants need the ability to retrieve and edit previously filed applications and use these forms as the basis to apply for future funding. The suggested changes will make the program more applicant-friendly and, as a result, will improve the efficiency of submitting and processing applications. Further, we encourage the use of User Acceptance Testing when any improvements or changes are made to the Website tools and functions in order to ensure that the new tools and functions work in the intended manner. The rollout of 2011 Forms 470 and 471 clearly demonstrated the need for extensive beta testing by program experts outside the SLD.

Recommended Changes

- The portal should have multiple modules that include online forms, whereby applicants can make applications similar to online tax preparation and banking tools
- Every applicant should be able to go into the portal and easily access all information related to a billed entity number.
- All databases should be related and normalized
- There should be one point of entry for all services
- Archived data should be saved and capture all references to the data
- Ability to upload technology plan and technology plan approval letters
- Edit checks should be applied to all documents and processes
- All data provided to USAC should be available to the applicant at any time (item 21 attachments)
- All alerts should be emailed and available online
- Forgot Password? Reset password online without calling USAC
- Set own personal PIN for form submission
- Online form filing and uploading attachments (any file type)
- Previous years history available and accessible for each year's application (block 4 data)
- All services, changes and requests should be submitted online
- Eliminate and/or merge unnecessary documents (486, 500)

By instituting this Portal concept and using this simplified E-rate application process, the following forms and letters would be eliminated:

1. Form 486 (except in the rare instances where an applicant wants to wait to “activate” their FRN)
2. Form 486 Approval Letters
3. Difficult Form 471, Block 4 calculations for districts (which will provide a simplified Block 4 for consortia)
4. BEAR Approval Letters
5. Quarterly Disbursement Reports
6. Good Samaritan Process and Letters

7. SPIN Change Letters
8. Service Substitution Letters
9. Form 500
10. Form 500 Approval Letters

We can only begin to image the hundreds of millions of dollars in savings to USAC through virtual elimination of paper application processing costs, mailing costs, personnel costs — and in addition, the time savings that would be afforded to E-rate applicants and providers, and a sense of restored faith in the program, upon implementation of these sensible recommendations.

4. Establishment of a Comprehensive Requirements Manual

The White House recently signed into law the “Plain Writing Act” whereby all federal agencies must write plainly in all new or revised documents. The Act takes effect in October 2011. For USAC, SECA suggests adding “All-in-One Place” regulations and policies for the E-Rate program.

We ask the Commission to request public comment on the need for and development of a Comprehensive E-rate Requirements Manual.⁶

Program guidance is currently spread all over the SLD website: the reference area, training PowerPoint slides that are unsearchable from the USAC Website, FAQ’s, SLD News Briefs, etc., all providing necessary information for applicant success. Some guidance conflicts with or contradicts other published information and often information presented during training is not translated to the SLD Website. Posting or publishing dates of the various references further complicates applicants’ compliance with the rules. FCC regulations and Reports and Orders relevant to the Program are not available on the USAC website. It is nearly impossible for applicants to definitively know whether they are compliant with program rules without the necessary references being easily available, in one place, and up-to-date. The program increasingly becomes accessible only to the well informed: either to large applicants with staffing sufficient to dedicate some toward their E-Rate operations or to those who hire E-Rate consultants. The neediest applicants are often driven from participation in the program altogether or become vulnerable to predatory business practices.

Throughout the 14-year history of the program there has been very heavy turnover in applicant staff assigned to E-Rate. This is likely to continue if not increase. Given the funding at stake for most applicants, the pressure placed upon those assigned to E-Rate will be increasingly intense. It is important that those newly assigned to E-Rate have an easy-to-use, reliable, and trustworthy guide to all the program requirements.

⁶This paper builds on the recommendation in our Comprehensive Reform comments that the E-rate rules and policies should be centrally located and organized. See SECA Comprehensive Reform Comments at 11-15, Filed October 17, 2005.

While USAC has enhanced its Website with step-by-step instructions for applicants and service providers, the documents and links often contain outdated and inaccurate or incomplete information. The absence of a comprehensive manual provided by USAC has compelled a number of state E-Rate coordinators to create and provide their own manuals to guide applicants in their states. The state coordinators cannot be assured, however, that USAC and/or the FCC would stand behind the content of these unofficial manuals. State coordinators find it difficult to keep these manuals up-to-date, with program requirements that frequently change due to various factors and that are not centrally documented. Clarifications (oral or informal) are made to existing written guidance including the Eligible Services List, but that information is not currently reflected in revised formal written guidance available to all applicants.

Recommended Changes

- We propose that USAC develop one comprehensive manual containing all requirements and references applicable to E-Rate program participants (including the Eligible Services List). This manual should be logically organized, easily searchable⁷, contain embedded hyperlinks, and be kept up-to-date. The publishing date of all updates should be easily determined from within the manual. For example, the manual might be similar to military aircraft operating manuals, which briefly describe and document changes when new, vitally important information is promulgated. The manual should not contain SLD's internal control and review procedures, merely the requirements those procedures are designed to enforce.
- The manual might reflect a fusion of the “Schools and Library Applicants” Steps (the dropdown menu on main USAC/SLD web page) and the Reference Section, so that information would be organized into the flow of the process, span all reference and resource information and be all-inclusive. This could be organized similar to chapters in a book by topic. Any informal guidance or clarification to any individual or group of program participants should be added to the manual in an appropriate section. The FCC should approve the manual so that program participants, USAC, and auditors can comfortably rely on it. USAC and auditors should reference the manual according to the timeframe of the action being reviewed. The manual should be prominently displayed on the USAC website.

It should make clear:

- Statutory requirements
 - FCC regulatory requirements
 - Federal general accounting requirements
 - FCC official guidance from orders not incorporated into regulations, and
 - USAC administrative procedures
-
- All USAC training and all other outreach efforts provided by USAC (e.g., SLD News Briefs) should be absolutely consistent with (including use of the same wording) and supported by the current version of the manual.

⁷ PowerPoint presentations and PDF files are not searchable by most search engines.

- All changes and the change history of the manual should be archived for reference during audits, site visits, review of prior-year appeals remanded to USAC, etc. These changes should be tracked on a daily basis, perhaps accessible by creating hyperlinks to individual words or phrases within the manual back to former guidance, clearly showing the applicable guidance during any given period. Since a comprehensive manual containing historical guidance since 1998 would be a huge undertaking, a manual containing current requirements and hyperlinks with changes going forward is a good suggested starting point. Regular, timely notification should be provided to all interested program participants of changes to the manual. This might be accomplished through weekly news updates, listserv, RSS feed, or other means. There should be a quick and powerful search engine available to search the content of the manual.

Potential Enhancements

The program is large and complex. Without some helpful structure, a comprehensive manual for all applicants might be overwhelming to some, especially smaller, applicants. In order to avoid that effect, we recommend that the manual be structured so that it can be accessed by different program participants in such a way that presents the information they are most likely to need.

There might be an entry method so that a participant wanting to use the manual might indicate the role they play, e.g., service provider, applicant, consultant, and the level of complexity of their involvement in E-Rate. For example, a service provider might indicate that it just provides telephone service, or that and more complex circuits, adding even internal connections if applicable.

An applicant might indicate it is an individual school or library that applies only for Priority 1 services, or a large school district that applies for all types of services, or a consortium, etc. The information they are presented with could be tailored based upon their point of entry information. An individual school or library applying only for Priority 1 services and not a member of a consortium wouldn't see information on Forms 479 or LOAs, or Priority 2 services.

A service provider may be presented information explaining and directing them how to obtain a SPIN. Structure the manual so that the first view is a fairly high level perspective of the program, with the ability to drill down into the contents wherever a participant needs to find more information. Provide hyperlinks to FCC appeals, decisions, and orders that provide the substantive basis for many of the program's requirements.

Benefits

- Program rule compliance will improve because program participants will have easy access to all the requirements with which they are expected to comply.
- Reliance on a comprehensive manual that organizes and centralizes all the correct information (information currently scattered widely across the USAC website) will enable the Client Service Bureau (CSB) to give more reliable and consistent guidance to program participants

- Reduction of queries to USAC and the FCC about program requirements would be expected. (This has been the experience of several state coordinators who have distributed their own state manuals.)
- There will be a reduction in the burden placed upon program participants to find and understand all requirements applicable to the specific questions they have which should expedite and aid the PIA review process.
- There should be a reduction in the volume of appeals to USAC and the FCC and an increase in successful funding for applicants.
- There will be greater consistency among FCC, USAC, and audit decisions because everyone will be operating from the same manual.
- The manual will offer program continuity and enhance program integrity.
- The manual will mitigate the perceived complexity of the program and reduce participant frustration. This benefit may well result in an increase in program participation.

Other Considerations

As noted above, many state coordinators have taken it upon themselves to develop their own comprehensive manuals, which are updated regularly, similar to what is proposed here. These manuals have proven to be a valuable resource for applicants. USAC may wish to utilize these resources as a starting point in developing a manual. These coordinator manuals may prove useful to USAC when deciding on format and organization and as a starting point for content since these already contain actual USAC program information culled from a variety of USAC's own resources found in multiple locations on the USAC website.

5. Further Form 470 Revisions

While SECA appreciates revisions made to the Form 470 for Fund Year 2011, eliminating a number of superfluous items that resulted in needless funding denials, we believe additional revisions are necessary to remove remaining "gotchas" on the form. We ask the Commission to request public comment on the Form 470.

Recommended Changes

- We propose the elimination of, Block 1, Item 2, and Funding Year Designation. When an applicant posts a form 470, it may be for services that will begin in the next funding year. But it also may be for services that may begin before July 1 of the next year, as well as for services that begin after the funding year has ended (such as large regional or statewide procurements). The FY designation was implemented prior to the concept of the evergreen form 470, and is a misnomer that forces applicants to select the funding year designated on the most currently available version of the online form, which may or may not be an accurate statement. In reality, there should be no specific funding year form and applicants should be able to use the most currently available form, regardless of when it is posted throughout the year. For applicants of MTM services, SECA proposes

that a form 470 posted after the application window closes will satisfy the posting requirement for the next funding year.

- We propose Block 2, Summary Description of Needs or Services Requested, be consolidated into only Priority 1 and Priority 2 requests. Posting requests in incorrect service categories is a major concern and is a consistent “gotcha” for applicants. It is commonplace for applicants to encounter problems with their funding requests for either telecommunications or Internet access service, when they post in one category but not the other. A common example of this problem relates to portable wireless Internet access provided by cellular companies. If an applicant posts in the telecommunications category but fails to also post in the Internet category, they risk denials of funding for portable wireless Internet access – even though the very same company that is a telecommunications common carrier (and that would have reviewed the telecommunications section of the form 470 and known the applicant wanted to receive support for portable wireless Internet access service) provides both services. Similarly, applicants and PIA reviewers alike still demonstrate confusion over whether a telecommunications transmission circuit that is used to access the Internet should be posted in the telecommunications category only OR both the telecommunications and Internet access categories. This confusion may lead to denials of funding for a ministerial error.

This particular modification was referenced in the 2010 E-rate Reform Order, Paragraph 70, which states in pertinent part:

In seeking to achieve the proper balance between ensuring program integrity and eliminating excessive administrative burdens, we conclude that the preferable course is to simplify and redesign the FCC Form 470. ***We find that the changes we adopt will decrease the number of denials that stem purely from technical deficiencies rather than the applicant’s failure to conduct a fair and open competitive bidding process.***²⁰⁵ Streamlining the form to include only the information necessary to the competitive bidding process will also reduce appeals and increase program participation. Accordingly, we amend section 54.504(b) of the Commission’s rules to reflect accurately the specific information being requested on the FCC Form 470 in order to facilitate a fair and open competitive bidding process.²⁰⁶

²⁰⁵ *As the Commission and commenters have observed, the portions of the FCC Form 470 related to category selections and multiyear contracts, among others, have been the basis for a multitude of funding request denials by USAC because of technical errors rather than defects that negatively affected the competitive bidding process.* See E-rate Broadband NPRM, 25 FCC Rcd at 6881-82, para. 22; see also Sprint Comments at 9; CDE Reply Comments at 2; Qualcomm Reply Comments at 9.

²⁰⁶ See Appendix A, 47 C.F.R. § 54.503(c) as amended herein. ***In this order, we consolidate all of the rules pertaining to competitive bidding in section 54.503.*** Most of the competitive bidding provisions were previously codified in section 54.504. In section 54.504(b)(i)-(vi), schools, libraries, or consortia including those entities, were directed to supply on their FCC Forms 470 information related to computer equipment. As these subsections are no longer necessary, we delete them from the rules and replace them with new language directing schools, libraries, and consortia including those entities, to provide on their FCC Forms 470 a list of specified services for which they are likely to seek discounts and sufficient information to enable

bidders to reasonably determine the needs of the applicant. See Appendix A, 47 C.F.R. § 4.503(c)(1)(i) and (ii) as amended herein.

(Emphasis added). The FCC specifically referred to the form 470 category issue as a technical issue and cited this problem in the context of intending to resolve this issue. Further, Footnote 206 makes clear that all of the form requirements for the form 470 appear in Section 54.503 and this regulation lacks any mention of differentiating between telecommunications and Internet access service on the form 470.

Similar problems can occur with respect to Priority 2 internal connections and basic maintenance of internal connections. Sometimes, applicants wishing to purchase internal connections equipment will receive proposals that include separately priced warranties. Those warranties are technically considered basic maintenance of internal connections. But if an applicant failed to post in the basic maintenance of internal connections category, the applicant cannot claim E-rate funding for the warranty costs. With the changes in technology, and unsettled legal distinction between telecommunications and Internet access services, which are pending clarification in a separate proceeding, telecommunications and Internet access can be provided using many varieties of technology. The form 470 categories have not kept up with this concept with respect to Priority one services. This is most evident when requesting portable wireless data services, broadband services, and the proposed eligibility of leased dark fiber.

For all of these reasons, SECA believes it is sufficient to have a check box to indicate whether the specific form 470 is for Priority 1 services, Priority 2 services or both Priority 1 and Priority 2 services, and dispense with the listing of the four specific categories. We understand that the form 471 may continue to require the delineation of Telecommunications Services, Internet Access and Internal Connections for regulatory purposes, but without the service categories on the form 470, many fewer denials will be issued. By removing these categories, applicants will have a much easier time completing their form 470 applications, thereby simplifying the program. Given the form 470 download tool that is available for identifying prospective bidding opportunities, the elimination of the form 470 categories of service should not have an adverse effect on service providers.⁸

⁸ SECA comments to FCC Forms 470 and 471 Under the Paperwork Reduction Act, CC Docket 02-5, (June 30, 2010) at 4.