

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

In the Matter of	)	
	)	WC Docket No. 13-184
Modernizing the E-rate	)	
Program for Schools and Libraries	)	CC Docket No. 02-6
	)	

**COMMENTS OF THE  
COUNCIL OF THE GREAT CITY SCHOOLS**

The Council of the Great City Schools is pleased to submit comments to the Notice of Proposed Rulemaking seeking to modernize the E-Rate Program for schools and libraries, as adopted by the Federal Communications Commission on July 19, 2013. (WC Docket No. 13-184, CC Docket No. 02-6).

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## Introduction

The Council of the Great City Schools appreciates the hard work undertaken by the Commission in developing this Notice of Proposed Rulemaking, and is encouraged by the broad support that exists in reviewing and improving the E-Rate program. As stated in the Notice, the financial support the E-Rate has provided has helped many schools be a part of the immense technological advancements our society has seen in the last 15 years, and provided educators with access to modern communications that they may not have been able to have otherwise. Strengthening the E-Rate program and increasing the funding support is vital to operate schools and modernize teaching and learning.

The Council of the Great City Schools includes 66 of the nation's largest urban school districts – less than half of one percent of the approximately 14,000 school districts in the U.S. – yet enrolls almost 7 million students, including approximately 25 percent of the nation's Hispanic students, 30 percent of the nation's African American students, and 25 percent of the nation's children living in poverty. The value of the E-Rate is apparent every day to the members of the Council, as we serve the highest numbers and concentrations of disadvantaged children, employ the largest number of teachers, and operate in the greatest number of outdated and deteriorating buildings.

Prior to the E-Rate, shallow resources and a historically deep digital divide often left school districts with no chance to provide the technology that has enhanced teaching and learning elsewhere. Results on the National Assessment of Education Progress (NAEP) during the past decade, however, have shown that while urban districts still lag behind academically, they have made significant and greater gains than any other entity in the United States. These are test results the entire nation should be encouraged about, and it is essential that the Commission ensure that E-Rate support remains available in order to maintain their current pace of improvement.

The Council supports the goals outlined in the Administration's ConnectED initiative, and pledges our support to help the Commission convert the proposal into policy. As the president has often said, our nation has an interest in improving our schools to make sure America has the skills needed to expand opportunities, grow our economy and compete in the international marketplace. In urban school districts, this means making sure that our students and teachers learn and work in safe, secure and modern classrooms that prepare graduates for college and careers after their K-12 experience.

In these comments, the Council joins the “growing chorus of calls to build on the success of the E-rate program” by strengthening the program and adopting goals designed to ensure that schools and libraries have high-capacity connections and networks. We urge the Commission to consider an immediate increase in the funding cap to help further the nation's progress towards the ambitious goals laid out by the president. The comments provided here address the need for updating the program and improving efficiency, while also making sure the E-Rate maintains the fairness and flexibility that is necessary to manage the largest applications, keep urban schools and classrooms operating, and preserve the focus on schools with the greatest numbers and concentrations of poor children.

## Insufficient Funding for the Program

The Council notes that any detailed discussion about funding levels is absent in the Notice. As the Commission knows, current E-Rate funding is inadequate for the neediest applicants, let alone everyone else in the country. While there has been some public discussion about contribution levels and increasing funding in light of E-Rate reform and ConnectED, there are not specific details about how much funding is necessary. This includes the amount of funding that is needed to enact specific proposals in the Notice, or how much it would cost to reach the president's goals.

We understand that part of the Commission's intent in the Notice is to gather more information and get a better understanding of the full cost of modernizing the program and connecting all schools to high-speed broadband. But it is difficult to make policy recommendations on adding or eliminating certain costs, prioritizing funding levels for certain services, and the implications for school district decision-making without this information. Despite the lack of details, however, it remains clear that an immediate increase of the E-Rate cap is necessary to make progress towards the technologically-advanced education system we all want to provide.

Since the program's inception, there has been a resounding and overwhelming call from the applicant and provider community to raise the E-Rate's cap and add more money to a program. The original \$2.25 billion cap resulted from an outdated and inadequate analysis in the 1990's, and simply did not account for the need that existed or the growing technology usage that was headed to schools and libraries. Subsequent requests to increase funding were routinely rejected, even as annual demand for reimbursements exceeded the original cap. E-Rate stakeholders were heartened by the 2010 decision to increase the cap, but the fact that the Commission decided to only provide inflationary adjustments prospectively meant that no additional funding was made available to bridge the gap that was formed in the program's first dozen years.

And even since the inflationary adjustment decision in 2010, the need for additional funding has increased considerably. The delivery of content-rich media has become an intrinsic part of instruction, and online state assessments, blended learning, computer adaptive testing, individualized student learning objectives, and 1:1 computing makes high-speed broadband in classrooms even more of a necessity. As student and teacher needs for high-tech learning has accelerated, the gap between what is required and what the E-Rate can support has grown even larger. This shortfall is compounded even further by the fact that state and local education aid has declined significantly as a result of the lagging economy. A recent study by the Center for Budget and Policy Priorities demonstrated that current state funding for education has dropped below the levels that schools received in 2008. Without significant increases in E-Rate funding, the disparity will continue to grow.

The current NPRM is a detailed and substantial inquiry, with significant proposals, changes, and information requests. It seems likely that the proceeding could extend for a considerable time, and it will be well into 2014 before higher funding estimates can be considered and a final order is issued. Applicants will then have to wait before program changes are implemented and incorporated into the application and reimbursement process. Yet the need for increased funding remains abundant even prior to these changes. An immediate increase in the funding cap –

concurrent with the Commission's consideration of the responses to the Notice and prior to the final order – is an important first step in modernizing the program and will help the nation's schools make progress towards the targets outlined by President Obama. Additional funding adjustments will no doubt be needed once the Commission has reviewed all of the comments and reply comments, and determined the program priorities for moving forward. But the progress that schools can make in the interim should not be tabled until then.

## **Broadband Connectivity**

### Bandwidth Targets

In determining how to define, “broadband that supports digital learning,” the Council supports using the ConnectED interim target of at least 100 Mbps service with a final target of 1 Gbps to most schools and libraries within 5 years. These ConnectED proposals are consistent with those made by the State Education Technology Directors Association (SETDA). According to SETDA, in order to have sufficient broadband access for enhanced teaching and learning, schools will need Internet connections of at least 100 Mbps per 1,000 users by the 2014-15 school year and at least 1 Gbps Internet access per 1,000 users by the 2017-18 school year.

While it was not suggested in the Notice, we want to underscore that any bandwidth levels that are set should not be used a compliance target. Obviously, any single definition approved by the Commission may not work for every school and district, but we are hesitant to suggest multiple definitions depending on the size or specific location, and increase the complexity of the Commission's efforts. When using a bits-per-student measure, there will be variations in school needs not only based on size, but also on elementary, middle and high school environments. Different curriculum models may also have significantly different bandwidth requirements. School districts also use caching and bandwidth optimization technologies to improve broadband performance, and as a result the speeds of their networks may differ from the stated targets.

We have some information on the bandwidth speeds that large, urban school districts have per student, although this was collected on a districtwide basis, and not for individual schools. This information is included in a report we put out regularly called “Managing for Results.” The report looks at key performance indicators in the operational areas of urban districts, so our school systems can see the range of performance among their peers, where they specifically fall within that range, and the levels at which the “better” districts are performing. Some urban districts have made more progress than others – on a districtwide basis – in increasing available bandwidth, but none of our districts are at the 100 kbps level yet for all schools, and very few are at the minimum standard of 30 kbps required for the online assessment. The major factors influencing these measurements and the speeds in our districts include the number of enterprise network-based applications, the capacity demands of enterprise network-based applications, funding availability to support network-bandwidth costs, capacity triggers that provide enough time for proper build out and network upgrades, and network-monitoring systems and tools that allow traffic shaping, prioritization, and application restriction.

The Commission should also consider that even with significant additional funding, both the interim and full-implementation timelines may not be achievable for all districts that want to

reach the goals. Small and large schools may have different bandwidth needs, but both may have difficulty getting to desired levels, due to issues with geographic location and service provider availability, local matching funds, etc.

### Definitions and Measurements

We also ask the FCC to outline a clear and standard definition for broadband or bandwidth, and not include some of the additional complexities discussed in the Notice. Measuring available bandwidth and utilization is relatively straightforward for schools. Measuring the “speed” is difficult, as may entail latency, jitter, and packet loss information identified in the Notice. But the Commission should focus on available levels of broadband, and implementation details should remain within the purview of school district.

As the Commission considers the definitions for bandwidth, capacity, and utilization, and takes steps to gather information on these data points from schools, we ask that the collection be performed outside of the E-Rate application process. Separate surveys to schools or a sample of schools are a preferable approach than requiring additional information on existing forms such as the Form 471. Information needs to be clearly articulated, and it will be important to have detailed responses in order to make informed decisions to reach the E-Rate goals.

## **Revising the Discount Matrix**

There have been repeated calls for revamping and modernizing the E-Rate program. Sometimes these come in the form of streamlining the application and reimbursement process, and sometimes they come in the form of less-disadvantaged applicants wanting more funding. We have always supported changes in the former instance, and over the years we have submitted hundreds of pages of comments and had dozens of meetings with the FCC and USAC about how this program works for the largest applicants, and how it could work better. And we have always opposed changes in the latter instances, because with a limited pool of funding, the E-Rate should stay focused on services that support the poorest schools.

As we always have, the Council opposes any change to the discount matrix, especially one that would lower support for the highest poverty sites from the current level of 90 percent. Such a move would represent a major and unnecessary shift in the operations, focus, and intent of the program. The success of the program and congressional support is attributable to its appropriate focus on helping the nation’s poorest schools and libraries. The 90 percent discount and priority for the nation’s poorest schools remains vital today, as the impact of years of state and local budget cuts continues to mount, and the freezes, reductions, and sequestration of federal education appropriations have forced high poverty districts throughout the country to reduce educational services.

We understand that in this current Notice the Commission is considering how to undertake a nationwide effort to provide broadband access to all schools. This extraordinary initiative can only occur with a significant increase in program funding, and not with a shift of the program’s focus away from our neediest students and the schools that serve them. The federal intent in most programs is to balance out the uneven fiscal situation that results from the financing of our

nation's educational system. An even distribution of E-Rate funding, rather than a focus on poverty, will reflect and perpetuate, rather than adjust and correct, the funding inequities that poor students encounter every day.

We must also reject the position included in the Notice that applicants receiving 90 percent discounts have no financial incentive to find and choose the most cost-effective services, and that a ten percent local contribution is not steep enough to ward off fraud, waste, and abuse. All school districts carefully consider their technology expenditures, and in the nation's poorest school districts, the ten percent local cost required for E-Rate projects has always represented a significant expense. We also note that urban applicants typically have multiple layers of state and local procurement regulations they must abide by, as well as an unprecedented amount of scrutiny through a variety of oversight actions from the Administrator.

There is no substance to the rhetorical position that requiring more "skin in the game" will help curb waste, fraud and abuse. This particular argument has been made multiple times over many years, and it is no truer today than it has been in the past. There has been no link between the discount a district pays due to its level of poverty and the harmful actions of individuals. It is also important to note that while any instances of fraud, waste, and abuse are unacceptable, they involved vendors and applicants at all levels of discount, and represent a miniscule portion of the billions of dollars that have been paid to legitimate requests.

Regardless of whether projects are pursued with E-Rate or other funds, urban school districts always work strenuously in pursuit of the best and most cost-effective technology solutions, and consistently push vendors for the best possible pricing models. Due to the loss of state and local funds in recent years, districts have experienced large operational funding gaps and annual reductions in technology and other sectors. In this environment, districts must continue to do more with less: cost-effective purchases based solely on need are the only option.

Finally, we would like to repeat an observation we have included in previous comments, which is that reducing the discount level would require the nation's poorest schools to give more of their own funds, while expanding the market, if not the profit margin itself, for the private companies involved with the program. Under any reduction of the discount matrix, the amount of available E-Rate reimbursements would remain the same, but the additional funds that the poorest schools, districts, and libraries will have to find to leverage that amount will be increased, and will be delivered directly to private companies. The proposal has been raised many times previously, but no one has ever addressed the inherent inequity in requiring increased "buy-in" amounts for the poorest schools in the nation, and delivering these larger sums directly to the profit margins of private sector companies.

## **Creating a Single, Districtwide Discount Calculation**

The Council appreciates the intent of the Commission to streamline the application process by simplifying the way in which applicants compute their discount percentage rate. As remarked in the Notice, the proposal to use a single, districtwide percentage to determine an applicant's sole discount rate may help to reduce paperwork for USAC, but it will also reduce access to E-Rate

funds for many high poverty schools across the nation. This change would create a significant shift in the program that was not intended by the congressional authorizers of the E-Rate and should be avoided by the Commission.

Urban school districts, county school systems, and many of the program's largest applicants are comprised of individual schools – typically more than 100 – that vary greatly by size, demographics, geographic location, and socioeconomic status. By allowing only the districtwide poverty percentage to determine the discount rate for every school in a district, high poverty students attending schools in the poorest neighborhoods and inner-city can be averaged out of the equation by a limited number of non-poor schools in the same district.

This approach can also be problematic since the schools with the greatest number of students in most districts are the high schools that underreport the number of students eligible for the school lunch program. While school systems with more uniform socioeconomic levels and school sites through the district may benefit or be unharmed by the Commission's proposal, vast school-by-school differences and large high schools are common in urban school districts, and this policy would lower the ability of those districts to receive reimbursements by masking the concentrations of high poverty students that are prevalent, but not necessarily uniformly distributed, throughout their district.

Examples can be found in school districts throughout the nation. In Clark County, Nevada, the variation among schools is stark. The Clark County School District includes high, middle, and low poverty schools in Las Vegas, similar schools in the cities of Henderson, North Las Vegas, Boulder City, and Mesquite, as well as school sites in almost a dozen other Census-designated areas. The geographic locale of the schools that are part of the Clark County School District can vary from inner-city to mountains to desert and valley locations. A single, districtwide average will simply leave many of these school sites at risk of losing funding.

Another example can be found in schools in our nation's capital. The District of Columbia Public Schools (DCPS) includes buildings in the wealthy northwest neighborhoods near Maryland, and some of the poorest neighborhoods in the country in southeast Anacostia. In 2010-11, approximately 70 percent of the district's enrollment was eligible for free or reduced-price lunches, leaving them just shy of a district-wide 90% discount. Requiring the school district to use this percentage to determine their discount level would leave DCPS unable to receive the maximum discount for the 85 schools (over two-thirds of their total sites) that have school-lunch eligibility rates above 75 percent.

The problem created by a single average will occur in other districts throughout the country, including some that are lauded for their technology-savvy. The San Francisco Unified School District (SFUSD) includes wealthy neighborhoods, as well as inner-city locations with across-the-board poverty. The districtwide school lunch average is 59 percent, even though some 60% of the district's schools have higher poverty percentages. And 42 schools in SFUSD, over one-third of the district's total sites, have school lunch eligibility over 75 percent and are currently eligible for the maximum discount. In Seattle Public Schools, the district has been able to bring high-tech instruction to 20 high poverty schools that are currently funded at the 90% discount level, yet they would lose this ability if a districtwide average was required.

The proposal to require a single, districtwide poverty percentage has been suggested before, and poor and large school districts voiced their opposition at that time, as well. In 2010, the fourth largest school district in the nation, the Miami-Dade County Public Schools commented on the great damage that would be done with such a change. “Under this proposal, M-DCPS would never qualify for discounts greater than the 80% E-rate funding level. The incentive to support our schools at the highest level possible would be mitigated and only serve to squelch the individual school’s ability to seek the best technology possible for its students.” Specifically, 50% of all schools in Miami are eligible for the 90% discount under existing rules. Overall, there are approximately 278 schools in Miami with poverty levels higher than the district average, yet could not be targeted for support under a new requirement.

Similar opposition came from New York City, which operates the nation’s largest school district. According to 2010 comments from the New York City Department of Education, “Currently almost 60% of the NYC schools are eligible for a 90% E-rate discount. However, the NYC citywide discount rate when calculated for total students would equal only 80%. Since the 80% discount level historically is not approved for funding, we could have a situation where we move from 60% of schools getting internal connections to none being approved.” The highest poverty schools in New York City are not located in downtown Manhattan, but in neighborhoods throughout the five boroughs that comprise the single school district, including Harlem, Bedford Stuyvesant (Brooklyn), Washington Heights (Bronx), and Far Rockaway (Queens). Eliminating the targeted support for these locations will result in shutting off reimbursements for some of the poorest and most diverse areas of the country.

Some commenters in the past have argued, and likely will also claim in this proceeding, that the difference in the discount rate and costs that will result from these changes is minimal, and that requiring increased payment from districts for services in the highest poverty schools is an acceptable course of action. In our experience, however, requiring additional funds at the highest poverty schools will either slow or eliminate technology advancement, cut money from elsewhere in the school district, or result in reduced service and projects throughout the school system. These are not outcomes that serve the overall goal of the Commission. It is also not appropriate, especially in this current economic environment, to require more cutbacks in urban school districts, or to ask them to reduce their E-Rate reimbursements in order to fund services for other school systems that lack the substantial numbers of poor students found in our inner-city schools.

We understand the changes the Commission is attempting to make, and agree that using a single calculation is attractive to many applicants. As we stated in our comments in 2010, there may be some urban school districts – but far from all – that qualify for 90% discounts on a districtwide basis or would make internal determinations on the potential benefits and perhaps support this type of change. Our recommendation, however, remains the same as it did then: that the Commission allow applicants to choose the method in which they determine their discount, but not require the single discount level as the only option. Districts that prefer the average discount rate should use it for all of their requests. However, other districts that do not want to sacrifice their highest poverty schools as a result of the average can continue to target these sites through the existing and lengthier application process, at their choosing.

## Eligible Services

We understand that based on the Commission's goal to increase broadband deployment, it is tempting to focus the program solely on related services, and to fund older technologies at a lower rate, or not at all, as a means of increasing bandwidth. In some instances, however, there are significant financial implications – for state, local, and E-Rate funding – resulting from some of the proposed changes. We welcome the move to newer technology platforms, but urge restraint before eliminating support for existing systems.

### Fiber and WAN build-out

We appreciate the Commission's thoughtful discussion on the benefits of dark fiber, as well as the inclusion of leased dark fiber on the eligible services list in 2010, which the Council supported. Allowing applicants to choose the most cost-effective pricing must logically include fiber options: an option for reimbursement that can provide long-term savings that will ultimately help to reduce the burden placed on limited E-Rate funding. Allowing beneficiaries to lease dark fiber and light it themselves typically results in a far more cost-effective and strategic investment than leasing a comparable provisioned (or "lit") circuit from a carrier. Leasing fiber networks has allowed some urban districts to develop greater capacity for high-quality and modern instructional services, and deploy the broadband access the Commission is seeking.

In 2010, we agreed that E-Rate support should be available for leasing only, and did not support the use of E-Rate funds for the construction of fiber networks. We supported these limits due to concern that the build-out costs would take the limited E-Rate funds away from other supported services and applicants. That concern is still a legitimate one in light of the inadequate E-Rate funding cap that remains.

If the E-Rate were to see the significant increase in funding that has been suggested, we would have less reservations about the proposed suggestions involving dark fiber in the Notice. If sufficient money were available, districts could seek support for the necessary modulating electronics over leased network, or could even consider building their own networks for further cost-effectiveness. To date, E-Rate has not supported districts that invest in their own fiber networks without leasing from external vendors, even though that investment provides positive returns on ongoing costs. If part of the motivation is to build sustainable and scalable technology systems, supporting local district investment in fiber infrastructure pays significant future dividends and reduces ongoing yearly costs.

But those investment costs are significant, and the Commission needs to consider the amount of increased funds that will be available – on a permanent or one-time basis – and if they are significant enough to support applicant build-out. The cost for building and owning a WAN infrastructure, including trenching, running conduit, establishing right of ways, typically requires a major capital expenditure that most school districts cannot afford. The school district may also need to acquire land or lease the right of way for conduit runs, which can drive up the cost of the project exponentially. Finally, the pay-back and cost-avoidance cycle for owning, as opposed to leasing, minimally takes 10 or more years.

### Maintenance

Urban schools strongly oppose the elimination of maintenance reimbursements. Basic Maintenance is vital to ensure that the E-Rate's investment in infrastructure was wise and sustainable. Earlier Orders from the Commission recognized this need, and cited basic maintenance as "necessary for the operation of the internal connections network." The nation's urban applicants have devoted scarce local funding to build technology networks with the understanding that E-Rate maintenance reimbursements would be available to help them operate and serve classrooms. It's also worth noting that in the broadband environment we are working towards, the faster networks tend to be more complex, cost more to maintain and are harder to troubleshoot.

Revoking the eligibility of maintenance costs will sacrifice both the local and E-Rate money that has been spent, and retroactively changes the factors which school districts considered in making funding and budgeting decisions. It could also have a chilling effect on future investment in infrastructure and broadband purchases, as school boards contemplate a costly local share for upkeep. We also draw a parallel to recent reports regarding the nation's roads and bridges. Many of these structures have aged considerably since their construction, and have fallen into disrepair as cities and states struggle to find the funds for maintenance and upkeep. It is important to remember that due to dwindling revenue from all sources, school districts are now receiving less money per student per year than they have in the past. The value of our nation's investment in broadband deployment may quickly diminish if we do not continue to invest in maintenance.

Finally, the importance of Basic Maintenance for urban districts can be demonstrated by our previous comments submitted to the Commission: we have stressed repeatedly that the timing of Priority One and Maintenance reimbursements is of the highest value, and we believe these funds should be dispersed before Priority Two funds each year.

### Voice Services

Urban schools also have a related concern regarding voice services. We want to make clear that even though there is an advancement of broadband and wireless technologies for business and educational uses, this does not mean that school districts in every setting will be able to eliminate entirely land line-based voice and data technologies in all of their operations. Land line-supported voice and data is still a significant portion of the life safety plans, emergency systems, and telecommunications services in both schools and administrative buildings, and lowering or eliminating reimbursements for this service will create considerable harm in and pose potential risks for many of the nation's school systems.

School districts that have already designed their telephony infrastructure around the current E-Rate program eligibility framework would suffer a significant hardship if voice telephone service was eliminated as an eligible service. Traditional voice service, whether delivered as an analog or digital service, is a proven, reliable and cost-effective solution for bringing telephony services to schools and classrooms. Over the last fifteen years, many districts have used the E-Rate program to construct and expand voice services to the classroom, including the purchase and installation of PBX systems and related equipment. At the time of installation, many of the school-wide voice installations used cabling to extend analog voice services into classrooms as part of a holistic solution for delivering voice, video and data communications to teachers and

students.

Requiring schools to move to newer VOIP technology could mean the rewiring of entire schools, as well as the purchase of new voice communications systems and end-user equipment. And some districts have found that even the largest telecommunications carriers still cannot deliver VOIP-based telephony to buildings and classrooms in a more cost-favorable manner than traditional analog or PRI-based services. This type of major changeover is not cost-effective for school districts, and would also require an increase in demand for E-Rate funding.

Many of our districts simply do not have the additional funding they would need to rewire dozens, if not hundreds, of school buildings for newer, VOIP-based communications services. The Commission should support school districts that are choosing to use the most cost-effective solution for delivering voice, video and data services, to the classroom. Loss of E-Rate support for basic voice services and systems will result in the need to discontinue those services or face increasing loss of functionality as systems fall into disrepair. This situation will affect teacher communication with parents and the community, and directly impacts the life and safety of students, teachers and support staff in our schools and classrooms. A safe classroom should continue to be considered integral, immediate, and proximate to the education of students.

We support the inclusion of services that further the broadband goal, but are wary of eliminating support for voice services, even in the context of a long-term phase-out. In improved economic environments, it may be possible to move carefully in a “new” direction and announce a “sunset” of older technology sufficiently in advance and before funding is ceased. But the current economy is what districts have to deal with, and E-Rate support for cost-effective systems that are already in place should not be eliminated. If E-Rate is removed, state or local funding is not available to help school districts with their share of the transition. Even if newer technologies are available, telephony services remain a core part of school safety and the communications networks in our school districts, and it is not the time to abandon the investments that we have made.

## **Changes to the Funding and Priority System**

The Council remains wary of changes to the funding process that would create budgets, ceilings, or caps for applicants, or shift the funding process to a formula block grant for schools and libraries. All of our school districts favor greater flexibility and predictability in the program, and changes that move in that direction are welcome. But we remain opposed to a new system that would eliminate demonstration of need, remove or lower the emphasis on poverty, reduce funding for the neediest schools and libraries, or require applicants to pay a greater share of project costs than they can afford. Unfortunately, the different proposals discussed in the Notice have the potential to bring about these unwelcome changes.

The Council has always opposed caps or ceilings on funding for E-Rate applicants. The Commission has acknowledged that there was notable opposition to the \$15 per student cap proposed in a previous NPRM, and that such a ceiling may harm the highest-poverty applicants in the program. The underlying Notice asks if an increased per-student amount would be more supportable, but fails to provide any specific funding figures on what a higher per student

amount would be, or address if a one-time increase in the E-Rate cap would produce one funding level in the short term, and a different one after that. It is difficult for us to consider such an enormous shift in the program's structure without any knowledge of the impact on applicants. Traditionally, education funding caps disadvantage large school systems and those located in high cost areas, and are harmful to urban schools.

As we have noted elsewhere in our comments, being located in an urban area does not guarantee increased competition and lower costs. Urban applicants often receive few responses to their bids and 470 postings, and sometimes receive no response. Not all service providers want to work or invest in inner-city neighborhoods, and the most cost-effective services are not always available to schools. A per-student cap may ignore the factors beyond enrollment that drive up costs in urban areas, such as age of the building, square footage, regional pricing and a number of other market factors that affect the bottom line. The Commission also rightly noted that prioritizing broadband connectivity to and within schools and libraries will increase the cost of supported services, and may fall far outside the per student budget cap that is set for schools and libraries seeking support.

Problems also exist in the "fixed budget" approach. We support the predictability and flexibility that accompanies such an approach, as well as the elimination of the outdated Priority 1 and 2 categories. But we have yet to see a formula distribution of funds that places significant emphasis on poverty, addresses the market conditions that urban facilities must factor into their work, and doesn't spread money around the nation thinly. And similar to our problems with revising the discount matrix, requiring additional matching funds from applicants, such as the 25 percent discussed in the Notice, will only serve to reduce applicants' ability to deploy, operate and maintain the high-speed bandwidth networks the Commission wants to see.

## **Bidding and Procurement**

### Duplicative Form 470

We support the elimination of the Form 470 for all applicants with existing state, local, or public requirements that serve the same purpose. As we have stated in comments submitted to the Commission previously, we have been eager to explore changes that would limit the requirements associated with the Form 470, including the decision to eliminate it entirely. While the goal and intent of the Form 470 is important, many districts simply have not found the process useful in getting bids for E-Rate projects, and a large number of urban school districts have never received one bid as a result of the process.

As the Commission has noted, most school districts have stringent public purchasing rules which they must strictly adhere to, which they are not able to waive, and which currently take place in addition to the Form 470 process. Besides following state regulations, many districts also have a local compliance office where they must file all bids and verify contracts with outside providers. Since there is very little coordination between the state and federal requirements, applicants encounter greater complexities and difficulties when they have to meet local procurement regulations, state law, and the mandates of the E-Rate's competitive bidding process, even though no additional safeguards result.

Retaining the Form 470 for those applicants that lack these additional rules, and eliminating the current requirements for those applicants with rigid state or local bidding rules, will allow the E-Rate to preserve the protections inherent in existing competitive bidding requirements. The change proposed by the Commission will also lift the burden of duplicate bidding that districts undertake, without benefit or purpose, in order to comply with the E-rate.

#### State Master Contracts

We don't think applicants should be faced with any requirement to purchase from state master or regional contracts. All districts have a fiscal incentive to find and select the lowest price which meets their needs. For most urban schools, they can find the same services for a lower price than they can through the state contract, either through their own bid process, or sometimes through other contracts such as the GSA. Districts have often found state contracts to be outdated and ineffective in providing the lowest price, and in some instances, using the state contract also requires the district to pay a percentage markup.

#### Consortium Purchasing

The Council appreciates the Commission's inquiry regarding consortium purchasing in the E-Rate program. Prior to the Notice, many of our school district members expressed an interest in creating a "buying consortium" of large districts for core technology services and goods, as exists in other areas of school services. Incentives are typically not necessary for potential consortium members, as the opportunity to join onto another contract yields benefits itself, such as streamlining the procurement process, lower costs, and favorable pre-negotiated terms and conditions. School districts are already intrinsically motivated to examine consortia opportunities, and they should simply be allowed to do so.

Typically there are no legal barriers, as most state procurement statutes grant school districts the right to participate in another government agencies bid to fulfill their competitive bidding requirements for the procurement of goods and services. However, it is more likely that geographic constraints will make consortium contracts non-viable for certain services. For example, WAN installation services will likely differ in districts due to site conditions, differing codes and regulations, and other district-specific requirements. Participating on a consortium basis to procure hardware and material goods, such as routers and network switches, is an option worthy of exploring.

There is no guarantee that consortium contracts will represent the best pricing or technical support requirements for each individual district. Each school district should be permitted the opportunity to decide if its best interest is achieved through an individual bid or joining onto another agency's contract represents its best interest. So long as participation is voluntary, such encouragement and support from the Commission would be well received.

#### Multi-year contracts

We support the Commission's proposal that, absent a major change, E-Rate applicants with multi-year contracts should only need to file a single FCC Form 471 application and go through the full review process just once. Currently, many of our districts undergo an annual PIA review of a multi-year contract, even though the contract has not been changed or amended since the

previous year.

We have supported such a proposal in the past, as multi-year contracts yield many benefits (i.e., better pricing, more favorable terms and conditions, standardization) that meet both school districts' and the Commission's goals for efficiency and cost-effectiveness. The extension to three years is a very positive step, and we even suggest that contracts of longer duration be considered, depending on the type of service or equipment.

We also agree that dark fiber and other contracts should be exempted from multi-year prohibitions. In many instances, service providers invest significant amounts for infrastructure construction, and this cost has to be amortized over the course of several years to make the service affordable for applicants. Offering multi-year agreements will entice bidders to submit lower costs, and school districts can then make an informed decision predicated on the cost and their respective budget.

#### Document Retention

We oppose the Commission's proposal to extend the E-rate program document retention requirements from five to at least ten years and seek comments. The benefits would be extremely remote for the Administrator or Commission, and the daily burden would be enormous for applicants. As the program's largest applicants, we have undergone the greatest scrutiny, the largest numbers of audits, and the most overall inquiries and reviews. We are unaware of any situation in which documents were required beyond a three year time period. The burden and cost of doubling the retention period are unnecessary, and frankly, unfair to district administrators if they are expected to field requests for information from ten years prior, when other staff or administrators may have made decisions for which they are being scrutinized.

### **Changes to the National School Lunch Program**

We appreciate the opportunity to address changes in the National School Lunch Program (NSLP), and the adjustments that are necessary as a result of the new reimbursement mechanism called the Community Eligibility Option (CEO). The Council urges the Commission to allow the CEO level of poverty (after the multiplier has been included) to be used for those schools that have decided to choose that option.

Schools that participate in CEO will be doing so for two reasons, the first being to reduce the time, effort, and cost associated with the paper application process. Schools also elect to participate in CEO to get a truer account of the poverty level of their students in order to identify those in need of subsidized meals. Schools work hard to get households signed up for NSLP, but still have difficulty enrolling all households that are eligible for free or reduced-price meals. Through CEO, schools can use "direct certification" data methods to identify the students that meet the income guidelines for free meals as a result of their participation in the Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance to Needy Families (TANF) program. A statistical multiplier (currently 1.6, but which may be lowered after the 2013-14 school year) is then used to determine the free AND reduced-price lunch poverty level of the school.

According to a 2012 analysis performed by the Food and Nutrition Service of the USDA, less than 10% of school food authorities (which are generally equivalent to school districts) in the nation are eligible to participate in CEO on a district-wide basis – roughly 1,500 out of almost 19,000. School districts may opt to participate in CEO in certain schools where the CEO process yields a more accurate count of the poverty level than traditional paper applications have. CEO is an elective process for schools and is not a requirement, and we think it is fair for the Commission to require CEO schools to use their CEO-determined poverty levels for E-Rate purposes.

However, we do not think the Commission should require schools and school districts to use a federally-approved alternative mechanism, such as school-wide income survey, to determine their level of poverty. Based on the USDA's analysis, some districts and schools will elect to use CEO. Many schools and districts will simply continue to use the current paper applications and direct certification methods for NSLP. Others may use a federally-approved school-wide income survey. In any of these situations, the local school administration has a system in place that is used to determine poverty levels in their schools, and which has been approved by their state and other federal agencies. The Commission does not need to require an additional system be put in place to also determine levels of poverty. We also do not believe the FCC should establish a different multiplier from that used by USDA. The USDA has more expertise in deciding what multiplier should be applied to the free lunch count in order to determine a free and reduced-price lunch total. Efforts to adopt a different multiplier at the Commission would be redundant and unnecessary, confusing to local officials, and possibly inaccurate.

The total level of poverty (including the free lunch count and the multiplier) determined by a CEO school can be used in the same way that free and reduced-price lunch counts are used in the E-Rate program today. This CEO total is essentially the new free and reduced-price lunch total, and should be used as the eligibility figure that is applied to the current E-rate discount matrix. If districts go through the necessary process that USDA requires to change their CEO total during the four year period, USAC can use the new approved total, just as it does now.

## **Conclusion**

As one of the E-Rate program's most dedicated stakeholders and supporters, and one of the primary beneficiaries intended by Congress, urban public schools appreciate the opportunity to provide input on the Commission's Notice of Proposed Rulemaking. The E-Rate allows city school districts to benefit from modern telecommunications, and the program has helped many students and schools – regardless of income or location – receive access to technology, media, and information-rich instructional content that is a necessary part of contemporary education. The president's call to deploy high-capacity bandwidth to all students, teachers, and schools is a sound investment for our nation, and one we wholly support. We also share the Commission's sense of urgency, and underscore that both action and significantly increased funding is needed immediately. We must not waste this opportunity to make sure all students can benefit from modern instruction and learn in classrooms that mirror the technology-prevalent world beyond the school walls.

However, the importance of the undertaking outlined by the Commission must also be coupled with the reality of scarce resources, school district operations, and the need for local administrators to keep the classrooms running. Our districts have always been diligent in their technology planning, and prudent in the decisions they make before seeking E-Rate reimbursements. Our comments reflect their cautious decision-making regarding new services. We ask the Commission to remain aware of the fact that any eligibility decisions they make can both positively impact future investments and also harm existing ones. As it reviews comments from stakeholders and makes changes to the program, we urge the Commission to update the E-Rate in a way that both achieves the ConnectED goals but continues to help our nation's neediest schools reach their goals of raising student achievement, meeting high standards, and providing all students with a safe, secure, and modern learning environment.

Respectfully Submitted,



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The Council of the Great City Schools is the only national organization exclusively representing the needs of urban public schools. Composed of 66 large city school districts, its mission is to promote the cause of urban schools and to advocate for inner-city students through legislation, research and media relations. The organization also provides a network for school districts sharing common problems to exchange information, and to collectively address new challenges as they emerge in order to deliver the best possible education for urban youth.

**Member districts:** Albuquerque, Anchorage, Atlanta, Austin, Baltimore, Birmingham, Boston, Bridgeport, Broward County (Ft. Lauderdale), Buffalo, Charleston County (S.C.), Charlotte-Mecklenburg, Chicago, Cincinnati, Clark County (Las Vegas), Cleveland, Columbus, Dallas, Dayton, Denver, Des Moines, Detroit, Duval County (Jacksonville), East Baton Rouge, Fort Worth, Fresno, Guilford County (Greensboro, N.C.), Hillsborough County (Tampa), Houston, Indianapolis, Jackson, Jefferson County (Louisville), Kansas City, Little Rock, Long Beach, Los Angeles, Memphis, Miami-Dade County, Milwaukee, Minneapolis, Nashville, Newark, New Orleans, New York City, Norfolk, Oakland, Oklahoma City, Omaha, Orange County (Orlando), Palm Beach County, Philadelphia, Pittsburgh, Portland, Providence, Richmond, Rochester, Sacramento, San Diego, San Francisco, Santa Ana, Seattle, St. Louis, St. Paul, Toledo, Washington, D.C., and Wichita.