

educators to access the resources of the Internet for assessment, instruction, and enrichment. It also allowed the NYCDOE to accelerate and meet its ten-year technology goals in six years.

With the support of the E-Rate program, all NYCDOE school buildings and its 67,000 classrooms have Internet access with wireless capability. Today, the NYCDOE operates the largest K-12 network and is able to leverage its technology infrastructure to initiate various digital learning initiatives such as establishing the iZone schools, the development of the iLearn learning platform, and the Connected Learning and Connected Foundation initiatives.

As the need in schools (“schools” as applicant, from this point forward will refer to schools, school districts and libraries) for faster and more reliable connectivity grows, the alignment of the proposed changes for the E-Rate program with the goals of the President’s ConnectED initiative is timely.

I. AFFORDABLE ACCESS TO 21st CENTURY BROADBAND

The NYCDOE agrees that high-speed bandwidth to the classroom should now be the primary objective and focus for E-Rate. From the NYCDOE perspective, connectivity is no longer the primary barrier for schools compared to the need for greater throughput/capacity. The FCC’s proposed Internet connectivity goal of 100 Mb per 1,000 users by 2014 (increasing to 1 Gbps per 1,000 users by 2017) and the WAN connectivity goal of 10 Gbps per 1,000 users by 2017 are laudable, but it may not be the right solution for all schools. NYCDOE recommends that bandwidth goals be based on school need and concurrent use should be a variable in determining true bandwidth need. Recognizing that some schools will use less technology than others, depending on its educational plan, it may create an ineffective use of E-rate funds if schools are required to purchase services, equipment, etc. to provide bandwidth that will not be utilized.

Readiness of Existing Infrastructure & Cost

The FCC’s stated objective of finding “ways to close the gap between the broadband needs of schools and their ability to purchase those services”¹ is encouraging. While the NYCDOE agrees with this laudable objective, it is important to recognize that the true costs to achieve these new bandwidth goals go beyond paying for the service. In addition to an increased share of the cost of the services and installations, schools must fund the ineligible requirements such as facility upgrades, additional current user devices, and increased staff development to leverage the greater bandwidth. Upgrades are necessary to the WAN and SONET high speed links at

¹ “Notice of Proposed Rulemaking,” last modified July 19, 2013, http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0723/FCC-13-100A1.pdf

both the schools and backend location. Network infrastructure and Internet links must be upgraded to handle more capacity. Readying a large school network that accommodates up to 1 million students and 70,000 plus teachers to meet the goals set forth by the federal ConnectED initiative will require significant investment.

Equitable Access to Limited E-Rate Resources

The limited E-Rate funding available to schools should be used to deliver current and future technology. Resources should now focus on supporting the infrastructure that is necessary to achieve greater broadband connectivity goals for schools. Sacrificing discounts on legacy services such as Frame Relay, ISDN, trunk lines, etc., which still exists on the current E-Rate Eligibility Service List (ESL), should be considered. When E-Rate began in 1998, Internet service was primarily delivered via copper telephone wires and logically these legacy services existed on the ESL. However, fifteen years later, Internet service is provided via fiber; offering new connectivity options for schools.

Support for Basic Maintenance

NYCDOE strongly argues that the E-Rate program continues funding basic network maintenance. Basic maintenance should be in the same category as recurring telecommunication services (currently Priority 1). This is a critical funding component to sustain the investment made over the last 15 years of the E-Rate program existence. If reliable access in the schools cannot be sufficiently maintained, the program's intent to advance education through connecting classrooms to the Internet will fail.

It is understandable that there is a concern regarding cost containment for basic maintenance. There are viable solutions to address this concern. One such proposal is to cap the amount of maintenance funds per school based on network size or as a percentage of funded assets. The NYCDOE encourages the FCC to establish a working group, which NYCDOE would be glad to participate, to review existing maintenance data and seek a more viable funding model for basic maintenance instead of simply phasing out support for this service.

Allocation of Limited E-Rate Funds

The current Discount Matrix has been effective at allocating funds supporting the delivery of Internet access to schools with the greatest needs. However, the E-Rate program was designed to give ALL schools an opportunity to leverage discounts to build and sustain a network but, historically, most schools below 90% have not been afforded the opportunity to do so. This

applies to over one-third of NYCDOE schools. The NYCDOE is open to re-examining the funding allocation and creating a more equitable and fair methodology in distributing resources.

NYCDOE offers the following proposals to create a fair and predictable E-Rate program that allows ALL schools to share program funding.

- Single category: Eliminate Priority 1 and Priority 2 categories in exchange for one master category to cover the spectrum of eligible services underpinning the modern E-Rate goal. It would be the decision of the schools to decide which services are necessary each program year.
- “Two-in-Five”: Eliminate the two-in-five rule since it has not achieved its intended objective of bringing funding support to more schools. Rather, the rule has made the application process more complicated and forced schools into costly and unnecessary purchasing patterns where essential volume discounts may not be reachable year to year. Eliminating the prescriptive rule will allow most schools to spread out the total cost of an internal connections project from one-year to multi-years.
- Funding Allocation: Replace the discount matrix with a formula based on four variables for each district: total student population, low-income student population, number of eligible buildings, and a regional cost factor. The proposed formula would establish a maximum funding cap for all applicants whereby the sum of all applicants’ caps in any given program year could not exceed the E-Rate program annual budget. This is to ensure that all schools are able to leverage the E-Rate discount. It simplifies the funding commitment process and potentially allows schools to plan for their local share of the costs in a timelier manner and lessen the uncertainty of the level of support they can possibly expect from E-Rate.
- School Share of Cost: Schools would be expected to pay 25% of total costs requested for discounts. A \$3 to \$1 allocation formula would help to combat waste by forcing schools to utilize a non-trivial amount of their own funding if they wish to leverage E-Rate discounts. This is in line with the goal of increasing the schools’ stake in the program and also consistent with other federal programs.

Per Capita Funding Model

The NYCDOE strongly opposes a purely per-capita funding model. The per capita model is irrational concerning technology infrastructure as well as for recurring services. Funding

technology is not the same as purchasing 100 desks for 100 students or 100 books for 100 students where the total cost is based on per desk or per book prices.

II. MAXIMIZING THE COST EFFECTIVENESS OF E-RATE FUNDS

Consortium Purchasing

The NYCDOE also supports the formation of purchasing groups to gain better pricing. The increased use of consortium purchasing not only will drive price efficiency, but, more importantly, can influence other objectives such as improved quality and service, as well as opportunities to share new technologies, expertise, and best practices. It could also have a positive impact on the K-12 technology industry and help achieve more sustainable technological environments in schools by establishing appropriate standards. Any form of collaborative purchasing, at the very least, would alleviate the duplication of effort in the administrative process as well as inform service providers as to what schools will need.

Competitive Bidding and Pricing

An example of such beneficial cooperative purchasing would be the U.S. General Services Administration (GSA) Cooperative Purchasing Program.

The NYCDOE recommends that the FCC seriously consider pre-approving the U.S. General Services Administration (GSA) Schedule 70 contracts for eligible IT goods and services available for E-Rate schools as an option. Such contracts are currently available for use by state and local governments through the GSA Cooperative Purchasing Program. However, the existing E-Rate application procurement requirements and timing, especially Form 470 complicates the process for schools to leverage these contracts.

In addition to the cost savings achieved by leveraging the buying power of the federal government, using GSA contracts would eliminate a significant administrative burden on the part of both FCC/USAC and the schools. If local procurement processes are in question, the use of pre-approved GSA contracts as an alternative should alleviate any procurement concerns of the FCC. The use of GSA contracts can provide schools with better pricing since the GSA contractors under its Contractor Team Arrangements (CTA) can collaboratively provide a solution rather than making separate buys from multiple contractors, which are generally more costly. It should also allow the FCC/USAC to better conduct an annual comparative cost analysis across all E-Rate applications, in particular, for commonly purchased technology. This

option will eliminate the capriciousness of the current rules surrounding E-Rate purchasing and state and local procurement requirements.

III. STREAMLINING THE ADMINISTRATION OF THE E-RATE PROGRAM

The E-Rate application process is arduous and complicated. The number of actual hours required to complete each application far exceeds the number of hours stated by USAC. Presumably, with fifteen years of collected data on participating schools the completion of the numerous forms could be simplified with the use of a portal website and proper online tools.

Electronic Filing System

NYCDOE fully supports the use of a true electronic filing system that does not require repetitive data entry and allows a school to upload massive data with the ability to make changes/edits/corrections. There is need for an application portal that allows schools to work on their online application up until the final submission of the document. After submission, the portal should allow schools to monitor the several stages of application status.

The current “electronic filing system” available to schools is not a true electronic filing system, but simply a digitized version of the paper process. The online application process that currently exists does not streamline the application process for the applicant and because the system does not offer batch processing, it cannot accommodate large school districts.

The existing on-line application process needs to be re-engineered with a focus on application process efficiency for both USAC and the individual applicants. NYCDOE recommends that FCC/USAC commit to developing a true electronic application system before mandating on-line filing.

Streamlining Application Process

NYCDOE believes that the discussion of streamlining should be considered after a new allocation methodology is accepted and implemented by FCC/USAC. NYCDOE proposes the following suggestions for streamlining the application process:

- NYCDOE believes that a timeline should be established that sets a limit, consistent with the school year, on all phases of the FCC/USAC application review and approval process.
- Multi-year contracts should not have to be approved by USAC more than one time for the duration of the contract.

- Finally, a regular peer review of USAC, the E-Rate program, and the application process could also aid in streamlining operations. Where there are clear indications of problems in the process corrective measures should be taken.

Independent Review of Obstacles for Applicants to Improve Transparency

NYCDOE has repeatedly expressed its program concerns to FCC/USAC in NPRM responses, Ex Partes filings, attestation audits, and in-person meetings; but FCC/USAC has failed to address such concerns. Therefore, NYCDOE supports the recommendation made by SECA to direct an independent third party to regularly examine the obstacles in the E-Rate application process that often fully negate or limit full participation in the E-Rate program. An independent analysis of E-Rate rules and procedures on how they affect the range of schools can help identify where program changes need to be made.

Reimbursement for Administrative Costs

The amount of professional staff time under the current process that is committed to planning, filing, substantiating, and accessing funding for the E-Rate program is significant and should be measured and valued. Schools should have the option to use a percentage of their approved commitment amount for E-Rate administrative costs. This is consistent with other federal educational grant programs. Additionally, reimbursement should be restricted to full-time district staff costs. This will support schools with limited resources to navigate the current laborious and technical process of applying for funds and implementing a school technology plan.

Invoicing and Disbursement Process

There is need for the FCC to require participating service providers to offer clear and accurate invoicing for schools to be assured that they are paying for what they received. Since the inception of the E-Rate program, the lack of transparency in billing has been an ongoing problem for NYCDOE. This was brought to the attention of both USAC and the FCC without any meaningful corrective action. NYCDOE strongly argues that the FCC should review the practices of service providers to ensure that they are complying with all E-Rate program rules. The cost for this lack of transparency has fallen solely on the school. Even the significant findings of independent auditors regarding inaccurate rates and over-charges have not moved regulators to hold service providers accountable. While the NYCDOE's self-initiated telephone-billings audits have returned millions of dollars to the E-Rate program and helped service providers correct their billing errors, the only party in the transaction penalized has been the school.

IV. OTHER

Extending the E-Rate Document Retention Requirements

NYCDOE opposes extending the E-Rate document retention requirements. Extending the retention requirements beyond the current five years would impose additional costs on schools by requiring them to pay fees for storage and archiving services.

NYCDOE argues that USAC should only be able to audit applications that have been submitted within the previous three years. Additionally, a limit should be established that restricts the number of times a school can be “randomly” audited in a given time period.

Impact of Changes to the National School Lunch Program

Section 104(a) of the Healthy, Hunger Free Kids Act of 2010 amended the Richard B. Russell National School Lunch Act to provide an alternative to household eligibility applications for free and reduced price meals in high poverty Local Educational Agencies (LEAs) and schools. This alternative is the Community Eligibility Option (CEO).

Schools that opt to participate in CEO will no longer be required to collect Free and Reduced Price School Meals Family Applications annually to determine student eligibility for free or reduced meals. The collection of data through this applications process has also been the primary tool used by schools to determine their E-rate discounts. Since the availability of the CEO for school districts and schools in current participating states like New York, the issues relating to the collection of data for determining E-rate discounts is still unresolved.

As one of the goals of the CEO is to lessen the administrative burden of the LEAs/schools and provides potential savings, NYCDOE advocates that any long-term solution the FCC adopts must avoid reinstating the burdensome collection of annual income forms on both the LEAs/schools and low-income parents. Following the U.S. Department of Agriculture’s example for CEO, FCC should consider the use of preexisting data to determine the reimbursement/discount rate that a school can claim. Determination could be based on actual data collection of student poverty once every four years, in line with the first year of a school opting into CEO, and with subsequent year’s two to four be adjusted for inflation using the consumer price index (CPI). At the school district level, as an option, the Census poverty data can be used as a proxy with annual adjustments for inflation using the CPI.

CONCLUSION

E-Rate has had an historical impact accelerating positive changes in the school environment. At the time of the program's inception, classroom connectivity to the Internet was rare in availability and limited in capacity. Today, classrooms without Internet access are the exceptions and even students in the earliest grades are regularly using a "world" of educational resources. Building and maintaining the necessary infrastructure for Internet access without E-Rate funding would have confronted school districts with an insurmountable fiscal obstacle. E-Rate, schools, and libraries together have achieved much during these past 15 years.

While recognizing and lauding the success of the E-Rate program, it is now our collective responsibility to re-examine goals, rules, and processes with the purpose of making a more relevant and effective E-Rate 2.0. The NYCDOE has responded to this NPRM with several specific suggestions that fall within two categories. First, there is need to recognize a change in the program's primary objective. In the beginning the quest was connectivity to classrooms, today the mission is to maintain reliable, adequate bandwidth that addresses current teaching and learning needs. Second, many program rules need to be modified or eliminated to make the program more efficient and effective in dispersing finite funding. Along with others responding to this NPRM the NYCDOE sees a need for more dollars to realistically meet the expectations of the original legislation and more recent challenges put forth by the president. However, whether or not increased funding is gained, the program needs to build on its success and move forward. Now is the time for program reform.

The New York City Department of Education respectfully submits its observations and recommendations for review and consideration by the FCC.