

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

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

Comments from E-rate Service Providers Association (ESPA)

September 16, 2013

Response Due Date: September 16, 2013

E-rate Service Providers Association (ESPA) is a trade association that was formed to accomplish several goals:

1. Provide a forum for Service Providers participating in the E-rate program to receive and share key information regarding the program.
2. Provide a voice for Service Providers as it may relate to USAC, FCC, Congressional or Public matters.
3. Promote Transparency, Predictability and Due Process within the program.
4. Suggest and support changes/improvements to the program that will be for the good of all participants.

Our members have a long history of successful participation in the E-rate program. We believe the FCC's Notice of Proposed Rule Making (NPRM) that is currently open for comment is a positive step in ensuring the long-term viability of the program. Based on the statistics of the program, it is obvious that it has been effective, but needs to be funded adequately to ensure the future success of School Districts across the United States.

Our members deliver both Priority 1 and Priority 2 Services to school districts that are a variety of sizes. It is clear that all school districts are in some position of need when it comes to technology. External Telecommunications and Internet Connectivity resources cannot be adequately utilized without appropriate Internal Connections and Basic Maintenance of Internal Connections. Likewise, Internal Connections cannot deliver expected results without robust external Telecommunications and Internet Connectivity.

We believe the E-rate program is critical for schools to have access to the technology and connectivity required for delivery of digital instructional content to students. Without the program, schools would not be able to fund adequate connectivity on their own and would likely take steps backwards with connectivity and technology in general.

ESPA respectfully responds to the FCC NPRM regarding Modernizing the E-rate Program for Schools and

Libraries as follows:

- The basic model of the E-rate program and application process as implemented in 1996 works. The improvements to protect against waste, fraud and abuse are certainly good for all stakeholders in the program, but some rules have been taken too far and have created unnecessary complexity with the program. For example, Service Providers may be able to easily provide documentation needed in Applicant audit processes, but there is more emphasis on keeping Service Providers and Applicants separated than to reasonably allow cooperation in these processes. This can create challenges when personnel trying to administer the program, and those validating applications, have conflicting understanding of program rules.
- There are also rules that have been put in place which have natural protection through the application process. One example of this is Lowest Corresponding Price (LCP), when Competitive Bid is already in place to determine best pricing for the services requested considering the Applicants location and environment. Once again, this can create complexity and confusion that leads to delay in the approval process.
 - LCP is a well-intended guideline but the lack of specifics behind its enforcement and the convoluted position of price being the primary factor in determining a solution, but not the only factor, leaves many confused. It seems that what the Commission is trying to say with LCP is that any service offering should be within a certain range of a similar offering made by a service provider with similar circumstances. It would help if there was clear language that identified that anything greater than a ##% difference would require a specific explanation.
- More money needs to be allocated to the E-rate program in general. The current funding was put in place in 1996 and both technological capabilities and requirements have changed over that time period. Schools need increased capacity and faster access to meet today's demands. The costs for this type of access have increased dramatically since the inception of the program.
- Internet Bandwidth targets are a good idea but will accomplish little if the target bandwidth is not ensured to reach the students. Adequate funding for Internal Connections resources and Basic Maintenance of these resources is necessary to ensure this. The inconsistency that exists in schools receiving access to funding for Internal Connections resources is detrimental to the overall technical capability in these environments.
- Delays in processing and decisions for all E-rate applications, especially Priority 2 has created a false level of demand for the program. The 2-in-5 rule implementation has worsened the impact of this issue. With the 2-in-5 Rule, schools feel the need to apply for all potential Internal Connections requirements for the foreseeable future because they are limited on frequency of requests. When this approach is combined with delays in application approval, and recent budget challenges, it can have two courses of negative impact. There are significant instances of duplicate large requests for follow-on years. This can create the appearance of total funding requests being higher than they actually are, and leads to the appearance that fewer Priority 2 applications can be funded. Additionally, since school budgets are tied to a Fiscal Year period, if an approval is not received within the expected Fiscal Year, budget availability to pay their portion can change. This could mean lower utilization of the funding and leftover funding that will never be used, becoming carryover many years down the road.

- The latest SPIN change rules have created an inflated level of funding requests. When a School is switching providers or even types of services from the same provider for recurring services, there are duplicate requests of 12 months of funding for both services and only one of those services will be utilized at a time.
- Technology by nature is going to change. Given the standard delay between submission of applications and funding approval, almost every Internal Connections application is going to need a Service Substitution. This builds in an automatic delay in getting projects initiated and completed. It seems this could be better handled as part of the invoicing process or simplified in some other way that would not delay getting the products and services installed in schools where they can be used.
- The approach of providing a certain dollar amount of funding per student will not be equitable for all sizes of schools. E-rate was initiated as a needs based program, not a block grant, and it should stay that way. As stated above, the general model of the program is good and has many positive aspects.
- Schools must have input from Service Providers who know their environment, and understand the technology in their environment, to protect them from making poor, and potentially expensive, decisions. The current guidance on Competitive Bid rules seems to create an environment of fear and animosity in some cases between Service Provider and Applicant. Service Providers who are providing technical expertise to Applicants should be able to share benign information with them that allows good decisions without fear of reprisal. There is clear delineation between this type of interaction and something that would be considered interference with fair and open competition.
- The complexity of the program and fear created by Competitive Bid rules has also created an environment where entities that have less than appropriate qualification are becoming consultants and are taking advantage of Applicants. In some cases, Applicants are even being miss-guided. It seems that consultants should be required to attend annual training and certification of some nature to ensure they are qualified to advise Applicants.
- Electronic filing of all forms by applicants is well-intended. However, all forms and data would have to be standardized, including the Item 21. This would prove costly but ultimately would serve the data gathering efforts the Commission is seeking for future data analytics.
- There are several concerns related to transparency that need to be addressed for the future good of the program:
 - Applicants and Service Provides must be able to clearly know where they stand in all program processes at all times.
 - Open publishing of bids related to program applications has been mentioned, but this disclosure of pricing could negatively impact a Service Providers' competitive advantage, especially those who are smaller.
 - Investigation processes need to be much more open to avoid complexity and misinformation. Service Providers can be very helpful in many processes of investigation and audit. If there are true violations, openness would not prevent them from being found.
 - There must be more accountability in the Whistle blower process to avoid it being used as a competitive tool.