VIA ECFS

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th St., SW
Washington, DC 20554

RE: WC Docket No. 13-184

Dear Ms. Dortch:

We have reviewed the attached comments of the E-rate Reform Coalition ("Coalition") filed in the above-referenced proceeding. Arlington Public Schools – which participates in the E-rate program and relies on E-rate discounts to support the technological and connectivity needs of its students, teachers, and staff – strongly supports the Coalition's comments. In our view, and for the reasons described by the Coalition, the adoption of per-applicant funding limits and the elimination of the existing priority system is the best way to equitably distribute E-rate funds and ensure the future sustainability of the E-rate program. We also support an increase in annual E-rate funding since the demand for E-rate discounts has consistently exceeded the supply of available funds.

Sincerely yours,

10/08/13

Raj Adusumilli
Assistant Superintendent, Information Services
Arlington Public Schools
Arlington, VA

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 OF THE E-RATE REFORM COALITION

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September 16, 2013

SUMMARY

The E-rate program is in trouble. It is underfunded and the problem is getting worse. The crux of the problem is that while the total funds available in the program are capped each year, there is no cap on the funding available to individual applicants. As a result, a small number of applicants receive a disproportionate share of available funds, leaving others empty-handed. This problem is compounded by a "priority" system that incentivizes applicants to make E-rate purchasing decisions based on outdated priority classifications as opposed to technological and economic considerations. If these problems are not addressed, an increasing number of schools will be deprived entirely of support which, in turn, will undermine the integrity of the entire E-rate program.

Funds for Learning LLC – an E-rate consulting firm that has been involved with the program since its inception – has proposed the adoption of per-applicant funding limits, the elimination of the priority system, and an increase in total E-rate funds as a means of addressing these problems. The E-rate Reform Coalition, which represents a broad cross-section of schools throughout the United States, supports the Funds for Learning proposal as the best way to equitably distribute E-rate funds. Implementation of the proposal would require relatively minor changes to the existing E-rate mechanism, but would quickly produce many tangible benefits. Accordingly, the E-rate Reform Coalition urges the Commission to set an E-rate budget by establishing reasonable per-applicant funding caps and eliminating the existing priority system.

In an effort to assist the Commission with implementing the Funds for Learning proposal, specific proposed changes to the Commission's E-rate rules are included with these comments. Adoption of these rule changes will ensure the continued success and sustainability of the E-rate program.

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COMMENTS OF THE E-RATE REFORM COALITION

I. Introduction

The E-rate program is in trouble. The program is underfunded and the problem is getting worse. The crux of the problem is that while the total funds available in the program are capped each year, there is no cap on the funding available to individual applicants. As a result, a small number of applicants receive a disproportionate share of available E-rate funds, leaving others empty-handed. In some cases, the funding disparities are shocking. For example, in funding year 2013, of the 21,412 school applicants participating in the E-rate program, *one* applicant applied for 10% of the *total* funds available for telecommunications and Internet access.[1] This problem is compounded by a "priority" system that incentivizes applicants to make E-rate purchasing decisions based on outdated priority classifications as opposed to technological and economic considerations.

Members of the E-rate Reform Coalition ("Coalition") represent a broad cross-section of schools throughout the United States that rely on the E-rate program and want to ensure the future sustainability of the program. Collectively, members of the Coalition serve approximately

[1] *See* Funds for Learning, FY2013 E-rate Funding Requests, Telecommunications and Internet Access by Schools & School Districts in CC Docket No. 02-6 at 12 (filed July 3, 2013) ("*FFL Funding Analysis*") http://apps.fcc.gov/ecfs/document/view?id=7520927795 (showing that a single applicant applied for $225,966,857 in telecommunications and Internet access funding in FY2013 representing approximately 10% of the total $2.25 billion E-rate fund.).

1,600 schools and 1 million students.[2]

Funds for Learning LLC ("FFL") – an E-rate consulting firm that has been involved with the program since its inception – has proposed the adoption of per-applicant funding limits, the elimination of the priority system, and an increase in total E-rate funds as a means of addressing these problems. The Coalition supports the FFL proposal as the best way to equitably distribute E-rate funds without disrupting the basic framework of the program or diminishing its effectiveness – regardless of the total funds available in the program from year-to-year. In an effort to assist the Commission with implementing the FFL proposal, the Coalition, working in close coordination with FFL, has drafted proposed changes to the Commission's E-rate rules, which are attached as Exhibit A.[3]

II. Background

The E-rate program helps schools obtain needed telecommunications services and get connected to the Internet. In an effort to ensure that the neediest schools get the most support, a discount matrix is used which provides schools with discounts ranging from 20% – 90% of the

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[2] Coalition members include the Philadelphia School District in Pennsylvania (the country's 8th largest public school district); Fairfax County Public Schools in Virginia (the country's 11th largest public school district); the School District of Palm Beach County, Florida (the country's 12th largest public school district); the Montgomery County School District in Maryland (the country's 16th largest public school district); the Archdiocese of Los Angeles, California (the largest Archdiocese in the United States with 270 schools); the Archdiocese of Chicago (the largest Catholic school system in the United States with 85,000 students); the Archdiocese of Detroit, Michigan (the 6th largest Archdiocese in the United States with 95 schools); the El Paso Independent School District in Texas (the country's 61st largest public school district); Mesquite Independent School District in Texas (an independent school district with 36 schools); and Western Heights School District in Oklahoma (a small independent school district with 8 schools).

[3] The E-rate program is more formally known as the schools and libraries universal service support mechanism. The rules governing the program are codified in the Code of Federal Regulations at 47 C.F.R. §§ 54.500- 54.523.

price of eligible equipment and services.[4]

Soon after the E-rate program was launched, it became clear that the demand for support would exceed the available program funds (funds are capped each year at $2.25 billion subject to adjustments for inflation). To address this problem, the Commission adopted a priority system under which requests for telecommunications services and Internet access (classified as "priority one" services) receive first priority for available funding. The remaining funds are allocated to requests for internal connections and maintenance of internal connections (classified as "priority two" services), beginning with applicants that are eligible for the highest level of discounts and moving to the next discount level until available funds are exhausted.[5] The idea behind the priority system was that while *every* school would receive support, the highest levels of support would go to the neediest schools.[6]

However, because the demand for E-rate discounts has greatly exceeded the annual funding cap, in most years, the *only* applicants that have received priority two funding are those

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[4] *See* 47 C.F.R § 54.505.

[5] *See* 47 C.F.R. § 54.507(g); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fifth Order on Reconsideration and Fourth Report and Order in CC Docket No. 96-45, 13 FCC Rcd 14915, 14937, para. 34 (1998) ("*Fourth Report and Order*") ("[N]ew rules of priority are necessary to account for the fact that the support requested by schools and libraries during the initial filing window exceeds the total authorized support available for the funding period January 1, 1998 through June 30, 1999. Moreover, support requested by schools and libraries during subsequent filing windows may exceed the total authorized support available in subsequent funding years.").

[6] *See Fourth Report and Order*, 13 FCC Rcd at 14937, para. 35 (The priority rules "will equitably provide the greatest assurance of support to the schools and libraries with the greatest levels of economic disadvantage while ensuring that *all* applicants filing during a window receive at least <u>*some*</u> support. … These rules, therefore, further implement the Commission's prior decisions to allocate support for schools and libraries in a manner that provides higher levels of support for rural areas and areas with greater economic disadvantage, while recognizing that <u>*every eligible school and library should receive some assistance*</u>."). (emphasis added).

eligible for 80% - 90% discounts.[7] Even if one accepts this skewed method of allocating priority two funds, it is on the verge of ending. FFL predicts that by FY2014, funding will be *entirely unavailable* for *any* priority two services – even at the 80% - 90% discount level.[8] In other words, the program is about to reach a breaking point where the demand for priority one services will leave *no* funds available for priority two services under the current allocation rules. Of even greater concern, the program soon will be unable to meet the growing demand for *priority one* services. Demand for priority one services has increased from 98% of the annual funding cap in FY2011, to 104% of the cap in FY2012, to 116% of the cap in FY2013.[9] FFL predicts that by FY2014, funding for priority one services will only be available to applicants qualifying for discounts of 75% or higher.[10]

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[7] For FY2013, which runs from July 1, 2013 – June 30, 2014, the inflation-adjusted program cap is $2.38 billion. However, applications were filed seeking nearly $5 billion in support – more than twice the funds available. *See Modernizing the E-rate Program for Schools and Libraries,* WC Docket No. 13-184, Notice of Proposed Rulemaking, para. 45 (rel. July 23, 2013) ("*NPRM*"). The actual demand is likely greater than $5 billion because many schools do not even apply for priority two funding based on expectations that they will receive no funding.

[8] *See* Funds For Learning, Supplemental Comments in CC Docket No. 02-6 at 3 (filed May 23, 2013) http://apps.fcc.gov/ecfs/document/view?id=7022416904 ("Assuming the demand for broadband and other P1 services continues unabated, and there is no reason to believe that it will not, *no funds will be available for P2 services by FY 2014*.").

[9] *See* Exhibit B, page 1, which includes FFL's analysis of priority one demand in FY2011 – FY2013. Significantly, had there not been a rollover of unused funds in FY2012 and FY2013, there would have been inadequate funds to meet priority one funding requests. In FY2012, the Commission rolled over $1.1 billion to cover the gap between priority one demand and the funding cap. In FY2013, the Commission rolled over $350 million to cover this gap. Without such rollovers, FFL estimates that *no* priority one funds would have been available to applicants below a 46% discount rate in FY2012 and a 64% discount rate in FY2013.

[10] *See* Exhibit B, page 2, which includes FFL's projection of priority one demand in FY2014 and FY2015. Although prior rollover amounts have covered the gap between the funding cap and priority one requests, such rollovers are not guaranteed. More importantly, FFL estimates that any such rollover in FY2014 would not be enough to fulfill priority one funding requests. *See* Exhibit B, page 3, showing that a projected $490 million rollover in FY2014 will be inadequate to cover a projected FY2014 funding gap of over $701 million.

In sum, the Commission's initial assumption that *all* schools would receive *some* support with the highest levels of support going to the neediest schools is no longer true. Instead, the E-rate has evolved into a "service-centric" program under which those schools requesting priority one services are funded ahead of those requesting priority two services – regardless of where they fall on the discount matrix. Under the current system, a school qualifying for a 20% discount may have all of its priority one needs met, while a school qualifying for a 90% discount will receive no funds to connect Internet services to its classrooms. Even worse, by FY2014, not only will there be insufficient funds to support *any* applications for priority two services, there will be insufficient funds to support *many* applications for priority one services. Eventually, more and more schools will be deprived entirely of support which, in turn, will undermine the integrity of the entire E-rate program.

III. The Commission Should Set E-rate Budgets

The Commission should adopt a budget for all E-rate applicants in order to allocate funds equitably and fulfill its intention of supporting all schools and libraries. The fundamental flaw with the existing E-rate framework is that there is no cap on the funding available to individual applicants. As a result, a small number of applicants receive a vastly disproportionate share of E-rate funds. In FY2013, just *5%* of school applicants represented *47%* of the demand for E-rate funding.[11]

The following examples demonstrate how the lack of a cap on individual applicants grossly skews the distribution of available funds. In FY2013, all applicants in the entire state of Nevada, representing 430,147 students, requested $9,275,839 for telecommunications and

[11] *See* Exhibit C, page 1 showing that 5% of school applicants (1,174 applicants) requested 47% ($2.087 billion) of the total FY2013 funding demand of $4.435 billion. This represents 88% of the FY2013 E-rate funding cap of $2.380 billion.

Internet access. This equates to *$21.56 per student*.[12] The national average is about $43 per student.[13] By contrast, California's Central Unified School District, representing just 14,996 students, requested $11,888,273 for telecommunications and Internet access, which equates to *$792.76 per student*.[14]

Similarly, in FY2013, all applicants in the state of Colorado representing 909,678 students requested $26,557,748 in E-rate funding, which equates to *$29.19 per student*. The highest priority one request in the state was made by Jefferson County School District, which includes portions of the Denver area. It requested $2.45 million on behalf of 75,694 students, which equates to *$32.40 per student*. But, the second highest request in Colorado was made by GOAL Academy, an online school with 19 drop-in centers in the state where students can get face-to-face support as they pursue their online degrees. GOAL Academy requested $2.42 million in support for telecommunications and Internet access on behalf of 2,567 students. This equates to *$945.49 per student*.[15]

We are not citing these examples to suggest that any applicants are doing anything "wrong." To the contrary, under the existing E-rate rules, all K-12 schools and libraries are eligible for virtually unlimited E-rate support. In addition, an applicant may be driven to select more expensive technologies that will qualify as priority one services, knowing that insufficient funding exists for priority two services, even if the applicant determines it would prefer priority two services. Regardless, the examples do highlight a serious problem. However legitimate the

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[12] *See* Exhibit C, page 2.

[13] *See FFL Funding Analysis* at 2.

[14] *See* Exhibit C, page 2.

[15] *Id.*

reasons for funding disparities may be, the *result* is that a large number of applicants are left unfunded or underfunded each year due to a relatively small number of big spenders. And this, in turn, is putting the entire program at risk.

The "big spender" problem is not new. In 2003, the Schools and Libraries Division of the Universal Service Administrative Company, with support from the Commission, created a 14-member Task Force to address concerns with waste, fraud and abuse in the E-rate program. After months of study, the Task Force recommended that the Commission consider imposing a ceiling on the amount of funding that an applicant can request. The Task Force found that a "ceiling would limit those applications that appear to be seeking disproportionately large funding requests."[16] In response to concerns that setting a ceiling might curtail some funding requests, the Task Force concluded that "as long as the E-rate funding pool is not large enough to meet the funding requests of all eligible applicants, the imposition of a properly constructed ceiling on funding requests would encourage applicants to create more cost-effective plans for ensuring access."[17]

Clearly, more E-rate funds are needed, and the Coalition supports efforts to increase the size of the overall fund. But, more money alone will not solve the larger problem. There will never be enough money to satisfy what every school and library wants to keep up with rapidly evolving technology. The solution is to allocate available funds, whatever the size of the funding pool, in an equitable manner. While some schools and libraries might not get everything they want, the vast majority will get what they need. Indeed, under the FFL proposal, all applicants

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[16] Recommendations of the Task Force on the Prevention of Waste, Fraud and Abuse Convened by the Schools and Libraries Division, Universal Service Administrative Company, at 5 (Sept. 22, 2003) http://www.fundsforlearning.com/docs/2013/02/Erate%20Task%20Force%20Report.pdf)

[17] *Id*.

(except for big spenders) would be entitled to request *more* than their average FY2013 requests even if the overall E-rate funding cap is not increased in FY2014.[18]

The FFL proposal – which builds upon the recommendations of the 2003 Task Force on Waste, Fraud and Abuse – offers the following additional advantages:

- **Quick Implementation.** The FFL proposal can be implemented quickly and without the need to make major changes to the E-rate program. The Commission would not need to change the current discount matrix, eligible services list, Form 470, Form 471, Program Integrity Assurance review process, or E-rate payment process. In other words, the Commission can avoid the need to "reinvent the wheel" and build upon the successful aspects of the current E-rate program, leveraging over a decade of applicant training and experience.

- **Easily Adaptable.** If the Commission *does* decide to make other changes to the E-rate program, the FFL proposal can be adapted easily to such changes. For example, if the existing discount matrix is changed, that will have no effect on the FFL proposal. Similarly, if the overall size of the E-rate fund is increased, that would simply result in increased annual budgets across the board.

- **Funding for All Applicants.** The FFL proposal would ensure that *every* applicant, regardless of size or location, will receive a minimum amount of E-rate funding. Higher discount-rate and remote-rural applicants would receive higher minimum amounts than lower discount-rate and urban applicants.

- **Funding Predictability.** The FFL proposal would make funding more predictable by assuring applicants that their E-rate budgets will remain relatively stable from year-to-year, subject only to fluctuations in the size of the populations they serve and any additional funding that might become available. Funding decisions could be made more quickly – even before the close of the Form 471 filing window. Everyone would know what their E-rate budget is *before* they file an application.

- **Incentivizes Cost-Effectiveness.** The FFL proposal would incentivize applicants to drive harder bargains with service providers and plan their E-rate purchases more carefully.

- **Reduced Rollovers and Fewer Delays.** The FFL proposal would reduce the amount of funding that goes unused each year. Unused or "rollover" funds are the result of funding commitment delays and inaccurate expense estimates. Under the FFL proposal, faster

[18] *See* Exhibit D, which includes FFL's analysis demonstrating under the proposed per-applicant cap, the vast majority of schools would have qualified in FY2013 for discounts equal to or greater than their actual FY2013 requests.

funding decisions, resulting from more accurate funding requests, will reduce rollovers and associated delays.

In paragraph 138 of the NPRM, the Commission asks if and how it should set a per-student funding limit. Under the FFL proposal, the Commission would use the formulas included in Exhibit E to set applicant budgets and funding floors; and it would announce those numbers well ahead of the E-rate filing window each year.[19]

To determine the total funding it could request for eligible equipment and services in a funding year, each school applicant would multiply the per-student budget factor by its E-rate discount percent and its number of students. In FY2014, assuming no change in the current funding cap and a funding rollover similar to FY2013, the per-student budget factor would be $67.65 per-student.[20] This means that most applicants would be eligible for E-rate discounts that are greater than their FY2013 discounts.[21] Moreover, under the FFL proposal, ***all applicants would be funded***, ***small schools would be protected*** by a funding "floor" to ensure that they are not disadvantaged by their size, and ***remote rural schools would receive twice the funding*** of other schools given that their telecommunications and Internet expenses are consistently double that of other schools. The proposed formulas are transparent, easily calculable, and based on publicly-available numbers. They also ensure that E-rate discounts are based on an applicant's

[19] FFL proposes that new filing deadlines be set, with the filing window opening on the third Tuesday in January of each year and closing on the second Tuesday in March. The Commission would publish the proposed budget amount each year prior to the filing window by September 15th and adopt it on or before October 15th. This would allow applicants, many of whom are frustrated because they do not know when the filing window will open each year, to better plan their technology budgets.

[20] See Exhibit E, page 4. The proposed rules attached in Exhibit A provide that an applicant can assign all or part of its budget to a consortium or state telecommunications network applying on the applicant's behalf for eligible services.

[21] *See* Exhibit D.

level of need, which is consistent with the original intent of the E-rate program.[22]

III. The Commission Should Eliminate the Existing Priority System

The Commission should eliminate the E-rate priority system. As Commissioner Pai aptly observed, under the existing priority system, if a school wants discounts "to pay for plain old telephone service, it'll get funding. If that school gives its administrators BlackBerries for wireless phone service, text messaging, voicemail, and data, it'll get funding. If that school upgrades the bandwidth available to non-instructional buildings such as athletic facilities and bus depots, it'll get funding. But, if that same school wants to connect a classroom to the school's main Internet connection? It's on its own."[23]

The problem can be illustrated with a simple example. Assume that School A, which requested $10,000 for priority one broadband Internet access, is in a wealthy neighborhood where only 5% of the students qualify for free and reduced price lunches. Assume further that School B, which requested $10,000 for priority two Wi-Fi access points, is in an economically challenged neighborhood where 95% of the students qualify for free and reduced price lunches. If there is only $10,000 in E-rate funding available, School A would get *all* of the funding and School B's request would be denied. Rather than forcing such choices through the priority system, a better approach is to offer *some* support to *both* schools as was originally intended at

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[22] Under the FFL proposal, the available E-rate funds would be allocated between schools and libraries based on the numbers of school and library sites in the United States. Applying that formula for this year, as shown on page 3 of Exhibit E, libraries would be entitled to 7.15% of the E-rate cap. Libraries currently request approximately 5% of the cap. Exhibit E describes how library budgets would be calculated.

[23] *See* Remarks of Commissioner Ajit Pai on Connecting the American Classroom: A Student-Centered E-rate Program, American Enterprise Institute, Washington, DC, at 3 (July 16, 2013) http://www.fcc.gov/document/commissioner-pai-speech-student-centered-e-rate-program ("E-Rate today prioritizes long-distance telephone calls and getting phone service to a school's bus garage over wiring up a classroom. Millions of dollars are spent on paging services, long-distance calling, toll-free numbers, and other services that aren't about connecting kids to digital learning opportunities.").

the start of the E-rate program.

The priority system distorts the market by driving applicants to make purchasing decisions based on the priority classification of a product or service, as opposed to whether the product or service makes the most technological and economic sense for the applicant. This market distortion is clearly illustrated in the chart attached as Exhibit F, which by way of example, shows the history of E-rate funding requests in the state of New Hampshire. While the demand for priority one funding has steadily increased, the demand for priority two funding has faltered – not because there is little *need* for priority two services – but rather, because most applicants know that their priority two requests will be denied.

By capping individual applicant funding requests, the recurring problem of annual funding shortages will be dramatically reduced – and so will the need to prioritize services. This, in turn, will eliminate the current distortions in the marketplace that drive applicants to make purchasing decisions based on government-imposed priorities rather than technological and economic needs.

IV. Conclusion

Rather than prioritizing E-rate funding based on *services*, funding should be prioritized based on *students*, with the neediest schools getting the most funding. FFL has put forward a sensible, practical, and data-driven solution that is based on recommendations made by the 2003 Waste, Fraud and Abuse Task Force. Implementation of the FFL proposal would require relatively minor changes to the existing E-rate mechanism, but would produce many tangible benefits. For these reasons, the Coalition respectfully requests that the Commission set an E-rate budget for schools and libraries by establishing reasonable per-applicant funding caps and eliminating the existing priority system.

Respectfully submitted,

THE E-RATE REFORM COALITION

By: /s/ Edwin N. Lavergne

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September 16, 2013

Its Attorneys

EXHIBIT A

PART 54 – UNIVERSAL SERVICE

1. Section 54.500 is amended by renumbering paragraph (f) as (g); paragraph (g) as (h); paragraph (h) as (i); paragraph (i) as (j); paragraph (j) as (k); paragraph (k) as (n); paragraph (l) as (o) and paragraph (m) as (q) and adding paragraphs (f), (l), (m) and (p) to read as follows:

§ 54.500 Terms and definitions.

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(f) *Library sites.* The number of "library sites" means the number of U.S. public libraries most recently reported by the Institute of Museum and Library Services ("IML") or, if the IML data is no longer available or is outdated, by a comparable publication.

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(l) *Remote rural sites*. The number of "remote rural sites" means the number of public and private elementary and secondary schools in the U.S. classified as "remote rural" as most recently reported by The National Center for Education Statistics ("NCES") or, if the NCES data is no longer available or is outdated, by a comparable publication.

(m) *School sites*. The number of "school sites" means the number of public and private elementary and secondary schools in the U.S. most recently reported by NCES or, if the NCES data is no longer available or is outdated, by a comparable publication.

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(p) *Student population*. The "student population" means the student population of all public and private elementary and secondary schools in the U.S. most recently reported by NCES or, if the NCES data is no longer available or is outdated, by a comparable publication.

2. Section 54.502 is amended by deleting paragraph (a)(4)(iii).

3. Section 54.504 is amended by revising paragraph (a) to read as follows:

§ 54.504 Requests for services.

(a) *Filing of the FCC Form 471*. An eligible school, library, or consortium that includes an eligible school or library seeking to receive discounts for eligible services under this subpart up to the applicant's applicant funding budget, shall, upon signing a contract for eligible services, submit a completed FCC Form 471 to the Administrator. A commitment of support is contingent upon the filing of an FCC Form 471. Each billed entity may submit only one FCC Form 471 per funding year.

4. A new Section 54.506 is added to read as follows:

§ 54.506 Funding budgets.

(a) *Program funding budgets.* For funding year 2015 and subsequent funding years, the Commission shall annually calculate the School Allocation, Library Allocation, Per Student Budget Factor, School Funding Floor, and Library Budget. The Commission shall announce by public notice in the Federal Register the results of all calculations no later than September 15 of the calendar year prior to the subject funding year. The calculated results shall become effective without further notice on October 15 and shall apply to the funding year that commences in the following calendar year. For funding year 2014, the School Allocation is $2,704,869,196, the Library Allocation is $208,290,950, the Per Student Budget Factor is $67.65 per student, the School Funding Floor is $31,422, and the Library Budget is $30,536.

(1) The Commission shall determine the total funds available under the federal universal service support for schools and libraries for the following funding year. To determine the amount available to schools for the following funding year ("School Allocation"), the Commission shall (i) multiply the total available funds by (ii) the number of school sites divided by the aggregated number of school and library sites. The total available funds minus the School Allocation shall be allocated to libraries ("Library Allocation").

(2) The Per Student Budget Factor shall be calculated by (i) dividing the School Allocation by the student population and multiplying that result by (ii) the number of school sites less the number of remote rural sites, which is then divided by the number of school sites, and multiplying that result by (iii) one divided by the average E-rate discount rate of all applicants for the prior funding year.

(3) The School Funding Floor shall be calculated by (i) dividing the School Allocation by the number of school sites and multiplying that result by (ii) the number of school sites less the number of remote rural sites which is then divided by the number of school sites, and multiplying that result by (iii) one divided by the average E-rate discount rate of all applicants for the prior funding year.

(4) The Library Budget shall be calculated by (i) dividing the Library Allocation by the number of library sites and multiplying that result by (ii) one divided by the average E-rate discount rate of all applicants for the prior funding year.

(b) *Applicant funding budget.* In funding year 2014 and subsequent funding years, an applicant may request support for eligible services up to and including the amount of its applicant funding budget for that funding year.

(1) The applicant funding budget for school applicants shall be calculated by (i) multiplying the Per Student Budget Factor for that funding year by the applicant's discount rate determined pursuant to § 54.504 and multiplying that result by (ii) the applicant's total number of students. Notwithstanding the foregoing, the applicant funding budget for each school applicant shall be no less than the School Funding Floor for that funding year multiplied by the applicant's discount rate. The applicant funding budget for remote rural sites shall be calculated the same as above, except that the final calculated results (both the Per Student Budget and the School Funding Floor calculations) for that applicant shall be doubled.

(2) The applicant funding budget for library applicants shall be calculated by multiplying the Library Budget by the applicant's discount rate determined pursuant to § 54.504.

(c) *Consortia and state telecommunications networks.* Billed entities may assign all or a portion of their applicant funding budget each funding year to school districts, library systems, state telecommunications networks, and other eligible consortia applying on their behalf, but must notify the Administrator annually of such assignment through procedures established by the Administrator to allow the Administrator to track assignments. Individual schools and library branches need not notify the Administrator under this paragraph if the school district or library system to which they belong apply on their behalf. If an entity assigns any portion of its applicant funding budget to another entity, it may not apply individually or through any other entity for the amount the applicant assigned to another entity.

5. Section 54.507 is amended by revising paragraph (a)(3)(ii), revising paragraph (c), revising the first sentence of paragraph (d), revising paragraph (e), and deleting paragraph (g) in its entirety and replacing it with a new paragraph (g) to read as follows:

§ 54.507 Cap.

(a) ***

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(3) ***

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(ii) *Application of unused funds*. On an annual basis, in the second quarter of each calendar year, all funds that are collected and that are unused from prior years shall be available for use in the next full funding year of the schools and libraries mechanism in accordance with the public interest and notwithstanding the annual cap as described in this paragraph (a). Such unused funds shall be first applied to satisfy demand for support as specified in paragraph (g).

(c) *Requests*. Funds shall be available to fund discounts for eligible schools and libraries and consortia of such eligible entities ~~on a first-come-first-served basis~~, up to each applicant's applicant funding budget, with requests accepted ~~beginning~~ between 12:00 a.m. Eastern Time on the third Tuesday in January and 11:59:59 pm Eastern Time on the second Tuesday in March of the funding year (the "filing window") ~~on the first of July prior to each funding year~~. The Administrator shall maintain on the Administrator's website a running tally of the funds already committed for the existing funding year. The Administrator shall ~~implement an initial filing period that~~ treat~~s~~ all schools and libraries filing within the filing ~~at period~~window as if their applications were simultaneously received. The Administrator shall reject any FCC Form 471s filed by a billed entity if the billed entity has previously filed a FCC Form 471 for the same funding year. The Administrator shall process applications received after the close of the filing window on a first-come-first-served basis. ~~The initial filing period shall begin on the date that the Administrator begins to receive applications for support, and shall conclude on a date to be determined by the Administrator.~~ The Administrator may implement such additional filing periods as it deems necessary.

(d) *Annual filing requirement.* Schools and libraries, and consortia of such eligible entities shall file new funding requests for each funding year no sooner than 12:00 a.m. Eastern Time on the third Tuesday in January ~~the July 1 prior to the start~~ of that funding year.

*****

(e) *Long term contracts*. If schools and libraries enter into long term contracts for eligible services, the Administrator shall only commit funds to cover the pro rata portion of such a long term contract, up to the applicant funding budget for that funding year, scheduled to be delivered during the funding year for which universal service support is sought.

*****

(g) *Allocating unused funds.* When the filing period described in paragraph (c) of this section closes, the Administrator shall calculate the total demand for support, up to a maximum of the aggregated applicant funding budgets for all applicants, submitted by applicants during the filing period.

(1) If total demand exceeds the total support available for that funding year, the Administrator shall apply any unused funds collected pursuant to paragraph (a)(3) to satisfy the demand for that funding year.

(2) If the total demand for support would not be met after application of unused funds pursuant to paragraph (g)(1), the Administrator shall divide the total amount of support available (including unused funds) by the amount of support requested (up to a maximum of the aggregated applicant funding budgets for all applicants) to produce a pro-rata factor. The

Administrator shall reduce the support level for each applicant by multiplying each applicant's requested amount of support by the pro-rata factor.

6. Section 54.509 is amended by deleting paragraphs (b) and (c).

7. Section 54.519 is amended by revising paragraph (a)(5), revising paragraph (a)(6) and adding paragraph (a)(7) to read as follows:

§ 54.519 State telecommunications networks.

(a) ***

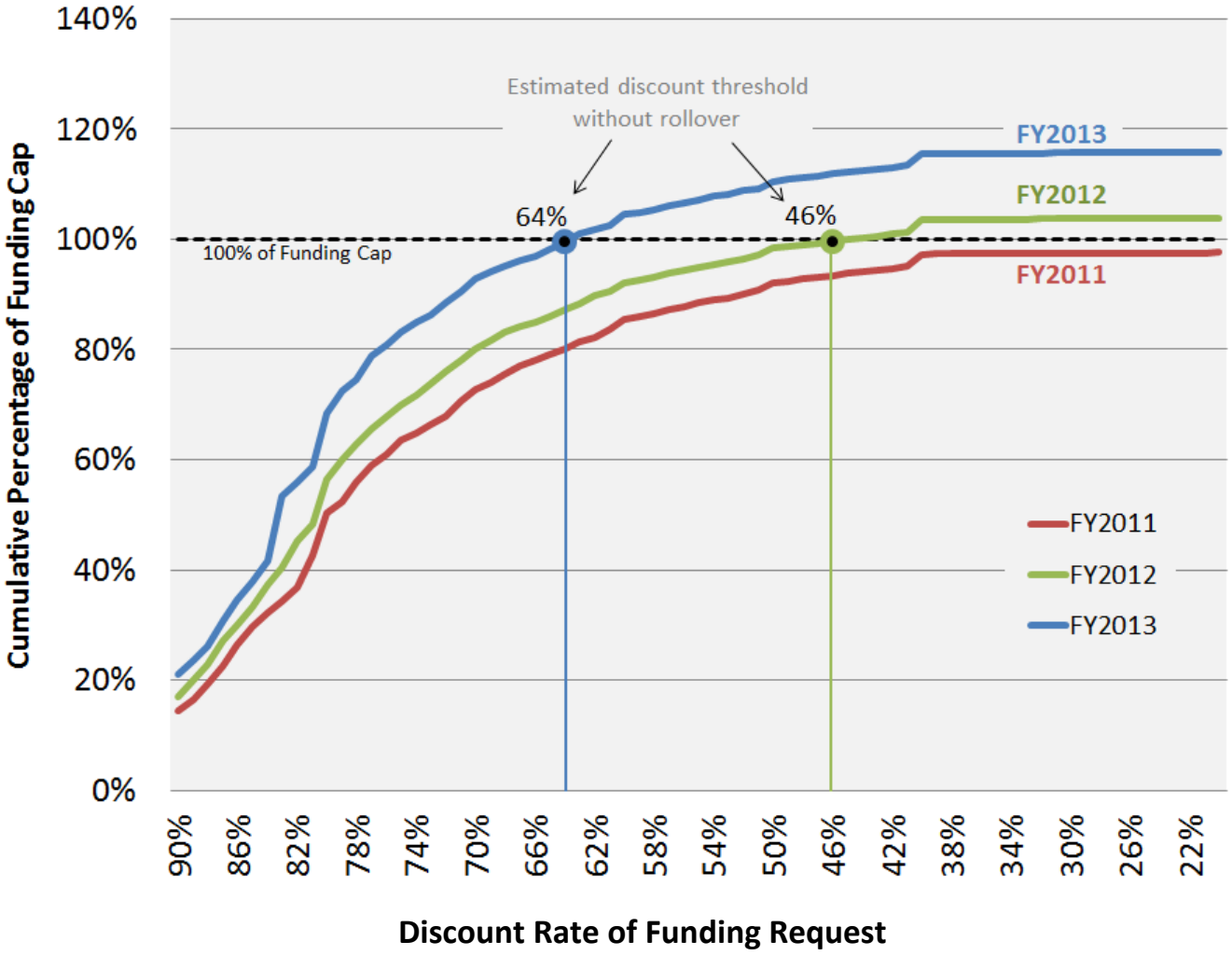
(5) Direct eligible schools and libraries to pay the discounted price; ~~and~~

(6) Comply with the competitive bid requirements set forth in § 54.503; and

(7) Maintain written records showing the assignment of all or part of the applicant funding budgets for each eligible school and library, and the basis for calculation of those applicant funding budgets.

EXHIBIT B

FY2011 – FY2013 Priority One Funding Requests (actual)
Cumulative Percentage of Funding Cap by Discount rate



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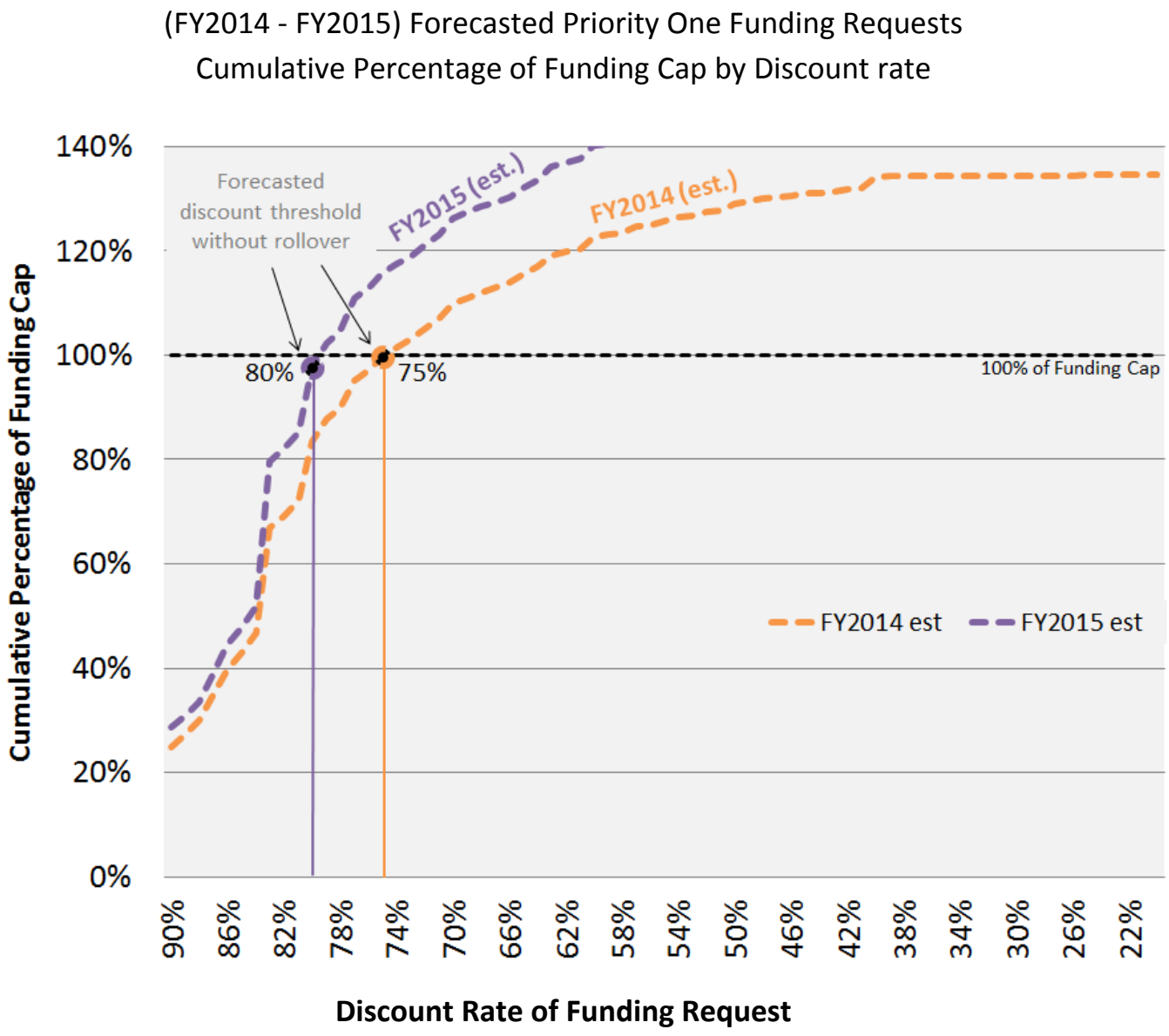

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Beginning in FY2012, the E-rate program cap could no longer meet the demand for priority one ("P1") services. FFL predicts the demand for P1 services will exceed the E-rate cap by over $700 million in FY2014 and over $1 billion in FY2015.

Funding Year	P1 Funding Shortfall Funding Cap Minus P1 Demand (Millions)
2010	$120.63
2011	$52.81
2012	$-91.61
2013	$-375.63
2014	$-701.94
2015	$-1076.93

Estimated

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Although rollover funds have covered the shortfall between the E-rate cap and P1 demand, FFL predicts that will no longer be the case in FY2014. The estimated $490 million rollover in FY2014 (calculated below) will not cover the $700 million shortfall, and the estimated $480 million rollover in FY2015 will fall well short of covering the $1.1 billion shortfall.

Estimated Rollover

From: FY2009-FY2013 **To:** FY2013-FY2015

		TO Rollover to Funding Year			
	Year	FY2013	FY2014	FY2015	Total
FROM Balance rolled to future funding year	FY2009		$70		$70
	FY2010	$130	$260	$160	$550
	FY2011		$160	$160	$320
	FY2012			$160	$160
	FY2013				$-
	TOTAL	**$130**	**$490**	**$480**	**$1,100**

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EXHIBIT C

FY2013 E-rate Demand by School Applicants
Priority One and Priority Two

School Type	Total E-rate Demand	% of Cap	% of Demand	Applicant Count	
Big Spender ($200 or more per student)	$2,086,801,512	**88%**	**47%**	1,174	**5%**
Other school district (<$200 per student)	$1,755,693,411	74%	39%	8,851	41%
Individual School	$427,957,900	18%	10%	9,099	43%
Remote Rural School	$164,649,583	7%	4%	2,284	11%
	$4,435,102,406			21,408	

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Source: E-rate Manager® (as of 08/26/2013)

FY 2013 E-rate Telecommunications and Internet Access
Select Applicants

Applicant	Student Count	Total Requested	Requested Per Student
Entire State of Nevada (All schools)	430,147	$9,275,839	$21.56/student
Central Unified School District, CA (BEN 144078)	14,996	$11,888,273	$792.76/student
Entire State of Colorado (All schools)	909,678	$26,557,748	$29.19/student
Jefferson County School District, CO (BEN 145710)	75,694	$2,452,144	$32.40/student
Goal Academy, CO (BEN 16050459)	2,567	$2,427,071	$945.49/student

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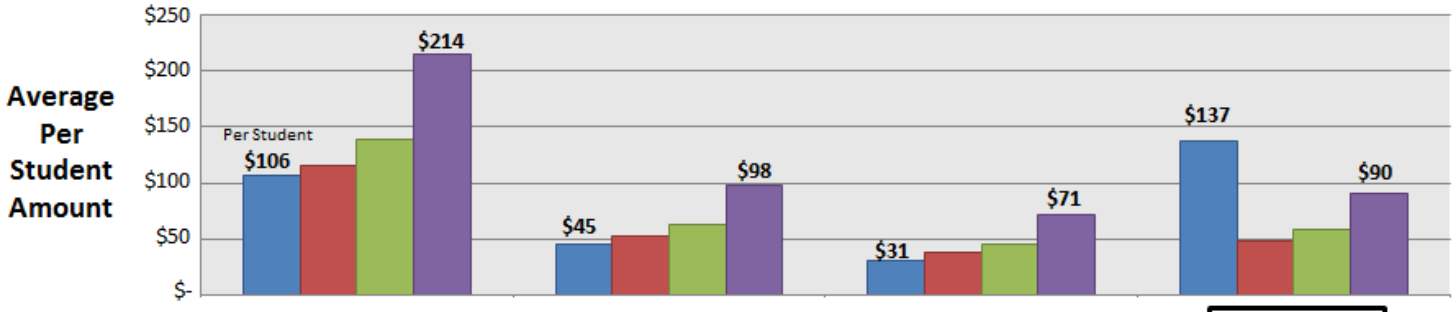
Source: E-rate Manager® (as of 08/26/2013)

EXHIBIT D

Excluding "big spenders" (which have used a disproportionate percentage of the E-rate program funds to date), the vast majority of schools would be able to apply for more than their FY2013 requests under the FFL proposal.

Per Student Funding Request Amounts

Average FY2013 P1 Requested (Actual Per Student) vs FFL Proposal (Estimated Per Student)



	Remote Rural	Individual School	Other School District	Big spender
FY2013 P1 Request	$106.28	$45.16	$31.06	**$137.43**
$2.38B Funding cap	$115.24	$52.82	$38.44	**$48.71**
$2.91B Funding cap	$138.54	$63.50	$46.21	**$58.56**
$4.50B Funding cap	$214.00	$98.09	$71.38	**$90.46**

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Source: E-rate Manager® (as of 08/29/2013)

Remote rural includes all school district and single school applicants with an urban-centric locale code designation of "remote rural" regardless of the number of school sites or amount of funding requested per student

Individual school includes all single school site applicants, regardless of the amount of funding requested per student, that have an urban-centric locale code designation other than "remote rural"

Other School District includes all multi-school site applicants that requested less than $200 per student and have an urban-centric locale code designation other than "remote rural"

Big spender includes all multi-school site applicants that requested $200 or more per student and have an urban-centric locale code designation other than "remote rural"

EXHIBIT E

Calculating Applicant Budgets and Floors

The examples below assume the following for purposes of illustration:

Average E-rate discount rate	**69.243%**
Total available funding for schools and libraries[1]	**$2,913,160,146**
K-12 students Total number of public and private[2]	**53,988,330**
K-12 school sites Total number of public and private[3]	**116,240**
Public library sites Total number[4]	**8,951**
Remote Rural K-12 sites Total number of public and private[5]	**7,554**

[1] FY2013 inflation adjusted cap of $2,380,314,485 increased by 1.80% plus an estimated $490 million rollover from prior years.
[2] *See* http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2013312.
[3] *Id.*
[4] *See* http://www.imls.gov/assets/1/AssetManager/FY2010_PLS_Tables_1-7A.pdf.
[5] *See* U.S. Department of Education, National Center for Education Statistics, Common Core of Data (CCD), "Public Elementary/Secondary School Universe Survey," 2010-11 v.2a and U.S. Department of Education, National Center for Education Statistics, "Private School Universe Survey (PSS)," 2009-10.

Allocating the USF Fund for Schools and Libraries

Funding is allocated proportionately between schools and libraries on a per site basis. The total available funding is multiplied by the percentage of sites belonging to each category.

$$\text{Available Funding for Schools} = \text{Total Available Funding for Schools and Libraries} \times \frac{\text{U.S. K-12 School Site Count}}{\text{U.S. K-12 School Site Count} + \text{U.S. Public Library Site Count}}$$

$$\text{Available Funding for Schools} = \$2{,}913{,}160{,}146 \times \frac{116{,}240}{116{,}240 + 8{,}951}$$

$$\text{Available Funding for Schools} = \$2{,}913{,}160{,}146 \times 92.85\%$$

$$\text{Available Funding for Schools} = \$2{,}704{,}869{,}196$$

$$\text{Available Funding for Libraries} = \text{Total Available Funding for Schools and Libraries} \times \frac{\text{U.S. Public Library Site Count}}{\text{U.S. K-12 School Site Count} + \text{U.S. Public Library Site Count}}$$

$$\text{Available Funding for Libraries} = \$2{,}913{,}160{,}146 \times \frac{8{,}951}{116{,}240 + 8{,}951}$$

$$\text{Available Funding for Libraries} = \$2{,}913{,}160{,}146 \times 7.15\%$$

$$\text{Available Funding for Libraries} = \$208{,}290{,}950$$

Per-Student Budget Calculation for Schools

A per-student budget factor is derived for school applicants through the following formula.

$$= \frac{\text{Available Funding for Schools}}{\text{United States K-12 Student Population}} \times \frac{\text{United States K-12 School Site Count} - \text{Remote Rural School Site Count}}{\text{United States K-12 School Site Count}} \times \frac{1}{\text{Average E-rate Discount}}$$

$$= \frac{\$2{,}704{,}869{,}196}{53{,}988{,}330} \times \frac{116{,}240 - 7{,}554}{116{,}240} \times \frac{1}{69.243\%}$$

$$= \$67.65 \text{ Per-Student Budget Factor}$$

To determine the total amount it can request in any given funding year, the applicant multiplies the per-student budget factor by its discount rate and its number of students (the below illustration uses the per-student budget factor calculated above as an example).

$$\textbf{Total Amount Applicant Can Request} = \underset{\text{Per-Student Budget Factor}}{\$67.65} \times \text{Applicant's Discount Rate} \times \text{Applicant's Number of Students}$$

Remote rural sites double the result (the below illustration uses the per-student budget factor calculated above as an example).

$$\textbf{Total Amount Rural Remote Applicant Can Request} = \underset{\text{Per-Student Budget Factor}}{\$67.65} \times \text{Applicant's Discount Rate} \times \text{Applicant's Number of Students} \times 2.0$$

School Applicant Funding Floor Calculation

A "funding floor" is derived for all school applicants through the following formula.

$$= \frac{\text{Available Funding for Schools}}{\text{United States K-12 School Site Count}} \times \frac{\text{United States K-12 School Site Count} - \text{Remote Rural School Site Count}}{\text{United States K-12 School Site Count}} \times \frac{1}{\text{Average E-rate Discount}}$$

$$= \frac{\$2{,}704{,}869{,}196}{116{,}240} \times \frac{116{,}240 - 7{,}554}{116{,}240} \times \frac{1}{69.243\%}$$

$$= \$31{,}422 \text{ Funding Floor}$$

To determine the minimum amount it can request in any given funding year (regardless of its per-student calculation), the applicant multiplies the funding floor by its discount rate (the below illustration uses the funding floor calculated above as an example).

$$\textbf{Minimum Amount Applicant Can Request} = \underset{\text{Budget Floor}}{\$31{,}422} \times \text{Applicant's Discount Rate}$$

Remote rural sites double the result (the below illustration uses the funding floor calculated above as an example).

$$\textbf{Minimum Amount Rural Remote Applicant Can Request} = \underset{\text{Budget Floor}}{\$31{,}422} \times \text{Applicant's Discount Rate} \times 2.0$$

Library Site Budget Calculation

A budget is derived for all library applicants through the following formula.

$$= \frac{\text{Available Funding for Public Libraries}}{\text{U.S. Public Library Site Count}} \times \frac{1}{\text{Average E-rate Discount}}$$

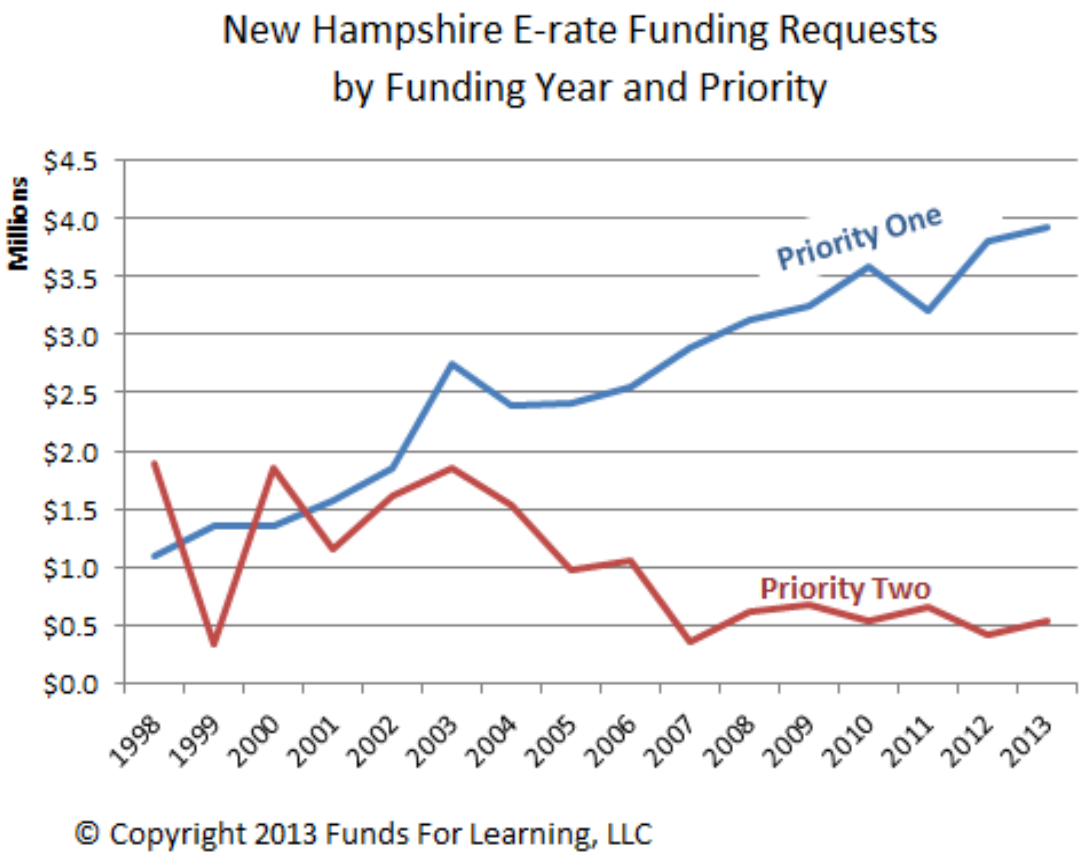
$$= \frac{\$208,290,950}{9,851} \times \frac{1}{69.243\%}$$

$$= \$30,536 \text{ Library Budget}$$

To determine the amount it can request in any given funding year, the library multiplies the library budget by its discount rate (the below illustration uses the library budget calculated above as an example).

$$\textbf{Amount a Library Can Request} = \underset{\text{Library Budget Factor}}{\$30,536} \times \text{Applicant's Discount Rate}$$

EXHIBIT F


New Hampshire E-rate Funding Requests
by Funding Year and Priority
Millions
$4.5
$4.0
$3.5
$3.0
$2.5
$2.0
$1.5
$1.0
$0.5
$0.0
Priority One
Priority Two
1998
1999
2000
2001
2002
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