

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

In the Matter of:)	
)	CC Docket No. 02-6
Draft Eligible Services List for the)	GN Docket No. 09-51
Schools and Libraries Universal Service Program)	WC Docket No. 13-184

**COMMENTS ON THE FY 2015 DRAFT ELIGIBLE SERVICES LIST
FOR THE SCHOOLS AND LIBRARIES UNIVERSAL SERVICE PROGRAM
(DA 14-1130)**

The Florida Department of Management Services (DMS) Division of Telecommunications (Division) respectfully submits these initial comments in response to the FCC's Public Notice DA 14-1130 (released August 4, 2014) seeking comment on the FY 2015 draft Eligible Services List (ESL).

The Division recognizes the need for changes to the ESL that reflect the numerous policy changes adopted in the *E-rate Modernization Order* and supports the general restructuring of the ESL. Based on experience, however, the Division respectfully disagrees with the Commission's proposal to include certain "presentation and formatting changes" and believes that removal of information that succinctly summarizes a variety of Federal Communications Commission (FCC) and Universal Service Administrative Company (USAC) guidance in one place is not "consistent with the Commission's third goal in the *E-rate Modernization Order* – to simplify the E-rate application process and other E-rate processes." ¹ On the contrary, removal of much of the information the Commission proposes to eliminate will, in the Division's view, serve to make the process more complex and time consuming for all stakeholders, especially when such significant changes have been made to the program.

Inclusion of ineligible services/components and their descriptions, descriptions of eligible services, descriptions of related E-rate program requirements, and the glossary in the ESL has been of great assistance to the Division and Florida schools and libraries in determining which services/components should be included in funding requests and which services/components should be excluded or removed through cost allocation. The Commission suggests that inclusion of lists of examples of ineligible services has not been an efficient aspect of the application process and that applicants should assume

¹ *Wireline Competition Bureau Seeks Comment On Draft Eligible Services List For Schools And Libraries Universal Service Program*, CC Docket No. 02-6; GN Docket No. 09-51; WC Docket No. 13-184, Public Notice, (Wireline Comp. Bur. 2014), at 3.

any service or component not specifically listed on the ESL should be assumed ineligible. The Division respectfully asserts that many services/components are sufficiently complex, are part of offerings that differ from service provider to service provider, or evolve in their functionality so as to make eligibility of particular offerings unclear, especially if there is not explanatory information or definitions to explain the eligibility of what is on the list.

Removal of the “Special Eligibility Conditions” section of the current ESL is also troublesome. The Commission reasons that it can be removed “because the requirements therein are already explained in the Commission’s rules or in Commission or Bureau orders and USAC provides information about these requirements on its website.”² Then the Commission cautions that, “other than the ESL, documents on USAC’s website should not be used to determine eligibility for E-rate discounts, but such documents may be used for guidance.”³ Again, based on experience, the Division believes that this action is contrary to the Commission’s third goal in the *E-rate Modernization Order* – to simplify the E-rate application process.” First, removal of this information from a centralized, binding source will require applicants to have, or pay for, the expertise and time to research and interpret numerous sources of information before they can feel comfortable that they are in compliance with E-rate rules and regulations. Second, because specific information and guidance no longer will be easily available to applicants and service providers, the need for increased scrutiny by USAC is likely and will result in a delay in processing applications, and will also likely result in increased denials solely due to the fact that applications did not have the time or resources to find and understand all of the nuances in rules, regulations, and requirements that are currently explained on the ESL.

One example from the current ESL illustrates this point:

Special Regulatory Requirements

Telecommunications Services: If the applicant seeks a telecommunications service, support will be available only if the telecommunications service is provided by a telecommunications carrier, that is, a company that offers telecommunications services on a common carriage basis. A telecommunications service is “the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public....” All telecommunications carriers must be common carriers and are required by the FCC to file FCC Form 499A (*Telecommunications Reporting Worksheet*). Supported telecommunications services provided

² *Id.* at 4.

³ *Id.*, footnote 15, at 4.

by telecommunications carriers include all commercially available telecommunications services.

Telecommunications: Supported telecommunications can be provided in whole or in part via lit or dark fiber by any entity, including non-telecommunications carriers.

Telecommunications is defined as “the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.”

Internet access. If the applicant seeks Internet access, support will generally be available only for basic conduit access to the Internet. “Internet access” is defined in section 54.5 of the FCC’s rules. Some Internet access services may include features that are not themselves eligible, such as specialized content, caching services, and/or filtering services. In general, funding requests that provide only a single price for a product or service that contains both eligible and ineligible functionality are fully ineligible. However, cost allocation may be used to provide separate pricing for the eligible and ineligible components.

This section refers to some FCC rules and requirements that are not specific to the E-rate program (e.g., common carrier requirements and Form 499A filing requirements as evidence of telecommunications carrier status). Many applicants, especially those who are new to the program, may not understand what differentiates a telecommunications carrier from a non-telecommunications carrier and which carriers can provide which services. This becomes especially important when the applicant is procuring Wide Area Network (WAN) services, since current rules specify the circumstances under which a WAN can be classified as Telecommunications Service, Telecommunications, or Internet Access, and the carriers that are eligible to provide them in each circumstance. Since the Commission will continue to require applicants to identify the category one service on the Form 471, this section contains important information that will assist applicants in their procurement and application processes and decisions.

Regarding other issues on which the Commission seeks comment in the Public Notice, the Division agrees with the proposed change to allow E-rate funding for installation from vendors that do not

supply the eligible equipment to be installed. This change will enable applicants to choose the situation that is most cost effective and best suits their needs.

Respectfully submitted by:

A handwritten signature in black ink, appearing to read "Bridget Duff". The signature is fluid and cursive, with the first name being the most prominent.

Bridget Duff
State E-rate Coordinator
Broadband Programs Office
Division of Telecommunications
Department Of Management Services
4030 Esplanade Way Suite 160F
Tallahassee, Florida 32399
850-921-1650