KELLOGG & SOVEREIGN
CONSULTING, LLC
Universal Service Management Professionals

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

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

COMMENTS ON THE PROPOSED ELIGIBLE SERVICES LIST FOR THE E-RATE PROGRAM (DA 17-602 Released: June 21, 2017)

Comments Submitted by:

Kellogg & Sovereign® Consulting, LLC

Kellogg & Sovereign® Consulting, LLC ("KSLLC") submits these Comments in response to the FCC's Public Notice released June 21, 2017, designated DA 17-602 seeking comments on the proposed Eligible Services List ("ESL") for Funding Year 2018.

The professionals with KSLLC have been managing E-rate applications on behalf of schools and libraries since the inception of the program in 1997. For E-rate FY 2017, KSLLC managed applications for over 350 applicants in 12 states. These applicants range in size from small rural K-8 schools and single site libraries to regional consortiums, library systems, and large urban school districts. The firm's diverse client base provides KSLLC with a unique perspective to share the challenges faced by various types and sizes of applicants in securing funding from the E-rate program to meet their needs in providing affordable access to the students and patrons they serve.

We submit our comments as follows:

1. Clarification that equipment is eligible for Category One support if it is "necessary to make a Category One broadband service functional."

We fully support the clarification included by the FCC in the draft Eligible Services List for FY2018 regarding the eligibility of on-premises Network Equipment with both Category One and Category Two functionalities to clarify that on-premises Network Equipment that interfaces with a Category Two-eligible local area network (LAN) is eligible for Category One support if it is necessary to make a Category One broadband service functional.

The *Tennessee Order*[1] was critical in allowing applicants to receive support for the leased service provider equipment necessary to make broadband service functional. Since the Order was issued eighteen years ago, we appreciate the clarification in the Eligible Services List as this will serve as clear guidance to enable support for these necessary services.

2. Support for services during transition period

We would like to respectfully request that the Commission consider providing clarification as necessary to provide support for E-rate eligible services during a transition period.

The transition period is the time when an applicant is upgrading bandwidth or changing providers typically for Category One broadband services.

When an applicant is either changing service or changing service providers, the applicant usually includes both the old and new services on separate funding requests on the FCC Form 471. In our experience, the current USAC review process identifies the old and new funding requests as duplicate service. Since the funding requests are considered duplicate service, the reviewer's procedure is to deny one of the two funding requests or partially reduce funding support on both funding requests to limit funding to a total of no more than twelve months.

During a transition period, however, the services are not duplicate since the applicant will only need one or the other funding request, but the applicant does not know the precise day when they will be able to make the change in service or the change in service provider.

For example, a school district has an existing 100 Mbps Internet Access connection and conducts a competitive bidding period to upgrade to a 200 Mbps Internet Access connection. On their FCC Form 471, the applicant lists the request for 100 Mbps Internet Access on Funding Request Number "FRN" A and the 200 Mbps Internet Access on FRN B.

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[1] See *Request for Review by the Department of Education of the State of Tennessee of the Decision of the Universal Service Administrator, Request for Review by Integrated Systems and Internet Solutions, Inc. of the Decision of the Universal Service Administrator, Request for Review by Education Networks of America of the Decision of the Universal Service Administrator, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, Order, Application No. 18132, CC Docket Nos. 96-45, 97-21, 14 FCC Rcd 13734 (1999) (*Tennessee Order*)

Once funding is approved for the "new" 200 Mbps service, the applicant can contact the service provider on FRN B and provide approval to the service provider to implement the new service. After the service provider is given the approval to proceed, the service provider may need to complete last mile services, install additional equipment, etc. The installation period can take several months or significantly longer if new fiber or build out is required. During the time that new services are being installed, the school district must still provide Internet Access to their school. Therefore, they will continue to use the 100 Mbps Internet Access service on FRN A until the new 200 Mbps service requested on FRN B is actually turned up ("cut over").

During USAC review of the applicant's E-rate application, therefore, the school district cannot provide an exact date as to when they will be able to "cut over" to the new service. The applicant needs both services funded so they can approve installation of the new service but still receive support for the existing services during the transition period.

The current USAC review process forces the applicant to provide an exact "cut over" date well in advance of funding and well before the applicant can approve start of service for the new provider because they have not yet received funding.

Since the applicant cannot provide an exact "cut over" date, the USAC reviewer often denies funding of the new service or forces the applicant to provide a guess of the "cut over" date. For example, if the "cut over" date is guessed as January 1, the USAC reviewer will approve funding for 6 months on FRN A (old service) and 6 months of funding on FRN B (new service).

This results in unintended consequences for the program.

<u>Denial of New FRN</u>
In the example above, a consequence of denial of the new FRN will be to force the applicant to stay at the lower 100 Mbps service. Since the new FRN for the 200 Mbps service is not approved, the applicant does not have a way to start service with the new bandwidth level and will never be able to afford to make the transition.

<u>Guestimate of cut over date</u>
If the applicant has to guess the 'cut over' date and they are wrong, then the applicant will have to submit an appeal to USAC to correct the service end date and service start dates the funding requests. Since the funding amount will be wrong for both funding requests until the appeal is resolved, both providers will have billing issues until the funding is corrected.

Even worse is a situation where the "cut over" does not occur until more than 60 days after the funding commitment letter and then the applicant can't submit a timely appeal. Faced with incorrect funding amounts, the applicant will face undue financial hardship as they will have to pay 100% of the cost of the incorrect estimate on one provider and there will be unused funds on the funding request for the other provider.

Example:
Applicant guesses that the "cut over" date will be October 1, 2017 but the actual cut over date is March 1, 2018.

	Guessed Period	Actual Period	Consequence
FRN A	7/1/2017-9/30/2017	7/1/2017-2/28/2018	5 months funding will have to be paid 100% by applicant
FRN B	10/1/2017-6/30/2018	3/1/2018-6/30/2018	5 months of funding not used

<u>Consequences when trying to change to lower cost provider</u>
This scenario is compounded when an applicant conducts a competitive bidding period, then awards service to a new provider who is substantially less in cost than the existing provider. The applicant is forced to stay with the existing provider because they cannot receive funding for both the old and new service.

Even worse is a situation where the contract for the old service expires and the applicant is forced to pay month to month rates that are even higher than the old contracted service.

In another example, the applicant's new service is 50% less in cost than the old contract. The applicant requested two separate funding requests – one for the old provider and more expensive service but at tariff rates because their contract had expired. The old provider FRN is now ten times more expensive than before because their contract has expired.

The new service provider cannot start build out until the applicant receives funding and can provide approval to the new provider. The applicant is in a rural community and does not have the funds to pay for 100% of the cost of the new provider. They need funding for both the old service and the new service and then only one or the other will actually be used as they make the transition.

Since the applicant cannot afford to go without service and cannot receive support for the transition period, they are forced to stay with the old service at rates even higher than the contracted rate they had originally planned to change to the new lower cost service.

<u>USAC Methodology for transition periods in prior Erate years</u>
In prior E-rate years, USAC would approve funding for both the old and new service and then the applicant would work with the service provider(s) to ensure that the old service was only billed for the period of time prior to the cut over and the new service was only billed for the period of time after the cut over. This resulted in unused funding, but allowed the applicant to make the transition.

Proposed Solution for Transition Period Support

It is critical to provide support for an applicant while they upgrade service or change providers to a more affordable solution.

To ensure support for the applicant during a transition period while at the same time ensure funds are not unnecessarily spent, we propose the following method or a similar solution that would provide the same result:

1. Applicant reports on the FCC Form 471 the two funding requests that are involved in a transition period
2. Applicant identifies the "old" service funding request
3. Applicant identifies the "new" service funding request
4. USAC reviews the two funding requests for compliance with program rules and eligibility
5. USAC issues funding as appropriate to the "old" service funding request for the full funding year
6. USAC issues a provisional funding for the "new" service contingent upon the applicant providing the "cut over" period
7. Once the cut over period is reported, USAC issues funding for the "new" funding request for the period from the beginning of the cut over period to the end of the funding year and adjusts the funding request for the "old" funding request to end at the end of the cut over period.
8. The cut over period may need to be several days or up to 30 days in order to allow the applicant to comply with a 30 day disconnect notice procedure required by the service provider for the old service.

This process would :

- allow the applicant to successfully make the transition with support for both the old and new service
- ensure that valuable E-rate funds are not provided to both the old and new funding requests for more than thirty days during the cut over period
- allow the applicant to change to a lower cost solution
- allow the applicant to upgrade bandwidth as necessary to meet bandwidth needs

Support needs to be available to both the old and new providers during a "cut over" period of no more than 30 days. The "cut over" period is necessary to allow the applicant sufficient time to ensure the new service is properly installed and working before submitting the required written disconnect notice to the service provider. In our experience, the majority of service providers require a 30 day notification period for disconnect.

Conclusion – Support for Transition Period

In summary, we request that the Commission consider providing support to applicants during a transition period including a “cut over” period of no more than 30 days. Applicants need E-rate support for both the old and new services during a transition period when the applicant is either changing bandwidth or changing providers. By providing support during the transition period, the applicants will receive sufficient support to increase bandwidth as needed to meet the needs of the students or library patrons served as well as receive sufficient support needed to transition to more affordable solutions.

Currently the program considers the services of both the old and new requests as duplicate service and requires the applicant to choose one or the other. However, support for both funding requests is needed during the funding year as the applicant implements the changes.

Providing support for transition periods will ensure that valuable E-rate funds are used in support of applicants who are increasing bandwidth to meet the needs of their students or library patrons or are making changes to reduce costs.

Respectfully submitted,

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