



PUBLIC NOTICE

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September 22, 2017

WIRELINER COMPETITION BUREAU SEEKS COMMENT ON CATEGORY TWO BUDGETS

WC Docket No. 13-184

Comment Date: October 23, 2017

Reply Comment Date: November 7, 2017

With this Public Notice, as directed by the Commission, the Wireline Competition Bureau (Bureau) seeks comment on the sufficiency of budgets for category two services under the E-rate program (more formally known as the schools and libraries universal service support program).

In the *E-rate Modernization Orders*, the Commission adopted five-year, pre-discount budgets for schools and libraries.¹ Specifically, these Orders established a pre-discount budget of \$150 per student over five years for schools² and a pre-discount budget of \$2.30 or \$5.00 per square foot for libraries depending on their location.³ It also instituted a funding floor of \$9,200 per site over a five-year period to ensure “baseline funding [...] in even the smallest” schools and libraries.⁴

When the Commission adopted these rules in 2014, it established a five-year test period to allow the Commission to determine whether the applicant budgets were effective in ensuring greater access to E-rate funding for internal connections.⁵ The Commission directed the Bureau to report on the sufficiency of these applicant budgets before the filing window for funding year 2019 opens.⁶ In

¹ *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order, 29 FCC Rcd 8870, 8902, para. 86 (2014) (*E-rate Modernization Order*); *Modernizing the E-rate Program for Schools and Libraries*, WC Docket Nos. 13-184 and 10-90, Second Report and Order and Order on Reconsideration, 29 FCC Rcd 15538, 15571, para. 82 (2014) (*Second E-rate Modernization Order*); 47 CFR § 54.502(b).

² *Id.* These budgets are adjusted annually for inflation.

³ *See id.* (instituting \$2.30 per square foot budget over five years for libraries); *see also* (adjusting to \$5.00 per square foot budget for libraries in cities and urbanized areas with a population of 250,000 or more, as identified by the Institute of Museum and Library Services (IMLS) locale codes of 11, 12, and 21); 47 CFR § 54.502(b).

⁴ *E-rate Modernization Order*, 29 FCC Rcd at 8909, para. 103.

⁵ *Second E-rate Modernization Order*, 29 FCC Rcd at 15571, para. 82. The rule establishing these five-year, pre-discount budgets begins to sunset in funding year 2020. *See* 47 CFR § 54.502(c).

⁶ *Second E-rate Modernization Order*, 29 FCC Rcd at 15575, para. 93.

particular, the Commission directed the Bureau to use FCC Form 471 data from funding years 2015 through 2018 to analyze trends across different types of applicants or regions in the nation, particularly schools that serve students with special education services.⁷

In preparation for this report, we seek comment on the sufficiency of the category two budgets. Specifically, we seek comment from applicants, service providers, and other interested parties about how applicants have used their budgets and the percentage of category two services purchased by applicants that were or will be covered by the budget. We will analyze FCC Form 471 data, but to the extent that relevant information exists that is not captured effectively in this collection, such as the impact on schools with a low student count serving students with special education services, we welcome additional data and analysis from commenters.

In requesting comment, we stress the need for commenters to provide specific, measurable data that the Bureau can use to assist in its analysis. We ask that applicants provide data that shows the category two services they purchased with their budgets and the category two services they purchased without E-rate support. We also seek data and feedback on whether the budgets had varying impacts on E-rate applicants based on differences in geography, rural status, applicant type, or student population. For those applicants that did not use any of their category two budgets, we seek feedback on why they did not seek category two funding. Did those applicants already have adequate internal connections in place in funding year 2015? Do they intend to seek support for category two services before funding year 2020?

Finally, we seek general comment on the administration of the budgets both from a policy perspective and with regard to the application process. For instance, we seek comment on the measures used for the budget calculation and whether there are better proxies for usage density than student counts or square footage. We seek comment on whether simpler methods for calculating category two budgets may exist and seek specific data on why those proposed methods would be an improvement over the current system. At the same time, we seek comment on ways to improve administration of the category two budgets to ease the burden on applicants during the application process. Commenters are encouraged to provide detailed feedback about ways to change or improve the process from start to finish, from filing the application in the E-rate Productivity Center (EPC) through review, invoicing, and the FCC Form 500.

Interested parties may file comments on or before **October 23, 2017** and reply comments on or before **November 7, 2017**. Comments and reply comments should reference WC Docket No. 13-184 and may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments and may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/filings>
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together

⁷ *Id* at para. 94. One commenter in the E-rate Modernization proceeding noted that per-student budgets may not provide sufficient funding for schools that provide special education services because those schools have so few students in each classroom. Letter from Neil J. Pollack, CEO/Executive Director, Anderson Center for Autism, to Tom Wheeler, Chairman, FCC, WC Docket No. 13-184, at 1-2 (filed Oct. 14, 2014).

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- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
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The proceeding this Public Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.⁸ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

For further information, please contact Kate Dumouchel, Telecommunications Access Policy Division, Wireline Competition Bureau, at (202) 418-1839 or via e-mail at kate.dumouchel@fcc.gov.

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⁸ 47 CFR § 1.1200 *et seq.*