

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

In the matter of:

Reply Comments on the Draft Eligible Service
List

WC Docket No. 13-184

Schools and Libraries Universal Service
Support Mechanism

September 7, 2018

**E-RATE MANAGEMENT PROFESSIONALS ASSOCIATION PROVIDES REPLY
COMMENTS ON: INITIAL COMMENTS OF STATE E-RATE COORDINATORS' ALLIANCE
ON THE FY 2019 DRAFT ELIGIBLE SERVICES LIST (DA 18-789) and**

The E-Rate Management Professionals Association, or E-mpa[®], is an advocate for the critical role served by E-Rate management professionals and consultants. The organization strives to strengthen and support the E-Rate program by acting as a self-certifying body of E-Rate management professionals and consultants. E-mpa[®]'s mission is to promote excellence and ethics in E-rate professional management and consulting through certification, education, and professional resources.

This organization is pleased to be able to submit comments regarding the FY 2019 Eligible Services List (ESL).

Support for SHLB and SECA Comments on Forms 470 and 471

E-mpa supports joint comments of the Schools, Health & Libraries Broadband (SHLB) Coalition and State E-Rate Coordinators' Alliance (SECA) pursuant to the Request for Comment on FCC Form 470 and 471 Information Collection Paperwork Reduction Act of 1995 83 FR 23677 July 23, 2018. Specifically, regarding the Category

1 Drop-Down Menu Options, there is great concern about the annually increased confusion and complication of the Forms 470 and 471 drop-down choices. We hoped that the FCC's directive to clarify the confusion that occurred with the 2018 the Form 470 drop-down options would have the result of a simpler form for FY 2019. This did not happen. We support a simple and less complicated Form 470.

Additionally, we request that in future years, the Eligible Services List be made available in advance of July 1, which is when the Form 470 for the next funding year is made available, so that applicants may plan their procurements based on the services that are eligible for the specific funding year.

Below, E-mpa provides comments in reply to and in support of SECA's comments.

SECA COMMENTS: CATEGORY 1 NEEDED CLARIFICATIONS

SECA raises this concern here to highlight the fact that the questions posed by SLD during PIA review of network equipment requests only focus on leased **dark fiber** or **self-provisioned network** funding requests. The questions themselves do not contemplate the possibility of a network equipment funding request for a Category 1 leased lit fiber solution, and automatically assume that any such equipment is Category 2 equipment. SECA requests the FCC to clarify in the final version of the FY 2019 ESL to make clear to Applicants, Service Providers and the SLD that the Category 1 network equipment option is available for any broadband service (lit or dark fiber) if the equipment can be shown to be necessary to make the broadband network functional.

E-mpa Response:

E-mpa agrees with SECA's request that the FCC clarify the eligibility of network equipment and provides further comments to support the need for clarification of Category 1 Eligible Services

The Eligible Services List for Funding Year 2019 includes the following services in Category One:

- Services that provide broadband to eligible locations including data links that connect multiple points.
- Services used to connect eligible locations to the Internet
- Services that provide basic conduit access to the Internet

We acknowledge that in many cases, applicants actively seek out competitive bidding by releasing procurements specifically for lit fiber, dark fiber and/or self-provisioned services. As outlined in the Second Report and Order and Order on Reconsideration (FCC 14-189) procurement requirements for dark or self-provisioned fiber services are prescribed. We observe that in an attempt to manage the more advanced procurements for various fiber specific solutions, USAC has made the application process more complicated for everyone. For the novice applicant who wishes to procure Internet Access for their one building library, or their small school district that consists of all schools on the same campus, the application process has become unbearably complicated. For example, many small applicants in rural areas do not know what technology is available from service providers in their area. Requiring applicants to limit to a specific drop down on the Form 470 limits their capacity for growth or puts them in a situation where they may receive bids for a service for which a pre-designated drop-down was not specified on the application. Limiting applicants to a drop-down that has

verbiage that does not correlate to the language provided in the Eligible Services List complicates the procurement process for the applicant.

Category One Network equipment with mixed eligibility

“If the price for components that enable the LAN can be isolated from the price of the components that enable the Category One service, those costs should be cost-allocated out of the Category One funding request.”¹

In most if not all cases, price for components can be isolated, as they are individual components. The cost of the electronics is easily identifiable when the applicant competitively bids the service. These electronics are necessary for the Category 1 service to work. If the costs should be cost-allocated on the Form 471, does this mean that the services are ineligible if they were not requested in the Category 2 section of the Form 470? Applicants who do not ask for these components in both Category 1 and Category 2 on the Form 470 are at risk for denial for services that they need. We address this topic further under the supplemental Category 2 comments below.

Clarification of Category 2 subcategorization needed

SECA’s Comment:

Because the 2/5 rule is no longer in effect, the subcategories no longer serve the purpose for which they were intended. Further, and most importantly, they now serve as a reason for denial of funding on the Form 471 because some applicants inadvertently did not file a separate basic maintenance service request on the Form 470.

E-MPA provides comments below to support SECA’s comment above.

¹ 2019 Eligible Services List p. 6

In the first year of the program, there were Priority 1 (P1) services, and Priority 2 (P2) services. P2 services were those services where assets were acquired, or services performed on those assets, and those services were known collectively as “Internal Connections” (IC). In large part, the same fundamental services that were available in 1998 as P2 are available now as Category 2 (C2).

Between 1998 and 2003, many Service Providers were proposing and getting funded large “Technical Support” FRNs, providing fully featured repair and assistance packages that generally contained a mixture of services designed to maintain the functioning of existing equipment and services designed to enhance the functioning of existing equipment. In short, these “Technical Support” requests were in many cases expensive, and provided maintenance services, as well as project management, installation, and many other types of services.

In 2003, the FCC, in response to these support requests, released the 3rd Report and Order, which (among other things) established the 2-in-5 Rule and created a second sub-category of P2 services, Basic Maintenance of Internal Connections (BMIC). In their ruling, they established two different sets of rules for the purchase of P2 goods and services, with applicants being allowed to purchase new equipment (and related services) two years out of any five. They could only purchase from a truncated list of services (and no new goods) the other three years.

Finally, the FCC established that P2: IC services would be treated as Non-Recurring services, and P2: BMIC services would be treated as Recurring services. Non-

Recurring services have much greater flexibility in terms of billing, and length of service delivery timeframe and the possibility of extensions than do Recurring services.

Program rules were interpreted so that there could be no crossover between P2: IC and P2: BMIC. In short, equipment was funded as IC, and maintenance was funded as BMIC, and in order to receive funding on both the product and the maintenance, the founding Form 470 needed to have both P2: IC and P2: BMIC selected. Failure to select the proper category of services would result in the summary denial of any funding requests for that service category.

In 2014, the FCC released the E-Rate Modernization Order which (among other things) renamed Priority 1 services as Category 1 services, and renamed Priority 2 services Category 2 services, established a new type of service, named, “Managed Internal Broadband Services” (MIBS). MIBS was also put into a separate service category, C2: MIBS.

Issues

Denials of Funding Requests

Because of the rule that if an applicant does not select a particular service category on the founding Form 470, they cannot receive services for any funding requests for that category of service. In short, if an Applicant fails to select “C2: MIBS” on the founding Form 470, no C2: MIBS requests will be funded.

Unfortunately, this has led to many funding denials, especially for maintenance funding requests, because Applicants frequently purchase a piece of hardware and forget

(or do not know) to select C2: BMIC at the same time they select C2: IC. C2: IC funding requests should be treated as a whole solution even when the initial purchase of new equipment includes a cost associated with what would otherwise be considered eligible Basic Maintenance. We are not proposing that the program should fund ineligible products or services but to expect an applicant to know, in advance, whether a proposer's solution will or will not include an identifiable cost for what is an otherwise eligible item or service appears to create a non-competitive environment that could actually cost the program more money in the long run. After the first year of the contract, when the hardware has been paid for so that only the ongoing maintenance remains to be funded, PIA correctly (according to program rules) denies the standalone maintenance. An informal survey among E-MPA members indicates that this is a common occurrence.

Procurement Flexibility

Applicants usually file their Form 470s with a solid idea of the goods and services they are seeking. Unfortunately, this “locks them in” to their original solution and prevents Service Providers from suggesting solutions that may work better for them but are a different service category. Specifically, if an Applicant wishes to procure maintenance services for eligible equipment that they own, and selects C2: BMIC on their Form 470, a Service Provider who wishes to provide an alternative MIBS solution is disincented to do so, because since MIBS was not selected on the Form 470, USAC will not fund a MIBS funding request.

Solution

E-PMA posits that a simple solution to these issues exists. During PIA, USAC has flexibility in making administrative changes to applications, except they cannot fund the Category of Service of a funding request if it was not on the establishing Form 470. E-MPA comments that the solution is the following:

Eliminate the Sub-Categories of Category 2

Collapse C2: IC, C2: BMIC, and C2: MIBS into a single C2 category. This would give USAC the flexibility to make more administrative changes and stop denials of funding for category reasons. E-mpa supports SHLB's comment that also suggests that Category 2 should be considered a single category of service without 'sub-categories' that are treated differently from one another. A single C2 Category of service will allow applicants options and simply and streamline the application process for all, including USAC.

Replace with C2: Recurring and C2: Non-Recurring

In the 3rd Report and Order, the FCC indicated that they wished different service delivery windows for different types of service. Adding the designations, Recurring or Non-Recurring would allow the program to retain the granularity and specificity that the FCC implemented in 2003, while giving USAC significantly more flexibility during PIA to make these minor administrative changes, and reduce the number of denials. While

traditionally, BMIC has been considered a recurring service, licenses and warranties that accompany equipment are typically charged up front.

In short, with this solution, PIA will have the flexibility to alter Funding Requests from C2: Recurring to C2: Non-Recurring, or vice versa, as appropriate, where currently they cannot alter funding requests from C2: BMIC to C2: MIBS.

Adopt a Rebuttable Presumption that all C2 equipment requests include a request for the maintenance of those products

E-mpa proposes that in short, if an Applicant purchases a router (for example), the FCC should presume that the Applicant may wish to purchase maintenance on that product, and/or that a warranty should accompany the product. Currently a warranty listed on a separate line item of the quote is often denied as if it was an unbundled warranty.

Summary of Comments

The adoption of the proposals presented herein would have significant benefits to the program and allow simplification.

Suggested Remedies

E-mpa comments that eliminating the granularity of the drop-down for C1 transport services that do not require an RFP will remove an unnecessary barrier to funding. Applicants should be able to determine the range of speeds they wish to solicit

proposals for, and the details of the transport media should not be a requirement in categories for which the FCC does not require an official RFP.

E-mpa comments that having Internal Connections, Basic Maintenance, and Managed Internal Broadband Services as separate categories of service sets up unnecessary and counterproductive administrative barriers to funding. Collapsing the three C2 sub-categories into one broader category will give applicants much greater flexibility to evaluate different technologies that they might not have considered initially.

Last, E-mpa comments that all C2 equipment 470s should include the rebuttable presumption that maintenance is included with equipment request.

Conclusion

In conclusion, E-mpa[®] respectfully requests the FCC to consider these recommendations and to incorporate them into the future of the E-rate program.

E-RATE MANAGEMENT PROFESSIONALS ASSOCIATION



Caroline D. Wolf, President