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
Proposed Eligible Services for the E-rate	)
Program, FY 2019	)

INITIAL COMMENTS OF STATE E-RATE COORDINATORS' ALLIANCE
ON THE FY 2019 DRAFT ELIGIBLE SERVICES LIST (DA 18-789)

The State E-Rate Coordinators' Alliance (SECA) submits these Initial Comments to the FCC's Public Notice released July 30, 2018 (DA18-789) inviting comments to the proposed Eligible Services List for FY 2019 ("ESL").

CATEGORY 1 NEEDED CLARIFICATIONS

Purchase of Category 1 Network Equipment for Leased Lit Fiber Solutions

As in FY 2016, FY 2017 and FY 2018, the ESL explains that in certain circumstances, the Network Equipment necessary to make a Category One broadband service functional may qualify for Category 1 funding. This option is most frequently pursued by Applicants seeking bids for either leased dark fiber service or for a self-provisioned network solution since equipment typically is needed to light the service and to make the service fully functional.

There may be some other situations where it is also necessary to procure network equipment to make a Category 1 leased **lit fiber** solution functional. Such an example may include the need to interconnect data links from multiple vendors in a regional wide area network configuration. A central piece of network equipment may be required to integrate all of the data circuits in a seamless network – even though all of the circuits may be leased lit fiber circuits with a Gigabit Interface Converter (GBIC) or a Small Form-Factor Pluggable (SFP) GBIC. Technically the leased fiber is considered to be lit if the GBIC or SFP is included in the leased solution; however,

the leased circuits from multiple vendors will not be interoperable without the central network equipment, and therefore, Category 1 network equipment is necessary to make the broadband service functional. In fact, the current wording of the FY 2018 ESL that is also carried over into the draft FY 2019 ESL makes clear that the network equipment option is available for *any* Category 1 broadband service.

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.[1]

On the other hand, if the FCC concludes that network equipment under Category 1 is only available for a leased dark fiber or self-provisioned network solution and is not eligible for a leased lit fiber service, this clarification should be made in the final version of the FY 2019 ESL to eliminate any ambiguities or inconsistencies. This would also ensure Applicants plan their network configurations/equipment purchases consistent with the rules, and to avoid having them sign contracts and seek E-rate funding for Category 1 network equipment that, in the end, is not actually eligible.

Leased End to End Lit Fiber Solutions including On-Premise Equipment Leased from Service Provider

The silence of the E-rate Modernization Orders regarding the option to lease on-premise network equipment from a vendor as part of an end-to-end solution, known as "Leased On-Premise Priority 1 Equipment" had been interpreted to mean that this option continues to be available to Applicants."[2] Recently it has been noted that the SLD's web site is devoid of any reference to this service and we wish to clarify that the Category 1 network equipment option includes the possibility of leasing on-premise network equipment from a vendor as part of an end-to-end Category 1 broadband service. We also wish to clarify that it is not required to issue a request for proposal to seek bids for this leased equipment or service. We therefore recommend that the FCC issue this clarification as part of the FY 2019 ESL.

CATEGORY 2 NEEDED CLARIFICATIONS

With the introduction of EPC, applying for equipment and services in the proper "bucket" or "sub-category" has become increasingly important during the PIA review process. Prior to EPC, applicants were not required to

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[1] As noted in the draft ESL, if equipment has mixed eligibility and is also used for the local area network, then a cost allocation must be performed to remove the costs of the local area network functionality and to categorize these costs as Category 2 internal connections funding.

[2] This option was first announced in a 1999 appeal decision, *Request for Review by the Department of Education of the State of Tennessee*, Order, DA99-216 (released August 11, 1999), CC Docket No. 96-45, CC Docket No. 97-21 ("Tennessee Decision").

select individual categories of internal connections equipment on the Form 470 and then ensure that they matched exactly to their Form 471 funding requests. Since FY 2015, we have seen hundreds of funding requests denied because, despite their best attempts to select the correct category that described the service or equipment they were seeking on both forms, there was a mismatch between the two. Although we are not asking the Commission to use the ESL to specify which equipment/service should go into which category (router, switch, UPS, firewall, etc.), it is critically important for the ESL to delineate which subcategory the eligible equipment/services fall into (internal connections, basic maintenance or MIBS) so applicants know with certainty how to apply and not be denied during PIA review. Specifically, three such clarifications are needed.

Software Clarification

The draft ESL includes a welcomed new parenthetical clarification that states that software should be included in the same category as the associated service being obtained or installed. This makes sense because the Form 470, rightfully, does not have a separate service request for software. However, because the Form 471 includes a separate service request option for software under Internal Connections, we request the Commission clarify how applicants should apply on the Form 471. We assume that Applicants should apply for software on the Form 471 as part of the associated component – and not under the software subcategory – so that there is no mismatch between the Form 470 and 471 service and funding requests. If the FCC wants Applicants to apply for software under the software subcategory on the Form 471, this clarification should be provided in the final FY 2019 ESL.

Need to Include Client Access Licenses

With so many functions becoming 'cloud-based' and requiring equipment licenses, it is important for the ESL to specify that equipment licenses are eligible and to clarify how these licenses should be sought on the Form 471. The draft ESL does not refer to licenses, and, in fact, the term has not appeared in an ESL since Funding Year 2014. We ask the FCC to clarify that separate requests for licenses are not required on the Form 470, as applicants commonly do not know if the services being proposed by vendors will include or need licenses. Further, we ask the FCC to clarify that, just like software, licenses should be requested on the Form 471 in the same category as the underlying product. For example, if the wireless controller requires licenses, the Form 471 category would be Wireless Controller, and then the applicant would list the model/SKU of the license to indicate that licenses are being requested. Currently, PIA is reclassifying such requests as software or basic maintenance. Modifications to software are not problematic from a funding request approval standpoint, but certainly when FRN line items are reclassified to an entirely different subcategory, the funding request is in jeopardy.

Equipment Lease Clarification

Confusion remains about whether the leasing of equipment is eligible under Internal Connections, MIBS, or both. The draft ESL states:

> Category 2: These are broadband connections used for educational purposes within, between, or among instructional buildings that comprise a school campus… and basic maintenance of these connections, as

well as services ***that manage and operate owned or leased broadband internal connections (e.g., managed internal broadband services*** or managed Wi-Fi). (emphasis added)

MIBS: In some eligible managed internal broadband services models, the third-party manager owns and installs the equipment and ***school and library applicants lease the equipment as part of the managed services contract***. (emphasis added)

However, the USAC website states that "Applicants may lease equipment as a part of an internal connections request or a MIBS request."[3] Further and consistently, when applicants create a Category 2 Form 471 funding request, the online form asks if the request is for "Leased or Non-Purchase Agreement?"– anytime a C2 request is made, not just for MIBS requests.

SECA agrees that leased equipment should be permitted to be requested in either the Internal Connections or MIBS subcategories. Applicants almost always request equipment under the Internal Connections subcategory on the Form 470 – not the seldom-used MIBS category – and then make a decision whether to lease the equipment based on vendor proposals and budgetary considerations. In order to confirm that applicants may continue to request leased equipment under Internal Connections, SECA requests that the final ESL include this clarification.

CATEGORY 2 SUBCATEGORY SIMPLIFICATION/REFORM NEEDED

The Form 470 currently is formatted to include the three subcategories of the ESL for Category 2: Internal Connections, Managed Internal Broadband Services and Basic Maintenance of Internal Connections. Applicants must first select one of these subcategories and then select a specific component or service under each of the subcategories for their service requests. Applicants must then apply for funding on their Form 471 applications and select a funding request that matches a service request on the Form 470. If there is a mismatch, the funding request is denied as a competitive bidding violation.

The subcategories, however, have some overlap. Maintenance is a component of Managed Internal Broadband Services as well as Basic Maintenance. Some vendors classify software and licenses are internal connections and others classify them as basic maintenance. If the Form 470 did not identify the correct subcategory, as defined by USAC, the Applicant may find their funding request denied as a competitive bidding violation because of the Form 470/471 mismatch.

The Category 2 subcategories were developed in FY 2005 due to the new 2/5 rule requirement. Applicants were permitted to apply for Internal Connections funding two out of every five years per building, but there was no limit to the number of years an applicant could apply for Basic Maintenance. Thus, the Form 470 and Form 471 were modified to ensure that USAC could track the type of service/equipment being requested. 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. It used to be quite easy to

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[3] https://www.usac.org/sl/applicants/beforeyoubegin/eligible-services/default.aspx.

check a box on the pre-EPC Form 470 whereas now in the EPC version of the form, a separate maintenance service request must be created, and Applicants do not always realize this must be done.

SECA recommends that the subcategories of Internal Connections, Managed Internal Broadband Services and Basic Maintenance be removed from the Form 470 application and instead replaced with a single Category 2 category of service.

In conclusion, SECA respectfully requests the Wireline Competition Bureau to consider these recommendations and to incorporate them into the final version of the FY 2019 Eligible Services List.

Respectfully Submitted by:

/s/ Gary Rawson

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