



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

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

**Reply Comments of the State E-rate Coordinators’ Alliance
to Initial Comments Regarding
Improvements to the FCC Form 470 Drop-Down Menu In
Response to Public Notice DA 19-196**

I. Introduction

The State E-rate Coordinators’ Alliance (SECA) is encouraged that all commenting parties concur that applicants and service providers would benefit greatly by replacing the existing Form 470 online application which is confusing and not intuitive.¹ After reviewing all Initial Comments submitted, we have identified areas of consensus with several of the other commenting parties’ suggestions that we have incorporated into our proposed Form 470 flowchart for Category One, attached as Appendix 1. In addition, we also offer an alternative approach to the recommendation of US Telecom – The Broadband Association (“US Telecom”) -- that is based on existing USAC functionality and would be less burdensome on the SLD and applicants yet would achieve the same underlying purpose. No other parties submitted substantive Category Two comments that resulted in any changes to our flowchart. We have included the proposal again with these Reply Comments as Appendix 2 so that both SECA proposals are contained in this submission.

¹ Initial comments were submitted by CenturyLink, EducationSuperHighway and US Telecom – The Broadband Association. Brief comments were submitted by Tim Jones, E-rate Specialist at Linn-Benton Lincoln ESD, Melinda Miller, Greg Krueger, and Fazil Bhimani.

II. Simplification of the Category 1 Section of Form 470.

Both CenturyLink and Education SuperHighway recommended that there should be a single option for Internet access service that is separate from data transmission service, and we agree. Our initial Form 470 proposal would have required applicants to start with a combined selection of Internet and/or Data Transmission Service, and then would have branched out with two different Internet and two different transmission service options. This first step is unnecessary and have modified our initial proposal accordingly. The new first step in SECA's proposal consists of four different options and uses the plain language approach from the FCC's proposed flowchart in Appendix C of the Public Notice. We propose the following choices including cautionary language:

- I seek bids for Internet Access Service.
- I seek bids for Data Transmissions Services (i.e. WAN, transport). Warning: bids will not include Internet.
- I seek bids to build my own network. Warning: bids will not include Internet.
- I seek bids for Maintenance/Operation and/or Category 1 Network Equipment for Existing Network.

In SECA's revised flowchart, we propose a single choice for Internet access. We agree with EducationSuperHighway and CenturyLink that it is unnecessarily confusing to divide Internet with and without transport into two separate service request options in Step 1. Rather, applicants seeking Internet Access should be able to select one single Internet Access service request in Step 1, and then in Step 2, select one of four different types of Internet:

- Internet delivered via **any** type of Data Transmission Service (fiber or non-fiber such as coaxial cable modem, DSL, copper, satellite and wireless)
- Internet delivered via **fiber** transmission service
- Cellular data plans/air cards (*Include warning of strict eligibility restrictions.*)
- Stand-alone Internet access service only (also known as 'commodity internet' or 'port internet'; does not include data transmission circuit). NOTE: Applicant is responsible for arranging for data transmission service to deliver Internet to their school/library building(s). (*Include warning that this type of request is uncommon.*)

We note that CenturyLink agrees that there should be an option for selecting fiber-based transmission service separate from other technology options, a position for which we found widespread support in our discussions with the applicant and service provider community. Our approach differs slightly from the CenturyLink proposal in how the 'other' technology category would be described. CenturyLink would provide for a 'non-fiber' option whereas SECA believes that the option should be inclusive of **all** technologies – fiber and other technologies. We do not believe it is

necessary or appropriate to create a separate ‘non-fiber’ only transmission service option for several reasons:

- Small applicants may not understand the term ‘fiber’ and permitting them to select an all-inclusive option would ensure they are not penalized later for selecting the wrong option;
- Due to emerging technologies and fiber expansion, applicants seeking coaxial cable service or microwave wireless service may not realize that fiber exists in their area, and therefore by offering an ‘all-inclusive’ option, they could have the benefit of additional bids that they may not have initially contemplated; and
- Applicants seeking bids for both leased lit fiber and other data transmission services will only have to select a single option instead of creating two separate service requests.

Regardless of whether the SECA or CenturyLink ‘non-fiber’ or the SECA recommended ‘all-inclusive’ description is accepted, we continue to strongly believe that a fiber-only transmission service option must be provided since most of the school districts in the country are now fiber-based, and should not have to consider non-fiber bids and justify the rejection of those bids in favor of a fiber based service.

We also modified our second option, “I seek bids for Data Transmissions Services” to include layman’s terms for describing these services to make clear that this service includes both transport and WAN circuits. These are both terms that applicants are also familiar with, and also, they are consistent with CenturyLink and EducationSuperHighway’s recommendations that use “WAN” and “transport” as descriptive terms. We continue to support the use of “Data Transmission Service” since this term is in the Eligible Services List and also on the Form 471 application.

In order to provide as much distinction between the stand-alone Internet choice and the other more commonly used Internet service options, we made the following modifications:

- Changed the ordering of the four check box options for Internet and list the stand-alone Internet choice as the last option. We believe it will be the least commonly chosen option . We also wanted to separate it from the other two Internet choices.
- Added helpful explanatory text to mention that this also is sometimes called “port Internet” or “commodity Internet.”

These modifications are in addition to our original cautionary language which remind applicants that they must arrange for data transmission service that will deliver Internet to their school/library building(s), and that this type of request is uncommon.

The other significant streamlining feature of the SECA revised Category One flowchart is to standardize the details for applicants to enter in Step 3, for the Internet and Data Transmission Service

options. We indicate when an option may not be applicable to a particular service that is selected, in which case the option should either not appear or should be grayed out and unable to be selected by the applicant.

Our Appendix 1 revised Category One flowchart builds on the FCC's Appendix C to the Public Notice because we strongly believe that the flowchart approach is superior to the current drop-down menus. The primary distinction between the SECA flowchart compared to the FCC's flowchart are in four areas: (1) SECA's flowchart provides for a fiber-only transport option for both Internet and Data Transmission Service, for the reasons we explained in our Initial Comments; (2) the Maintenance & Operation and Category One Network Equipment Service Option (fourth option in Step 1) would apply for only for *existing* networks, whereas Maintenance and Operation for *new* networks would be options to select in Step 3 as part of a new Data Service Transmission Service or Self-Provisioned Network service request; and (3) adding very important parameters and related terms in Step 3 to quantify bandwidth and connections that were not specified in the FCC's Appendix C to ensure these crucial information components are developed with public input and do not become potential points of failure and bases for funding denials; and, (4) our flowchart includes additional helper text and warnings to be included as either part of the service descriptions or 'hover' text.

We are hopeful that the FCC will find our revised approach to be useful and will incorporate our suggestions into the new Form 470 application.

III. Several Concerns Exist Which Must Be Resolved Related to Mandating Applicants to Include Service Location Addresses on the FCC Form 470 Application.

The US Telecom proposal requests that the Form 470 application be retrofitted to include a new drop-down menu with the related entity names and addresses for the applicant, from which every entity number that is a proposed recipient of service for each Category One service request must be selected.² This information would then become a searchable data field in the Download 470 Information Tool to make it easier for service providers to identify bidding opportunities.

SECA understands the rationale for US Telecom's request but we have significant concerns with how this requirement would be implemented, whether it is truly necessary since much of the data already exists and can be accessed now, the burden it may place on large applicants, and how this new data field could be turned into another basis for denying funding.

² Initial Comments of US Telecom – The Broadband Association (October 31, 2019) at pages 2-4, <https://www.fcc.gov/ecfs/filing/10310157815213>

First, US Telecom stated that the data that would be used to populate the Form 470 drop-down menu already exists in the EPC data base for each entity profile, and we agree to a certain extent with that statement. To the extent that this data already exists, however, the Form 470 does not need to be changed, but rather the Download 470 Information Tool³ could be updated to include the name and addresses of each building associated with the billed entity that filed the Form 470 application. Another update to the Download 470 Information Tool could be to require the addresses of consortium members to be included in the search results of consortium applications. Currently the names and entity numbers of consortium members are reported as part of search results, but not their addresses. Each of these suggestions would augment the existing search tools available to service providers without imposing additional burdens and risks on applicants. These changes could happen today, would require no FCC order or form change, and service providers would have access to this data immediately.

Second, any implementation of this requirement should only be done in consultation with large applicants and consortium applicants. When EPC was introduced in FY 2016, the Form 471 required a vast amount of information by entity, circuit, price, etc. – a feat that was deemed nearly impossible for large applicants to accomplish within the Form 471 filing window. As a result, USAC created offline templates that allowed the relevant data to be created in Excel format and then uploaded into the Form 471. Without this same kind of functionality, large and consortia applicants would be unable to complete Form 470 application with the current staff resources. Considerable additional manhours would be required to complete a Form 470 application to select each different proposed recipient of service from the drop-down menu. We are quite concerned that integrating a “recipients of service drop down requirement” as part of the Form 470 would inadvertently impose the same insurmountable hurdle that was created when the Form 471 application was first introduced in EPC. We cannot support any modification to the Form 470 application that would burden large and consortia applicants in a manner that would discourage them from applying for E-rate, or would take a Herculean effort to accomplish the completion of a form that is relatively manageable, and would require them to devote additional personnel resources (and related costs) to perform this data entry function.

SECA believes that when applicants have uploaded an RFP and that document contains service addresses, there should be no further requirement for the applicant to select proposed recipients of service from any drop-down menu on the Form 470. This would ensure that large applicants and

³ SLD Form 470 Download Tool: <https://data.usac.org/publicreports/Forms/Form470Detail/Index>.

consortia – that routinely prepare RFPs for their E-rate procurements – would not be burdened by this potential new requirement.⁴

Third, and most importantly, if the FCC does impose a requirement that some or all applicants must select proposed recipients of service with the associated addresses as entered in EPC, we feel strongly that there must be a hold harmless for instances where those addresses may not be fully accurate. This could happen for several valid reasons:

- Depending on the time of year, the EPC entity profile data may not be within an applicant’s control when they prepare Form 470 applications. Each January, prior to the start of the Form 471 filing window, EPC profiles are “locked down” and cannot be changed until a few weeks after the window closes. If an applicant needs to file a Form 470 during this period – which frequently occurs – the applicant is precluded from making any corrections to the entity name or address. Thus, the incorrect address information may appear in a drop-down menu that draws from the entity data base.
- After the Form 471 filing window deadline, the EPC profiles are unlocked, and applicants may submit corrections until the next lockdown period prior to the start of the next year’s Form 471 filing window.⁵ But, and this is a huge “but,” these corrections are susceptible to being *overwritten* by SLD and therefore the entity address could revert to the older, out of date information despite the applicant’s earlier correction of this information. This may occur in the fall of each year, prior to the announcement of the “administrative window” when applicants are encouraged to submit corrections and updates to their entity profiles. Beforehand, SLD transfers in masse the entity profile information maintained separately as part of their PIA review process into the public entity data base that applicants can access. The data that SLD uses to overwrite the entity data base may not reflect the changes made by applicants. In other words, unbeknownst to applicants, the current entity information may be overwritten with older information from the SLD’s PIA entity data base that applicants had already modified.
- Consortia leads have no control or ability to update the entity address information of their members. Only a “parent” entity may modify the “child” entity information and therefore consortium applicants are prohibited by EPC rules to modify or update the addresses in

⁴ To the extent that service providers would like a way to search for business opportunities by service address, we reiterate our first suggestion which is that the Form 470 search functions and download tool should be modified to extract the Form 470 related entities’ addresses so that vendors have immediate access to this data.

⁵ See April 26, 2019 SLD News Brief. See also October 11, 2019 News Brief.

their consortium members' profiles. Consortia applicants cannot be bound by the "then-current" addresses of their members and associated buildings in EPC, when they have no ability to update or correct this information and risk funding or invoice reductions/denials based on that data.

- There also are some locations that receive E-rate eligible service that are not associated with an entity profile. This occurs in large networks when there are middle mile circuits with an address not associated with an entity. These locations would not appear in the eligible entity data base and by extension any associated 470 drop-down menu that would be derived from that data base.

To be clear, SECA is not raising these concerns in the abstract simply to create roadblocks to the US Telecom proposal. Our concerns are genuine and grounded in our experiences with the manner in which the SLD applies what they call a "cardinal change" to a procurement. The SLD currently requires the restarting of the 28-day bidding period if an address is changed for a service location. They construe this change as a new site being added to the procurement, which in turn, automatically requires the resetting of the bidding period. Absent the extension of the 28-bidding period, the resulting funding request will be denied. Given the SLD's broad definition of and strict rules involving "cardinal changes", we can easily envision that if an address on the Form 470 is different from the address on the contract and/or resulting Form 471, due to the information in the EPC entity data base that is then incorporated into a Form 470, USAC will construe this as a "cardinal change" or address "mismatch" which would invalidate the competitive bidding process for the location.

Simply put, we are deeply concerned with the unforeseen consequences of implementing such a requirement, particularly when there are existing ways to retrieve much of this data. Adding this requirement to the Form 470 application introduces another potential point of failure for applicants, which would undermine and derail the current initiative of the FCC to revise and improve the clarity of the Form 470 application.

IV. Form 470 Applications Should Be Reviewed by SLD Using A Good Faith Standard.

In spite of the well-meaning efforts to simplify and streamline the Form 470 application to make it easier for applicants to complete the form, and for service providers to understand the nature of the service requests, there still may be instances where an applicant is confused and inadvertently selects a service request that does not exactly correspond to the intended procurement, or the applicant may be unsure of the services that they may want to procure. They may, however, clearly explain their requests for bids in the accompanying narrative text box. Similarly, an applicant's addresses may not be 100% accurate for the reasons stated above.

SECA recommends that the SLD should be required to examine not only the service requests that are selected by an applicant, but also the narrative text entered by the applicant when reviewing their Form 470 applications for compliance with the competitive bidding requirements. Service providers have access to the narrative text boxes, and this information is also available in a searchable format from the SLD's search tools.

If the applicant made a good-faith effort to select the desired services, they should not be denied funding for a competitive bidding violation, even if the applicant may inadvertently fail to select the correct service request type on the Form 470 application. Although we anticipate the revised FY 2021 Form 470 application will be much improved over previous years, we know it is not possible to create a form that will be foolproof for all applicants. For these reasons, we request the Commission direct USAC to use a "good faith standard" when reviewing applications whereby applications should not be denied due to failure to comply with the format, if the substance of the request is set forth on the form, via the text box.

V. Conclusion

The State E-rate Coordinators' Alliance respectfully request that the Form 470 application be redesigned consistent with our recommendations set forth in our Initial Comments and these Reply Comments.



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SECA Recommended **Category 1** Form 470 Flow Chart

APPENDIX 1 (Revised 11/15/2019)



