



**Before the  
Federal Communications Commission  
Washington, DC 20054**

**In the Matter of:**

**Promoting Fair and Open Competitive            )**  
**Bidding in the E-Rate Program                    )**    **WC Docket No. 21-455**

**Comments from the Wisconsin Department of Public Instruction**

The Wisconsin Department of Public Instruction (WIDPI, department) is the state education and library agency. The department has statutory oversight for our state’s 421 public school districts and 384 public libraries. We have provided E-rate support to our schools and libraries since the program’s inception. At the national level, our staff are active in the State E-rate Coordinators’ Alliance (SECA) and the American Library Association’s E-rate Task Force. Our department has commented on many E-rate rulemaking notices back to the beginning of the program in 1996.

We appreciate the opportunity to file these comments on this Notice of Proposed Rulemaking to create a bidding portal for the E-rate program.<sup>1</sup> The Commission’s proposal will require all schools, libraries and service providers nationwide to upload any and all application information to this portal. For several reasons, as stated below, we oppose this fundamental change to the E-rate program.

The primary reason the Commission proposes to create this portal is to minimize waste, fraud and abuse in the E-rate program. Obviously, our department opposes any attempts by applicants or service providers to defraud the program, but we are very skeptical that a bidding portal will have much success in accomplishing this. More specifically, the Government Accountability Office (GAO) issued a report that identifies both applicant and service provider self-certifications as a basic weakness in the E-rate program and that such certifications can increase the risk of fraud.<sup>2</sup> The department strongly condemns any attempts by applicants or service providers to engage in

---

<sup>1</sup> Notice of Proposed Rulemaking. In the Matter of: *Promoting Fair and Open Competitive Bidding in the E-Rate Program* (NPRM). WC Docket No. 21-455. Released December 16, 2021.

<sup>2</sup> GAO. *FCC Should Take Action to Better Manage Persistent Fraud Risks in the E-rate Program* (GAO E-Rate Report), pages 14-16. Sept. 16, 2020.

fraudulent activities, but we do not think a bidding portal will prevent or even reduce such activities. Our basic point here is that if “bad actors” are determined to defraud the E-rate program they will find a way to do so, regardless of whether an application portal is implemented or not.

We note that there are already several current safeguards to protect the E-rate funds from possible improper use. For example, school and library finances are audited on a regular basis following the Government Accounting Standards Board (GASB) audit procedures. USAC also has its own applicant and provider audit program and at any time E-rate participants can be subject to further investigations by the FCC’s Office of Inspector General.

Another issue with implementing a nationwide E-rate bidding portal is the impact it would have on local and state procurement regulations. The Commission acknowledges this when it asks, “Would the creation of a bidding portal conflict with these state and local procurement requirements?”<sup>3</sup> Our answer is, most definitely: Yes. It is important to note that our schools and libraries have used their own procurement processes for decades to purchase non-E-rate goods and services and these purchases far exceed the funding they receive from the E-rate program. This is documented by the E-rate consulting firm Funds for Learning which determined that “The E-rate program represents roughly *one half of one percent of the annual K-12 spending...*” (Emphasis added).<sup>4</sup> Thus, the obvious question is: If local procurement procedures are sufficient to purchase 99.5% of a school or library’s goods and services why aren’t they sufficient to purchase 0.5% in E-rate goods and services?

A bidding portal will be especially problematic for large, state consortium applicants. State applicants in particular must follow stringent state procurement regulations that are often based on language in state statute. Wisconsin has a statewide broadband network (BadgerNet) which is bid-out on a regular basis following state procurement regulations.<sup>5</sup> The resulting State Master Contract enables our schools and libraries to receive high-speed broadband connectivity at very low costs. And to make the E-rate process even easier for our schools and libraries, a complimentary state program called TEACH (Technology for Educational Achievement) files all E-rate forms.<sup>6</sup> The state’s Division of Enterprise Technology will soon release an RFP for the next BadgerNet contract. Previous BadgerNet procurements—from development of the RFP to eventually signing a contract—took about eighteen months. Thus, in addition to issues of state procurement regulations, any portal will need to be designed to accommodate the lengthy time needed for large state

---

<sup>3</sup> NPRM. para. 20.

<sup>4</sup> Funds for Learning blog post. We encourage the Commission to review this post by John Harrington which documents the many issues with implementing an E-rate application portal. <https://www.fundsforlearning.com/news/2022/01/fcc-aims-to-nationalize-k-12-purchasing/>. January 14, 2022.

<sup>5</sup> Seventy-five percent of our school districts and ninety-five percent of our libraries get their broadband connectivity from BadgerNet.

<sup>6</sup> For funding year 2022, TEACH has requested \$6,267,334.85. This is the largest request in the state.

procurements. Considering these issues, we request that such procurements be exempt from any E-rate bidding portal.

We are also concerned that an E-rate bidding portal could significantly delay approval of school and library applications. Providers will be required to upload all their bids and any related information (e.g., cost sheets, technical diagrams, etc.) to the portal. And from the applicants' perspective, they will be required to upload their bid evaluation criteria, bid evaluation worksheets and an explanation on why certain bids were rejected. And furthermore, applicants will be required to upload any correspondence with service providers before and during the bid evaluation process and contract negotiations.<sup>7</sup> We assume the Program Integrity Assurance (PIA)<sup>8</sup> unit will thoroughly review all this uploaded material to search-out any possible instances of waste/fraud/abuse. Obviously doing this type of comprehensive document review will take considerable time and likely delay approval of applications. And we are also very concerned that this detailed review by PIA will result in it inserting itself into the school or library's bid evaluation and vendor selection process. We can envision PIA second guessing decisions made by applicants on why they selected a particular vendor or why they ranked the bid by another vendor very low. All this intrusive activity will further slowdown the ultimate decision to approve or deny applications.

\* \* \*

In conclusion, the Wisconsin Department of Public Instruction is opposed to implementing an E-rate bidding portal. Doing this will introduce another layer of complexity to a program that is already too complex. In addition, we think it will have minimal effect in addressing issues of waste/fraud/abuse in the E-rate program. Thank you for listening to our concerns.

Respectfully submitted,

*Tessa Michaelson Schmidt*

Tessa Michaelson Schmidt  
Assistant State Superintendent  
Division for Libraries and Technology  
Wisconsin Department of Public Instruction  
tessa.schmidt@dpi.wi.gov • 608.267.5077

---

<sup>7</sup> NPRM. Footnote 60.

<sup>8</sup> The Universal Service Administrative Company's Program Integrity Assurance unit reviews and approves all applications.