

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

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

REPLY COMMENTS OF THE COUNCIL OF THE GREAT CITY SCHOOLS

The Council of the Great City Schools is pleased to submit reply comments in response to the Commission’s Notice of Proposed Rulemaking published on December 16, 2021 (WC Docket No. 21-455; DA 22-284) regarding Promoting Fair and Open Competitive Bidding in the E-Rate Program. The Council acknowledges the need to protect against waste, fraud, and abuse in the competitive bidding process but urges the Commission not to implement a “Bidding Portal” that would create new, duplicative, and burdensome processes for school districts to access E-Rate benefits.

Introduction

The Council of the Great City Schools, a coalition of the nation’s largest school districts, continues to support the Commission’s efforts to strengthen the E-Rate program by establishing efficiencies and safeguards to protect the financial integrity of the program. As we highlighted in our initial comments, the Council’s member districts already do their part to safeguard state, local, and federal funds through compliance with state and local procurement laws. Our school districts understand that as the nation’s largest school systems, we are the most audited and reviewed programs because of the size of our requests and the needs of the students we serve. Protecting the financial integrity of the E-Rate program will continue to allow urban school districts to use this vital tool to extend connectivity resources to millions of students in need.

However, the Commission’s proposal to create a new “Bidding Portal” would add an unnecessary and duplicative procurement process for urban school districts that would only further complicate the E-Rate program. In our initial comments, we underscored the concerns of our membership that layering additional administrative requirements on school districts and service providers would create conflicts with state and local procurement laws, increase administrative burden on school districts and service providers, and weaken service provider participation in the E-Rate program, reducing school districts’ ability to achieve cost savings. The practical effect of these additional requirements would result in delays in the awarding of contracts and the delivery of necessary services to school buildings.

The Council agrees with the Commission that rooting out waste, fraud, and abuse is necessary but rather than create a Bidding Portal that would cause confusion and increase administrative burden on school districts and service providers, the Council suggests pursuing other actions that would reduce the potential for fraud and mismanagement. The Council’s member districts are steadfast partners in the Commission’s

efforts to ensure the integrity of the E-Rate program and respectfully urges the Commission to not move forward with the creation of a Bidding Portal.

Creating Burdensome and Duplicative Procurement Requirements

The Council's member districts have a vested interest in protecting the financial integrity of the E-Rate program to ensure the Commission's connectivity resources remain available to the urban students we serve. We discussed in our comments that the Council's member districts are already doing their part to safeguard federal, state, and local funds. As an example, the School District of Palm Beach County shared that they have a full-time program of investigation, audit, inspection, and performance review to provide increased accountability, promote fiscal responsibility, assist management in the establishment and maintenance of effective systems of control and provide increased oversight and identify, fraud, waste, abuse and illegal acts. To ensure that all district operations are carried out with honesty, integrity, efficiency and legal compliance, the school board in Palm Beach County established the Office of Inspector General, which is independent of the District's operations to assure that no interference or influence external to the office adversely affects the independence and objectivity of the Inspector General and Office of Inspector General. Similarly, the Los Angeles Unified School District (LAUSD) shared that they house an internal division responsible for the review and conduct of the solicitation process in a manner that adheres to state and local procurement requirements.

The creation of a federal Bidding Portal solely for E-Rate related purchases would conflict with state and local procurement requirements that school districts have structured their procurement processes to comply with. The State E-Rate Coordinators Alliance (SECA) shared their concern about this conflict, stating, "the bidding portal raises many new questions and layers an entirely new set of procedural requirements on top of the many existing local, state and E-Rate bidding requirements." The Consortium for School Networking (CoSN) and the State Educational Technology Directors Association (SETDA) in joint comments pointed out that the Commission has historically, "relied on state and local procurement requirements to ensure the program's integrity, including supporting effective administration of the program's vitally important competitive bidding process."

Operationally speaking, the Commission's proposal would force school districts to manage a separate E-Rate Bidding Portal in addition to existing bidding portals that districts use for all other purchases, adding administrative burden and confusion for applicants and service providers. In our initial comments, we noted the complexity of the E-Rate application process requires many districts to hire outside consultants to assist with reimbursement requests. Urban districts raised concerns that further increasing the complexity and administrative burden of the process with the addition of the federal bidding portal is likely to have a negative impact on program participation rates among service providers, particularly the smaller, minority-owned and local businesses we are actively trying to contract with. The California K12 High Speed Network (K12HSN) shares that recruiting smaller providers is already a challenge given the current complexity of the program and states, "We fear imposing a complicated bidding portal will further inhibit their participation, leaving applicants with fewer choices, and potentially leaving them with fewer cost-effective solutions."

There is broad agreement among our urban school districts as well as rural and State entities that creating a scenario where applicants and service providers must manage two separate bidding portals is counterproductive and unnecessarily burdensome. The State of Nebraska shared that the proposed bidding portal, "is unnecessary for statewide procurement operations and will not thwart bidding improprieties nor facilitate better compliance by such entities." Like the Council and other commenters noted, Nebraska also shared that there are, "several areas where state procurement procedures are irreconcilable with a national E-Rate bidding portal." Similar concerns were shared by the State of South Dakota. "The State already has

more than sufficient statutory and regulatory safeguards and oversight mechanisms to ensure its competitive bidding of E-rate contracts satisfies the fair and open competitive bidding E-rate standard that is also codified in state law.” South Dakota also shared that the state’s procurements of data network circuits and internet access service is not just for K-12 schools and libraries but other state and local government agencies and state universities, and a national portal required for E-Rate purchases would complicate the economies of scale that South Dakota has achieved through their statewide aggregated purchasing practices.

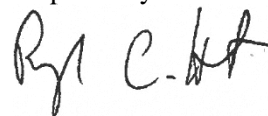
School districts are joined by other E-Rate stakeholders in not only highlighting the impact of a federal Bidding Portal on program participants but also raising questions about the efficacy of this portal in addressing the Commission’s concerns about waste, fraud, and abuse. The American Library Association (ALA) offered their skepticism of the proposal in multiple areas, noting that, “a bidding portal will likely have negative consequences by adding another layer of complexity to this program which may result in some libraries, especially smaller libraries, dropping out of the program.” ALA also correctly pointed out that the GAO found that self-certification in the E-Rate application was one of the highlighted risks that prompted the portal proposal, but also noted that, “the self-certification process used in any program that distributes funds is—by its very nature—based on a certain level of trust. Certainly, ALA condemns any attempts by nefarious parties to abuse this trust, but we think a bidding portal will have very limited success addressing this issue. Figure 6 in the GAO report highlights examples of how the self-certification process can result in collusion between providers and applicants to defraud the program. But how will a portal prevent such collusion?”

The Council agrees with other stakeholders in urging the Commission to not implement an E-Rate Bidding Portal and instead pursue other actions that could minimize the potential for waste, fraud, and abuse without increasing the complexity and administrative burden of the program. These approaches can include clarifying program guidance to minimize errors and misinterpretations and strengthening trainings for applicants and service providers.

Conclusion

The Council appreciates the opportunity to provide feedback on the Commission’s proposal to create a new E-Rate Bidding Portal. While we agree with the Commission’s goal to protect against waste, fraud, and abuse, the Council cautions against implementing burdensome requirements and duplicative processes. Urban school districts already have internal processes that comply with stringent state and local procurement requirements to protect state, local, and federal dollars. The Bidding Portal would only increase the administrative burden on urban school districts and delay the delivery of services to millions of students in need. Implementation of a Bidding Portal would also negatively impact service provider participation which would hamper school districts’ ability to find cost effective services. The Council urges the Commission to find other ways to safeguard the financial integrity of the E-Rate program without sacrificing the program’s mission – to extend connectivity services to schools educating the students with the greatest need.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Ray C. Hart", is written over a light blue horizontal line.

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Council of the Great City Schools Member Districts:

Albuquerque, Anchorage, Arlington (Texas), Atlanta, Aurora (Colorado), Austin, Baltimore, Birmingham, Boston, Bridgeport, Broward County (Ft. Lauderdale), Buffalo, Charleston, Charlotte-Mecklenburg, Chicago, Cincinnati, Clark County (Las Vegas), Cleveland, Columbus, Dallas, Dayton, Denver, Des Moines, Detroit, Duval County (Jacksonville), El Paso, Fayette County, Fort Worth, Fresno, Guilford County (Greensboro, N.C.), Hawaii, Hillsborough County (Tampa), Houston, Indianapolis, Jackson, Jefferson County (Louisville), Kansas City, Long Beach, Los Angeles, Memphis - Shelby County, Miami-Dade County, Milwaukee, Minneapolis, Nashville, New Orleans, New York City, Newark, Norfolk, Oakland, Oklahoma City, Omaha, Orange County (Orlando), Palm Beach County, Philadelphia, Phoenix Union High School District, Pinellas County, Pittsburgh, Portland, Providence, Puerto Rico, Richmond, Rochester, Sacramento, San Antonio, San Diego, San Francisco, Santa Ana, Seattle, St. Louis, St. Paul, Toledo, Toronto, Tulsa, Washington, D.C., Washoe County (Reno), and Wichita.