

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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In the matter of:	)	
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Schools and Libraries Universal Service	)	
Support Mechanism	)	CC Docket No. 02-6
	)	
Comments on Proposed Revisions	)	
To FCC Forms 472, 473, and 474	)	
_____	)	

The State E-Rate Coordinators' Alliance ("SECA") submits these Comments in response to the March 1, 2005 Public Notice issued by the Wireline Competition Bureau in DA 05-513. The Public Notice invites interested parties to file Comments regarding the proposed revisions to FCC Forms 472, 473, and 474.

SECA is a national organization comprised of state E-rate coordinators generally representing state departments of education and/or state network entities. As E-rate coordinators, SECA members are responsible for disseminating programmatic information to E-rate applicants and other stakeholders in their respective states. SECA members are intimately familiar with the operational details of the E-rate program as they are called upon to respond to applicant questions on a daily basis and to facilitate applicant participation in the program. By serving in the field, SECA members are acutely aware of the impact of FCC rules and procedures on the E-rate process. SECA members have testified in both House and Senate hearings on E-rate issues and were also represented on the SLD's 2003 Task Force for the Prevention of Waste, Fraud and Abuse.

**BACKGROUND**

The three E-rate forms which are the subject of these comments have been the subject of numerous draft revisions for almost two years. In March 2004, the FCC announced OMB approval of FCC Forms 472 and 474 (DA 04-257). Newer versions of these two forms were even made effective for one day last August before being pulled to permit further changes — primarily to include additional certification language dealing with waste, fraud and abuse issues, and, most recently, to add a field for FCC Registration Numbers ("FCC RNs").

While we recognize the importance of the additional certifications, and welcome a few of the incremental changes, we believe that several issues, both old and new, have not been addressed in the current revisions. Our comments on these issues are provided below. A number of smaller editorial suggestions are included in Appendix A. We encourage the

FCC to make all these changes now rather than wait until the next iteration of form revisions which may be years away.

## **COMMENTS ON FORM 472 (BEAR)**

The current BEAR form dates back to 1998 when it was hastily put in place to handle what was initially thought to be a temporary need for discount reimbursements. The use of the BEAR reimbursement process has become one of the two standard options for realizing E-rate discounts, but one of the earlier shortcomings of the form has yet to be corrected. Furthermore, the addition of a service provider FCC RN field in the applicant portion of the proposed version of the Form 472 may create potential problems for applicants, particularly in the early months of the new form's release.

- 1. The most critical shortcoming of the Form 472 is the absence of applicant remittance contact information to which the service provider can mail the associated reimbursement check.**

Once a BEAR form is submitted, processed, and approved for payment, the resulting check (or electronic transfer) from USAC is sent to the service providers. It is then that provider's responsibility to pass that payment on by sending a check to the original applicant. Remittance information governing the transfer of funds from USAC to the service provider is governed by the contact information contained in the vendor's Form 498. Neither Form 472, nor any other applicant form, however, captures remittance information that the service provider can use to transfer funds to the applicant. The service provider must guess where to send the reimbursement.

Experience has shown that different service providers guess differently. Some simply mail the check to the same name and address that is used for applicant billing purposes. In these cases, the check arrives unannounced and is often deposited unceremoniously in the bank by the accounts receivable department. Subsequent tracking by the applicant's E-rate coordinator becomes a nightmare.

A better guess, and the one often made by the more experienced vendors, is to mail the check to the E-rate contact listed in other, previously submitted, applicant E-rate forms (all of which contain contact address fields). If the applicant's E-rate contact has not changed since the other form was filed, this at least usually permits the contact to identify the payment, compare it with the amount of the BEAR filed, and then pass the check to accounts receivable.

The SLD, itself, uses this latter approach when it authorizes disbursement of a BEAR payment and sends a BEAR Notification Letter to the vendor with a copy to the applicant. The applicant contact and address information used to send the copy is taken from the applicant's associated Form 486 which may have been filed a year or more earlier.

Some vendors use this applicant address information, which is included in the BEAR Notification Letter, to mail the subsequent reimbursement check.<sup>1</sup>

We believe that a service provider should not be required to guess where its customer wants its reimbursement check sent. If remittance information was included in the Form 472 itself, this information could be passed to the service provider by the SLD in the BEAR Notification Letter or captured directly by the service provider during the BEAR acknowledgment process. As is indicated in our form edit comments in Appendix A, there is ample room on the Form 472 to accommodate remittance information.

**2. The applicant's requirement to provide the service provider's FCC RN on the revised Form 472 is problematic. The responsibility of obtaining a vendor FCC RN, and/or associating it with a particular SPIN, should be the responsibility of the service provider (and SLD), not the applicant.**

As a result of the Debt Collection Improvement Act of 1996 ("DCIA") and implementing FCC regulations, each E-rate applicant, vendor, and consultant are required to obtain at least one FCC Registration Number.<sup>2</sup> Not surprisingly, all three revised forms include FCC RN fields. A potentially significant problem for applicants, however, is that the BEAR form requires, not only the applicant's FCC RN, but the service provider's FCC RN as well.

The question that both the SLD and FCC should be asking is, "How is an applicant going to find its vendor's FCC RN?" There appears to be several possible answers, none of which are perfect.

*Answer #1: Ask the service provider*

In many cases, particularly when dealing with an experienced E-rate provider, this should work well. In other cases, however, the situation may be reminiscent of the experience applicants had trying to get SPINs from their vendors in the early days of E-rate. Vendor sales contacts had no idea what a SPIN was. Today, they are just as likely not to know what a FCC RN is.

Although the FCC RN requirement became effective November 1, 2004, we suspect that many (particularly smaller, non-telecom) providers have not yet applied for FCC RNs. We also suspect that one reason the Form 472 asks for vendor FCC RNs is to enlist the applicants' help in pressuring the service providers to comply. The SLD used the same strategy to push providers to file Form 473 annual certification forms by refusing to process BEARs until the vendors complied. This may be an effective strategy but, when

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<sup>1</sup> One unfortunate consequence of this procedure occurred last December when a SLD system error resulted in copies of certain BEAR Notification Letters being mailed to the wrong applicants. Subsequently, BEAR payments from some service providers were sent to the same wrong applicants.

<sup>2</sup> E-rate applicants are required to obtain FCC RNs for each of their entities.

used as the primary tool for enforcement, is unfair to applicants. As E-rate coordinators, we find ourselves being asked to educate service providers as to the requirements and helping them through the form submission process, all the while applicant reimbursements are being delayed. Less sophisticated applicants are being placed at a further disadvantage.

*Answer #2: Check FCC databases*

The FCC Web site contains two databases that contain FCC RN listings.

The primary database for FCC RNs is the CORES system which contains a Search capability that could be used by applicants. Since the CORES system does not currently record SPINs, however, the only feasible way to look up a FCC RN is by the Business Name. Although this may work in some cases, there are two problems.

- Although the search function permits the use of a “wildcard” character, at least the start of the filing name must be provided correctly. If the name associated with the company’s name is different, there may be no match.
- For E-rate purposes, many related subsidiaries may be consolidated under a single SPIN. This may not be the case for FCC RNs. Verizon Wireless, for example, has one SPIN, but a search of the CORES system for the same name yields 19 different “Verizon Wireless” entities, each with a different FCC RN.

For telecommunications carriers only, the FCC also maintains a Form 499-A database that may contain FCC RNs.<sup>3</sup> One advantage of this database is that it permits searches by a company’s “Doing Business As” name. The multiple FCC RN problem, however, remains — and, indeed, may be worse. Continuing the previous example, a search for “Verizon Wireless” in the 499-A database yields a list of 179 companies, some with FCC RNs, some without.

What is immediately obvious, from a search of the FCC databases, is that there is no one-to-one relationship between SPINs and FCC RNs. Many companies are going to have to select one of their FCC RNs to associate with their SPIN, or may choose to obtain a unique FCC RN for E-rate purposes.

*Answer #3: Check SLD databases*

Currently, FCC RN information is not contained in any SLD database that is available to applicants. The most logical place to add FCC RN data would be in the SLD’s SPIN Search database. This already is the place applicants are using to looking for vendor information, and it should be easy to list one FCC RN per SPIN.

The problem for the SLD is that there is no procedure that has been put in place to request FCC RNs from the vendors. One logical way to obtain this information, beginning

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<sup>3</sup> Although in this database, a FCC RN is called a “Registration Number (CORESID).”

this summer, would be to capture supplier FCC RNs from the new versions of the Form 473 and Form 474. Unfortunately, because there is no set deadline for submitting the annual Form 473, many applicants will have to start using the new BEAR forms before the updated SPACs are filed. Similarly, since SPIs are filed when the suppliers discount bills, FCC RNs collected from SPIs are unlikely to provide any useful information for applicants needing to file BEARS for reimbursements.

### *Recommendations*

The vendor FCC RN field should be removed from the new Form 472. If, however, the FCC deems it necessary to include this field in this applicant form, we recommend that it be placed in Block 4, the Service Provider Certifications and Signature section, so as to clarify that it is the vendor's responsibility to provide its FCC RN. Until vendor FCC RN information is made broadly available in the SLD's SPIN Search database, we further recommend that the FCC instruct the SLD not to delay the process of an applicant BEAR invoice if a vendor FCC RN is missing.

### **COMMENTS ON FORM 473 (SPAC)**

The obvious differences between the current and revised version for the Form 473 are that in the new version: (a) vendors with multiple SPINs must file a separate SPAC for each SPIN; (b) more explicit information is required for telecommunications carriers; and (c) additional certifications are included.

### **3. Service area information provided by telecommunications carriers through the new Form 473 (and the related Form 499-A) should be made available to applicants.**

Currently, information on the status of an eligible Telecommunications Carrier is only indicated to applicants by a "Y" in the ETP column of the SLD's SPIN Search database. As far as most applicants are concerned — and apparently for application review purposes as well — a given SPIN either has a "Y" and can provide eligible telecom services, or it does not. The primary focus of the SLD over the past year has been to validate the "Y" of each carrier.<sup>4</sup>

Item 21 of the new Form 473 suggests that the FCC and SLD are going to pay more attention to the requirement that E-rate discounts on Telecommunications services be made available only through eligible Telecommunications Carriers providing telecom services in their specifically-approved operating areas.

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<sup>4</sup> An unfortunate aspect of this effort has been that a number of applicants who filed for Telecommunications discounts based on early "Y" designations provided by the SLD were subsequently denied funding when the "Y" designations were removed.

If Telecommunications funding decisions are going to be based on geographic-specific criteria, this information must be made available to applicants in time to affect carrier selection and Form 471 submittal. The simple presence of a “Y” in the SPIN Search database will no longer be enough to verify eligibility; indeed, its very presence will be highly misleading. Operating area data must be made available in the SLD’s SPIN Search database or, at a minimum, the Form 499 Filer ID must be provided to facilitate a search of the FCC 499-A database.

**4. A provision should be made in the new Form 473 to permit vendor updates of E-rate contact information.**

A constant problem faced by applicants is finding current E-rate contact information for service providers. Although the SLD’s SPIN Search database contains E-rate contact names, addresses, and telephone numbers,<sup>5</sup> this information is frequently out of date. The primary reason for this is that there is no regularly scheduled mechanism to encourage service providers to validate and/or correct existing contact information. To change contact information under current procedures, providers must proactively file an amended Form 498.

At present, the only real function served by the Form 473 is to assure annual re-certifications of E-rate compliance by service providers. Since this form must be filed annually anyway, a desirable and simple change would be to also use the Form 473 to update the E-rate contact information that appears in the SPIN Search database.<sup>6</sup>

Since the Form 473 is certification oriented, we would suggest that this change be implemented by the addition of one more certification, such as:

**22.** I have reviewed the E-rate contact information associated with this SPIN, as provided in the SLD’s SPIN Search database, and certify as follows (please check and complete as necessary):

- The contact information is correct.
- The contact information should be updated to:
  - Service provider name: \_\_\_\_\_
  - E-rate contact name: \_\_\_\_\_
  - Contact address: \_\_\_\_\_
  - \_\_\_\_\_
  - Contact telephone: \_\_\_\_\_
  - Contact Facsimile: \_\_\_\_\_
  - Contact e-mail address: \_\_\_\_\_

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<sup>5</sup> Ideally, E-rate contact information should also include facsimile numbers (which would facilitate the process of obtaining vendor acknowledgments of BEAR forms) and e-mail addresses.

<sup>6</sup> Other vendor information, such as remittance contacts and telecom carrier status, should probably continue to be updated through the filing of an amended Form 498.

## **COMMENTS ON FORM 474 (SPI)**

The only substantive change in the Form 474 is the inclusion of a new field for the FCC RN. Our only comment on this change is that the online service provider invoice process should be changed to also require FCC RN identification both to facilitate enforcement of the Red Light rule and to assist in the collection of FCC RN information for the SLD's SPIN Search database.

## **GENERAL EDITORIAL COMMENTS**

While not critical to the use of these forms, we wish to make the following two general observations:

- We note that these would be the first new versions of forms to be released in several years that do not include OCR boxes in most fields. We understand that the presence of these boxes in other E-rate forms has not effectively facilitated processing. To the contrary, we believe that the OCR boxes have: (a) adversely affect form design; (b) made it more difficult for applicants to complete paper forms either by hand or by computer; and (c), adversely impacted the readability of completed forms. We applaud the FCC's decision not to include OCR boxes in the design of these forms.
- The overall appearance of all three forms could be improved with more attention to professional form design.

A number of smaller, but more detailed, editorial suggestions are included in Appendix A.

## **SUMMARY**

Given that revisions to these three forms have been underway for at least two years, we are disappointed to find that two needed changes — remittance contact information on the BEAR and E-rate contact update information on the SPAC — have not been proposed. We encourage the FCC to take a little more time to make these easy changes. We also encourage the FCC to avoid burdening applicants with the responsibility of obtaining FCC RNs for the service providers.

Respectfully submitted,

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Attachment: Appendix A— Editorial Suggestions for Forms 472, 473, and 474



## Appendix A — Editorial Suggestions for Forms 472, 473, and 474

### Form 472

1. The font size of the title should be increased.
2. The acronym “BEAR” has become so common in E-rate usage — and is, indeed, used throughout the Instructions — that it should be included in the title.
3. Room to add applicant remittance information (see main comments) on the first page can be made by:
  - a. Combining fields 2a and 2b on a single line.
  - b. Combining fields 3a and 3b on a single line.
  - c. Combining fields 5a and 5b on a single line.
  - d. Moving the Applicant’s Form Identifier (Item 6) to the left-hand space above Block 1 to make it more consistent with other E-rate forms.
  - e. Eliminating Date BEAR Submitted TO(sic) SLD (Item 7) as unnecessary.
4. The BEN, form identifier, and contact information on the top of pages 2-5 should be spread over two lines (much like Forms 470 and 471) to provide more room for entry.
5. Column 11 of Block 2 is not used and can be narrower or removed altogether.
6. Column 12 of Block 2 should ask for the first day of service in form (mm/dd/yyyy) to be consistent with all other dates used in E-rate forms.
7. A column should be added between Columns 14 and 15 on Block 2 for discount rate. This would help eliminate a common cause of BEAR error.
8. The Instructions should clearly indicate that Column 14 should reflect the actual amounts spent and should not be based on the FRN funding cap.
9. The heading of Column 15 of Block 2 would be clearer if entitled “Total Discount Amount to be Reimbursed by SLD.”
10. Blocks 3 and 4 should be reversed so that the Billed Entity certification page follows the Service Provider certification page. This would help clarify that the vendor does not need the applicant to sign the BEAR first — a condition imposed by some vendors that essentially requires the applicant’s ultimate authorized person to sign an incomplete form.
11. Certification F of Block 3 needs a check box.
12. Remittance of payment to the applicant before tendering of USAC payment, as per certification C of Block 4, rarely occurs. If this condition is not going to be followed or enforced, the certification should be eliminated.

13. Consideration should be given to adding a certification in Block 4 indicating that the service provider has filed a Form 473 (SPAC) for the funding year covered by the BEAR.
14. The service provider FCC RN should be placed in Block 4 (see main comments).
15. Condition #3 for filing a BEAR, as specified in Page 2 of the instructions should read “The applicant has filed a Form 486 covering the associated FRN(s).” See also condition #2 on Page 3.
16. The Instruction for Item 3b on Page 6 should not suggest that the applicant can get a vendor’s FCC RN by applying on the CORES (although this language does make sense in Item 2b for getting an applicant FCC RN).
17. Consider adding the following topics to the Instructions:
  - a. Clarification that the applicant’s authorized person should sign the BEAR after it has been certified by the service provider (see # 9 above).
  - b. Discussion of BEAR Notification Letters
  - c. Discussion, if implemented, of the “Pass Zero” process for BEAR approvals.<sup>7</sup>

#### **Form 473**

1. Bullet #3 of the Key Information on Page 1 of the Instructions refers to “BEARs and SPIs.” These terms, although in common usage, are not defined (see also #2 in previous section).
2. The Instructions on when to file a SPAC on Page 2 gives conflicting guidance in the same paragraph, once suggesting filing when the Form 471 window opens, then again suggesting filing after a FCDL is received.

#### **Form 474**

1. Similar comments as provided for the BEAR (i.e., form title, Page 2 identifiers, Column 11 date, and need for a discount rate column).
2. Judicious reorganization of data fields on Page 1, combining and eliminating lines, would permit the inclusion of legal statements now on Page 3. This would reduce the Form 474 by an entire page.<sup>8</sup>

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<sup>7</sup> If this process is implemented, it is recommended that applicants automatically be given invoice deadlines for resubmission of not less than 120 days rather than to require them to separately request such extensions.

<sup>8</sup> Similarly, proper attention to the layout of Forms 472 and 473 could probably also save one page each.