



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

In the Matter of:)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

**Comments in Support of Petition for Waiver of Fiber Guidance
Submitted by Funds for Learning**

The State E-Rate Coordinators Alliance (“SECA”) supports the Petition for Waiver filed by Funds For Learning (“FFL”) regarding Section 54.503(c)(1)(4) of the Federal Communications Commission’s (“FCC”) rules and the Universal Service Administrative Company’s (“USAC”) interpretation and administration of the rule.

The rule, as described to FFL, requires that an applicant seeking bids for either a self-provisioned fiber network, leased-lit fiber network, or leased-dark fiber network also select the “Transport-Only – No ISP Service” option on its FCC Form 470. According to USAC, if the applicant fails to make the election, the FCC Form 470 will not comply with Section 54.503(c)(1)(iv) of the Commission’s rules.

SECA wholeheartedly agrees with FFL that the rule at issue does not require applicants seeking bids on self-provisioned fiber networks to also seek bids on non-fiber solutions in the same FCC Form 470.

USAC included a statement in its March 3, 2017 weekly News Brief which advised applicants – for the very first time – that they must include the additional drop down option on their Form 470s for “Transport-Only No ISP” in addition to bidding leased lit fiber, leased dark fiber, and self-provisioned fiber. No previous guidance in USAC News Briefs, USAC trainings, USAC newsletters, or the USAC website ever mentioned this requirement. In fact, most self-provisioned fiber

applicants had already posted their Form 470s and had either concluded their bid evaluations and procurements or were in the midst of those procurements – too late to restart the process and post a new Form 470 for the only reason of including an additional drop-down option.

According to our calculations, there were 201 Form 470s posted in FY 2016 for self-provisioned fiber. Of those, 167 (81%) did not indicate “Transport-Only NO ISP” on their Form 470 application. In 2017, there were 370 applicants who posted 470s for self-provisioned networks. Of those, 117(32%) did not indicate “Transport-Only No ISP” on their Form 470 application.

When translated to Form 471 applications, these “tainted” Form 470 application were referenced on 407 applications in FY 2016 and 175 applications in FY 2017.

Funding		Form 471		
Year	Count	Pre-Discount	Funding Request	
2016	407	\$ 111,126,274	\$ 70,420,061	
2017	175	\$ 62,889,059	\$ 39,314,952	
Grand Total	582	\$ 174,015,333	\$ 109,735,013	

Obviously, this does not include any applicants that are completing long fiber procurements which began in FY 2017 who intend to reference a tainted Form 470 on their FY 2018 new fiber Form 471.

Like FFL, we believe that the purpose of Section 54.503(c)(1)(iv) of the Commission’s rules is to ensure that applicants do not construct their own fiber networks when it would be more cost effective to lease one. As SECA and the great majority of E-rate stakeholders have understood it, the rule instructs applicants to compare the cost of using a self-provisioned *fiber* wide area network (“WAN”) for broadband connectivity against the cost of third-party *fiber* network connectivity. Certainly, this was – and still is -- the written guidance on the USAC website¹, and at USAC trainings from the rule’s inception in 2014.

Further, we do not believe that including the extra option of “Transport-Only No ISP” generated a single additional bid for those applicants that adjusted their procurements. And if that’s true, why would the Commission want to penalize hundreds of schools’ and libraries’ access to broadband for the sake of a last-minute piece of guidance that had no discernable impact? This is a perfect

¹ For example, “Applicants considering self-provisioning must solicit bids for both a lit fiber service and a self-provisioned network in the same FCC Form 470...” See *Requirements for Self-Provisioning of High-Speed Broadband Networks* at <http://www.usac.org/sl/applicants/step01/requirements-for-fiber.aspx>.

example of an unnecessary and unwarranted rule interpretation that applicants find extremely frustrating -- another “gotcha” in a program that has far too many of them.

For these reasons, SECA joins FFL in requesting that the Commission direct USAC to discontinue its enforcement of the “guidance” for Funding Years 2016 and 2017, and issue public guidance clarifying its position regarding the Form 470 requirement for E-rate stakeholders for Funding Year 2018 and beyond. Further, should the additional Form 470 drop down requirement remain in effect for the FY 2018 Form 470s, we request the Commission advise USAC to re-program the Form 470 in EPC to not allow self-provisioned fiber requests to be submitted unless that option is also selected, thus eliminating the “gotcha” for future years.

Respectfully submitted,

/s/ Gary Rawson

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