



October 18, 2023

Honorable Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: Notice of *Ex Parte* Meeting  
*Schools and Libraries Universal Service Support Mechanism*, CC Docket 02-6  
*Federal-State Joint Board on Universal Service*, CC Docket 96-45  
*Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*,  
CC Docket 97-21

Dear Secretary Dortch:

On October 16, 2023, the 44 SECA members listed in Exhibit A, representing 33 states and one territory, met with the following members of the Telecommunications Access Policy Division of the Wireline Competition Bureau: Johnnay Schrieber, Kate Dumouchel, James Bachtell, Bogyung Lim, Johnny Roddy, Mark Nadel, and Gregory Vadas.

SECA initially focused on its September 25, 2023 initial comments submitted for the Further Notice of Proposed Rulemaking (FNPRM) (FCC Order 23-56). The enclosed summary of the SECA Initial Comments was shared with the FCC representatives. SECA raised the following points to the FCC.

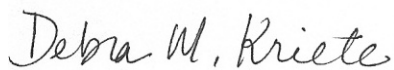
- The purchase of internet from two different vendors should be allowed and not construed as prohibited duplicative service. The Macomb decision has been misapplied, and should be clarified by the FCC.
- SECA recommends the establishment of the same bidding and other rules for all applicants including:
  - the \$3,600 prediscount bidding exemption per eligible site for Category two procurements available for libraries to be expanded to include schools;
  - the existing \$3,600 prediscount exemption per eligible site for Category one commercially available broadband internet offering be expanded to include all data transmission and internet access services;
  - the ALA's suggested \$10,000 bidding exemption for libraries to also apply to schools if the FCC approves this proposal;
  - the same fixed form 471 application window deadlines and not a rolling deadline for some applicants because it will cause confusion and complexity.
- SECA's proposed five-year discount validation will simplify the program for schools, libraries dependent on school discounts and consortia that are dependent on member school discounts;

will provide certainty for planning purposes; and, reduce the burden on USAC when conducting pre-funding reviews.

- Category 2 licenses/software, maintenance, and Managed Internal Broadband Services: The managed support and technical assistance multi-year licenses should be classified as internal connections, made eligible for payment in full of E-rate discounts in the first year of the license; and the remaining maintenance services should be combined with Managed Internal Broadband Services as a single subcategory of Category two that covers third party operation and maintenance services.
- Mid-year bandwidth increases should be permitted to ensure that applicants' broadband needs are met throughout the year.
- Leased dark fiber bidding requirements should no longer be more detailed or onerous than leased lit fiber bidding requirements.
- Cardinal changes should be defined as an explicit objective standard. SECA suggested a 50% standard where if the change affects or expands the existing service request quantities, bandwidth and number of entities by more than 50%, the change would be cardinal and require either an extension of the 28-day bidding deadline or in some instances would require the issuance of a new RFP and Form 470.

Additionally, SECA discussed its Petition for Reconsideration of the Tribal First Report and Order (FCC 23-56) that was filed on September 6, 2023. The Petition requests that the relief from cost allocation made available to NIFs in which shared equipment is located to be extended to all NIFs that use the shared equipment. Also, SECA asked the FCC to extend the 10% safe harbor ineligible service provision to all Category One funding requests – not just internet access -- since data transport circuits are used routinely for transport internet access service to eligible buildings.

Respectfully submitted,



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Enclosure

Cc: Johnnay Schrieber, Kate Dumouchel, James Bachtell, Bogyung Lim, Johnny Roddy, Mark Nadel and Gregory Vadas

## **Exhibit A - List of SECA Attendees**

<b>State/Territory</b>	<b>Name</b>
Alabama	Nichole Gipson, Micah Rigdon, Wayne Young
American Samoa	Sophia A Fa'agata-Ah Fook, Ana Vaiau
Arkansas	Don McDaniel
California	Cathy Benham
Colorado	DeLilah Collins
Florida	Keith McCaskill, Kelly Miller
Georgia	Marcus Watson
Hawaii	Kathy Carroll
Idaho	Daniel Vogt
Illinois	Melinda Fiscus
Iowa	Pamela Jacobs
Kentucky	Rebecca Bright, Caprice Robinson
Louisiana	Caroline Wolf
Maine	Anne Perloff
Michigan	Joseph Polasek, Andrew Epting
Mississippi	Lee Bray
Nebraska	Christina Struebing
Nevada	Mel Van Patten
New Mexico	Andy Eisley
New York	Brett Himsworth, Winston Himsworth
North Carolina	Adam Benjamin, Sue Boros, Jill Elbersen, Paul Nicholson, Lyle Walker
Ohio	Lorrie Germann
Oregon	Kaylen Dinsmore
Pennsylvania	Julie Tritt Schell
South Carolina	Victoria Gooch
South Dakota	Debra Kriete
Tennessee	Candice Hall
Utah	Jerome Browning
Virginia	Susan Clair
Washington	Susan Tenkhoff
West Virginia	Mary Aldridge
Wisconsin	Rachel Schemelin
Wyoming	Clementina Jimenez



## SUMMARY OF SECA'S INITIAL COMMENTS STREAMLINING FURTHER NOTICE OF PROPOSED RULEMAKING -- FCC 23-56

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### Eligible Services

- Internet services from two different internet service agreements that an Applicant determines are needed and are both in use during a funding year should be eligible, and recognized as non-duplicative services.
- Software updates and patches, and basic technical support, sold in one year or multi-year licenses are “basic technical support” and should be reclassified as internal connections and eligible for funding of the multiple year item in the year in which it is purchased, identical to right-to-use licenses.
- Managed Internal Broadband Service and other Basic Maintenance of Internal Connections not considered “basic technical support” should be combined into “Third Party Operation and Maintenance.”
- Wiring between two eligible buildings (schools or libraries) on the same campus should be eligible as either Category 1 or Category 2. If being requested under Category 1, the current requirements to create an RFP, and to also solicit bids for services provided over third party networks and compare the cost-effectiveness of these solutions, should be eliminated for these short-distance cabling between two buildings on the same campus.
- Bidding of leased dark fiber service and leased lit fiber service should be identical and additional obligations for the bidding and evaluation of leased dark fiber should be lifted.
- Mid-year bandwidth increases should be allowed and funded by E-Rate as competitive bidding exceptions.

### Competitive Bidding

- Uniform bidding exemptions for all applicants should be adopted. There should be a \$3,600.00 annual pre-discount exemption per building for any service or equipment (Category 1 or Category 2). Additionally, applicants requesting pre-discount funding of \$10,000 or less per FRN should be exempt from E-Rate bidding rules and should follow applicable local and/or state bidding rules.
- Clear and reasonable standards for allowable changes and non-allowable changes to pending procurements considered within the scope of the original Form 470 and/or RFP should be adopted and publicized.
- Generic email solicitations from vendors that contain a price list of all goods and services they sell, and/or contain incomplete or tentative pricing, do not meet the Federal Acquisition Regulation

definition of “offer” and applicants are not required to address these solicitations in their bid evaluation or retain these documents.

- The Form 470 bid deadline should be presumed to 11:59 pm ET on the day before the allowable contract date unless a longer deadline is specified in Form 470 or bid documents. Applicants should not be required to consider and evaluate bids received after the Form 470 deadline.
- A competitive bidding portal will not mitigate automated responses to Form 470 applications or mitigate late submitted bids.

## **Contracts**

- The legally binding agreement requirement should be administered more flexibly in accordance with prior FCC Orders and waiver decisions.
- Preferred master contracts based on state-level contracts should be established as another way for applicants to meet the competitive bidding requirements of E-Rate.

## **E-rate Forms, Procedures and EPC Streamlining**

- Applicants should have the option to rely on a fixed five-year E-Rate discount percentage similar to and conterminous with the five-year Category 2 budget cycle.
- The discount rate validation process should be revised due to the evolving nature of NSLP data accuracy.
- CIPA Compliance for consortium members, documented via Form 479, should be allowed for multiple years and not be limited to one program year per form.
- The Commission's proposed solutions for implementation of delayed transition of services should be adopted.
- Invoicing streamlining measures should be adopted including issuance of urgent letters with a 15-day period to cure a missed deadline, allow USAC to approve invoice extensions filed within 15 days of the original deadline, and confirm USAC may approve appeals of BEAR and SPI decisions via a revised FCDL and provide 120 days from the date of the letter to refile the invoice.
- Applicants or service providers that may be put on Red Light status should have an opportunity to address and resolve the problem and their E-Rate forms and documents pending with the administrator should be placed on hold rather than dismissed.
- The E-Rate consortium definition should be updated.