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Introduction

Mr. Chairman, Members of the Subcommittee, I am Christopher G. Caine, Vice President, Governmental Programs for IBM. I appreciate the opportunity to appear before this Subcommittee to provide IBM's perspective regarding the E-rate program.

IBM has had a long history working with our nation's educators. For example, in 1986 IBM pioneered the use of technology in classrooms with the introduction of *Teaching and Learning with Computers*, a pioneering use of technology in the classroom. Since 1994, through our *Reinventing Education* program, IBM has given almost $75 million in philanthropic technology grants and worked with school partners to improve student achievement. As a result of this grant program, the Center for Children and Technology, which has researched technology and learning for over two decades, estimates that over 90,000 teachers and millions of students are using the educational technology tools created by IBM and our school partners. Last year alone, we provided over $35M in grants to elementary and secondary schools, making IBM the largest corporate contributor to K-12 education. And to advance the cause of public school reform, IBM organized and hosted National Education Summits in 1996, 1999 and 2001, bringing together the nation's governors and business and education leaders to collaborate on this important goal.

Clearly, IBM was committed to improving schools through the application of information technology long before the E-rate program was created.

IBM and E-rate

Because of IBM's strong commitment to improving K-12 education and bringing the opportunities created by information technology to *all* students in our nation, we were pleased when Congress created the E-rate program as part of the Telecommunications Act of 1996. We believed then as we believe today that the program was structured properly to provide greater assistance to those schools that have the greatest need, helping to provide opportunities for economically disadvantaged students to participate in the "information age."

Shortly after the FCC established the initial rules to govern the E-rate program in 1997, I participated in a small meeting of high-tech leaders where then-FCC-Chairman Reed Hundt asked us directly to help educate schools across the country about the opportunities of E-rate. IBM willingly responded by creating a booklet that described the new program, and we mailed a copy to over 12,000 school districts in the nation. We followed up by providing seminars about E-rate for school officials and meeting with individual districts to talk about how E-rate could help them meet their communities' educational needs and objectives.

IBM has participated in the E-rate program as a service provider since its inception, and we believe that the program has been an enormous success in bringing the

vast resources and opportunities of the Internet to deserving students. E-rate funding has allowed many of our country's poorest school districts to bridge the "digital divide".

The E-rate program has provided the opportunity to many poorer school districts to explore new ways to use technology to enhance teaching and learning. Many districts have found that the universal access to the Internet that E-rate funding provides has exposed their students to a depth and breadth of material that their local teachers could not possibly have developed and delivered on their own. The program has the added benefit of helping to prepare our nation's students for the career requirements of a highly competitive, technology-based economy.

Since the beginning of the E-rate program, IBM has served well over 200 E-rate customers in over 30 states. As the largest computer company and IT services company in the world with a history of applying our world-class research capabilities to educational challenges, IBM has provided a broad range of eligible networking products and services under the E-rate program. IBM has the resources to support many of the largest school districts across the country.

We believe that IBM has an excellent record of helping schools achieve their educational objectives under the E-rate program, delivering complex networking solutions – on time and on budget – to meet the increasingly sophisticated demands of districts with tens of thousands of students, teachers and staff.

E-rate Investments to Improve Education

Our experience has shown that with clear goals and proper planning, school districts can leverage information and communication technology to transform the

learning environment, providing effective tools for teachers and leading to measurable improvements in student achievement. Therefore, IBM fully endorses the E-rate program requirement that schools base their technology investments on a comprehensive Technology Plan that is aligned with their educational goals.

As the El Paso Independent School District stated in its 2000-2001 Technology Plan:

> "In addition to a sound background in traditional academics, today's students must be competent and confident in using a wide range of technology in a variety of settings. Today, and in the future, most career paths require the use of computers and a wide-range of other technology. In short, students must be as comfortable using a computer or other technology as they are in using a pencil and paper."

In our work over the last decade with school partners in our *Reinventing Education* program, IBM has encouraged schools to take a systemic approach to education reform, consistent with the goals of the E-rate program. For technology to be used effectively in the classroom, it must be fully integrated in the curriculum, and professional development opportunities must be provided for teachers so that they can learn how to use it. If these principles are followed, the resulting improvements can be dramatic. Indeed, as research has shown, students in *Reinventing Education* classrooms have outperformed their peers on standardized achievement tests. Fortunately, the E-rate program created by Congress is making it possible for more students to enjoy the educational benefits of technology in the classroom.

IBM also believes that network infrastructure that schools install today should be designed to avoid rapid obsolescence by supporting evolving technical requirements and by accommodating reasonably projected future growth in demand for network capacity. The network infrastructure should support not only basic Web usage and e-mail, but should also be designed to support sensible, proven technologies that can greatly improve the productivity and effectiveness of the educational environment, such as online dissemination of lesson plans, classroom administration, and stored broadcasts or real-time, interactive video instruction to enable distance learning and sharing of the best-available teaching resources. Based on their educational goals and available resources, school districts must make the ultimate decision about what technology they should deploy.

Technology Challenges Facing Schools

Many school districts have required substantial investments in recent years to upgrade their network infrastructures so that they could meet their educational objectives and prepare their students for the networked world. But deploying a modern enterprise network is not a simple task. For example, a district with 50,000 students plus thousands of teachers and administrators has networking requirements that are at least as complex as those of a small city. Many districts do not have sufficient technical staff and knowledge to handle these projects on their own. They require considerable assistance with the deployment, configuration, project management, technical support and maintenance for their large, complex network infrastructure projects. The E-rate program has made it possible for many economically disadvantaged school districts to obtain the

technology products and services that they need to offer their students the same opportunities as more fortunate districts.

Certain constraints imposed by the E-rate program structure and the school environment, generally, create additional challenges in deploying advanced network infrastructure. For example, the annual E-rate funding cycle requires that major projects be performed on an artificially accelerated basis, compressed to fit into a narrow time window between receipt of E-Rate funding approval (often after long delays) and the funding year deadline. Meeting this tight schedule is further complicated by having to work around classroom schedules, after hours and during school holidays. And the simple fact that many school buildings were built decades ago, long before the Internet and the need for wiring classrooms were contemplated, can present difficult deployment problems, such as asbestos removal and inadequate electrical supply.

Given the complexity of the task of installing, integrating and maintaining a sophisticated network environment, especially under the often-tight schedules imposed by the E-rate annual funding cycle, it is important that school districts get the right technical and project management help. And if a school district hires multiple vendors separately to perform portions of the work, they may also find it difficult to coordinate among them.

Congress, the FCC and the SLD are well aware of the potential for waste if expensive equipment is left stacked in a warehouse for lack of planning, coordination, or technical skills. IBM has also seen cases where computers sit unused, gathering dust in classrooms, because schools had not invested sufficiently in technical support,

maintenance or teacher training. In each case, expensive investments are idled, the school's instructional objectives and technology vision are frustrated, and E-rate goals of bridging the digital divide go unfulfilled.

IBM Helps Schools Meet These Challenges

One way that IBM has responded to these challenges has been by proposing a *systems integration* approach for selected E-rate projects. Systems integration is recognized as the most effective procurement model for governments and businesses undertaking complex IT projects. In fact, the Federal Government's use of systems integrators is longstanding and extensive. Since each school district's requirements are unique and districts often have varying levels of technology resources, schools have seen great value in working with a technology partner like IBM.

As a systems integrator, IBM can provide a single point of accountability so that school administrators are assured that all components of their network will be installed on time, within budget, and will work properly together. IBM can take responsibility for all of the work performed by multiple vendors and subcontractors, and for keeping school officials and boards of education informed. And by overseeing the entire project, IBM is able to provide a fixed-price commitment to a school district, enabling it to plan its budget and funding needs more precisely and avoid costly overruns. Once installed, IBM can provide ongoing technical support and maintenance to ensure that the network stays up and running so the school district can obtain the full benefit of its E-rate-funded investment.

IBM does not consider systems integration to be a "one size fits all" approach. Some school districts choose to hire a systems integrator to manage their project, while

other districts prefer to act as their own general contractor. IBM offers its products, services, and experience either way. IBM strives to be a true partner to many of our nation's poorest school districts, helping them through the labyrinth of technological solutions for their needs, as well as through the E-rate process itself, while providing proven solutions. At the heart of each partnership is a firm understanding of the connection between infrastructure and educational results, and a commitment by IBM to assist the school district with its technology goals.

2001 E-rate Funding for El Paso Independent School District

Among the school districts that IBM has served as part of the E-rate program is the El Paso Independent School District (EPISD or El Paso), which at the time served over 63,000 students in 52 elementary schools, 16 middle schools and 16 high schools, with over 8,000 employees. EPISD is an economically disadvantaged district, with a large portion of its students eligible for the National School Lunch Program. The mission of EPISD is to meet the diverse needs of all students and empower them to become successful members of a global community. EPISD developed a thorough and forward-looking Technology Plan designed to achieve its educational goals.

The selection by EPISD of IBM as its strategic technology partner provides an example of IBM's role as a systems integrator in the E-rate program. El Paso had participated in the E-rate program from Funding Years 1 through 3 with service providers other than IBM. In December 2000, El Paso posted a Form 470 for Year 2001 on the Universal Service Administrative Company, Schools and Libraries Division ("SLD") Web site in accordance with E-rate program rules. El Paso also issued a Request for

Proposal (RFP) in December 2000 detailing El Paso's requirements and describing the form of the prospective contract.

EPISD selected IBM as its systems integration partner in January 2001 after evaluating competitive bids from IBM and seven other vendors, following a negotiated solicitation process in accordance with Texas State procurement regulations, FCC rules and SLD requirements in effect at the time. El Paso recognized that the complex network solution they sought to procure to support their educational objectives was not a simple, commodity purchase in which the cheapest initial proposal would necessarily be the most cost-effective solution over time. So EPISD issued an RFP and followed an open, transparent, "two-step" procurement process permitted under Texas law. In the first step, EPISD ranked systems integration partner bidders based on technical qualifications, experience and pricing of skilled labor. As the result of this step, EPISD selected IBM as the most qualified bidder to implement the network environment as envisioned in its Technology Plan.

In the second step, the District entered into detailed negotiations with IBM to agree to contractual terms, with price as a primary factor in the final selection. EPISD satisfied itself that it was receiving the right combination of cabling, equipment, software and services at a fair and reasonable price that, considering all of the factors, made IBM the most cost-effective vendor for meeting its comprehensive network requirements. At the end of the second step, EPISD staff presented its decision and rationale for consideration by the Board of Trustees in open, public meetings. The Board then voted in favor of the recommendation and issued formal authorization for the contracts. The

SLD subsequently reviewed EPISD's E-rate funding request in thorough detail and awarded E-rate funding to EPISD in October 2001.

EPISD's contracts with IBM allowed the District to bid out portions of the purchases to ensure competitive prices and provided for termination if the District became dissatisfied with IBM's performance. IBM believes that the EPISD technical staff and Board had sufficient procurement expertise and experience to make sound decisions to ensure they received the best value for the money.

The lowest priced initial solution is often not, over time, the most cost-effective use of taxpayer dollars. IBM believes that selection of a systems integrator is an effective approach for procuring complex information technology systems. Where school districts seek a comprehensive networking solution, as in El Paso, the proven ability of the integrator to manage such a difficult project to completion on time and on budget is particularly relevant.

Federal and state procurement laws provide for government procurements of complex IT systems, like the one in El Paso, through the use of a procurement model that weighs vendor qualifications, technical expertise and management experience, along with price, to choose the most cost-effective provider. The FCC recognized this point in two key decisions governing the E-rate program. The Commission's 1997 Universal Service Order gave schools "***maximum flexibility*** to take service quality into account and to choose the offering ... that meets their needs most effectively and efficiently." (emphasis added) And in its 1999 *Tennessee Order*, the Commission upheld a bid selection process in which price was an important factor, but was explicitly given a lower weighting than

technological approach. In other words, price was not required to be the most important selection criterion.

The work that EPISD procured in 2001 under the E-rate program was particularly complex. IBM acted as a systems integrator, or general contractor, providing a single point of contact and accountability so that EPISD could be assured that the network and all of its components would be installed as planned and work properly. IBM worked closely with EPISD's senior management and technical staff to ensure that the network solution and product selection met the requirements as specified by the District in line with their approved Technology Plan and that the solution complied with E-rate eligibility rules as EPISD and IBM understood them. We also made regular presentations to the Board of Trustees to keep them apprised of progress and to seek their direction and approval.

IBM implemented a network solution, providing internal connections necessary for high-speed Internet access to enable distance learning and to take advantage of the educational resources available on the Internet. We accomplished this challenging task to connect and integrate these schools into an advanced communication network in a very compressed time frame, as required by E-rate program rules. We delivered everything that we committed to deliver, on time and on budget – and it worked.

Providing a modern technology infrastructure to support education is important and will create long-term benefits for our students. Such infrastructure may require significant investment, but it is an investment we must be willing to make. Implementing network projects of this size, scope and complexity for a fixed price under the strict rules and time constraints of the E-rate program carries substantial risk and requires

considerable program management experience. A collection of the lowest priced piece parts is often not the most cost-effective decision. That approach may not optimize the cost of the overall solution, and the parts may not work together effectively. It may be tempting to go with such a "cheaper" solution, only to find out later that the District's educational goals are not met when the network cannot be deployed as planned or is frequently down.

IBM has the resources and capability to meet the challenges of implementing complex network systems under the E-rate program. Based on customer satisfaction surveys and comments from key EPSID staff, IBM believes that we met or exceeded the District's expectations. IBM is proud of the job that we did. We believe that we built the right solutions and delivered the value that we promised to the District.

For Funding Year 2001, IBM implemented and integrated a total of nine projects, including cabling, network electronics, server upgrade, Web and file servers, Fiber Internet Access, video, e-mail, Web access and technical support. The following section provides further detail on the technical support IBM provided to EPISD.

IBM Technical Support Services for EPISD

Prior to the projects IBM undertook at EPISD, the District had only begun to introduce a modern technology infrastructure, and they lacked sufficient technical staff to properly support their new network infrastructure. To meet their needs, EPISD sought a service provider to assist with technical support under the E-rate program. The use of vendor resources in such cases is common, as illustrated by a study by the Consortium for School Networking (CoSN)., made up of education leaders in technology from school

districts across the country and others CoSN found that over half of the school districts surveyed outsourced at least some of their technical support.[1]

IBM provided technical support and maintenance to EPISD using a methodology IBM had honed through many years of support for customers with similar reliability requirements and with environments of similar complexity. The goal was to enable the network infrastructure to operate reliably and with little downtime, so that it would be available to students and teachers to support learning in the classroom. IBM first set up a Technical Services Office (TSO), which designed, developed and implemented the support services. The TSO provided project coordination, site and connectivity networking services support, network infrastructure support, Web maintenance support, Local Area Network (LAN) and network hardware maintenance support, and help desk support. The IBM services achieved the following improvements for EPISD:

- Higher network availability.
- The ability to resolve network problems quickly, shortening downtime.
- Routine maintenance and technical change management methods to reduce unplanned connectivity outages.
- Network performance metrics to track quality of service and improvements.
- A single-point-of-contact help desk to screen calls and route them either to the IBM network support for eligible services, or to EPISD's own desktop PC support function for services not covered by E-rate.
- Trouble report status accessible by Web or phone.

[1] Consortium for School Networking study available at http://classroomtco.cosn.org/survey_tech_press.html

IBM believed then, as it does now, that an effective technical support and maintenance program is an essential element of any school district's technology investment. We believe that quality maintenance support is critical for a school district to get the full value out of its technology investments. School districts are also coming to the realization that technical support is a critical element of their IT budget that can no longer be treated as an afterthought to be handled by technologically savvy teachers and students in their spare time. As CoSN has observed:

> "Ever-broadening use of personal workstations and the Internet in schools has increased the awareness of support costs and the need for a more formalized support infrastructure. The increasingly complex technology infrastructure makes the historically informal support approaches less adequate or practical."[2]

CoSN reports that over 95 percent of school districts with more than 20,000 students use help desks to provide technical support, so this is a very common practice among large districts such as El Paso.[3] Help desks are a good way to provide fast resolution of network problems and ensure high network availability.

2002 EPISD E-rate Funding Denial

In November 2001, a month after receiving its funding award for E-rate Year 2001, EPISD posted a Form 470 on the SLD website for Funding Year 2002. According to EPISD, the District wanted to inquire into any additional vendor interest in providing internal connection or Internet access services, and to ensure that renewing the IBM contract would be cost-effective and advisable. It did *not* issue an RFP for Funding Year

[2] http://classroomtco.cosn.org/gartner_intro.html
[3] http://classroomtco.cosn.org/survey_tech_support.html

2002, and received no response to the Form 470 posting that it considered sufficient to prompt non-renewal. Consequently, El Paso conducted an internal review of its projects for 2002 and discussed pricing in detail with IBM prior to its decision to renew the contract. El Paso's Board of Trustees voted to renew IBM's contract on January 8, 2002. Through the first half of calendar year 2002, IBM continued implementation of its Year 2001 E-rate contract, successfully installing the new network and support infrastructure for EPISD.

The 2001 funding year ended on June 30, 2002, without El Paso receiving a funding decision for Year 2002. In anticipation of eventually receiving 2002 funding, IBM, at its own risk and expense, continued to provide technical support for EPISD beyond the end of our Year 2001 service contract. This support continued for six months until the end of calendar year 2002, when IBM reached the point at which it was unwilling to continue service without being paid. IBM did not subsequently seek payment from EPISD after E-rate funding was denied, despite the fact that IBM incurred millions of dollars in expenses in providing technical support services for those extra six months.

El Paso did not receive the SLD decision denying its Year 2002 application until March 10, 2003. Among the reasons for the denial, SLD criticized EPISD's use of the "two-step" procurement process for EPISD's Year 2001 application (which the SLD had approved the prior year), and therefore questioned whether EPISD had adequately established that IBM was the most cost effective vendor for Year 2002. IBM supported El Paso in its appeal of the SLD funding denial to the FCC, and IBM also filed its own appeal at the FCC. IBM urged the Commission to expedite the appeals of EPISD and

other similarly situated school districts. The Commission's *Ysleta Order* subsequently upheld the SLD's denial of Year 2002 funding for EPISD, Ysleta and six other school districts. The *Order* was released on December 8, 2003, eighteen months after the end of the 2001 funding year.

While waiting for the delayed Year 2002 funding decision, IBM and EPISD discussed various options for continuing technical support services in the event that funding was ultimately denied. EPISD originally had intended to transition technical support services over to its internal staff over time, but this plan was dependent upon renewal of E-Rate funding. EPISD and IBM had not planned the project to address the eventuality that E-Rate funding for the technical support service would be approved for one year and then abruptly cancelled for subsequent years. As of December 2002, it was still too early in the implementation of the services for the EPISD staff to have gained enough experience with the system to effectively take over operation of it themselves. EPISD considered purchasing the system from IBM[4], but it did not believe that alternative was viable given the short timing and lack of funding.

This was a frustrating time for both EPISD and IBM. Substantial start-up effort and cost were expended on establishing the Technical Support Office, the help desk, the maintenance procedures, the tools and the supporting computer systems. It is very unfortunate that a change in the interpretation or application of the E-rate rules caused much of the return on this investment to be unnaturally truncated. IBM also regrets that El Paso, Ysleta and other schools were delayed by a year or more in the implementation of their Technology Plans due to denial of their Year 2002 funding applications, which

[4] Since IBM had been providing technical support to the District as a service, E-rate rules did not permit us at the end of the contract to donate the tools that we were using to EPISD.

were submitted to the SLD in good-faith reliance upon the SLD's previous approval of similar applications. However, EPISD did receive full value from the other important E-Rate projects IBM implemented for Year 2001.

The Commission's *Ysleta Order*

IBM believed that we had complied with all applicable rules relating to the El Paso projects and Year 2002 proposals, including E-rate program rules, state procurement rules and communities' local procurement requirements, as we understood them at the time. In addition to complying with the rules, IBM met its commitments in delivering products and services to our funded E-rate customers – some of the largest school districts in the country with the most challenging network requirements.

Significantly, the Commission, in ruling on the funding appeals by IBM and our school district partners in El Paso, Ysleta and elsewhere, acknowledged that some E-rate program rules were unclear and applied inconsistently. The Commission's *Ysleta Order* said: "SLD could reasonably have been construed as sanctioning the two-step Systems Integration process by approving the El Paso Independent School District's application" for Year 2001. (¶ 69) Further, the *Ysleta Order* "acknowledge[d] that the Commission's use of varying phraseology in the same decision [concerning whether price must be "the primary factor" or only "a primary factor"] created some ambiguity on this issue." (¶50) And as the Commission noted, some applicants received funding despite circumstances similar to those of the denied applications associated with IBM. For example, while some of IBM's E-rate customers were criticized for including a broad list of internal

connections services on their Forms 470, other districts that were not working with IBM received funding despite using the same or similar lists of services.[5]

Because of applicants' "substantial and widespread reliance on prior SLD" funding decisions and to avoid imposing an "unfair hardship" on applicants, the Commission took the unusual step of waiving its rules to allow these applicants to conduct "rebids" and reapply for denied funding under the new guidance issued as part of the appeals order. The Commission expressly noted that IBM would be eligible to participate in these rebids.

IBM believes that it is very unfortunate that El Paso, Ysleta and other school districts were denied funding for Year 2002, despite the fact that they followed application approaches that SLD had previously funded. However, given the circumstances, we commend the Commission for reaching a fair and balanced decision on these districts' funding appeals. What is most important is that the Commission provided additional guidance on E-rate rules to ensure that they are interpreted as intended and gave these school districts the opportunity to conduct rebids under this guidance so that they would not lose out on Year 2002 funding opportunities.

IBM's Relationships with School Districts

Some have suggested that IBM may have exerted improper influence on the procurement process at certain school districts, because school officials listened to advice from IBM prior to issuing a Request for Proposal (RFP). We strongly disagree. IBM has been successful in winning E-rate contracts from many districts across the country,

[5] [W]e acknowledge that SLD has approved other funding requests in the past that utilized all-inclusive FCC Forms 470 similar to that submitted by Ysleta. (*Ysleta Order*, ¶ 35)

but this is not surprising, since IBM for many years has been a major information technology supplier to both commercial and governmental customers. IBM has a reputation for being able to handle the most challenging systems integration projects, and the company has a long history of providing innovative IT solutions for K-12 education.

In some cases, individual school districts interested in applying for E-Rate funding shared with each other, or IBM shared with a school district, sample RFP documents that other school districts had previously used successfully. School districts could learn from these examples and tailor an RFP to meet their needs. SLD guidance encourages vendors to share their experience with schools and specifically authorizes vendors to provide assistance in the development of an RFP, as long as the resulting procurement is neutral. IBM strives at all times to comply with applicable state, local, and E-rate rules and regulations.

It is appropriate for vendors to get to know their school customers, understand their needs, goals, and Technology Plans, and offer advice. In fact, school districts should be encouraged to seek input from as many competing vendors as possible. As a company that has worked closely with American public school systems for decades, it is natural for school administrators to seek our advice and for us to offer thoughts on technology-related education matters. IBM believes that school districts can objectively consider input from various sources and apply their own good judgment to make sound procurement decisions. School officials understand very well that they must comply fully with all applicable procurement regulations and must obtain the approval of independent boards of education for their procurement decisions.

Eligibility of Products and Services

The SLD's guidance on eligibility of products and services for E-rate discounts is contained in the Eligible Services List. Since the beginning of the E-rate program, applicants and service providers have frequently raised questions about interpretation of the ESL. In response, the SLD has periodically updated the ESL to elaborate and provide clarification about what products and services are covered. However, given the rapid advances in networking and information technology, it is very difficult to provide a clear, definitive statement on the eligibility of the broad range of products and services that a school district might consider as part of its technology infrastructure. There is always room for improvement, and SLD should strive to provide greater clarity and certainty about eligibility by continuing to update and refine the ESL.

Given the evolving nature of the ESL, it is understandable that there would be varying interpretations about whether a certain product or service is considered eligible. IBM has made a good-faith attempt to understand and comply with the ESL as it existed at the time, and we have added and deleted products and services from our E-rate portfolio as a result of the periodic changes in the ESL. However, we are very concerned that new guidance in the ESL might be applied retroactively to declare a product or service that was previously approved for funding by SLD now ineligible and subject to recovery of funds from the applicant or service provider.

IBM is very willing to work with the Commission and SLD to identify areas of the Eligible Services List that would benefit from further clarification, but we believe that new guidance should only apply prospectively.

Ongoing Success of E-rate

IBM is committed to the ongoing success of the E-rate program, and we will continue to work with the SLD, the Commission and Congress to improve the program so that it can continue to help bring the latest tools for learning to schoolchildren, teachers and communities.

IBM has always taken compliance with the E-Rate rules very seriously, and we have spent considerable time trying to understand and comply with the rules. Each region in our E-rate sales team was responsible for monitoring, understanding, and complying with program rules. Employees who worked on E-rate projects participated in annual training sessions and periodic conference calls and e-mail updates. Each year every IBM employee must certify that he or she will comply with IBM's Business Conduct Guidelines requiring compliance with all applicable laws and regulations. Employees who participate in sales to government entities, such as E-rate school customers, must read and certify to a separate set of Public Sector Guidelines.

Now that the Commission has provided additional clarification, we are working even harder to ensure our compliance. We have hired two highly regarded E-rate experts from the applicant community and consolidated expertise into an E-rate Center of Competence as a resource for IBM staff and our customers. Our Center of Competence is actively engaged with the SLD. For example, we are proactively seeking to resolve

questions about the rules, working to improve the clarity of our statements of work, and participating in the online product database pilot.

Recommendations to Improve E-rate

IBM offers the following recommendations to improve the E-rate program and help ensure its continuing success:

1. **Make rules simple and clear**. Ensure rules are simple, consistent, clear and fully disclosed to the public. The entire rules structure must be open and public. In particular, processing criteria used by the SLD to review applications and invoices should be open and publicly available. Capturing all questions asked by applicants and service providers and their answers in a wide ranging Frequently Asked Questions (FAQ) would help to improve program integrity, clarity and compliance.

2. **Expedite application reviews and appeals.** – Provide SLD with adequate resources to process applications and appeals in a timely manner. Appeals and prior year applications pending at SLD should have top priority for processing over current year applications.

3. **Provide adequate advance notice of rules changes**. Advance notice of changes in FCC rules and SLD guidance should be given so that applicants will

have adequate time to plan budget changes. Changes that have significant impact on applicants should be made after longer advance notice.

4. **Clarify the Eligible Services List**. SLD should provide illustrative examples of both eligible and ineligible products and services to help clarify the Eligible Services List and create greater certainty for applicants and service providers. SLD should create a Web-based Eligible Services List with links to SLD's answers to questions posed by applicants and service providers over time.

5. **Identify E-rate consultants and their business relationships**. IBM agrees with the recommendation of SLD's waste, fraud and abuse task force that E-rate consultants should disclose their business relationships with service providers for both applicants and other service providers to see. Alternatively, consultants who also sell eligible services on a third party basis should be prohibited from involvement in the procurement process on behalf of applicants.

Thank you for the opportunity to be here to offer IBM's perspective on the E-rate program and how it can be improved. I look forward to answering your questions.