In the Matter of)

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Schools and Libraries)
Universal Service Support Mechanism) CC Docket No. 02-6

TO: Marlene H. Dortch
        Federal Communications Commission
        Office of the Secretary
        445 12th Street SW
        Washington, DC 20554

COMMENTS OF FUNDS FOR LEARNING, LLC

ON USAC'S PROPOSED FY2007 E-RATE ELIGIBLE SERVICES LIST

These comments are filed in response to the FCC's request regarding the FY2007 proposed Eligible Services List for the Universal Service Funding for Schools and Libraries program, otherwise referred to as the E-rate program. Funds For Learning, LLC, is an educational technology consulting firm that has focused its practice on the E-rate program since the program's inception in 1997. We work with schools and libraries, providing a wide range of services, including assistance with application preparation, the processing of payment-related paperwork, and support through the post-commitment auditing process. In addition, we provide a variety of independent consulting services to help manufacturers and service providers understand the program's rules and requirements and communicate them within their organizations and to their customers.

Our comments are divided into four sections. The first two sections contain general comments about the format of the Eligible Services List and the length of the

pleading cycle. The other two sections contain specific recommendations related to the proposed list. As described in detail below, we believe that the glossary entry for "firewall" needs further revision and/or clarification. We also believe that a clearer distinction should be made between paging, e-mail, and text messaging services.

NEW LIST FORMAT

We applaud USAC for the revised format of the Eligible Services List. We fully support the new format and we encourage the FCC to approve it. We believe that, in its new form, the Eligible Services List is more straightforward, easier to use and serves as a more useful tool for both applicants and service providers.

GENERAL COMMENTS ON THE PLEADING CYCLE

Related to the overall pleading cycle, we believe that the allotted time for comments and reply comments is insufficient. We agree with the Commission's recent steps to minimize the number of disputes between E-rate applicants and USAC over clerical and ministerial errors. These types of issues should not consume the Commission's time. However, unlike those matters, the definitions and standards used to evaluate eligibility are quite substantive and are worthy of thorough evaluation and discussion. Debates over the eligibility of certain services and products are a primary source of funding denials, payment disputes, audit findings and appeal letters. The comment period for the eligible services list is the primary mechanism by which applicants, service providers, manufacturers and other E-rate stakeholders can provide important feedback to the Commission. **Therefore, Funds For Learning recommends that there be at least 45 days to review and develop comments related to the Eligible Services List, and that at least 20 days be provided for reply comments.**

FIREWALL DEFINITION

In a modern networking environment, the need to protect an organization's data from unauthorized access is rapidly increasing. The threats imposed by hackers, malicious software, and other unauthorized sources have made network security a necessity in order to maintain a reliable computer network. The FCC understands this

need, as evidenced by its inclusion of firewall devices in the Eligible Services List since FY2004. Since that time, manufacturers of networking equipment have introduced a host of new network security devices and technologies, all with the intent of keeping an organization's data assets protected from unauthorized Internet users.

The description of a firewall in the 2006 (and proposed 2007) Eligible Services List states the following:

> *A firewall is a hardware and software combination that sits at the boundary between an organization's network and the outside world, and protects the network against unauthorized access or intrusions.*

This description has created a significant amount of confusion among E-rate applicants and service providers due to the way USAC has interpreted and enforced this regulation. USAC's stance has been that only "basic" firewalls are eligible for support under the E-rate program. However, USAC has not published this stance in any official regulatory documentation, nor has it clearly delineated what type devices and technologies it considers to be "basic."

Consider the case of intrusion prevention devices. Intrusion prevention is a network security technology that makes access control decisions based on the content of a data stream. This technology provides substantially better data protection facilities than traditional firewalls, which are only designed to make access decisions based on IP addresses or TCP/IP ports. An intrusion prevention device satisfies all of the criteria given in the Eligible Services List's description of a firewall: it is a hardware and software device; it is deployed at a network boundary; and it protects an organization's network from unauthorized intrusion from outside sources. In the absence of any due process for obtaining official eligibility determinations before a funding request is submitted, many E-rate applicants have interpreted the Eligible Services List in this manner requested discounts for intrusion prevention devices. These applications are denied by USAC, who consistently states that intrusion prevention does not qualify as a "basic" firewall and is therefore ineligible for support.

In addition to intrusion prevention, other types of network security devices are being denied funding by USAC, including network access control, firewall traversal, and deep packet inspection devices. In all cases, the devices' functionality is consistent with the Eligible Services List's description of a firewall, yet is denied funding due to USAC's claim that they provide functionality in excess of an unsubstantiated "basic" firewall functionality requirement.

It is Funds For Learning's recommendation that the Eligible Services List be modified in such a manner that it clearly defines what types of firewalls and network security devices and technologies are eligible for support under the E-rate program. This clarification will benefit both applicants and service providers by reducing the number of denials and reductions issued by USAC due to ineligible products, which should subsequently reduce the number of appeals submitted by stakeholders who are denied funding for this reason. In addition, this clarification would make regulatory compliance significantly more straightforward for E-rate applicants and establish an unambiguous framework by which service providers may design and market compliant security solutions for E-rate applicants.

AMBIGUITY IN ELIGIBILITY OF MESSAGING SERVICES

Over the nearly 10-year history of the E-rate program, there has been a significant shift in the types of messaging services used by E-rate applicants. The *means* by which they access those messages has also changed dramatically. We have witnessed a migration from simple numeric pagers, to two-way alphanumeric pagers, to text messaging and instant messaging. E-mail has changed as well. What was formerly a simple text-based medium, accessed from a desktop computer, has evolved into a rich media message that can be accessed from a host of end-user devices, including laptop computers, PDA and even cell phones. If recent history is a guide, it is likely that there will continue to be additional changes in the form a message takes and the means by which it is transmitted and received.

Because of these changes, we believe it is imperative that the Eligible Services List more adequately address the standard by which messaging services are evaluated for

E-rate eligibility. The proposed list contains contradictory statements concerning the eligibility of services that transmit messages between users:

> Paging service delivers "a text, numeric, or voice message" from one user to another. It is listed as an **eligible** service on the proposed list.
>
> E-mail service "enables the transmission of messages over a local or world-wide computer network" from one user to another. It is listed as an **eligible** service on the proposed list.
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> Text Messaging is a service "that allows short alphanumeric message to be sent from one device to another." It is listed as an **ineligible** service.

As a consulting firm, Funds For Learning is often called upon to explain the framework by which service eligibility decisions are made. In this case, we find it difficult to ascertain and explain why paging and e-mail messaging services are eligible but text messaging services are not. At the most basic level, all three services involve the delivery of text between end-users and all three services can be conducted via multiple types of end-user devices (e.g. pagers, cellphones, PDAs, computers, etc.) In fact, the proposed definition of paging service explicitly states that it is an eligible service that involves the transmission of text. Yet, several pages later, text messaging service is listed as an *ineligible* service.

Therefore, it is Funds For Learning's recommendation that the Eligible Services List be modified to clearly articulate the underlying rule that distinguishes between paging service, e-mail service and text messaging service. Alternatively, if no such rule exists, we recommend that these three services receive consistent treatment on the eligibility list. Applicants and service providers should have access to the standard by which messaging services are evaluated for E-rate eligibility. This will allow applicants to procure only those messaging services that are eligible for E-rate support. This will also allow service providers to more accurately and consistently remove the charges for those messaging services that fail to meet the Commission's standard.

SUMMARY

We commend the Commission for its recent decisions related to the administration of the E-rate program. We encourage the Commission to consider Funds For Learning's recommendations related to the Eligible Services List because we believe these recommendations will further the Commission's efforts to inject more common sense and transparency into the administration of the E-rate program.

FUNDS FOR LEARNING, LLC

John D. Harrington, Chief Executive Officer

August 4, 2006