



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

June 26, 2009

The Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Lieberman:

On March 27, 2009, the Government Accountability Office (GAO) issued a report entitled Telecommunications: Long-Term Strategic Vision Would Help Ensure Targeting of E-rate Funds to Highest-Priority Uses (GAO 09-253).

In its report, the GAO first recommends that the Federal Communications Commission (Commission) report to Congress on its strategic vision for the E-rate program and whether the existing structure of the program is suitable to achieve this vision.¹ The GAO notes that the Commission should establish explicit performance goals and measures and identify projected target levels of performance for multiyear goals.² Second, the GAO recommends that the Commission include in its annual performance plan a report on steps the Commission will take to reduce the amount of E-rate funding that is committed but not disbursed.³

I have been a long-standing supporter of the E-rate program and its goal of ensuring that schools and libraries have access to affordable telecommunications and advanced services, and I appreciate the concern represented in the GAO's report. During its 11-year existence, the E-rate program has helped thousands of schools and libraries improve their technological capabilities. Pursuant to section 254 of the Communications Act of 1934, as amended (the Act), the Commission designated "telecommunications services" and certain additional services eligible for support under the E-rate program.⁴ Since the inception of the E-rate program, schools and libraries have received more than \$23.7 billion in funding commitments.⁵ E-rate funding has provided millions of school children, teachers and library patrons access to modern telecommunications and information services. In a study released in 2006, the National Center

¹ GAO Report at 49.

² *Id.* at 50, 66.

³ *Id.* at 49.

⁴ 47 U.S.C. § 254(c)(1), (c)(3); 47 C.F.R. §§ 54.502, 54.503.

⁵ See Universal Service Administrative Company, Schools and Libraries Division website, <http://www.sl.universalservice.org/funding/yl/national.asp> (1998-2008 data).

Page 2—The Honorable Joseph I. Lieberman

for Education Statistics (NCES) found that nearly 100 percent of public schools in the United States had Internet access, and 97 percent of these schools used broadband connections to access the Internet.⁶ Today, Internet access in public schools is nearly ubiquitous. Before the E-rate program was established in 1997, only 78 percent of public schools had any Internet access at all. In 1997, only 27 percent of public school instructional classrooms had Internet access. By 2005, that figure had increased to 94 percent.⁷ A 2006 study found that 99 percent of public library branches are connected to the Internet, 98 percent of which offer public Internet access.⁸

It is vital for all of the Commission's universal service programs, including the E-rate program, to have established goals. When the Commission adopted a structure for the E-rate program in its *Universal Service First Report and Order*, it identified as the program's goal to ensure that eligible schools and libraries have affordable access to modern telecommunications and information services that would enable them to provide educational services to all parts of the nation.⁹ To implement this goal, the Commission established funding priorities for the E-rate program, placing a higher priority on funding for telecommunications and Internet access (Priority 1 services) than on internal connections (Priority 2 services).¹⁰ The Commission also determined that schools with a higher poverty rate and schools located in rural areas would receive additional funding to assist them in meeting their telecommunications and information services needs.¹¹ Accordingly, a greater portion of E-rate funding is allocated to Priority 1 services than to Priority 2 services, and poor and rural schools receive more E-rate funding than more affluent and urban schools.

While the Commission did not set a target for achievement at the time it established program goals, the statistics above suggest that the program has been successful in getting schools and libraries connected to the Internet. The Commission also has endeavored to update and improve measures for gauging program success, in part in response to the GAO's previous reports. The Commission established two performance measures for the E-rate program in an August 2007 *Order*: one for Internet connectivity and another for application processing.¹²]

⁶ U.S. Dept. of Education, Institute of Education Sciences, *Internet Access in U.S. Public Schools and Classrooms: 1994-2005*, 4-5 (2006), <http://nces.ed.gov/pubs2007/2007020.pdf> (NCES Study).

⁷ *Id.* at 14, 16.

⁸ Information Use Management and Policy Institute, College of Information, Florida State University, *Public Libraries and the Internet 2006: Study Results and Findings*, 1 (2006), http://www.ii.fsu.edu/projectFiles/plinternet/2006/2006_plinternet.pdf (Florida State Study).

⁹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9002, para. 424 (1997) (*Universal Service First Report and Order*).

¹⁰ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fifth Order on Reconsideration and Fourth Report and Order, 13 FCC Rcd 14915, 14938, para. 36 (1998); 47 C.F.R. § 54.507(g).

¹¹ *Universal Service First Report and Order*, 12 FCC Rcd at 9049-50, paras. 520-21.

¹² *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, *Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Link-Up, Changes to the Board of Directors of the National Exchange Carrier Association*, WC Docket No. 05-195, CC Docket No. 96-45, CC Docket No. 02-6, WC Docket No. 02-60.

Page 3—The Honorable Joseph I. Lieberman

also note that the Commission has established measures for the Universal Service Administrative Company (USAC) administrative tasks as part of the memorandum of understanding between the Commission and USAC.¹³ Thus, we disagree with the report's conclusion that the Commission does not have a basis on which to determine whether funds disbursed for Priority 1 services are appropriate. To the contrary, we believe the figures above demonstrate that the program has met what was established as its initial goal. We also disagree with the report's assertion that there is a "growing emphasis" on Priority 1 services. We agree that the amount of funds actually disbursed for Priority 1 services has increased in recent years, while the demand for Priority 1 support has not increased. This difference is a product of the Commission's policies – and the implementation and outreach of USAC – designed to improve applicants' success rate in obtaining funding for Priority 1 services.¹⁴ As the report itself notes, applicants place a higher priority on receiving funding for Priority 1 services.¹⁵

Still, given the pace at which society and technology move today, it is important to conduct periodic reviews of the Commission's goals to examine whether those goals remain valid or if adjustments are necessary. The Commission has taken the initial actions necessary to conduct this evaluation as part of its ongoing comprehensive review proceeding.¹⁶ Specifically, in its August 2008 *Notice of Inquiry*, the Commission requested comment on establishing new goals, both short-term and long-term, for the E-rate program.¹⁷ Once the Commission has developed these new goals, it will revise its policies as necessary to achieve them, and develop performance measures by which to determine relative success. I wish to caution, however, that performance measures not directly tied to results that the program can produce could be distinctly unhelpful. For example, it would be difficult to directly establish the effect of E-rate funds on student learning because there are so many variables involved in educational achievement, such as course work, quality of teaching, and parental influence.

The GAO's second recommendation is that the Commission should report annually in its performance plan on reducing the amount of E-rate funding that is committed but not

WC Docket No. 03-109, CC Docket No. 97-21, Report and Order, 22 FCC Rcd 16372, 16389-94, paras. 38-49 (2007) (*Comprehensive Review Order*).

¹³ See Memorandum of Understanding Between the Federal Communications Commission and the Universal Service Administrative Company (Sept. 9, 2008), <http://www.fcc.gov/omd/usac-mou.pdf> (last visited June 5, 2009).

¹⁴ The GAO notes that more funding for Priority 1 services is being disbursed although the requested dollar amounts have not increased. See GAO Report at 13. The Commission is pleased that the increase in Priority 1 funding is a result of applicants receiving a greater proportion of their requested funding. Given that the Commission has determined that Priority 1 telecommunications and Internet access services are the most crucial to schools and libraries, an increase in applicants' success rate in receiving these funds is a positive development.

¹⁵ GAO Report at 15-17.

¹⁶ *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, WC Docket No. 05-195, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308 (2005) (*Comprehensive Review NPRM*); *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, WC Docket No. 05-195, Notice of Inquiry, 23 FCC Rcd 13583 (2008) (*2008 NOI*).

¹⁷ See *2008 NOI*, 23 FCC Rcd at 13592, para. 29.

Page 4—The Honorable Joseph I. Lieberman

disbursed.¹⁸ The GAO report itself concedes that there are many legitimate reasons that the amount of committed funds is greater than the amount that ultimately is disbursed during any given funding year.¹⁹ Many applicants overestimate the amount of funds that they will use. Some applicants may not request full reimbursement. The Commission's rules also give applicants three additional months (until September 30 following the close of the funding year) to install one-time services known as non-recurring services, and allow applicants to request extensions of this deadline. Thus, particularly with Priority 2 services, these services might not be delivered during the funding year, or the applicants might receive service delivery extensions, pushing applicants' receipt of committed E-rate funds beyond the funding year in which the funds were committed. This, in turn, impacts the amount of disbursed funds in a given funding year due to the Priority 2 services being delivered and billed in a subsequent funding year.

That being said, I am pleased to report that the Commission has taken action to address gaps between committed funding and disbursed funding. The Commission and USAC have established policies to help applicants better utilize their approved funding in a timely manner, such as allowing applicants to change service providers or substitute other services. At this time, the Commission does not believe that it should shorten the amount of time that applicants have to complete projects, especially given that many schools can only install wiring and other types of equipment when school is closed during the summer. The Commission would welcome, of course, any specific suggestions GAO may have based on methods that may have proven successful in other programs.

The Commission also is pleased that the survey indicates that a majority of respondents believe the E-rate application process has become easier to navigate in the past three years.²⁰ Furthermore, GAO's review of data indicates that only 4 percent of applications were denied due to applicant error in 2007 – a significant decrease from 31 percent in 2002.²¹ We believe that this lower denial rate is the direct result of Commission actions taken in the *Bishop Perry Order* and other recent E-rate orders in which the Commission directed the universal service fund administrator, USAC, to assist applicants in correcting errors rather than deny funding in the first instance. For example, in the *Bishop Perry Order*, the Commission directed USAC to allow applicants to correct certain ministerial and clerical errors.²² In the *Aiken Order*, the Commission directed USAC to give applicants an opportunity to remove ineligible services from

¹⁸ GAO Report at 49.

¹⁹ *Id.* at 23-24.

²⁰ *Id.* at 34.

²¹ *Id.* at 37.


²² *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, *et al.*, CC Docket No. 02-6. Order, 21 FCC Rcd 5316 (2006) (*Bishop Perry Order*).

Page 5—The Honorable Joseph I. Lieberman

their applications, or to provide additional documentation to prove the eligibility of a service.²³ These and other on-going directives to USAC should improve applicant access to E-rate funding.

Once again, we appreciate GAO's recommendations. We agree that the Commission should continue to examine the E-rate program's goals to ensure that it is achieving the important universal service goals of providing needed technology to the nation's schools and libraries. We look forward to working with the GAO and Congress in the future to improve the E-rate program. Should you have any comments or questions, I would be pleased to discuss them with you.

Warm regards



Michael J. Copps
Acting Chairman

cc: The Honorable Joe Barton
The Honorable Greg Walden
Director, Physical Infrastructure, Government Accountability Office
Office of Management and Budget

²³ *Request for Review of the Decision of the Universal Service Administrator by Aiken County Public Schools, et al. Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-397612, et al., CC Docket No. 02-16, Order, 22 FCC Red 8735 (2007) (Aiken Order).*