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	)	GN Docket No. 09-51
	)	

COMMENTS OF FUNDS FOR LEARNING, LLC on ELIGIBLE SERVICES LIST ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING and E-RATE DRAFT ELIGIBLE SERVICES LIST FOR FUNDING YEAR 2011

INTRODUCTION

The Commission has requested public comments on changes and clarifications that the Universal Administrative Company ("USAC") has proposed making to the E-rate program's Eligible Services List ("ESL") for the 2011 funding year, as well as on a variety of program-related issues that the Commission raised in its ESL Order/Further Notice of Proposed Rulemaking released on December 2, 2009.

Funds For Learning, LLC ("FFL") is a regulatory compliance company and web-based, E-rate-focused software developer that has specialized in the E-Rate program since the program's inception and the company's founding in 1997. FFL provides a wide range of E-rate-related services, including keeping clients and the public informed about program developments, assistance with application and other required form filing, electronic recordkeeping, and helping organizations comply with a long list of rules and other administrative requirements.

From among the wide range of issues that the proposed 2011 ESL and the December 2009 FNPRM raise, we have elected to focus our attention on the following: the eligibility of software applications for wireless devices and the data charges for accessing them, web hosting, unbundled warranties, and leased dark fiber, and whether basic maintenance of internal connections should be returned to the internal connections category.

I. WIRELESS APPLICATIONS SHOULD NOT BE ELIGIBLE, BUT THE DATA FOR PROVISIONING THEM SHOULD BE, BECAUSE THAT IS HOW THE E-RATE PROGRAM HAS ALWAYS OPERATED

> ESL Proposal: "Clarifying that software applications, including global positioning systems, for wireless devices and the service and data charges solely for the provision of those applications are ineligible for E-rate funding.[1]"
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> Proposed New ESL Language (underlined): A wireless Internet access service designed for portable electronic devices is eligible to be funded if used for educational purposes. <u>Applications (including GPS) for wireless devices are not eligible for discount. Service/Data charges related to the provision of these applications are not eligible and require cost allocation</u>.

In the *ESL Order and FNPRM* released on December 2, 2009, the Commission stated:

> 39. Wireless Internet Access Applications. We tentatively conclude that certain wireless Internet access applications including, but not limited to, services that could be used on school buses to transmit emergency information, track students, and locate buses with GPS technology, are ineligible for E-rate support. In their comments, Sprint Nextel and Verizon noted that the restriction on services that go beyond basic conduit access to the Internet is outdated. They note that these applications should be funded if they are used for an "educational purpose," as defined by the Commission. We seek comment on how or why these applications serve an educational purpose. Other commenters noted that more time is needed to evaluate these applications before allowing applicants to use E-rate program funds to purchase them. Like scheduling software, we find that wireless Internet access applications are non-essential services and we tentatively conclude that we should not add them to the ESL at this time. We seek comment on this tentative conclusion.

A. Software Applications Have Never Been Eligible for E-rate Support

Conceptually, the E-rate program has always been quite simple. Telecommunications services are eligible. Internet access is eligible. Internal connections – i.e., facilities necessary to transport information to classrooms and to library rooms are eligible. End user devices and software applications are ineligible. We see no reason, therefore, why software applications for wireless devices should be eligible. If the Commission were to conclude that they are eligible, then every software application that schools and libraries use for educational purposes would also have to be eligible. While there are aspects of the E-rate program that tend to be a little bit vague and others somewhat ambiguous or difficult to understand, this is certainly not one of them. From the beginning, this conceptual paradigm has served the program quite well. In conclusion, therefore, the only comment we can make is this: "if it ain't broke, don't fix it."

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[1] Draft ESL at 6, 8. *See also ESL Order and FNRPM* at 19-20, para. 39.

B. Data Charges for Provisioning Software Applications on Wireless Devices Should be Eligible, Because Data Charges for Provisioning Software on End User Devices Has Always Been Eligible and the E-rate Program is Technology Neutral.

The Commission constructed the E-rate Program on a solid foundation of technology neutrality. It assured E-rate stakeholders that it would not dictate to schools and libraries "how" they must access the Internet. That kind of fundamental decision, the Commission decided for many good reasons, were to be made locally. Unfortunately, this part of the proposal, which makes data charges for accessing a software application on a wireless device ineligible, is directly at odds with the Commission's longstanding policy in this regard.

The proposed rule states that applicants may not receive discounts on the cost of accessing applications over the Internet, if they use a wireless carrier's network to do so, and regardless of whether or not the access is for educational purposes. In sharp contrast, applicants will receive unfettered discounts, if they use the their local area wired and wireless networks to access applications over the Internet for educational purposes. It is evident, therefore, that so far as accessing the Internet is concerned, this part of the proposed rule plainly favors one type of technology over another. As such, it is squarely at odds with one of the E-rate Program's most fundamental pillars.

Applicants should not be forced to monitor, identify, and cost allocate data connectivity for specific educational uses, simply because they have decided to give their students, teachers and/or staff the freedom and the opportunity to take advantage of wireless devices that rely on particular kinds of advanced telecommunications services for that purpose. <u>The cost of accessing information for educational purposes has always been eligible</u>. Why should the cost of accessing educational information on a handheld wireless device be treated differently, especially now that schools are increasingly turning to portable educational delivery systems like smartphones and other portable devices in the wake of studies showing their effectiveness for that purpose. See, e.g., http://www.projectknect.org/Project%20K-Nect/Home.html ("Project K-Nect is designed to create a supplemental resource for secondary at-risk students to focus on increasing their math skills through a common and popular technology – mobile smartphones.").

The eligibility of a service (telecommunications or Internet access) has always been determined by the eligibility of the recipient of that service (location and/or user). Changing this standard of eligibility will increase the complexity of the program, increase the administrative burden on everyone, and inhibit the growth of new and potentially extremely effective delivery systems for educational material. The E-rate Program was designed to encourage the use of advanced telecommunications services for educational purposes. This part of the proposed rule discourages the use of advanced telecommunications services for that purpose. That is why we are urging the Commission to reconsider and reject it.

C. Cost Effectively Bundled Voice, Data and Application Services Should be Eligible

As we stated previously, applications for wireless devices should remain ineligible -- but with one exception. If the application comes bundled with eligible voice and data (text, Internet, e-mail, etc.) services and purchasing the eligible services would cost the same or more without the application than with it, then the entire bundle of services should be eligible. Because it typically costs more to buy those kinds of eligible services separately, buying them together with an ineligible application frequently makes the most economic sense -- even if the applicant does not want the application in the first place and has no intention of ever using it. In other words, it should be made clear that the Commission's "Ancillary Services" rule applies to the wireless bundles that wireless providers sell just as they do to the Internet bundles that Internet service providers sell.

We believe strongly that the rule as proposed will make applying for discounts on wireless services even more difficult and confusing than it already is and will add more weight unnecessarily to USAC's already heavy administrative burden. Because of how attractively service providers price these bundles and the way they market them, large numbers of schools and libraries are going to continue to purchase these bundled services after going through their own and the Form 470 competitive bidding processes. Afterwards, while completing their E-rate applications, each of these applicants is going to be forced to take a stab at assigning a reasonable price to the ineligible application(s) inside its bundle -- even though the service provider had never actually given it one. After that, each applicant will have to hope that the USAC staff member who reviews its attempt at cost allocation will accept it. Experience teaches that this will lead inevitably to some applicants receiving more funding than others for the exact same set of bundled services, as the "reasonable" allocations they arrive at are bound to differ. This approach to eligibility decision-making is completely arbitrary and, moreover, awards to USAC too much discretion over funding, discretion that the law does not permit USAC to exercise.

In addition to increasing the administrative burden of the program overall and potentially directing schools and libraries towards more costly solutions, we believe that this rule, without the exception that we are proposing, will lead to instances in which USAC will deem an applicant's entire wireless plan ineligible, simply because neither the applicant nor the provider feels comfortable making up a specific price for the GPS option that came bundled with the wireless plan. In fact, we know that this is already beginning to happen, and we believe that instances like these will only increase if this rule becomes part of he Eligible Services List without an exception for cost effective bundles of wireless voice, data, and application services.

II. WEB HOSTING SERVICES AND WEB SERVERS SHOULD BE ELIGIBLE

ESL Proposal: "Designating web hosting [and] web server[2] . . . ineligible for E-rate funding.[3]"

We disagree with the proposal to make web hosting and web servers ineligible. One of the important goals of the E-rate program is or certainly should be to provide a cost-effective means of communicating educational information between schools and their students, parents and local communities and between libraries and their patrons. More and more, school districts are turning to their websites as their primary means for disseminating student-specific and general information to parents and students. Many teachers utilize their district's website to post homework information and related educational materials and to give parents the opportunity to easily access their child's progress reports and grades.

Fundamentally, a school district (or library) website is an avenue for communications. When community stakeholders seek information about their public school district (such as directions to the administration building, a bell schedule for a middle school, or contact information for an elementary principal), they have several options. They could certainly call the school district on the telephone, and they could send an e-mail message (if the recipient address is known.) But visiting the school district's website, if it has one, is obviously the fastest and most efficient of the three options and certainly the least disruptive and time-consuming for school district staff. Thus, it seems both counter-intuitive and conceptually inconsistent for the E-rate program to provide funding for the connectivity that makes two of the above communications options possible (telephone service and e-mail), but not to fund the third (web hosting and web servers).

If web hosting (and web servers) become ineligible for E-rate discounts, many applicants simply will not have the resources necessary to continue operating their public websites. And, when one avenue of communication is severed, demand for alternatives will naturally increase. As such, we expect that the elimination of funding for web hosting/web servers will increase the demand for other funded services (namely, telephone service and e-mail), and that overhead costs for school and library personnel will invariably increase too. Further, because many applicants have entered into multi-year service agreements with web hosting providers, making web hosting ineligible now would place an unexpected strain on school and library budgets that are already stretched rather tightly.

It is important to note that while we urge the Commission to retain web hosting as an eligible Priority 1 communications service, because conceptually that is where it belongs, and web servers as eligible internal connections, we continue to support the current eligibility limitations -- namely, that web content, applications, and website development tools should not be eligible for E-rate funding.

We suspect that the impetus behind the proposal to exclude web hosting from the ESL lies in some of the difficulty that USAC has had with administrating web hosting requests. There has been such a fluctuation in the eligible percentage (after cost-allocation) among service providers that determining the percentage of eligibility from one carrier to another has become quite a chore. However, just

[2] Draft ESL at 9, 15, 18; *ESL Order and FNPRM* at 19, para. 37.
[3] Draft ESL at 18; *ESL Order and FNPRM* at 18, para. 35.

because the administration of an eligible service may be difficult does not mean that it should simply be eliminated. The middle-ground approach, which in our opinion makes the most sense, is for the Commission to promote consistency and accuracy among these kinds of funding requests by adopting clearer eligibility guidance and more rigid standards for administering them.

III. INTRUSION DETECTION AND PREVENTION SHOULD BE ELIGIBLE BECAUSE IT PROVIDES CRITICAL DATA PROTECTION FUNCTIONALITY

ESL Proposal: Adding Intrusion Detection/Intrusion Prevention to the list of ineligible data protection components.[4]

We disagree with USAC's proposal to add intrusion protection/intrusion prevention to the list of ineligible data protection components. While we appreciate the Commission's efforts to clarify the eligibility of network security and data protection products and services, we feel that applicants – and the program itself – would benefit from including intrusion detection and prevention systems ("IDS/IPS") as an eligible service in the data protection category. Indeed, we believe that, under the existing eligibility framework, IDS/IPS functionality is or should be eligible now. IDS/IPS sometimes comes in a standalone box, but <u>most of the time</u> it is a feature of a router or multifunction security appliance that is also, usually, a firewall at its core and eligible as such. IDS/IPS basically makes a firewall "smarter" – instead of just putting up walls and hoping for the best (firewall), it actually keeps guard and watches to see if anything malicious is trying to break into the network.

As broadband services become faster, more sophisticated, and more prevalent, threats to the safety and reliability of networks increase significantly. It is clear that a measure of network security beyond a basic "port blocking" firewall is now critical to ensure minimal service interruptions. As a result, many manufacturers include IDS/IPS functionality as a standard feature of their "basic firewall" products. Further, IDS/IPS is being implemented as a part of the feature set of numerous other network devices, such as routers, switches, and wireless equipment. Consequently, the cost of funding IDS/IPS would be extremely incremental and the benefit of funding it would be extremely high.

If IDS/IPS is deemed explicitly ineligible, as USAC suggests, the need for complicated (and potentially inconsistent) cost-allocations for E-rate funding request will continue to increase, leading to a rise in the complexity and overall administrative overhead of the program. For example, an applicant can purchase a firewall that includes IDS/IPS and may cost-allocate 20% for the IPS/IDS functionality, requesting E-rate discounts on 80% of the purchase price. Another applicant could purchase the exact same firewall, cost allocate IDS/IPS differently, and apply for 75% of the purchase price. . . or less or possibly more. If IDS/IPS were eligible, no cost allocation would be necessary, no cost allocation review would be necessary, and USAC would fund every request quickly, equally and fairly at 100%.

[4] Draft ESL at 13, 19

Internal connections include equipment, software and services necessary to bring information to the classroom. That is why UPS equipment, for example, is eligible. Without electrical backup, a telecommunications network would not work during a power outage. That is why UPS equipment is necessary to bring information to the classroom. IDS/IPS should be eligible for exactly the same reason. Today, network predators are as great, if not a greater, threat to the continuous operation of a telecommunications network than the vagaries of electric power ever was or will be. A sophisticated attack on a school district's network can do far more and long-lasting damage to that network's ability to bring information to the classroom than a temporary power outage. As IDS/IPS protect school and library networks in the same way that UPS equipment does, it follows logically that E-rate discounts should be available for both.

IV. THE TERM "UNBUNDLED WARRANTIES" SHOULD BE REMOVED ENTIRELY FROM THE ESL

ESL Proposal: "Adding unbundled warranties to the list of products or services that are ineligible for funding[5]"

The draft Eligible Services List provides no glossary definition for the term "unbundled warranty." Nor have we been able to find anyone in the service provider or applicant communities or even at USAC for that matter who can tell us what, exactly, an "unbundled warranty" is. Therefore, to prevent any further confusion and arbitrary and inconsistent eligibility conclusions and determinations -- by applicants, service providers, and the program administrator -- the term needs to be clarified *significantly.* This should occur <u>before</u> the term appears in the ESL – either as an eligible or ineligible service. Accordingly, we urge the Commission to remove any reference to "unbundled warranty" until that time.

There was some discussion about unbundled warranties in the Commission's FY2010 ESL Order, but it was somewhat ambiguous and, in light of the way that manufacturer warranties and service agreements are commonly purchased, not easily interpreted. After the Order was released, FFL (and USAC) received a **large** number of questions regarding specific manufacturers' service agreements – did the Order dictate that these agreements were now ineligible? This confusion prompted USAC to release a further clarification later in the year, which seemed to indicate that most of these agreements would continue to be eligible, as long as they were not duplicative of other maintenance services that the applicant may be receiving. Afterwards, however, a great deal of confusion still remained among both applicants and service providers about what USAC had in mind and how it would administer and enforce this most recent interpretation.

In our opinion, including "unbundled warranties" as an ineligible Basic Maintenance service at this time, without defining the term much more carefully, is likely to cause the same confusion (and inconsistency) that we saw immediately following last year's Order. Because of this, we believe strongly that it is in the

[5] Draft ESL at 21; *ESL Order and FNPRM* at 15, para. 28.

program's best interest to remove the unbundled warranty language from the ESL now and not include it until a clear and consistent definition and classification for it can be established.

V. DARK FIBER SHOULD BE ELIGIBLE, BUT THE COMMISSION SHOULD CLARIFY THE NATURE OF THE SERVICE AND CATEGORIZE IT ACCORDINGLY

> ESL Proposal: "Adding leased fiber to the list of miscellaneous services so that third parties can lease fiber capacity to applicants that will provide the electronics to modulate the fiber and will use the fiber on an immediate basis.[6]"

FFL supports the expansion of eligible services to include a wide variety of technologies that can provide cost-effective, high capacity communications infrastructure to schools and libraries. We believe, however, that adding dark fiber to the "miscellaneous" section is a mistake, because conceptually that is not where it belongs.

Current E-rate rules require that any connection (irrespective of technological implementation) that crosses a public right-of-way constitutes a wide area network. Further, regulations require that funding for WANs be requested in the Telecommunications Services funding category (except in certain limited cases.) Telecommunications services must be provided by a certified "common carrier." Given this, current E-rate rules dictate essentially that only a telecommunications provider may provide WAN services.

The draft ESL does explicitly state that non-telecom service providers may provide dark fiber services to applicants. In terms of real-world application, however, the most common use for dark fiber capacity would be to establish wide area networks between eligible locations. This creates an inconsistency in the regulations – presuming an applicant wishes to lease dark fiber capacity for a WAN, must the provider be a common carrier? On one hand, the connection would cross a public right-of-way; on the other, the draft language eliminates the common carrier requirement for dark fiber services. We feel that the Commission should clarify its intent regarding the common carrier requirement, with the understanding that dark fiber is likely to be used (almost exclusively) for WAN connectivity.

If the Commission's intent is to retain the common carrier requirement for all WAN services, we feel it would be most appropriate to move dark fiber to both the Telecommunications Services and Internet Access sections of the ESL (the latter including language to indicate that dark fiber used exclusively for Internet access need not be provided by a common carrier.) This approach would be consistent with the treatment of other types of point-to-point connectivity in the ESL; dark fiber used as a WAN would be eligible in the Telecommunications Services category only, and must be provided by a common carrier.

If the Commission's intent is to remove the common carrier requirement for dark fiber WAN services, we feel that E-rate regulations outside the ESL (for instance, USAC's WAN Fact Sheet) should be updated

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[6] Draft ESL at 23. This change was initiated by a proposal in the *E-rate Broadband NPRM*. *See E-rate Broadband NPRM,* at para. 54.

to explicitly state what type(s) of WAN technologies are no longer subject to the common carrier requirement. While we understand that there are a number of non-telecom vendors across the country who have the ability to provide dark fiber services, it should be noted that this approach does create inconsistency among the treatment of WAN technologies from different types of service providers. For example, there are numerous non-telecom vendors who provide high-speed point-to-point wireless WAN connectivity services. Currently, this type of connectivity is only eligible if provided by a common carrier in the Telecommunications Services category. Thus, wireless vendors are faced with the decision to register as a common carrier in order to provide WAN services to applicants seeking E-rate discounts. Given this, exempting one type of WAN technology (dark fiber) from the common carrier requirement seems to give the providers of that service a bit of an unfair advantage.

VI. BASIC MAINTENANCE OF INTERNAL CONNECTIONS SHOULD BE ELIMINATED AS A SEPARATE ELIGIBILITY CATEGORY

In an effort to make basic maintenance funding more useful to applicants and the distribution of E-rate support more equitable, we suggests that the Commission eliminate the 2 in 5 rule and return "Basic Maintenance of Internal Connections" to the Internal Connections category where it belongs. If the Commission decides not to eliminate it as a separate category, then FFL suggests the following three changes instead:

1. Treat Basic Maintenance in a manner consistent with other Priority Two services.
2. Allow Basic Maintenance services to extend beyond the June 30 end of the funding year.
3. Allow Applicants to file service delivery deadline extension requests for Basic Maintenance when applicable.

These suggestions would allow more applicants to make better use of their Basic Maintenance funding commitments. The advantage to the E-rate program, of course, is that applicants will be more likely to purchase the maintenance needed for the upkeep of equipment purchased with E-rate support.

In the *Third Report and Order*, the Commission instructed USAC to create a separate category for the Basic Maintenance of Internal Connections.[7] As a result of this order, when USAC released the ESL for Funding Year 2005, it added the following:

[7]See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912 at Para 21, (2003) (*Schools and Libraries Third Order*), which states: "We instruct USAC to revise Block 5 of the FCC Form 471 to include a separate category of service for maintenance requests, with this form change to take effect for Funding Year 2005. Maintenance requests will continue to be funded as Priority Two funding. However, maintenance requests will be considered for funding separately from other requests for Priority Two funding and, therefore, will not be subject to the twice-every-five years funding rule we adopt in this Order. The revision of the FCC Form 471 will allow efficient review of the Priority Two funding requests."

> Basic Maintenance ensures the necessary and continued operation of eligible internal connection components at eligible locations. A technical support contract that provides more than basic maintenance is not eligible for E-rate discounts. Funding for basic maintenance is not subject to the provisions indicated in the document "'Two Out of Five Rule' for Internal Connections," available in the SLD Reference Area of the USAC web site. *All requests in this category will be treated as recurring services with services to be delivered within the July 1 to June 30 Funding Year* (emphasis added).

Accordingly, USAC has treated the Basic Maintenance of Internal Connections as a recurring service since that time, even though the Commission, to the best of our knowledge, did not instruct USAC to do so. This treatment causes difficulties and hardships for both applicants and service providers. We have outlined the problems below, along with suggestions for fixing them.

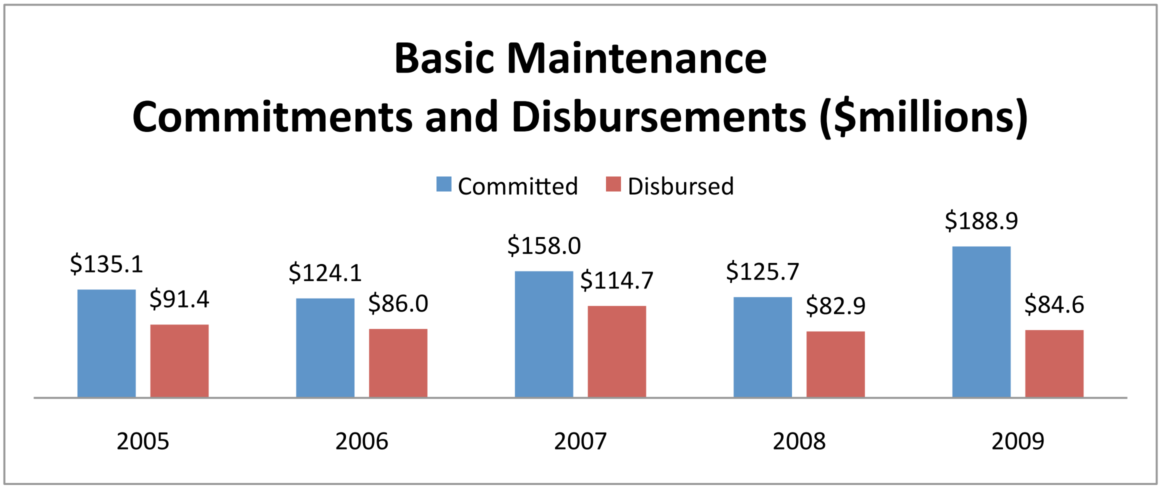
In today's marketplace, many Basic Maintenance services are sold on a 12-month basis with a one-time annual cost. These include manufacturers' warranties and maintenance contracts that provide failed hardware replacement as well as software updates, patches, and bug fixes. As a rule, services rendered under these types of maintenance contracts are provisioned on an as-needed (or "break-fix") basis, meaning that services are only rendered when an "event" (usually hardware or software failure) has occurred. Because of this, it is difficult for applicants and service providers to determine a true monthly value for such a contract. As an example, suppose an eligible network switch experiences a failure in July and is replaced under the manufacturer's maintenance contract. While the actual services rendered under the contract occur in July, the benefit extends for the remainder of the contract (assuming no additional failures are experienced during the contract period.) Many manufacturers provide this type of maintenance service for a specified period of time after hardware is purchased, and then offer "renewals" for subsequent time periods.

Because they are treated as a Priority Two service, Basic Maintenance funding requests are reviewed and funded by USAC much later in the funding year than requests for Priority One services. However, USAC's current interpretation of FCC policy mandates that Basic Maintenance services be rendered in the July 1 to June 30 timeframe. Under this scenario, for an applicant to receive the full benefit of a 12-month maintenance contract (and receive E-rate support for that contract within a single funding year), they likely will be required to:

1. align their maintenance contract term(s) to match the dates of the E-rate funding year;
2. pay the service provider(s) in full for maintenance service when E-rate funding requests for those services are still pending

It is never easy and sometimes impossible for applicants to achieve. Many public school districts and library systems (especially those with high E-rate discount rates) have extremely tight budgets and are simply not able to pay for 100% of the maintenance contracts for eligible equipment upfront without the promise of E-rate support. In addition, it is often difficult for applicants to re-align their yearly contract terms to match the E-rate funding year dates without experiencing a lapse in coverage.

This results in funding commitments going unutilized. As illustrated in the following chart, over $272 million in Basic Maintenance funding commitments have not been disbursed by USAC. This represents more than one-third of all Basic Maintenance funding commitments.



To further confuse matters, many Basic Maintenance funding requests are inseparably tied to applicants' Internal Connections projects, meaning that in any given funding year an applicant will purchase new equipment (via an Internal Connections funding request) and maintenance on that equipment (to begin once the equipment is installed). If the E-rate funding request(s) supporting the equipment purchase are not approved until late in the funding year, it is impossible for the applicant to start maintenance services on July 1, as the equipment to be maintained will not yet be purchased and installed.

The entire manner in which Basic Maintenance requests are funded results in a good deal of frustration within the applicant community. Because maintenance services oftentimes cannot begin on the July 1 funding year start date, coverage provided under a 12-month maintenance contract purchased in the middle of a funding year will stretch into the following funding year. However, the "break-fix" nature of the contracts make determining a monthly cost-allocation very difficult, and accounting for services rendered under "multi-year contracts" involve a substantive amount of additional E-rate regulatory compliance as well as complications during the procurement process.

In Funding Year 2008, USAC issued more than $125 million in Basic Maintenance funding commitments several months after the July 1, 2008 funding year start date. Indeed, 19.6% of the Basic Maintenance dollars commitments were not issued a funding decision until after June 30, 2009, the funding year end date[8]. As the table below shows, a whopping $30,576, 318 committed for basic maintenance with an average March 2009 FCDL date never got used at all. When USAC issues these kinds of decisions late, it forces the late-funded applicants to pay for 100% of the maintenance services upfront, thereby effectively revoking their entitlement under the E-rate program to receive discounted invoices, which, in many cases, leads to undue, unfair, and unnecessary economic hardship.

[8] Analysis current as of July 1, 2010, using http://www.eratemanager.com.

Utilization of FRN	BENs	FRNs	Committed Amount	Disbursed Amount	FRN Balance	Average FCDL Date
High (>95%)	1,274	2,552	57,932,428	57,768,541	163,887	Nov. 2008
Average (55%-95%)	216	277	26,084,260	21,778,503	4,305,757	Dec. 2008
Low (25%-54%)	114	122	6,306,039	2,579,846	3,726,193	Dec. 2008
Very Low (<25%)	71	80	4,762,947	778,015	3,984,932	Nov. 2008
FRN Completely Unused	541	923	30,576,318	-	30,576,318	Mar. 2009
	TOTAL	3,954	125,661,992	82,904,905	42,757,087	

Something as simple as eliminating the 2 in 5 year Rule and Basic Maintenance of Internal Connections as a separate eligibility category will enable applicants to maintain their telecommunications networks far more effectively than they are able to do now, restore equity and common sense to the funding process for internal connections maintenance, and substantially reduce frustration throughout the E-rate community. We have made this suggestion before, and we are including it here again because of how important we believe it is to initiate these changes as quickly as possible. With the Commission seriously considering the elimination of the 2 in 5 rule now, and assuming it does so, this would be the time to take the next logical step.

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We appreciate this opportunity to offer our comments and to help keep the E-rate Program improving.

Respectively submitted by,

John D. Harrington	Cathy Cruzan
Chief Executive Officer	President
Funds For Learning, LLC	Funds For Learning, LLC