Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Modernizing the E-rate Program for Schools and Libraries

WC Docket No. 13-184

COMMENTS OF THE
AMERICAN LIBRARY ASSOCIATION

September 15, 2014
# TABLE OF CONTENTS

I. Summary ......................................................................................................................... 3

II. Introduction ...................................................................................................................... 6

III. Addressing the Broadband Gap in Libraries and Schools ............................................. 8
    a. Phase two of the multi-phase review process must ensure universal service for all E-rate applicants: The Driveway Order Has Been Issued – Now We Need the Street Order ........................................................................................................... 9

IV. Determine the Future Funding Needs of the E-rate Program Through a Data-driven Framework of the Broadband Gap for Libraries ........................................ 15
    a. Setting a framework for cost modeling for libraries .................................................. 15

V. Encouraging Consortia Applications and Other Cost-Effective Measures ............... 16
    a. Discount methodology for libraries ........................................................................ 17
    b. Encouraging consortia participation ....................................................................... 17
    c. Ensuring that multi-year contracts are efficient ..................................................... 19

VI. Additonal Improvements to Increase the Success and Sustainability of the E-rate Program .................................................................................................................. 20
    a. Balance efforts to prevent waste, fraud, and abuse with applicant burden ............ 20
    b. Create a balanced Program Integrity Assurance review process .......................... 21
    c. Recognizing specific opportunities introduced in the Order ................................ 24

VII. Ensuring Support for Libraries is Sufficient ................................................................. 26
    a. Benefitting from the two-year trial approach ......................................................... 26
    b. Reaffirming the square foot model for libraries .................................................... 27
    c. Avoiding program complexity ................................................................................ 27

VIII. Conclusion .................................................................................................................. 28

IX. Appendix ...................................................................................................................... 29
I. SUMMARY

It is no small accomplishment to critically review and update a 20th century program as complex as the E-rate program to meet the 21st century network needs of our libraries and schools. The American Library Association (ALA) fully supports the Federal Communications Commission’s multi-phase E-rate reform process. We commend the Commission’s successful reorienting of the E-rate program to focus on the quintessential services that support high-capacity broadband for libraries and schools. Furthermore, by next successfully addressing the outstanding issues raised in the Further Notice of Proposed Rulemaking we foresee a successful conclusion for the modernization process.

Commissioner Clyburn reminded stakeholders during the July 2014 Commission meeting that “[T]he promise of robust Wi-Fi will only become a reality if schools and libraries have adequate connectivity to their buildings.” We couldn’t agree more and, in fact, have heard from ALA’s E-rate Task Force, the primary group that informs ALA’s E-rate policy positions, as well as individual libraries, that while there is merit in addressing the long-standing inadequate funding for Wi-Fi and internal connections, the undeniable fact remains that if a library only has a 3 Mbps connection, a fully updated Wi-Fi network will still not provide adequate service to the student trying to upload a homework assignment or her parent finishing an online certification course. Access to high-capacity, scalable broadband at affordable recurring rates to the building remains the number one telecommunications problem libraries confront in being able to provide 21st century services to the communities they serve.

In moving forward, we urge the Commission to act now to ensure the initial changes adopted in the July Order do not become the final changes of this modernization effort. We have the “Driveway Order” and now we need the “Street Order.” We must accomplish as much for those libraries whose most significant barrier to providing a robust “whole network” is the lack of affordable high-capacity broadband to the library doors as the Commission has for those libraries where lack of robust Wi-Fi was a significant hurdle.

The Commission must therefore:

**Close the broadband gap for libraries**

Throughout the modernization proceeding, ALA has commented on the need to clarify and minimize the program barriers that prevent applicants from fully taking advantage of the current special construction eligibility. We have also investigated methods that might be employed to incent special construction—as already allowed in the E-rate program—when that would be the most cost-effective solution to libraries increasing their broadband capacity. We encourage the Commission to:

- Clarify the amortization rules;
- Eliminate the ban on special construction for dark fiber;
- Allow longer term contracts where there is special construction involved; and
- Require service providers to lock in affordable prices for a significant number of years for agreements involving special construction.

**Determine the future funding needs of the E-rate program through a data-driven framework of the broadband gap for libraries**

We are encouraged that the Commission has asked for input on increasing the size of the
fund on a permanent basis. In order to ascertain the true costs to connect all libraries to scalable high-capacity broadband to the extent technologically feasible, ALA is undertaking and coordinating research that will address the costs necessary for libraries to achieve the Commission’s capacity goals for libraries. We recognize that libraries are situated in wide ranging circumstances that both impact quality of service and costs to build capacity and maintain the resulting increases in recurring costs. These include, but are not limited to, regional difference and issues related to high-density usage in some libraries.

We reiterate that in addition to physical access to scalable speeds, libraries continually state that recurring costs for service must be reasonable regardless of location. We recommend that the Commission use the information from this forthcoming research to inform its determination on the proper funding level for the E-rate program moving forward. We recognize the Commission will need similar information for schools. We also assume that the Commission will continue the work it initiated in this proceeding, through the staff report, and data map to fill out the gaps that may exist in the various data gathering efforts among the applicant community.

**Ensure the program is cost-effective and efficient through robust consortia and clearly defined multi-year contracts**

The Commission rightly suggests that consortia can introduce cost saving to the consortia participants and as a result, to the overall E-rate program. However, in its effort to promote consortia, ALA recommends that the Commission:

- Reconsider the proposal to use a weighted average to determine the discount rate for libraries participating in a consortium;
- Provide an additional 5% discount for consortia leads; and
- Reconsider its proposed five-year contract maximum.
We also address a few additional measures to improve the program and briefly discuss the Category 2 funding mechanism for libraries.

II. INTRODUCTION

The American Library Association (ALA), the world’s oldest and largest library association, representing 57,000 members, appreciates the progress toward the Commission’s three goals for modernizing the E-rate program with measures to simplify the application process and provide new support for Wi-Fi. It is now time to address the outstanding issues: 1) The continued lack of access to affordable high-capacity broadband to many libraries and schools and 2) Providing the necessary funding for the program to achieve the important broadband goals. We focus most of these comments on our vision for achieving the first goal, “Ensuring affordable access to high-speed broadband sufficient to support digital learning in schools and robust connectivity for all libraries.”

ALA’s primary focus remains unchanged. Fundamentally, our overarching goal is to increase the percentage of libraries with high-capacity broadband at affordable rates. In addition, we continue to view this proceeding as an opportunity to increase library participation in the E-rate program and to further simplify the program while maintaining its proper oversight, both of which support this goal. We firmly believe that this is advanced through the pathways set forth by the Commission and initiated in the July 2014 Order.

While we advocate for libraries, we wish to be clear that our strategy in no way diminishes the importance of also securing high-capacity broadband for the nation’s schools. We

welcome the Commission to consider any of our comments for the schools community if beneficial.

ALA appreciates the steps taken in the Order to move libraries and schools closer to the newly adopted 1 gigabit per second goal, but we hold the Commission to its commitment to ensure that both the inside-the-building Wi-Fi gap and the to-the-building broadband gap are sufficiently addressed and it articulates a clear plan to close both gaps before the end of the modernization process. As to the broadband gap, ALA’s data underscores the gulf between where libraries are today and the gigabit goal; half of all of America’s public libraries report connection speeds less than 10 Mbps—which is just one percent of the goal!3 Moreover, the majority of libraries are without a fiber connection and, though we recognize that fiber is not always a feasible technology, we generally support a fiber solution as the most robust technology to provide scalable high-capacity broadband.4

We also hold the Commission to the promise in the Further Notice of Proposed Rulemaking (FNPRM) that it will address the long-term funding requirements for the program to ensure it can fully support libraries and schools, which has not always been possible in the past. How the Commission responds to these two issues together will define the success of the modernization

3 We recognize that the goal for smaller libraries is 100 Mbps but this is still under 10% of the goal.  
4 According to the Commission’s own data, fewer than 15% of libraries have a fiber connection. See the Wireline Competition Bureau & Office of Strategic Planning and Policy Staff Report, August 12, 2014. Available http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0812/DA-14-1177A2.pdf. While ALA’s data shows a somewhat higher percentage of libraries that self-report a fiber connection, the bottom line is that the majority are still without fiber. Available http://digitalinclusion.umd.edu/content/2013-digital-inclusion-survey-results-published.

Comments of the American Library Association September 15, 2014
III. Addressing the Broadband Gap in Libraries and Schools

ALA is firmly on record stating the lack of scalable, high-capacity broadband must not be the limiting factor—as it often is now—in what services libraries can offer the communities they serve. It is the crucial foundation on which The E’s of Libraries™ are built.⁵

In addition, it is clear that the need for greater capacity among libraries, whether rural, urban, or suburban has in no way diminished from our initial comments in this proceeding with the Commission a full year ago. An analysis from the most recent public library technology report, updating previously cited library data from 2011,⁶ shows gains for libraries that reported paltry download speeds of 1.5 Mbps or less (now 11.4% of libraries, down from 23.4%) but almost no gain for libraries with speeds of 100 Mbps or greater (now 9.3% up from 9.1% two years ago). For rural libraries, the gaps at both ends of the speed spectrum are even more dramatic. In spite of incremental progress, nearly one in five rural libraries still report download speeds of 1.5 Mbps or less, and fewer than 4% report speeds of 100 Mbps or higher. While city and suburban libraries are more likely to have access to high-speed broadband, a significant number still report speeds less than 10 Mbps. For city libraries, this is just over one quarter of the total, and for suburban, about 30 percent.⁷ With greater population density, more public computers (an average of 41 per building)⁸ and high uses of wired and wireless internet access in city libraries, these inadequate internet speeds constrain the delivery of important library

---

⁷ See appendix for a summary table of the data from the 2013 Digital Inclusion Survey.
Well-connected libraries and our partners, the well-connected schools, are the lynchpins that ensure our students and communities fully benefit from the opportunities technology enables in combination with high-capacity broadband and the guidance of librarians and teachers. Our libraries and schools are simply too important for them to have major broadband deficiencies throughout the country.

Phase two of the multi-phase review process must ensure universal service for E-rate applicants: The Driveway Order Has Been Issued – Now We Need the Street Order

Whether the Commission’s first Order (i.e., the “Driveway Order”) benefits all libraries is dependent upon one thing—the Commission’s rulings in this upcoming Order (or the “Street Order”). That is, if the Commission takes the appropriate action in the upcoming Order resulting from the FNPRM, the two Orders collectively will help ensure a successful E-rate modernization effort. On the other hand, if the Commission does not do so, it will have missed an opportunity to rectify a fundamental problem.

By focusing on Wi-Fi in the first Order, the Commission’s ruling was helpful to those libraries that currently have high-speed broadband to the library. Unfortunately, as noted above, most libraries—including virtually all rural libraries—do not even come close to meeting the Commission’s goals for high-capacity broadband to the library. Therefore, the majority of libraries—urban, suburban, and rural—will not be able to benefit from the first Order’s Wi-Fi focus (i.e., the focus on connectivity within the library) unless this upcoming Order adequately addresses the to problem. Simply put, Order no. 2 must sufficiently address the to problem; otherwise not only will Order no. 2 be a net loss for libraries, but so will Order no. 1 to a very
significant degree.

By analogy, if the issues here had involved street and driveway construction rather than broadband, the first Order would have been the equivalent of the Commission helping to ensure that there are adequate driveways, but not that there are adequate streets. And, good driveways without sufficient streets connecting to them are not worth a whole lot. Accordingly, if the first Order (the “Driveway Order”) is going to be a step in the right direction, the second Order must be the equivalent of a “Street Order.” Having some but not all of the necessary components to a solution does not equate to a solution—it equates to a failure. Conversely, ensuring the second component—the high-speed broadband to the building (i.e., the street portion) is accomplished through the rules to be issued under this Order, will make an extraordinary difference for our libraries and the communities they serve.

A clear majority of libraries state they have insufficient broadband. Story after story from libraries across the country inform us that technology and its incorporation into daily operations has outpaced the broadband capacity for many of our nation’s libraries—particularly in rural communities across the country. Small and rural libraries make up the majority of public library systems in this country (80.5%), and 70% of rural public libraries report they are the only provider of free public access to computers and the internet in their communities. In fact, our nation’s rural public libraries offer an average of 10 public access computers and free public Wi-Fi access that can more than double the number of public internet users the library supports at

---

any given time of the day. Yet, many of the libraries that lack sufficient broadband to provide the services their communities need state that they do not even have access to higher broadband speeds, while others indicate they cannot afford higher speeds. In terms of the access component, the Commission has found that only 15% of libraries have fiber. ALA’s numbers are not identical to those of the Commission on this point, but whatever the exact numbers are, there can be no doubt that lack of access to higher broadband speeds is a tremendous problem that must be resolved.

And, here are two key points: without question, this is a problem that cannot be solved through tweaking the discount rate for rural libraries and schools. Nor can this problem be resolved by ignoring it.

While some may argue that another proceeding at a later date could address the particularly challenging broadband gap for rural libraries and schools, a vague future possibility promise is not good enough for these libraries, schools, or those communities as a whole. We cannot leave them behind and we cannot wait years to address this issue. The time to act is now. The Commission needs to take real steps in this proceeding to greatly advance the ball with respect to ensuring that libraries and schools throughout the nation receive the broadband they need. A Driveway Order without a Street Order does not make sense in the construction field, and addressing the “within” problem without now addressing the “to” problem is equally nonsensical.

---

10 2013 Digital Inclusion Survey: Survey Findings and Results. Available [http://digitalinclusion.umd.edu/content/reports](http://digitalinclusion.umd.edu/content/reports).

11 Ibid. The latest data released in July 2014 show that 66% of libraries would like to increase their broadband capacity but that about 30% reported they were at the maximum speed available to them (rural libraries report a slightly higher percentage at 36%) and almost 60% report they cannot afford an increase (more than half of urban libraries and about 63% of rural libraries).
E-rate is part of the Universal Service Fund, and that fund deals with universal service. It is not called the Partial Service Fund for a reason, and the time has come for all of us to come as close as possible to fulfilling what the fund’s name implies. We simply cannot feel satisfied with what we have accomplished to date when so many libraries and schools are on the wrong side of town when it comes to receiving sufficient high speed broadband.

Accordingly, the Commission should modify its rules to ensure that the E-rate program supports libraries and schools throughout the nation that currently cannot access or afford higher broadband speeds. The Commission should take whatever steps are needed to ensure that the digital divide is greatly reduced, rather than widened further. These steps will certainly include a need to increase the overall size of the fund.

ALA is, however, cognizant that the fund must be used to a large extent for recurring costs for services, and therefore ALA recommends that there be double cap protection, as described below, relating to special construction. First, there should be a cap on how much any one applicant can spend in a year relating to special construction. Second, the Commission should determine a reasonable cap for the percentage of the fund that can be used for special construction. The Commission adopted this type of double-cap protection in the rural health proceeding.

As to specific steps the Commission should take, it should, among other things, do the following:

1. **Clarify the Amortization Rules.** USAC has made a ruling as to when and how payments must be amortized over multiple years. The Commission should (i) reach its
own conclusions in this regard, and (ii) decide how the amortization rules will work when it is a consortium involved, rather than just one entity.

2. **Eliminate the Ban on Special Construction for Dark Fiber.** Without question, competition and flexibility should be the guiding principles with respect to the Commission’s actions here. The goal is to ensure excellent broadband service for libraries and schools, while efficiently using the E-rate fund; the goal is not to ensure monopoly profits for any service provider. We advocate for E-rate support for special construction charges for leased dark fiber when doing so is the most cost effective solution. The current rule skews the decision of libraries and schools to implement a lit fiber service even in cases when dark fiber may be a less expensive alternative. As our September 2013 comments stated: “Placing both lit and dark fiber on a ‘level playing field’ makes sense and gives libraries more options.” And treating lit and dark fiber the same will provide consistency with the Commission’s Rural Healthcare Order from 2012 which treats dark and lit fiber the same. That is, both lit and dark fiber involves up-front and recurring costs, and there is no separation in how they are treated. We find no reason why lit and dark fiber in the E-rate program should be any different from the Rural Healthcare program and request the Commission correct this inconsistency to the benefit of our libraries and schools.

Earlier this month, Chairman Wheeler gave a speech in which he eloquently spoke about both the need for, and benefits of, greater broadband competition. In that regard, he discussed that the Commission’s actions must be consistent with, among other things, several principles, including the following two principles:
Where greater competition can exist, we will encourage it.

Where meaningful competition does not exist, we will work to create it.12

One thing is for certain: banning special construction under certain conditions is 100% inconsistent with both of those principles. The ban unquestionably should be removed.

3. **Allow Longer Term Contracts Where There is Special Construction Involved.** Five years will not be sufficient in many instances for providers to ensure they can recover their costs in contracts involving special construction. For contracts involving special construction, the Commission should permit those agreements to have a longer duration. Longer term agreements will also place less pressure on the fund.

4. **Require Service Providers to Lock in Affordable Prices for a Significant Number of Years for Agreements Involving Special Construction.** As alluded to earlier, access to broadband is not the only issue. Affordability is also a major problem. Accordingly, the Commission should allow the type of special construction proposed here only if the provider guarantees affordable prices for a significant number of years. (The broadband cost data USAC will collect as part of the July Order should be used to help determine what are “reasonable” rates charged by providers.)

5. **Take All Other Steps Necessary in this Proceeding to Ensure that No Libraries and Schools are Left Behind.** The Commission needs to work closely with applicants and providers to ensure that this proceeding results in more than words on a page for those libraries and schools that, to-date, have been left behind. Instead, this proceeding must

---

lead to the type of broadband connectivity that they desperately need, but simply do not have. It is not enough to claim success here, we actually have to achieve it.

To be clear, the construction that is referenced above may be fiber, but it also may be newer technologies, whether they exist today or may exist tomorrow, that accomplish the goals. We are not wedded to fiber as the solution in each instance. What we are wedded to is having a viable solution.

IV. Determine the Future Funding Needs of the E-rate Program Through a Data-driven Framework of the Broadband Gap for Libraries

Setting a framework for cost modeling for libraries

ALA supports the concept of a “whole network” approach such that the E-rate program ensures robust capacity both to and within libraries and schools—all libraries and school regardless of geographic location. In determining an adequate program funding size, the Commission must continue to review the program’s goals for connectivity in both elements in connecting libraries and schools to high-capacity broadband. These comments provide a framework for how we conceptualize the data for libraries.

There are two phases that influence funding needs. The first phase is the ramp up to the higher level of connectivity. Thus, the start-up (one-time) costs are incurred, including both expenses involved in getting improved connectivity to the library, as well as inside the library equipment expenses. The second phase is the post-upgrade period, when a possibly higher monthly expense will need to be sustained, with further upgrades in future years. It is worth noting that while the current eligible costs for C2 cover the essential services for Wi-Fi, some of the libraries in this category may, in fact, require additional C2 services to maintain a higher
level of connectivity.

ALА, in collaboration with key partners, is working to identify much of this data. Optimally, we will be able to be more granular in the analysis to distinguish between libraries in highly-competitive broadband markets to less-competitive ones, with the corresponding differences in prices and barriers to reaching the Commission’s broadband goals. In the coming weeks, we expect to provide some data to answer the ultimate question of how much it will cost to bring U.S. libraries to the 100 Mbps / 1 Gbps goals.

Our data research will reflect various influencing factors as to the costs for libraries to increase their broadband capacity. Libraries range in need from those that have a fiber connection but are not yet at the library capacity goals or are heavily impacted by high-density usage, to those where high-capacity broadband is available within a relatively short distance, to those libraries where there are significant geographical barriers to providing fiber or other high-capacity broadband infrastructure.

V. **Encouraging Consortia Applications and Other Cost-Effective Measures**

In the FNPRM the Commission seeks ways in which it can modify existing rules or craft new rules to encourage more schools and libraries to participate in consortium applications.

Before addressing the specific consortium proposals, we think it very important to first note that one of the largest barriers to consortium participation is the often lengthy and onerous application review process. We appreciate the Commission’s recognition of this issue in the July Order (¶169) and its commitment to prioritize application review for state and regional consortia applicants. However, we are concerned that some of the proposals in the FNPRM will discourage consortia participation by making the process more complex, not less so. This will then likely
result in more time-consuming application review processes and further delays in getting a funding commitment, notwithstanding the language in paragraph 169. We have identified what we see as disincentives to form consortia in our comments immediately below.

Discount methodology for libraries

We understand the Commission’s desire to make consortia discounts more equitable by adopting a weighted average of its members to determine a consortium’s discount rate. However, we think that this added complexity will likely disincent consortium participation. And regarding libraries, the proposed use of an arbitrary figure—where 50 square feet of space equals one student—will cause more confusion than clarity and not result in more consortium participation. We think use of other library metrics, such as number of patrons or size of the collection, are similarly fraught with added complexity. A simpler option is to stay with the current method to determine consortia discounts. We believe that gains made by increasing accuracy which is possible through the Commission’s proposal would be outweighed by the costs associated with increased complexity. It would also undermine the Commission’s goal #3 on program simplification.

The proposal in paragraph 290 to group together consortium members who share the same discount rate will also introduce added work and complexity. The Commission correctly asks if grouping discounts by funding request will be “too administratively burdensome for consortium leads?” We very much think it will and thus do not support a “grouping” mandate.

Encouraging consortia participation

The Commission correctly notes (¶285) that consortia can result in reduced prices for E-rate eligible services. We think it important to place the emphasis on “can” reduce prices because
we are aware of situations in which this has not always occurred. There are also legal and logistical issues that often simply make it impossible for applicants to form new consortia or join existing ones. We mention this as a way to simply emphasize that a decision to join or not join a consortium must remain with the local library or school. ALA, and we’re certain the applicant community, will strongly oppose any regulatory trend towards mandating consortium participation.

In another attempt to encourage consortium participation, the Commission proposes (¶293) that applicants be required to consider all master contracts available to them that include services the library or school seeks. We know of no easy way to ensure that applicants are aware of all possible master contracts. Will the Schools and Libraries Division (SLD) maintain such a “master” list? And what if the terms of any given master contract conflict with local procurement processes? In brief, this proposal will not encourage consortium applications. It is unworkable and is a clear violation of the E-rate’s goal #3 to simplify the program.

We think the proposal by the Education Coalition—that consortia meeting certain requirements get an added 5 percent discount—has merit (¶294). In general we support this added funding but do not think that qualifying consortia should need to meet all five conditions as stated. Requiring this will severely limit the applicability of this otherwise worthy proposal.

In regard to the requirements, we make the following comments or suggestions:

- Requirement #1: This requirement makes no reference to libraries. To remedy this we propose that a qualifying consortium serve at least 30% of the libraries in the state or be designated as a consortium by the state library agency.
- Requirement #2: We assume reference to “document the participation of individual entities” can be made via a letter of agency (LOA) or by simply listing each consortium member on the Form 471. (Both of these forms of documentation are already familiar to applicants.)
• Requirement #3: We do not know how “a level of governance” will be defined and think this opens a consortium to endless inquiries by the SLD’s Program Integrity Assurance (PIA) unit. Thus we oppose this requirement as burdensome and unnecessary.

• Requirement #4: As with requirement #3, we do not know how a requirement to “perform large-scale” procurements will be defined. It is assumed that the consortium will procure E-rate eligible services for members of the consortia so why is this requirement needed? Thus as with #3, we oppose requirement #4 as burdensome and unnecessary.

• Requirement #5: We assume the reference to “open participation to all eligible schools and libraries” means to open such participation statewide. We oppose this requirement because there will be some consortia that for understandable reasons are very viable at a regional level but cannot scale-up statewide.

   Large consortia applications take considerable time and staff resources to organize and manage. Thus to cover these administrative costs we propose that of the added 5 percent increase in the discount that 1 percent of this be allocated to the lead consortium entity that files the E-rate Form 471.

   We do think that allowing private-sector entities to join E-rate consortia should be allowed (¶296). The cost allocation requirement now in place to remove non-E-rate eligible public sector entities will suffice to address participation by private-sector entities.

Ensuring that multi-year contracts are efficient

   We agree that it can be difficult to determine the optimal time frame for multi-year contracts. Too short a time frame will likely result in larger per unit pricing while longer contracts often result in a lower per unit price but then lock-in the applicant to those prices. The Commission proposes (¶271) to limit contracts to a five-year maximum, including any voluntary extensions. We propose a seven-year maximum, including any voluntary extensions. To help address concerns about being locked in to specific prices for seven years, we further propose that

Comments of the American Library Association

September 15, 2014
any contracts of a six- or seven-year duration have a mandatory service cost review provision in year five. Such a provision will allow applicants to revisit pricing issues with their provider and comports with the Commission’s own reference to this in paragraph 275.

Our support of a seven-year contract maximum is based on the long procurement cycle that many states have for large State Master Contracts (SMCs). The Commission references the length of SMCs in ¶274. It is not unusual for such procurements to take two years or more, from initial formulation of needs to actual contract signing. If the state must then make major changes in its network, these require additional time to implement. Considering this, we think a five-year contract maximum may place some states in almost a perpetual procurement and implementation process and thus we advocate for a seven year contract maximum.

The Commission’s language in its July Order (¶191) stipulates that when the applicant has a multi-year contract no longer than five years that the simplified application review process be available. In support of our above position, we request that the simplified application review process apply to contracts up to seven years.

The Commission seeks comment (¶278) on whether it should “grandfather” existing contracts that exceed whatever maximum contract length the FCC will mandate. Yes, existing contracts were signed in good faith when no contract length rule existed and to not grandfather these contracts will create major problems.

VI. Additonal Improvements to Increase the Success and Sustainability of the E-rate Program

Balance efforts to prevent waste, fraud, and abuse with applicant burden

This is an issue on which ALA has commented frequently but we are obligated to restate our firm conviction, and one that we are confident is shared by the applicant community, that
changes made to the E-rate program must be carefully weighed in relationship to the potential for unintentional additional applicant burden. The record is replete with comments that describe the complexity of the program as a deterrent to libraries and schools participating in the program. The Commission clearly understands this issue as simplification is goal number 3. Among the library state E-rate coordinators there are continued concerns we again raise here. The E-rate program is like a toothpaste tube: when you push on one aspect of it the impact shows up somewhere else and the impact is not always beneficial.

ALA supports the need to ensure the integrity of the E-rate program and acknowledges that this is an essential part of the Commission’s responsibility as stewards of public funds. However, we find that requiring a 10 year document retention period for all applicants is extreme. We suggest that the Commission consider a 5 year retention period for *de minimis* funding requests (e.g., under $5,000). The Commission has acknowledged that applicant burden can be a significant deterrent to participating in the program, especially for smaller libraries and schools. We respectfully ask the Commission to be consistent in these instances of balancing applicant burden with program integrity.

*Create a balanced Program Integrity Assurance review process*

Nearly a decade of data show us that program complexity is a leading barrier to library participation in the E-rate program.¹³ The record also shows that this issue crosses to school applicants as well. We recognize the substantial effort the Commission has made to improve both the application process and the administration of the program. There is an additional area

---

where we offer further suggestions for addressing program complexity: review and revise the Program Integrity Assurance review process. ALA’s E-rate Task Force and the State E-rate Coordinators in state library agencies, repeatedly provide evidence that the PIA review process leads to prolonged delays in disbursing committed funds. For example only:

We heard directly from a library director in Wisconsin who voiced frustration stating, "There are times when I thought the E-rate reviewers were trying to see if I would just give up and cancel our funding request due to all the paperwork they asked me for." This was for a request for $1,100 in POTS discounts.

The timing in some states of when the National School Lunch Program (NSLP) numbers are posted require the library to use numbers from the previous year as the latest may not be posted at the time the library submits its 471. In one instance the state E-rate coordinator sent the spreadsheet with the information the library had used to the PIA reviewer though doing so did not resolve the issue. In one instance the library showed the same discount rate no matter which year of data the reviewer looked at. In another state the NSLP data is often released before the close of the window, so libraries that file early use the previous year’s data and late filers use the most current data. PIA has access to the date that the 471 was filed as well as the state Department of Education website which contains current and historical NSLP spreadsheets. The Department of Education sends the most current NSLP data to PIA. As a result it seems that repeated questions relating to this publicly-available information are unnecessary.

In other examples it appears that a library and PIA reviewer may be unclear in their communications. For example, a reviewer asked a question on a correct as submitted 471 that lead the library director to think she had made a mistake. So she changed the 470# on her 471,
which made the Contract Award Date (CAD) incorrect. Despite the fact that the previous Funding Request Number (FRN) was cited on the 471, funding was denied. The library is currently appealing the decision.

State coordinators also had questions related to the process for PIA reviewers in contacting them as compared to contacting the individual library directly. Among the state coordinators, the preference would be to inform them prior to contacting an individual library so that they are informed that there is a pending issue. For instance, one state coordinator found out that some libraries were on hold only after checking on the status of their 471. Equally important is informing the state coordinator when the reviewer is in the process of denying a FRN in order to prevent unnecessary appeals.

At the same time, another state coordinator reported that she had been asked to send official letters (via the applicant) verifying that a library is recognized by the state as eligible to participate in E-rate. Each year she sends PIA a list of all the eligible libraries, but does not have evidence that it was consulted. For example, the two requests for official letters received this year were for new branches in library systems who have participated in E-rate for many years (they were on the eligible list and have FSCS codes). Conversely the coordinator did not receive a letter request for eligibility letters recognizing libraries participating in the E-rate program for the first time nor for a library identified as ineligible that was funded.

Particularly frustrating for those who work directly with library applicants, and a real cost to the efficiency of the program is summarized like this, "As of August 2013 we are undergoing three very time consuming PIA reviews that go back two years. We spend countless hours working on these reviews which reduce the time we can spend supporting our schools and
libraries.” —Wisconsin State Network Office

A theme that runs through these examples is a need to improve the communication process between reviewers and applicants. There are likely misunderstandings on both sides. ALA respectfully suggests that the Commission work with USAC to review the PIA program to increase the efficiency of the review process and prevent undue delay in funding. One option to consider is for USAC to form a task force with applicants to receive input on improving the PIA review process.

*Recognizing specific opportunities introduced in the Order*

In line with both the Commission’s first goal and ALA’s concern for bringing those libraries furthest behind closer to the gigabit goal, we recognize the Commission’s initial attempts to find alternative solutions that in some instances could make a significant difference to libraries and schools—particularly those with the greatest need and the most challenges.

Specifically, we note the possibilities for the exemption from the Commission’s competitive bidding rules for commercially available, business-class internet access services that cost $3,600 or less for a single year.\(^\text{14}\) We are particularly pleased that the Commission requires that this service offer not only a reasonable rate but also must offer at least 100 Mbps downstream and 10 Mbps upstream and that it includes any one-time installation and equipment charges. While we appreciate the exemption for this specific service, we call on the Commission to allow for the next two funding years (i.e., 2015, 2016) an exemption from competitive bidding for business class internet service that costs $1,800 annually or less and offers a minimum of 50 Mbps downstream and 5Mbps upstream. We think this will appeal particularly to smaller

libraries which may find 50 Mbps adequate for the next two years. In addition, we ask the Commission to revisit its decision not to remove the procurement rules from *de minimus* funding requests as ALA proposed in our initial comments from September 2013. This is likely to remain an issue for those libraries that do not benefit from this exemption but still seek minimal funding.

We also take an interest in the eligibility of managed Wi-Fi for its similar potential to provide a significant difference in both the robustness of Wi-Fi connectivity in the library and the network management and support as part of the service. We agree with the Commission that in some instances a managed Wi-Fi service could help some libraries and schools increase capacity where one of the issues holding them back is the lack of dedicated IT staff to help with network diagnostics and planning for scalable growth. Furthermore, we suggest the Commission make it clear that when the library receives a managed Wi-Fi service from its internet service provider that this managed service, like the internet service itself, is a Category 1 service. We note with interest that the Commission elected to make this service eligible for only the 2015 and 2016 funding years and that it plans to evaluate the “benefits and drawbacks” from its eligibility during that time. ALA is encouraged that the Commission recognizes the potential benefit to applicants and the program as a whole of introducing new solutions while at the same time recognizing the importance of retaining the ability to review and possibly revise the impact of such changes.

Finally, we thank the Commission for introducing the school library direct connection concept into the record. Again, considering the issues many small and often rural libraries have in securing high-capacity broadband, ALA seeks to identify opportunities within the existing structure of the E-rate program save for a few modest changes. We recognize that in this instance
the record was not sufficient to completely understand which rules would be impacted by allowing these connections. We look forward to continue to build on this concept.

While ALA will do its part to make these potential solutions known among library applicants, we respectfully call on the Commission to make them known to the provider community too so that as a library seeks a bid for services, these solutions are also part of the bid responses where applicable and available. It is possible that USAC could address these specific additions to the program through its provider training and regular outreach as well as that for the applicant community.

While ALA appreciates the focus on the essential services for supporting high-capacity broadband, within the budget model for C2 services, we are not convinced that it is helpful to remove some services that were flash cut in C2. By the nature of the budget, the Commission has ensured that applicants will not be able to “overspend.” In effect, the Commission has defined parameters for spending within C2. In a specific example, as libraries—in many instances larger and urban libraries—transition to VoIP, they will, at the very least in the near term, continue to need the equipment necessary to support it. ALA respectfully suggests that the Commission consider allowing the equipment necessary for voice service to continue to be eligible under C2 on a permanent basis or throughout the phase out process adopted for voice services under C1.

VII. Ensuring Support for Libraries is Sufficient

Benefits from the two year trial approach

ALA recognizes the enormous challenge the Commission had in determining a mechanism to ensure a more equitable distribution of available funding for C2 services. Because the newly adopted system is such a radical departure from the previous funding system and a
number of commenters had significant concerns, the two year trial period will be a useful period of adjustment for applicants. The Commission can also review the new allocation system to further improve the equitable distribution of C2 funds. Within the current proceeding ALA has fully supported the concept of testing models that increase cost-effective solutions within the E-rate program and is encouraged that the Commission saw fit to build one into the Order. At this time, ALA sees no reason for the Commission to revert back to the previous allocation model for Wi-Fi and internal connections (provided that it make adjustments as warranted) as the record is clear that the previous priority system was unsuccessful and inequitable.

Reaffirming the square foot model for libraries

ALA appreciates the Commission’s extraordinary effort to ascertain a metric from which to base its formula approach for Category 2 funding for libraries. ALA submitted detailed comments previously and does not have any additional recommendations at this time. A per square foot model that includes a floor as described in the Order is an effective means to equitably allocate C2 funding to libraries. ALA respectfully reminds the Commission that although there may be additional influencing factors that affect the quality of service within the library, as to a measure, a square foot formula is easily defined and normalized across library types. It is already reported data that is publically available and therefore readily available to ensure program integrity. We do, however, remain committed to ensuring that the formula approach benefits all libraries equitably.

Avoiding program complexity

As the Commission builds the record in this matter, ALA cautions the Commission against adopting a method for allocating C2 funding to libraries that adds unnecessary
complexity to the program. To do so is in direct conflict with many of the significant changes the Commission adopted that reduce program and administrative complexities. ALA completely supports the Commission’s efforts on this front and would not want to see rules adopted in this instance that would set that progress back.

VIII. Conclusion

We encourage the Commission to adopt our foregoing recommendations as part of its modernization efforts. We look forward to continued collaboration with the Commission and appreciate its diligent efforts on behalf of the nation’s libraries and schools.

Respectfully submitted,

Emily Sheketoff
Executive Director
ALA Washington Office

Marijke Visser
Associate Director
Office for Information Technology Policy
ALA Washington Office

Alan Fishel
Senior Counsel
American Library Association
### Appendix

Reference:


<table>
<thead>
<tr>
<th>Public Library Outlets Grouped Subscribed Download Speeds, by Locale Code</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Locale Code</strong></td>
</tr>
<tr>
<td>City</td>
</tr>
<tr>
<td>Suburban</td>
</tr>
<tr>
<td>Town</td>
</tr>
<tr>
<td>Rural</td>
</tr>
<tr>
<td><strong>Overall</strong></td>
</tr>
</tbody>
</table>

Weighted missing values, n=0*

Key: - = No responses

*Insufficient data to report

** A large percentage of libraries reported “don’t know” or “not provided by provider” to this question, thus responses are not technically missing a survey response. However, download broadband connectivity was not reported for large numbers of libraries (weighted n=3,745).