



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

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Internet: <http://www.fcc.gov>  
TTY: 1-888-835-5322

DA 14-522

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## NOTICE OF REQUEST FOR ACCESS TO FCC FORM 471 ITEM 21s AND FRN-LEVEL DATA REGARDING THE PREDOMINANT SERVICE REQUESTED BY E-RATE APPLICANTS

### PLEADING CYCLE ESTABLISHED

WC Docket No. 13-184

#### Opposition Date: April 28, 2014

The Institute of Museum and Library Services (IMLS), an independent federal agency, seeks access to the information submitted by applicants in the FCC Form 471 Item 21, as well as the funding request number (FRN)-level data created by the Universal Service Administrative Company's (USAC) Program Integrity Assurance (PIA) review classifications based on the predominant service or product requested (together, the "Requested Data").<sup>1</sup>

The first portion of the request is for the data from the FCC Form 471 Item 21s, which are filed by applicants for the Schools and Libraries Universal Service Support Mechanism, known as the E-rate program.<sup>2</sup> These Item 21s provide a narrative description of products and services for which discounts are sought, as well as line item detail and the cost associated with the products and services.<sup>3</sup> The second portion of the request is created by USAC's PIA reviewers' classification of each FRN selecting the predominant service or product being requested, such as voice services.<sup>4</sup> The Commission recognizes that this disaggregated, filer-specific data may be the type of privileged or confidential commercial or financial information that should be exempt from public disclosure under 5 U.S.C. § 552(b)(4).

In general, Congress has established an objective that federal agencies, like the Commission, should share information with other federal government agencies, so long as such disclosure is not inconsistent with applicable law.<sup>5</sup> Although the Commission's regulations provide that proprietary and

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<sup>1</sup> See Letter from Carlos A. Manjarrez, Director, Office of Planning, Research and Evaluation, Institute of Museum and Library Services, to Julie Veach, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 13-184 (filed Apr. 18, 2014) (*IMLS Letter*).

<sup>2</sup> See USAC, Schools and Libraries, Item 21 Attachments, <http://www.usac.org/sl/applicants/step04/item-21.aspx> (last visited April 1, 2014).

<sup>3</sup> *Id.*

<sup>4</sup> See *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, 28 FCC Rcd 11304, 11331, para. 92 n.129 (2013).

<sup>5</sup> 44 U.S.C. § 3510.

commercially sensitive information will be withheld from public disclosure, subject to the public's right to seek disclosure under the Freedom of Information Act (FOIA) and implementing regulations,<sup>6</sup> the Commission may disclose to other federal agencies records that have been submitted to the Commission in confidence.<sup>7</sup>

In its filing, IMLS states that it is requesting this data for policy research and data analysis, to identify national needs and trends in libraries and museums, as well as to measure the impact of federal programs on these entities.<sup>8</sup> IMLS states that it will maintain the confidentiality of the data, restricting access to a minimal number of staff members.<sup>9</sup> Further, IMLS states that in the event of a demand for the data, such as a legal, investigatory, or FOIA request, IMLS will refer such request to the FCC for response to the extent permitted by law.<sup>10</sup> IMLS also states that any analysis of the Requested Data will be reported in the aggregate, with no public release of the company-specific data.<sup>11</sup>

Pursuant to the Commission's regulations, affected parties have until April 28, 2014 to submit an opposition to the disclosure of the Requested Data.<sup>12</sup> If the Commission receives no opposition from affected parties within 10 days of this notice, the Commission will disclose the information requested above to IMLS. If disclosure is opposed, the procedures set forth in 47 C.F.R. § 0.442(d)(4) shall apply.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, DC 20554. Parties should also send a copy of their filings to Kate Dumouchel, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, Room 6-A236, Washington, DC 20554, or by email to [kate.dumouchel@fcc.gov](mailto:kate.dumouchel@fcc.gov). All pleadings should reference **WC Docket No. 13-184**.

Pleadings may be filed using the Commission's Electronic Comment Filing System (ECFS), or by filing paper copies.<sup>13</sup>

- **Electronic Filers:** Pleadings may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. Paper filers are strongly encouraged to contact Kate Dumouchel of the Telecommunications Access Policy Division at 202-418-1839 to inform her of their filings.

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<sup>6</sup> 5 U.S.C. § 552; 47 C.F.R. §§ 0.457(d), 0.459(d).

<sup>7</sup> 47 C.F.R. § 0.442(a) ("The acceptance [by the Commission] of materials in confidence under § 0.457 or § 0.459, or any other statute, rule or Commission order, does not preclude their disclosure to other federal agencies."); *see also* 47 C.F.R. § 0.442(d).

<sup>8</sup> *IMLS Letter* at 1.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *See* 47 C.F.R. § 0.442(d)(1), which provides that parties requesting confidential treatment of records shall have ten calendar days after notification to submit an opposition to disclosure under § 0.442.

<sup>13</sup> *See Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail).

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building. The filing hours are 8:00 a.m. to 7:00 p.m.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12<sup>th</sup> Street, SW, Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This Public Notice establishes certain procedural requirements relating to consideration of IMLS's request. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>14</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information regarding this proceeding, contact Kate Dumouchel, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, by telephone at 202-418-1839 or by email to [kate.dumouchel@fcc.gov](mailto:kate.dumouchel@fcc.gov).

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<sup>14</sup> 47 C.F.R. §§ 1.1200 *et seq.*