



Federal Communications Commission
Washington, D.C. 20554

June 8, 2020

DA 20-597

Ms. Radha Sekar
Chief Executive Officer
Universal Service Administrative Company
700 12th Street, N.W., Suite 900
Washington, D.C. 20005

Dear Ms. Sekar:

By this letter, as part of our ongoing oversight of the Universal Service Administrative Company (USAC), the Wireline Competition Bureau (WCB) and the Office of the Managing Director (OMD) provide guidance to USAC regarding its application of the Federal Communications Commission's E-Rate competitive bidding rules for funding year 2020.¹ Specifically, we reiterate the guidance previously communicated to USAC regarding the treatment of E-Rate applications for which the applicant mistakenly selected a drop-down menu option on its FCC Form 470 that did not fully reflect the services for which it intended to seek bids.²

USAC began using drop-down menu options on the FCC Form 470 to assist applicants with identifying the services for which they intend to seek bids when it introduced the E-Rate Productivity Center for funding year 2016.³ Applicants select the drop-down menu item on the FCC Form 470 that best describes the service for which they seek bids, which enables service providers to identify services they wish to bid on.⁴ For funding year 2020, the appropriate drop-down option for an applicant seeking bids for Internet access delivered to its premises is either "Leased Lit Fiber (with or without Internet access)" or "Internet Access and Transport Bundled (Non-Fiber)."⁵ The appropriate drop-down option for an applicant seeking bids on bulk Internet, which the applicant is responsible for transporting to its premises, is "Internet Access: ISP Service Only (No Transport Circuit Included)."⁶

¹ See Memorandum of Understanding Between the Federal Communications Commission and the Universal Service Administrative Company at IV.A.6 (Dec. 19, 2018).

² See Letter from Kris Anne Monteith, Chief, Wireline Competition Bureau and Mark Stephens, Director, Office of the Managing Director, to Radha Sekar, Chief Executive Officer, USAC, 34 FCC Rcd 8716 (WCB & OMD 2019) (2019 Guidance Letter).

³ See Schools and Libraries News Brief, Preparing to File FCC Form 470 for FY2016 (July 10, 2015), <https://apps.usac.org/sl/tools/news-briefs/preview.aspx?id=631>.

⁴ The Category One drop-down menu options on the funding year 2020 FCC Form 470 are: "Leased Lit Fiber (with or without internet access)," "Internet Access and Transport Bundled (Non-Fiber)," "Transport Only – No ISP Service Included (Non-Fiber)," "Internet Access: ISP Service Only (No Transport Circuit Included)," "Leased Dark Fiber and Leased Lit Fiber," "Self-Provisioned Network (Applicant Owned and Operated Network) and Services Provided Over Third-Party Networks," "Network Equipment," "Maintenance & Operations," "Cellular Data Plan/Air Card Service," and "Other." USAC, FCC Form 470 Category One Service Drop-Down Menu Reference Table (Jan. 2020), <https://www.usac.org/wp-content/uploads/e-rate/documents/Forms/FCC-Form-470-C1-Dropdown-Table.pdf> (Category One Drop-Down Menu Table).

⁵ *Id.*

⁶ *Id.*

Last year, stakeholders asserted that some funding year 2019 applicants intended to seek bids for and ultimately applied for Internet access to their premises, but mistakenly sought bids using only the “Internet Access: ISP Service Only (No Transport Circuit Included)” drop-down menu option, which applies only to bulk Internet that the applicant would be responsible for transporting to its premises.⁷ Because applicants cannot submit funding requests for services not included on the applicant’s FCC Form 470 under the Commission’s E-Rate competitive bidding rules,⁸ stakeholders expressed concerns that USAC might determine that applications impacted by this issue violate the Commission’s competitive bidding rules.⁹ Given the apparent confusion of some applicants regarding USAC’s drop-down menu options and the concerns raised by stakeholders about the treatment of their applications, we therefore provided guidance to USAC on how to apply the Commission’s competitive bidding rules with respect to this drop-down menu option for funding year 2019.¹⁰ Specifically, we directed USAC not to deny any applications or issue commitment adjustments for any application solely because the applicant selected the “Internet Access: ISP Service Only (No Transport Circuit Included)” drop-down menu option and subsequently selected on its FCC Form 471 a service that delivers Internet access to its premises. For those applications, we directed USAC not to find a competitive bidding violation so long as the applicant had otherwise complied with all of the Commission’s competitive bidding rules.

Guidance to USAC for Funding Year 2020. Given that the FCC Form 470 drop-down menu options remain unchanged for funding year 2020, applicants may continue to be confused regarding when to use the “Internet Access: ISP Service Only (No Transport Circuit Included)” drop-down menu option. To mitigate this potential confusion, and to address potential concerns, we reaffirm our previous guidance to USAC for funding year 2020. That is, for funding year 2020, we direct USAC not to deny any application or issue a commitment adjustment for any application solely because the applicant selected the “Internet Access: ISP Service Only (No Transport Circuit Included)” drop-down menu option and subsequently selected on its FCC Form 471 a service that delivers Internet access to its premises. For those applications, USAC should not find a competitive bidding violation so long as the applicant has otherwise complied with all of the Commission’s competitive bidding rules.

Public Notice Announcing Deferral of FCC Form 470 Changes Due to COVID-19. Concurrent with the release of this letter, WCB and OMD are releasing a Public Notice announcing the deferral of any changes to the FCC Form 470 drop-down menu options until funding year 2022 to allow schools and libraries to continue to focus their time and resources on responding to the COVID-19 pandemic without the added burden of having to familiarize themselves with a new form.¹¹ In the meantime, we will continue to monitor E-Rate program applicants’ use of the FCC Form 470 to determine whether additional guidance, similar to that which we provide today, is warranted for funding year 2021.

⁷ See, e.g., Letter from John Harrington, Chief Executive Officer, Funds for Learning, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 02-6, WC Docket No. 13-184, at 20 (filed Mar. 8, 2019); Letter from Debra Kriete, Chair, State E-rate Coordinators Alliance, CC Docket No. 02-6, WC Docket No. 13-184, at 2 (filed Apr. 2, 2019) (SECA April 2019 Letter); Letter from John Harrington, Chief Executive Officer, Funds for Learning, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 02-6, WC Docket No. 13-184, at 5 (filed May 5, 2019) (Funds for Learning May 2019 Letter).

⁸ See 47 CFR §§ 54.503(b)-(c).

⁹ See SECA April 2019 Letter; Funds for Learning May 2019 Letter.

¹⁰ 2019 Guidance Letter at 3.

¹¹ See *Wireline Competition Bureau and Office of the Managing Director Defer Changes to FCC Form 470 to Minimize Burdens on Schools and Libraries Impacted by COVID-19*, WC Docket No. 13-184, Public Notice, DA 20-598 (WCB rel. Jun. 8, 2020).

We trust that this guidance will be helpful to USAC in processing applications. We would be pleased to answer any questions you may have.

Sincerely,

A handwritten signature in blue ink that reads "Kris Anne Monteith". The signature is written in a cursive style with a horizontal line underneath.

Kris Anne Monteith
Chief
Wireline Competition Bureau

A handwritten signature in blue ink that reads "Mark Stephens". The signature is written in a cursive style.

Mark Stephens
Director
Office of the Managing Director