

**Before the
Federal Communications Commission
Washington, DC 20054**

In the Matter of:

Schools and Libraries Universal Service)	
Support Mechanism)	CC Docket No. 02-6
)	

**COMMENTS OF THE AMERICAN LIBRARY ASSOCIATION
IN RESPONSE TO THE JULY 1, 2010 PUBLIC NOTICE SEEKING COMMENT
ON REVISIONS TO FCC FORMS 470 AND 471 UNDER THE PAPERWORK
REDUCTION ACT (DA 10-1248)**

Introduction

The American Library Association thanks the Federal Communications Commission (FCC) for the opportunity to offer comments on proposed changes to FCC Forms 470 and 471. We understand that the current Forms 470 and 471 under OMB Control Number 3060-0806 expire in December, 2010 and that it is the intention of the Commission to seek three-year clearance from OMB for the proposed form changes after this comment period.

We appreciate the fact that the Commission is seeking revisions for the purpose of streamlining the application process, to remove outdated and unneeded questions, and to remove questions that were originally intended to assist service providers but that are no longer useful. Further, we understand that additional items are being proposed for removal that are outside the scope of the information needed for the Administrator to process E-rate applications and that the Commission is proposing the limitation of data collection to that which is not readily available through other USAC forms or review processes. We also recognize that the Commission has added the request for Federal Communications Commission Registration Numbers (FCCRNs) and for contact information for consultants.

It is unfortunate that the expiration date for the forms occurs during the same period a proceeding is underway to make other potential changes to the program and for which yet another round of forms, instructions, and corresponding system changes could be required. We recognize that making changes to forms, instructions and the corresponding downstream online systems, correspondence, procedures, etc. is a time-consuming process which requires detailed review and testing to ensure that changes have been properly and consistently made. Given that it is already July 30, 2010, it seems extremely unlikely that the changes being proposed could be effectively achieved for Funding Year 2011. In addition, it seems unlikely that any online changes would be made in time to use the training site in order to inform those filing applications for Funding Year 2011 of the changes. We are concerned about any changes that may lead to funding denials if applicants and staff are not adequately trained on the proposed changes. In fact, some applicants have already filed the existing Form 470 for Funding Year 2011 even though the web site has not been changed to allow current year filings – something that will likely cause review problems when looking at the gap of time between the Form 470 funding year and the dates that contracts are executed. The Form 470 instructions indicate the following in a text box on page 4:

“Notice will be posted each year on the SLD web site when we will begin accepting Forms 470 for posting for the upcoming funding year. It is your responsibility to check the SLD web site, or contact the SLD Client Service Bureau (CSB) – see “Assistance in Completing this Form” below – to get the announcement of the Form 471 application filing window dates. The precise timeframe for filing Form 470 depends on the kind of service you are seeking.”

We believe the rules, which allow for applications to be filed outside of the window, require that a Form 470 be available at all times. As soon as the application window closes, the Form 470 for the following year should be made available as was the case in the past.

Given the impact of changes to those filing over 42,000 applications, we once again suggest – as we did in the recently filed E-rate NPRM comments – that the Commission take a comprehensive approach to implementing changes in order to minimize any associated difficulties. Until final decisions are made as a result of the recent E-rate NPRM and the further NPRM(s) that are anticipated to be released this fall, it is difficult to make effective comments on changes to the forms.

As an example, if the Commission were to move forward with proposed changes for calculating discounts, the “application type” categories (which set the way in which discounts are calculated) listed on the proposed revised forms would no longer be accurate.

We therefore recommend that the Commission seek approval to continue with the existing forms until changes made as a result of the current and anticipated NPRMs are finalized. Depending on how quickly those decisions can be finalized by the Commission will determine whether or not timely approval can be obtained from OMB and whether there is adequate time to make corresponding form, instruction, correspondence, and system changes in time for Funding Year 2012.

Proposed Changes to the FCC Forms 470 and 471

Should the Commission feel compelled to move forward with changes under the existing rules even while recognizing that more changes will likely be forthcoming shortly and that making multiple changes to forms over a short period of time would cause additional confusion for schools and libraries, we offer the following limited comments on the proposed changes under the existing rules. Once any rule changes are finalized, we would be happy to offer more comprehensive form comments.

Form 470:

We make these comments under the assumption that the term “applicant” still refers to the entities identified in the Form 470 instructions (who may or may not be an eligible recipient of service) and not to the newly proposed definition in the recent E-rate NPRM. (See Item 5b comments below.)

Item 2: Funding Year – because the E-rate funding year, does not match with most school and library fiscal years, we believe it is important to retain the July 1, xxxx through June 30 xxxx designations which were added to avoid precisely this confusion. For example, Funding Year

2010 is typically Fiscal Year 2011. By simply using the term “funding year,” applicants are most likely to indicate 2011, since that is the current year for them, when referring to E-rate Funding Year 2010.

Item 3b: We are unaware of any reason that the FCC Registration Number (FCCRN) is needed on the Form 470 since the number is related to Debt Collection Information Act requirements. The FCCRN would not seem to be needed until the Form 471. Also, the entity filing the 470 may not be the entity filing the 471 and therefore the collection of the FCCRN appears to be meaningless on the Form 470.

Item 5a: We question whether this information is needed for any purpose on the Form 470. The primary function—besides possible data collection—is to set the correct mechanism for the corresponding discount calculations to be performed. This function occurs on the Form 471.

Item 5b: It is unclear why this newly required demographic information would be placed on the Form 470. While one would assume that this is to collect information about the applicant entity since the item is labeled “**applicant** demographics” and not to collect data about recipients of service, the instructions indicate that the information applies to “you” **and** “entities represented on this form.” This is inconsistent with item 1 which describes the applicant as follows:

“Provide the name of the applicant. You may be an individual school, a school district, a library (outlet/branch, system) or a consortium of those entities. You may also be a city, a state, or an entity created solely to participate in this universal service discount mechanism.”

Any information that is required about recipients of service should be deferred to the Form 471 since it is sometimes unknown who those recipients may be at the time of the Form 470 filing. When an applicant indicates that they are filing a 470 on behalf of “all schools” or “all libraries” or “all schools and libraries,” they may be seeking prices on their behalf but, dependent on that pricing, not all entities represented on the Form 470 may be included in Form 471 filings. We also point out that – especially for libraries – it is not immediately clear from either the form or instructions how these categories apply to all eligible library recipients of service.

Item 6b: The Commission suggests that the address provided for the contact person name in Item 6a is the person to whom correspondence about the form will be mailed. We question whether that is currently uniformly the case or whether some of the correspondence is (or should be) sent to the person authorized to sign the form. There may be good reason for sending some of the information to the authorized person rather than to a contact person who may be listed for other organizational reasons.

Item 6e: The newly added item “check here if this is the email address you want to use for correspondence with USAC” seems redundant and therefore unnecessary if the applicant checks the email address provided earlier in 6e as the preferred mode of contact when providing contact information.

Item 7: It is unclear whether the Commission is suggesting that all consultants are required to obtain a “consultant registration number.” It does not appear that “consultant” is defined in the instruction or in the rules and therefore confusion is likely to occur – as it does today during audits – about what types of consultants the FCC may be looking to identify. In some cases, consultants act as “agents” of the entities filing forms. In those cases, we understand that some documentation – including a letter of agency giving the consultant the authority to act on behalf of the entity – may be required. However, other consultants may simply provide guidance and information about the program and may even provide assistance with application preparation, but they do not file the application on behalf of the applicant, do not assume responsibility for legal certifications, and do not act as agents of the applicant. In those cases, we do not believe the collection of “consultant” information is warranted. Since the term “consultant” is not defined, we also question whether the Commission intends to include those employees in state and other agencies who provide assistance to E-rate applicants given that the instructions below simply indicate that the information is required “if a consultant is assisting you with your application.” We object to state coordinators and other public employees or consultants who do not act as agents of the entity filing an application being required to provide this information and to obtaining a consultant registration number.

“Item 7 – If a consultant is assisting you with your application, provide the consultant’s name, employer, street address, telephone number, fax, and e-mail. Also, provide the Consultant Registration Number. If the consultant does not have a Consultant Registration Number, the consultant can contact CSB to obtain one. (See “Assistance in Completing this Form” above.)”

Items 8, 9, 10, and 11: Since categories of service are critical to determining CIPA compliance, we currently support maintaining funding requests for services by category of service. However, we would like to reserve comment as to whether or not these categories are necessary on the Form 470 until a comprehensive analysis based on form changes due to newly proposed rules can be completed. Until that can be accomplished, we would support no change.

Items 8c, 9c, 10c, and 11c.: We support the removal of the box to check whether or not applicants prefer discounts on bills or reimbursements since this information is not required under the current rules until the time of the Form 471 filing.

Item 12: We do not believe this item is necessary since the Ysleta Order requires applicants to provide sufficient information in order for vendors to be able to adequately respond. Questions that might occur during the procurement phase should either be uniformly managed through the RFP process, or, where RFPs are not required or necessary, could be managed through the contact person listed in Item 6.

Item 13: We object to fixing a program problem by requiring applicants to submit additional information. Such appears to be the case by asking applicants to indicate the following:

“If you are requesting services for a funding year for which a Form 470 cannot yet be filed online, include that information here.”

Again, we believe that under the current rules, it is the obligation of the FCC and USAC to ensure that a proper Form 470 is available for filing at all times – especially in the case of those services that are likely to be contracted.

Removal of old Item 14: We support the removal of the item requesting whether “basic telephone service only” is being requested under the assumption that the Commission has other ways of identifying whether or not technology plans are currently required. This is also a good example of why making changes multiple times can be confusing. Applicants are likely to assume that the removal of this item is tied to the Commission’s position in its E-rate NPRM that, for the purpose of identifying that technology plans are not required, expanded “basic telephone service” to “basic telecommunications services” for all items currently listed in the telecommunications category of service.

Removal of old Item 15: We support the removal of this item seeking information about “necessary resources” and to identify for marketing purposes the identification of other ineligible services that the applicant may wish to procure.

Removal of old Item 16c: We support the removal of the portion of this item seeking information about the area codes and prefixes associated with recipients of service. We also believe that the portion of old Item 16c which has now been included as new Item 14f requiring that applicants provide the “Number of eligible entities for which services are sought” is not only duplicative of the quantity information contained in Items 8 through 11 and therefore unnecessary, we believe it is a “trap” into which entities often fall – especially when adding new schools or libraries in the “out” years of multi-year contract situations.

While we support the removal of any unnecessary information, we question the removal of the information in old Item 16c requesting whether the application includes ineligible entities given the corresponding rules related to allowable costs and other limitations associated with E-rate ineligible members of consortia.

Item 14: When a comprehensive analysis of forms is completed, we would ask that the Commission reconsider the rationale behind seeking the information contained in this item. We believe that it is entirely possible that this information is not necessary.

New Items 16 through 24: Consistent with previously filed comments and ex parte conversations with Commission staff, we believe that a careful analysis of certifications is required. It is essential that additional consideration be given to those certifications that may apply to consortia leads versus those that may apply to entities having the administrative authority to make such certifications. This is essential when applications cannot be filed without agreeing to the certifications and in light of the fact that certain certifications cannot reasonably be made by consortia leads or others filing applications on behalf of eligible entities given the legal penalties associated with making inaccurate claims.

Item 27f: See also our comments in Item 6b. If correspondence regarding the form is to be sent to the contact person named in Item 6, then the similar request in Item 27f seems to be at conflict since the person authorized to sign the form and the person serving as contact may not be one and the same.

Form 471:

Block 1 Title: It is unclear why the title of Block 1 has been changed.

Item 2: Funding Year: because the E-rate funding year, does not match with most school and library fiscal years, we believe it is important to retain the July 1, xxxx through June 30 xxxx designations which were added to avoid precisely this confusion. For example, Funding Year 2010 is typically Fiscal Year 2011. By simply putting the term “funding year,” applicants are most likely to indicate 2011, since that is the current year for them, when talking about E-rate Funding Year 2010.

Item 5a: For application type “consortium,” the added examples may create more confusion because they are not comprehensive and raise questions as to what is meant by “special consortia.” These application categories will need to change again if the proposed changes in the latest E-rate NPRM regarding discount calculations are implemented.

Item 5b: While our comments on the Form 470 indicate that any demographic information required about recipients of service is more appropriate on the Form 471 than on the Form 470, we question the value of adding this information at all. There is no explanation as to the intended use or purpose for collecting this information which we again point out does not appear to be comprehensive.

Item 6b: The Commission suggests that the address provided for the contact person name in Item 6a is the person to whom correspondence about the form will be mailed. We question whether that is currently uniformly the case or whether some of the correspondence is (or should be) sent to the person authorized to sign the form. There may be good reason for sending some of the information to the authorized person rather than to a contact person who may be listed for other organizational reasons.

Item 6e: The newly added item “check here if this is the email address you want to use for correspondence with USAC” seems redundant and therefore unnecessary if the applicant checks the email address provided earlier in 6e as the preferred mode of contact when providing contact information.

Item 6g: It is unclear whether the Commission is suggesting that all consultants are required to obtain a “consultant registration number.” It does not appear that “consultant” is defined in the instructions or in the rules and therefore confusion is likely to occur – as it does today during audits – about what types of consultants the FCC may be seeking to identify. In some cases, consultants act as “agents” of the entities filing forms. In those cases, we understand that some documentation including a letter of agency giving the consultant the authority to act on behalf of the entity – may be required. However, other consultants may simply provide guidance and information about the program and may even provide assistance with application preparation, but they may do not file the application on behalf of the applicant, do not assume responsibility for legal certifications, and do not act as agents of the applicant. In those cases, we do not believe the collection of “consultant” information is warranted. Since the term “consultant” is not defined, we also question whether the Commission intends to include those employees in state and other agencies who provide assistance to E-rate applicants given that the instructions (see

below) simply indicate that the information is required “if a consultant is assisting you with your application.” We object to state coordinators and other public employees or consultants who do not act as agents of the entity filing an application being required to provide this information and to obtaining a consultant registration number.

Item 7: The information requested in Item 7 is of little practical use given that applicants file multiple Forms 471 and the instructions indicate that applicants are to complete the information on every Form 471 that is filed. While we understand that the Commission includes the direction in the instructions that the information is to be included “for the services requested on that form,” it is unlikely that those distinctions will be made by applicants. In addition, given that multiple FRNs representing multiple services can be requested on any Form 471, we further question the validity of the data being collected in this way. We recognize the value of collecting data – especially related to broadband services – but we do not believe this approach will produce accurate information.

We appreciate that the “before order” and “after order” distinctions have been removed.

Block 4: There are many issues associated with the proposed changes in Block 4 for which a comprehensive review is necessary. It appears as though attempts are made to take into consideration newly proposed rules with regard to discount calculations. It does not begin to address the issues raised in comments about site specific or shared services, does not address issues related to application type and methodology for discount calculations, and further makes complex the “non-instructional facility” language in the context of libraries – language which was coined in the last couple of years but which addresses administrative facility issues.

Block 5, Items 10-20 and 22, 23: We did not note any changes being made to these items.

Block 5, Item 21: As the Commission knows, Item 21 information was previously required to be submitted within the application window. It was the Commission who granted appeals for those applicants who missed the filing deadlines due to late-filed Item 21(s) and then subsequently removed the Item 21 submission as a condition of timely application filing within the window. It is our assumption that the reasons the Commission made the change to allow

Item 21(s) to be filed after the window closing are still valid. Since the Commission doesn't even require Form 471 certifications to be filed by the close of the window but rather requires USAC to notify applicants when that occurs, it seems likely that the Commission would also require USAC to notify applicants of Item 21(s) not being filed within the application window. This seems like more work, not less. There are also practical reasons why filing the Item 21 within the window is sometimes difficult including the fact that service providers often push the execution of contracts to the last minute given the high volume of work that is required during the application window period which would make it even more difficult for applicants to complete the filing of Item 21(s) within the window. It is also the case that the online system operates much slower toward the close of the window which would make it even more difficult for applicants to timely file Item 21(s) within the window.

If the rationale behind moving Item 21 submissions back inside the window is to expedite processing, then perhaps it would be useful to set some absolute deadline by which Item 21(s) are due, but outside the window.

Items 24-37: Consistent with previously filed comments and ex parte conversations with Commission staff, we believe that a careful analysis of certifications is required. It is essential that additional consideration be given to those certifications that may apply to consortia leads versus those that may apply to entities having the administrative authority to make such certifications. This is essential when applications cannot be filed without agreeing to the certifications and in light of the fact that certain certifications cannot reasonably be made by consortia leads or others filing applications on behalf of eligible entities given the legal penalties associated with making inaccurate claims.

Item 41: If consultants are allowed to "authorize" the legal certifications made on the Form 471, we believe it may be important to provide training and/or guidance to the billed entity as to what transferring their authority or that of the entities they represent may mean. We recognize that this already occurs in some cases today but, once the form is explicit about this opportunity, we believe it may be valuable to discuss the issues associated with allowing others outside the billed entity's organization to make the legal certifications.

Item 42d: See also our comments in Item 6b. If correspondence regarding the form is to be sent to the contact person named in Item 6, then the similar request in Item 27f seems to be in conflict since the person authorized to sign the form and the person serving as contact may not be one and the same.

Summary

We once again would like to thank the Commission for their continued efforts to streamline and improve the application processes. However, since any program change is difficult to administer given that over 42,000 applications are filed, and since timing is key to being able to effectively administer changes, we suggest that the Commission take a more comprehensive approach in the days and weeks ahead to making any program changes – including changes to rules and to forms. We believe a more comprehensive approach, if undertaken significantly in advance of deadlines, will better serve applicants.

Respectfully submitted,



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