Summary: American Library Association E-rate Modernization Comments as Submitted September 15, 2014 (WC Docket No. 13-184)

Below is a summary of the comments the American Library Association filed with the Federal Communications Commission (FCC) on September 15, 2014 in the matter of modernizing the E-rate program for libraries and schools. The full version of the comments can be viewed here.

I. Summary

The American Library Association continues to fully support the FCC’s ongoing E-rate modernization proceeding. The FCC must build upon the progress it has made in the proceeding to date by successfully addressing the outstanding issues contained in the Further Notice of Proposed Rulemaking (FNPRM). The Commission’s July Order focused on building Wi-Fi capacity for libraries and schools. While there is merit in pursuing this goal, libraries and schools cannot take advantage of robust Wi-Fi without strong connectivity to their buildings. Therefore, moving forward, the FCC should focus its efforts on: 1) closing the broadband gap for libraries by clarifying the program’s amortization rules and reforming its rules pertaining to special construction; 2) determining the future funding needs of E-rate through careful analysis of cost data (ALA is currently undertaking and coordinating research that will address the costs necessary for libraries to achieve the Commission’s capacity goals for libraries); and improving the program’s cost-efficiency by reforming its rules for consortia.

II. Introduction

ALA appreciates the measures the FCC has taken to simplify the E-rate application process and improve access to robust Wi-Fi for libraries and schools. We now urge the FCC to make good on its commitment to increasing the availability of affordable broadband to libraries and schools. Current data illustrate that the majority of libraries do not have a fiber connection and that half of all libraries are at just 10 mbps—just 1% of the FCC’s gigabit goal! The order resulting from the FNPRM must address these unacceptable realities. Additionally, we urge the FCC to provide the E-rate program with the funding it needs to accomplish the broadband goals. Although the comments that follow address the FCC’s latest set of E-rate modernization questions, our fundamental goal for the E-rate modernization process remains the same as it has been from the outset: increasing the percentage of libraries with affordable, high-capacity broadband.

III. Addressing the Broadband Gap in Libraries and Schools

Libraries in every part of this country currently lack the broadband capacity they need to offer their patrons important—and often essential—services. In fact, statistics show that the need for increased capacity is as great as—if not greater than—it has ever been in rural, suburban and urban libraries alike, and that the need for increased capacity in rural libraries is especially significant. 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. Urban libraries are no less challenged. In city libraries with dense service areas, large
numbers of public computers (an average of 41 per building) and high uses of wired and wireless internet access, inadequate internet speeds constrain the delivery of important library services.

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. The lack of broadband capacity among libraries is not just problematic, it is unacceptable. Many within our communities rely on their local libraries and schools for access to broadband-enabled technologies that enhance education, facilitate the ease of accessing government services and empower entrepreneurs. Simply put, strong, scalable library and school broadband is a lifeline for people everywhere. The July E-rate order took meaningful steps to help libraries and schools build broadband capacity within the walls of their facilities. The success of the E-rate modernization process now depends upon the FCC taking similarly meaningful steps in its next order to help libraries and schools bring higher broadband capacity to the doors of their facilities. Failing to help libraries and schools build capacity to their doors makes no sense; it is akin to issuing a driveway order without also issuing a street order. Driveways, without streets to connect them, serve no purpose.

ALA recommends several specific steps the FCC can take that could immediately address the broadband gap among libraries. To ensure that these steps are both cost-effective and sustainable, ALA also recommends that the next order include “double cap protection” relating to special construction. That is, the Commission should, 1) place a cap on how much any one applicant can spend in a year relating to special construction; 2) determine a reasonable cap for the percentage of the fund that can be used for special construction. ALA also recommends that the FCC make a number of other specific reforms, including:

1) **Clarifying E-rate amortization rules** (The FCC should decide how and when payments must be amortized, instead of leaving these decisions up to USAC)

2) **Eliminating the ban on special construction for dark fiber**

3) **Allowing longer term contracts where there is special construction involved**

4) **Requiring service providers to lock in affordable prices for a significant number of years for agreements involving special construction**

5) **Take all other steps necessary in this proceeding to ensure that no libraries and schools are left behind**

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

ALA firmly suggests that for the FCC’s next order to be successful in helping schools and libraries build capacity, it must include an increase in the overall size of the fund. ALA is working with partners to collect data that will help the Commission ascertain the level at which E-rate must be funded in order to help all libraries and schools improve connectivity in the short-term and continue to make upgrades to capacity and equipment in future years. ALA hopes to collect data that is granular enough to shed light on the differences in prices and barriers to obtaining improved connectivity between libraries in less competitive broadband markets and those in more competitive broadband markets. In the coming weeks, we expect to provide data that will help to answer the question of how much it will cost to bring U.S. libraries to the 100
mbps/1 gigabit goals. Our data will reflect the fact that various geographic and demographic factors determine the costs a library must incur for increased connectivity.

V. Encouraging Consortia Applications and Other Cost-Effective Measures

**Discount methodology for libraries**

We appreciate the fact that the FCC recognizes that one of the most significant barriers to consortia participation is the lengthy application review process. However, we are concerned that some of the proposals for increasing consortia participation will actually make such participation more complex. Those proposals include: 1) The adoption of a weighted participant average formula for determining consortium discount rates; 2) The grouping together of consortium members who share the same discount rate; 3) The requirement of applicants to consider all master contracts available to them that include services the library or school seeks.

**Encouraging consortia participation**

The Education Coalition proposes that consortia meeting certain criteria receive an added 5% discount. While we do not agree with all of the Education Coalition’s criteria for receiving the added discount, we support a modified version of their proposal: An added 5% discount for qualifying consortia, with 1% of the added discount going to the lead consortium entity in order to cover the administrative costs associated with the consortium organizing and application process. Additionally, ALA feels that private sector entities should be allowed to join E-rate consortia provided they adhere to the cost allocation requirements.

**Ensuring that multi-year contracts are efficient**

We agree with the FCC that it is difficult to determine the optimal time-frame for multiple-year contracts. We propose a seven-year maximum, with voluntary extensions. We also propose that any contracts of a six- or seven-year duration have a mandatory service cost review provision in year five. 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). We request that the simplified application review process that now applies to contracts of up to five years be amended to apply to contracts up to seven years.

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

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

ALA and the state E-rate coordinators fully support the goal of rooting out waste, fraud and abuse within the E-rate program. However, ALA finds 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).

**Create a balanced Program Integrity Assurance review process**

ALA supports a review and revision of the Program Integrity Assurance (PIA) 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 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. Additionally, anecdotal evidence from libraries and state coordinator offices across the country illustrates a need to improve the communication process between reviewers and applicants.

Recognizing specific opportunities introduced in the Order

We appreciate the effort the Commission makes in the July Order to find creative ways to help libraries that are furthest behind improve capacity to and within their walls. 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. We appreciate the exemption for this specific service, but we ask the Commission to allow a two-year 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. Additionally, we appreciate that the order deems managed Wi-Fi an eligible service. We ask the Commission to make it clear that when the library receives a managed Wi-Fi service from its internet service provider that this managed service is a Category 1 service. Furthermore, we thank the Commission for introducing the school library direct connection concept into the record. Lastly, ALA wishes to state for the record that we are not convinced that it is helpful to remove some C2 services that were flash cut in the July Order.

VII. Ensuring Support for Libraries is Sufficient

Benefitting from the two year trial approach

ALA believes that the two-year trial period for the new C2 funding formula 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. At this time ALA Sees no reason to revert back to the previous allocation system at the end of the two year period.

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.

Moving Forward

As the E-rate modernization process continues, ALA will remain engaged with stakeholders and the FCC. We look forward to helping the FCC fashion an order that benefits all libraries in the coming months.