



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 21-455, CC Docket No. 02-6; FCC 26-30; FR ID 345648]

Promoting Fair and Open Competitive Bidding in the E-Rate Program; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) takes action to reinforce the success and integrity of the E-Rate program by establishing a competitive bidding portal and document repository to strengthen the E-Rate program's competitive bidding rules as well as other actions to simplify and streamline program processes and procedures for E-Rate participants. In addition, the Commission adopts changes to streamline and simplify the E-Rate program while maintaining the integrity of the program and grant an Order on Reconsideration. These actions will provide greater transparency into the applicants' competitive bidding and bid evaluation and selection processes, and protect the program against waste, fraud, and abuse.

DATES: Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], except for amendatory instructions 4 and 5 which are delayed indefinitely. The Commission will publish a document in the *Federal Register* announcing the effective date for those sections.

FOR FURTHER INFORMATION CONTACT: For further information, please contact, Jennifer Mensah, Telecommunications Access Policy Division, Wireline Competition Bureau, at Jennifer.Mensah@fcc.gov or (202) 418-1387 or TTY: (202) 418-0484. Requests for accommodations should be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order (*Report and Order*) and Order on Reconsideration in WC Docket No. 21-455, CC Docket No. 02-6; FCC

26-30, adopted on April 30, 2026 and released on May 1, 2026. The full text of this document is available at the following Internet address: <https://docs.fcc.gov/public/attachments/FCC-26-30A1.pdf>.

I. INTRODUCTION

The Federal Communications Commission (Commission) is committed to strengthening the integrity of the E-Rate program—formally known as the schools and libraries universal service support mechanism—and protecting limited E-Rate funds against waste, fraud, and abuse. We take action to reinforce the success and integrity of the E-Rate program by establishing a competitive bidding portal and document repository to strengthen the E-Rate program’s competitive bidding rules as well as other actions to simplify and streamline program processes and procedures for E-Rate participants.

Beginning in funding year (FY) 2028, service providers will be required to respond to applicants’ FCC Form 470 requests for services by submitting their bids into a Universal Service Administrative Company (USAC)-managed bidding portal, and applicants will be required to upload all bid evaluation and vendor selection documents, including contracts, to the portal after they select their service providers. The E-Rate program’s competitive bidding requirements reflect the Commission’s determination that competition is the most efficient and effective means to ensure that applicants can receive and select the most cost-effective service offerings. The Commission has long held that a fair and open competitive bidding process is a cornerstone of and fundamental to the integrity of the E-Rate program. In addition, we adopt changes to streamline and simplify the E-Rate program while maintaining the integrity of the program and grant an Order on Reconsideration. These actions will provide greater transparency into the applicants’ competitive bidding and bid evaluation and selection processes, and protect the program against waste, fraud, and abuse.

II. REPORT AND ORDER

In this *Report and Order*, we take steps to both strengthen the integrity of the E-Rate program and simplify and improve program administration. Recognizing the Commission’s recent achievements in addressing and managing fraud risks in the E-Rate program, and mindful of the need to balance effective oversight of the program with minimizing unnecessary administrative burdens, the measures we take are aimed at refining and improving certain aspects of the program, while tightening our oversight of the competitive bidding process. To that end, we first adopt our proposal to establish a competitive bidding

portal, which will strengthen program integrity by increasing transparency and reducing reliance on self-certifications and will be effective for funding year 2028. Under the competitive bidding portal rules adopted, we will require: (1) prospective service providers to respond to applicants' FCC Forms 470 by submitting their bids into the USAC-managed portal; and (2) applicants to upload their bid evaluation and vendor selection documentation, including contract(s), after selecting their service provider(s). In addition, we take steps to simplify and streamline program rules and administration to improve how applicants transition services during the funding year; clarify cost allocation rules and procedures; provide competitive bidding guidance; eliminate a program form; modify the invoice filing deadline rules; and update E-Rate program definitions. Each of these issues have caused challenges for applicants in applying for and receiving funding for eligible services, and we anticipate that these changes will simplify E-Rate procedures and processes.

Based on the record and pursuant to our authority under section 254 of the Communications Act, we adopt the Commission's proposal to require applicants and service providers to use a competitive bidding portal and document repository during the E-Rate procurement process. In the *Promoting Competitive Bidding NPRM*, 87 FR 4182, January 27, 2021, the Commission proposed to "require prospective service providers to respond to applicant requests for services and equipment by uploading bids into a bidding portal managed by USAC, rather than submitting bids directly to applicants." The Commission also sought comment on whether the competitive bidding portal should be used as a repository to store documentation associated with the FCC Form 470 requests and competitive bidding process. We discuss these new requirements.

Specifically, beginning with funding year 2028, we will require service providers to submit their bids in response to applicants' FCC Forms 470 into a USAC-managed competitive bidding portal. Applicants, in turn, will be required to use the bidding portal for bidder communications and updates during the competitive bidding process and then must upload bid evaluation and vendor selection documentation with their FCC Form 471 applications. Applicants will also be required to upload contracts and award documentation, to the extent that they are not already doing so. We direct USAC, under the direction and oversight of the Wireline Competition Bureau (Bureau) and the Commission's Office of the Managing Director (OMD), to develop and implement the competitive bidding portal and

leverage USAC's existing web-based account and application management portal, known as the E-Rate Productivity Center (EPC), for this purpose. We also direct the Bureau, working with OMD and other Commission staff, to provide clarification and guidance in the case of any ambiguity that may arise during the implementation of the competitive bidding portal. Additionally, we direct USAC to enhance training and outreach materials, under the oversight of the Bureau, to better assist participants with complying with the Commission's E-Rate competitive bidding rules, including the use of the new bidding portal functionality in EPC. We also direct USAC, at the direction of the Bureau, to add guidance on their website and seek stakeholder feedback on the technical aspects of portal functionality during the development via means that will provide constructive input. Stakeholders proposed multiple methods to provide feedback and some commenters requested specific portal functionality. We find directing USAC, under the oversight of the Bureau, to solicit direct feedback from stakeholders through interactive feedback sessions to be the most effective approach for implementing the portal and ensuring its successful use before going live. We agree with commenters that user testing and training will provide valuable input for developing and launching the competitive bidding portal. We conclude that these methods allow USAC to demonstrate portal functionality, which in turn supports more informed stakeholder discussions and specific clarification questions. To promote maximum effectiveness and smooth implementation and administration of the competitive bidding portal, we also delegate to the Bureau the authority to address and resolve unforeseen administrative issues or problems, provided that doing so is not inconsistent with the decisions we reach here.

Benefits to the New Approach. First, we find that a competitive bidding portal will help ensure a more fair and open competitive bidding process by increasing visibility and transparency into bidding information received during the E-Rate competitive bidding process. As noted in the 2020 United States Government Accountability Office (GAO) E-Rate report, a competitive bidding portal would strengthen E-Rate program controls and increase transparency by "allowing USAC direct access to obtain and monitor bidding information submitted by bidders without having to request such information." The Commission's Office of Inspector General (OIG) similarly explained that "submission of service provider bids prior to bid selection prevents a service provider or applicant from submitting an altered bid or contract to USAC . . . to create the appearance of compliance." We agree and further conclude that this

increased transparency will give USAC and the Commission direct and instant insight into the competitive bidding process to reduce opportunities for potential bid collusion and the submission of sham or altered bids, thereby protecting the E-Rate program from waste, fraud, and abuse. We agree with several commenters that suggest the portal and the insight gained from having direct access to this competitive bidding documentation and information could lead to a more fair and open process and reduce potential waste. Additionally, we find that the competitive bidding portal and repository would streamline program administration by providing USAC and the Commission with direct access to the bids and competitive bidding documentation, which, in turn, would make reviews more efficient. Moreover, a competitive bidding portal and an associated repository will streamline both applicant and service provider document retention and other requirements, simplifying review in many cases, while requiring only that applicants simply upload documents they are already required to retain and produce through a portal that is integrated with EPC, a system E-Rate program participants are accustomed to using. The document repository will alleviate the burden imposed by recordkeeping requirements on applicants and service providers by preserving retrievable documents in the repository. Finally, the competitive bidding portal will bolster “more robust enforcement of laws designed to protect the E-Rate program’s public procurement process” by preserving the integrity of source documents and ensuring that pre-award bid and bid selection documents remain “unaltered and available to auditors and investigators.”

We disagree with commenters that contend that such a portal or repository is unnecessary, or that it would not reduce waste, fraud, or abuse. Some commenters suggest a lack of sufficient justification, others suggest the current rules provide sufficient protection, while still others worry that the new requirements will be overly burdensome for E-Rate program participants. As recent OIG and U.S. Department of Justice (DOJ) criminal investigations into the program have shown, fraud remains a problem, and we believe that establishing a portal and associated repository will reduce opportunities for fraud. As noted by both OIG and the GAO, the Commission’s ability to detect and deter fraud has historically been limited by its lack of direct access to underlying competitive bidding documentation. Access to the real-time submission of competitive bidding documentation will assist in uncovering fraud, simplifying reviews, ensuring program compliance, and reducing the potential for waste, fraud, and abuse. Enhanced fraud detection will also deter program participants from violating the rules. As

stewards of limited universal service funds, we have a responsibility to identify ways to prevent bad actors from participating in the E-Rate program and ensure program participants continue to comply with our rules. We find that the competitive bidding portal and repository we adopt furthers this objective.

Although how prospective bidders will respond to applicants' FCC Forms 470 will change based on the actions we take, on balance, we expect that imposing these new requirements will significantly benefit program integrity. While requiring applicants and service providers to submit documentation that they are already required to maintain and produce pursuant to § 54.516(a)-(b) of the Commission's rules into a competitive bidding portal changes how and where program participants are required to submit this information, we find that it will not impose a substantial burden on program participants. Applicants are already required to post their FCC Form 470 on USAC's website in addition to uploading the form to any state bidding portal that may also be required. Additionally, certain E-Rate participants are already accustomed to uploading the documentation into an online portal or repository, and uploading the documentation into the USAC-managed competitive bidding portal integrated with EPC should not be a significant burden. We agree with the OIG that "as service providers are already required to submit bids and [applicants] are already required to compile and maintain bid submissions, providing for the submission of such data to USAC initially should not result in more than de minimis additional costs or additional burdens to either service providers or [] applicants." Moreover, the document repository will reduce burdens for applicants and service providers with meeting recordkeeping and production requirements because the competitive bidding documentation will be available to USAC and the Commission through the portal. E-Rate participants will no longer need to separately retain documentation uploaded to the portal, and USAC and the Commission will be able to obtain competitive bidding documentation directly through the portal instead of through document requests to applicants and service providers. We agree with the National School Board Association (NSBA) that "[m]aximizing the program's impact on school and classroom broadband connectivity rates, while ensuring that bad actors are unable to defraud the program and ratepayers must be a high priority for policymakers." We also agree with commenter Juniper Networks that a bidding portal "would lead to a more fair, open, and competitive bidding process" and with Infinity Communications & Consultants, Inc. that it would "reinforce the bidding process set forth in the E-Rate rules and lead to lower instances of bid protests or

questions of bid efficacy.” In weighing the concerns about the competitive bidding portal against the benefits of limiting the risk for potential waste, fraud, or abuse, we conclude that the benefits weigh in favor of creating the competitive bidding portal and repository.

We reject commenters’ views that state and local procurement requirements alone are sufficient to protect the integrity of the E-Rate program. Our experience over the years has shown that certain E-Rate applicants, including private and charter schools and private libraries, are exempt from, or otherwise not subject to, state and local procurement rules. Moreover, the Commission, as steward of E-Rate funding, has both the most direct stake in ensuring that the limited program funds are protected and not misused, and it has the unique ability to tailor E-Rate program rules based on insight into how the program operates across all states and localities. While state and local procurement requirements play an important role in ensuring that E-Rate funding is protected, state and local requirements vary among jurisdictions and are not specifically designed to protect the integrity of the E-Rate program. Additionally, the Commission has an independent obligation to safeguard every dollar in the Universal Service Fund, which cannot be delegated to a variety of state and local authorities to carry out through their procurement rules.

Many commenters believe that adopting a repository without the bidding portal would offer several advantages. We disagree and conclude that adopting only a repository would not achieve the Commission’s goals of protecting the program from waste, fraud, and abuse. Specifically, we find that implementing a repository without the bidding portal fails to address OIG’s and DOJ’s concerns with bid collusion and bid alteration. Indeed, OIG emphasized that because there was no upfront collection of bids *during* the competitive bidding process, their ability to deter and detect waste, fraud, and abuse was severely limited. DOJ explained that the bidding portal “best preserves the integrity of source documents and any subsequent investigation” noting that the “threat of altered bid documents is real.” GAO concurred, reporting that E-Rate participants could misrepresent facts concerning the competitive bidding processes without the Commission’s or USAC’s knowledge. As such, GAO agreed that a portal “could strengthen program controls by allowing USAC direct access to obtain and monitor bidding information submitted by bidders without having to request such information from the applicants or service providers.” Failing to adopt the bidding portal would overlook identified fraud risks in the E-Rate

program and prevent law enforcement officials from being able to identify and stop bad actors in the program. Requiring E-Rate participants to upload bids and competitive bidding documentation into a repository after the completion of their bid process does not sufficiently address the risk of applicants and service providers altering bids during the procurement process nor does it discourage bid collusion.

We find that implementing a bidding portal and repository is a prudent method to simplify program integrity reviews, streamline audits, and ensure program compliance. We observe that commenters raise concerns regarding the potential costs associated with creating, implementing and managing the competitive bidding portal, and the impact it may have on program participation. For example, Arkansas State Library expresses concern that small and rural libraries do not have the staff time or expertise to devote to a more complex filing process. The Council of the Great City Schools also speculates that the bidding portal could have the “unintended effect of deterring service providers from submitting bids” resulting in weakened competition and less cost savings. Other commenters argue that requiring participants to use a federal competitive bidding portal in addition to other bidding portals would be burdensome and confusing for applicants and service providers. For example, AASA speculates that districts would have to rely more on consultants, increasing compliance costs. To address the cost concerns, we estimate that the cost of creating, implementing, and managing the competitive bidding portal for the first year of operation will be under \$750,000, followed thereafter by annual operating costs of \$100,000 to \$200,000, which together represents a comparatively low cost to take measures to protect a program where the funding cap in funding year 2026 is \$5.2 billion. These costs are also markedly lower than the millions of dollars in E-Rate funding that have been recovered as a result of OIG and DOJ investigations of competitive bidding violations. As explained, the competitive bidding portal will be integrated into the EPC system ensuring that E-Rate program participants will be able to quickly adjust to the new requirements and minimizing costs to both the Universal Service Fund and stakeholders. As noted, to address stakeholder concerns regarding the transition to the competitive bidding portal, the Bureau will work with USAC to provide training and guidance on its use.

While we acknowledge that there will be a change, we disagree that using the competitive bidding portal will be significantly more complex than existing rules requiring the FCC Form 470 to be posted on USAC’s website or that a higher level of expertise will be required. The proposal we adopt

requires applicants to upload documents that they are already required to retain and produce under our rules and provides a centralized place for service providers to submit bids and communicate with applicants about any questions they may have. Currently, to initiate the competitive bidding process, applicants are required to complete and upload their FCC Forms 470 and documentation into EPC, for posting on USAC's website. Under the new rules, our expectation is that service providers will upload bids and applicants will submit their evaluation and vendor selection documentation into the competitive bidding portal. As such, E-Rate program participants already possess the requisite skills they need to comply with these new requirements. In other words, other than adjusting how this documentation is collected and shared with the Commission and USAC, the proposal we adopt is not intended to change the way applicants conduct their competitive bidding processes. Consequently, we disagree that the competitive bidding portal will discourage applicants or service providers from participating in the E-Rate program. Notably, we observe that no individual service provider submitted a filing opposing the bidding portal's implementation.

To the extent that the portal does alter current rules, we expect that it leans towards a more fair, open, and transparent process, resulting in more cost-effective service proposals and a reduction of waste, fraud, and abuse. Indeed, the use of a document repository should aid smaller entities in complying with recordkeeping requirements because the required documents would be uploaded and be available in the portal. Also, we find that many participants are already utilizing bid portals; as such, being required to upload similar documentation to a competitive bidding portal should not be burdensome because it is a familiar process. We also note the potential streamlining for E-Rate participants, as commenters who use bid portals for their E-Rate bidding requirements explained that they "appreciate the singular place to post, respond, and collect documents." We find that the competitive bidding portal may also assist participants with complying with state or local requirements by providing a centralized place for communications and documentation regarding their competitive bidding processes. As such, although we decline to adopt a one-year grace period during which applicants would not be denied funding for procedural-type errors related to the bidding portal's use, we direct the Bureau to take into account when the new portal was adopted when considering requests for waiver, particularly for procedural or administrative errors by smaller or more rural participants.

We acknowledge that commenters express concerns that the proposed bidding portal is duplicative of existing state and local portals and could conflict with state and local laws, noting that state and local procurement requirements are complex, tailored to the needs of individual states, and are likely to change over time. As an initial matter, although E-Rate program participants may have to upload documentation to different portals, we find that the process will be minimally burdensome as they will already be familiar with utilizing bidding portals. Also, we conclude that taking this step to upload documentation into the federal bidding portal will be beneficial as applicants and service providers will no longer have to maintain this documentation once uploaded into the portal, and USAC and the Commission will not need to request this documentation for reviews or audit purposes. We next find that the competitive bidding portal will not conflict with state or local laws nor raise any preemption concerns because the portal will not supplant existing state and local requirements and instead must be used alongside these requirements. For example, State E-rate Coordinators' Alliance (SECA) states that "numerous E-rate applicants are required by state and local laws to receive printed, signed, and sealed bids. Some require notarized signatures to be lawful. Paper bids copies would be precluded by the portal." Infinity Communications & Consultants, Inc. notes that some states "require wet signatures for contracts, or hard copy responses not digital." Under our adopted rules, E-Rate program participants are required to comply with state and local rules; however copies of the bids, bidding documentation and any communication between applicants and service providers would also need to be uploaded into the competitive bidding portal. We recognize that state and local governments have procurement rules aimed at safeguarding against waste, fraud and abuse, and the federal bidding portal is not intended to impact these measures. Accordingly, in addition to using the new, USAC-managed competitive bidding portal, our expectation is that applicants and service providers would continue to use existing state or local bidding portals where required. We clarify that the submission of bids or questions to other state or local portals would not violate E-Rate program rules. Specifically, applicants should include instructions regarding any additional state or local requirements in their FCC Form 470 or request for proposals (RFP) document allowing service providers to upload their response to the FCC Form 470 in the bidding portal, and to comply with other requirements for submitting a responsive bid. The bidding portal will not replace other procurement requirements under state or local procurement laws, including submitting the

bid or questions in an additional portal. We clarify that if a service provider or applicant is submitting different information to a state/local portal than what is being submitted to the competitive bidding portal, that may be treated as a competitive bidding violation and the E-Rate funding requests could be subject to denial. We direct the USAC, under the direction of the Bureau, to provide guidance and training on this issue.

We reject commenters' remaining arguments regarding potential conflicts between the bidding portal and state and local laws. Some commenters argue that the proposed bidding portal would conflict with state requirements concerning the publicizing of bid requests. For example, Infinity notes that California Public Contract Code and Utah's State Statute both require public advertisement for the submission of bids. We conclude that the rules we adopt and the competitive bidding portal requirements do not conflict with rules requiring the publication of bids – applicants may post advertisements and public notices soliciting bids to the FCC Forms 470 as required by state regulations and include instructions that copies of the bids must be uploaded to the competitive bidding portal as well. We also find that a public opening of bids would not violate E-Rate program rules. Further, state rules that require a bid be emailed or hand delivered do not conflict with the portal, service providers merely need to ensure that copies of the bids are submitted into the federal competitive bidding portal. Los Angeles Unified School District (LAUSD) speculates that “[r]equired bidders’ security, in the form of cash, a cashier’s check made payable to the school district, a certified check made payable to the school district, or a bidder’s bond executed by an admitted surety insurer made payable to the school district, may not be transmissible through a third-party portal.” We find that there is no such conflict between California’s procurement laws and the federal competitive bidding portal as California’s Public Contract Code does not prevent E-Rate program participants from submitting bids to the federal bidding portal and the rules we adopt place no restrictions on the submissions of securities required under state law. Additionally, to the extent there are state or local laws requiring bidder’s security and specific instructions for submitting the security, these laws do not preclude the creation of a competitive bidding portal, as applicants and service providers may satisfy the state or local requirements regarding the bidder’s security requirements while also submitting the bids and competitive bidding documentation to the competitive bidding portal. Similarly, we disagree with Schools, Health & Libraries Broadband (SHLB) that Mississippi state

procurement law precludes the use of a federal competitive bidding portal. While the statute states that it “shall not require any bidder to submit bids electronically,” service providers may choose to submit electronic bids. We find that this is not incongruent with the competitive bidding portal and that service providers can reply to the applicant’s FCC Form 470 using the competitive bidding portal and be compliant with Mississippi state procurement requirements. The South Dakota Department of Education speculates that the portal will interfere with the state’s inclusion of ineligible E-Rate entities into its procurement, which may impact the bid evaluation process for eligible entities. However, requiring the bids, questions about the RFP and FCC Form 470, walkthroughs with vendors, and bid/vendor evaluation documentation related to the E-Rate supported contract to be uploaded should not interfere with a procurement that includes ineligible entities. We are not changing the requirements of the Commission’s competitive bidding rules and the rules that apply to ineligible entities remain in place. Overall, we note that stakeholders have not provided an example of an actual conflict with the competitive bidding portal’s requirements and instead have speculated that there could be conflicts. To the extent that there is a true conflict between the competitive bidding portal and state or local laws, parties may request a waiver of the Commission’s rules.

Communications between Applicants and Service Providers. In the *Promoting Competitive Bidding NPRM*, the Commission proposed that “[s]ervice providers may anonymously submit questions or other inquiries to applicants through the bidding portal, to which applicants must respond during the competitive bidding process.” In addition, the Commission proposed that “no communication between service providers and applicants related to the competitive bid or the competitive bidding process would be permitted outside of the bidding portal during the competitive bidding process.” Commenters raise concerns regarding this process, asking whether the applicant could set the timeline for questions and answers in a fair and open manner, and whether this requirement effectively precludes applicants from holding bidder conferences or walkthroughs to discuss service needs with potential bidders and answer any questions. We adopt a modified version of the proposal prohibiting communication between service providers, applicants, and any representative thereof outside the bidding portal. A few commenters requested clarity regarding when the ban on communication applies, while others expressed concern about the burden imposed by these new rules. We clarify that bidders and applicants will use the portal

for communications regarding the requested services and products beginning on the date the applicant files the FCC Form 470 until the contract is awarded, or the contract award date, with limited exceptions described. New requirements limiting communication between applicants and service providers is a change, however we find that the portal will assist participants with complying with these rules as documentation will only have to be uploaded to the competitive bidding portal and program participants will not have to separately retain the uploaded competitive bidding emails and related communication documentation.

We also adopt the proposal for bidders to be able to submit anonymous questions in the bidding portal for all participants to view, and for applicants to answer those questions in the bidding portal. We direct the Bureau and USAC to create a process for submitting questions anonymously through the competitive bidding portal and for the applicant to respond to the questions through the portal. Service providers may submit their questions regarding the competitive bidding process to applicants through the competitive bidding portal without using the anonymous question format. Applicants will be required to respond to the bidders' questions through the portal so all bidders may see the questions asked and the provided responses. We find that this question and response requirement will not supplant an applicant's existing ability to set deadlines for questions and otherwise ensure that all interested bidders are treated fairly and given access to the same information. However, if an applicant has already answered a question, they do not need to answer the same question multiple times. The South Dakota Department of Education raised concerns that the bidding portal rules could be challenging for rural applicants who largely receive no bids or one bid. Applicants that receive no bids are allowed to request quotes or bids from service providers; however, the solicitation and response must be uploaded to the portal to demonstrate how the service provider was selected. Applicants that receive one bid during the competitive bidding process may use the bid provided it is cost-effective and consistent with the rules. Additionally, states may withhold confidential information regarding its internal procurement and evaluation process. However, documentation on the final bid evaluation and vendor selection process (i.e., bid matrices or other documentation showing how each bid was carefully considered and evaluated) must be uploaded to the portal. After the contract award notice has been issued and uploaded to the portal, confidential contract negotiation documentation is not required to be uploaded, but the final

contract is required.

In addition, under our new rules, applicants can continue to hold conferences or other meetings with interested bidders. Questions and answers that were provided during the meeting and are relevant to the competitive bidding process must be uploaded to the competitive bidding portal within 72 hours to ensure that all potential bidders have access to the same information, and the competitive bidding process is fair and open to all bidders. A summary of the meetings held between the applicant and any potential bidders must be uploaded to the competitive bidding portal by the time the FCC Form 471 is filed. We find that this affords applicants the ability to hold these important conferences and walkthroughs without raising a concern about certain bidders having conversations with an applicant in a manner that gives special treatment. Internal communications between the applicant's bid evaluation team do not need to be uploaded, but the final bid evaluation results must be uploaded. The documentation included in the portal should be similar to the documentation applicant and service providers are already required to retain and produce under the Commission's rules. We believe this enables applicants to use a variety of methods, including conferences and walkthroughs, to ensure that interested bidders have the required information to thoroughly respond to a bid solicitation, while ensuring that the program is protected against special treatment, inside information, or other anticompetitive practices that undermine the integrity of the E-Rate program.

Bid Holding Period. In the *Promoting Competitive Bidding NPRM*, the Commission sought comment on "requiring applicants to wait a specified amount of time before they can access bids submitted in response to their FCC Form 470 service requests." The Commission discussed the risk that the current process enables applicants to share bids received from one service provider with another, perhaps more favored service provider, in a manner that violates the program rules, and it asked whether a bid holding period could address this concern. The Commission further asked whether withholding the bids from applicants until the deadline for bids has passed would help applicants comply with § 54.503(c) of the Commission's rules, which requires applicants to wait at least four weeks from the date of posting the FCC Form 470 to USAC's website before entering into a contract with a service provider. Consistent with the majority of commenters, we decline to require a bid holding period for the competitive bidding portal at this time. We agree with INCOMPAS that prohibiting applicants from reviewing bids early

would prevent them from identifying potential issues and permit service providers to “cure their proposal and correct their bid,” thus leading more service providers to be disqualified, resulting in higher costs of service for the E-Rate program. We also agree with SHLB that “requiring USAC to withhold proposals from applicants for some period of time would needlessly extend the bidding process.” Some commenters express concern that the “current system of allowing applicants to open bids on a rolling basis could lead to a lack of competition because applicants might view earlier bids more favorably than later bids (or vice versa) based simply on when they are received.” However, we conclude that the benefits of a bid holding period are outweighed by the costs of a holding period. We anticipate that because of the measures adopted, applicants will be deterred from viewing earlier bids more favorably and instead will evaluate all bids fairly pursuant to our rules. We find that the competitive bidding portal will assist service providers in correcting their bids and streamlining the competitive bidding process. Accordingly, under the rules we adopt, applicants will be notified when a bid is uploaded into the portal and service providers will be able to communicate with applicants in the competitive bidding portal to modify bids to address any issues that may be identified during the E-Rate competitive bidding process and provide documentation of this communication in the portal.

Some commenters note that certain states have sealed bid requirements, or further require that applicants open bids at a predefined time. To accommodate this, we direct the Bureau and USAC to develop controls on who can access bids and an audit log for the bidding portal that would show a date and time for when a bid is received, opened, and downloaded, and by whom, along with the IP address. Applicants will be required to abide by state and local requirements regarding opening bids. We find that the audit log would help applicants demonstrate compliance with state and local laws that may preclude them from opening a bid prior to the bid deadline.

The access controls and audit log will also address OIG’s concerns about bid collusion and improper sharing of bids. OIG recommended that bids be withheld from the applicant for a 28-day period to help prevent improper bid sharing or collusion between applicants and service providers. We note that because there is no mandatory 28-day period for bids to be submitted in the E-Rate program, holding bids for a 28-day period would not fully address OIG’s concerns about bid collusion and improper bid sharing activities as there may still be time for parties to improperly share information and submit a bid to the

FCC Form 470 after the 28-day holding period has expired. Applicants may file the FCC Form 470 to initiate the competitive bidding process up to one year before the start of the relevant funding year and thus, there could still be opportunities for bid collusion or improper bid sharing activities even with a 28-day holding period for each bid submitted. We believe an audit log and controls on who can access the bids will be a better way to address this issue than implementing a 28-day holding period as the audit controls and logs will indicate who accessed bids, the date/time when bids were accessed, and the date and time of bids as they are received. If there was improper bid sharing or bid collusion, the audit log would help identify these actions allowing USAC and the Commission to take appropriate actions.

State and Other Master Contracts. In the *Promoting Competitive Bidding NPRM*, the Commission sought comment on whether, “for those applicants using state master contracts, [there is] documentation that applicants should be required to upload [to] demonstrate compliance with the E-Rate rules.” Some commenters identify challenges that a bidding portal would create for applicants conducting large procurements, or those who must comply with unique rules and processes. For example, commenters note concerns with the use of state master contracts, in particular state master contracts that result in multiple awards schedules and require the use of mini-bids. Commenters offer that, to account for state master contracts, the bidding portal must have “considerable flexibility,” or further, that competitive bidding processes that result in state master contracts should be exempt from the bidding portal. We require applicants to upload a copy of a state master contract and the related bidding documentation to the competitive bidding portal when filing their FCC Form 471 application if the state master contract was used as part of an applicant’s competitive bidding process or is the contract that was selected. We disagree with SECA that the competitive bidding portal is “unable to accommodate multi-stage bidding or mini-bids conducted using E-rate qualified master contracts.” Instead, we find that the bidding portal will have sufficient flexibility to accommodate a variety of competitive bidding processes, including those with multiple stages. When applicants are required to perform a “mini-bid” evaluation based on a multi-award state master contract, the documents that the applicant prepared, in connection with the mini-bid process, including those reflecting how the applicant selected the winning bidder among the available vendors in the multi-award state master contract, must also be uploaded to the competitive bidding portal. For consortium applicants, we require the consortium leader to submit the competitive

bidding and contract documentation related to the consortium's FCC Form 471 on behalf of its members to the competitive bidding portal. We find that this approach is consistent with the role of a consortium leader as the entity that takes the lead in responding to USAC inquiries related to the consortium applicant's competitive bidding process.

For multi-stage bidding, we require that applicants use the portal for each round of the procurement, and that portal functionality will enable multiple successive rounds in a multi-stage procurement to be linked or otherwise associated. This functionality will permit applicants that do multi-stage procurements, or who wish to include a "Best and Final Offer" phase of a procurement, to manage the entire procurement through the bidding portal.

Multi-Year Contracts. For multi-year contracts, we require applicants to upload the required competitive bidding and contract documentation to the competitive bidding portal only once in the first year of the contract, and applicants will not be required to upload duplicative competitive bidding and contract documentation for the remainder of the contract's term provided there are not any modifications that require a new competitive bidding process. For existing multi-year contracts that are currently being used to support funding requests, in funding year 2029, applicants will be required to upload the associated bids, competitive bidding, and bid evaluation documents for the multi-year contract into the portal by the time the applicant submits their FCC Forms 471 that rely on that contract. This is one year after the portal is implemented, giving applicants time to focus on the funding year 2028 competitive bidding process before needing to provide past competitive bidding documentation to the repository.

In the *Promoting Competitive Bidding NPRM*, the Commission asked whether applicants and service providers should "be permitted access to their stored competitive bidding documents for a period long enough to be able to comply with recordkeeping requirements." The Commission also asked, "if E-Rate program participants retain access to their records, should this access be afforded to them in a way to permit them to produce the records at the request of any representative (including any auditor) appointed by a state education department, USAC, the Commission, or any local, state or federal agency with jurisdiction over the entity, as is required by § 54.516(b)?" We answer both these questions affirmatively. Under our adopted rules, once an applicant uploads the competitive bidding documentation into the bidding portal and repository, applicants will be able to access this documentation when needed and

provide it to other local, state, or federal agencies with jurisdiction over the applicant as necessary. Thus, by preserving this documentation in the bidding portal and repository, the portal will assist in ensuring compliance with the competitive bidding recordkeeping and production requirements set forth in § 54.516(a)-(b) of the Commission’s rules. We agree with the Illinois Office of Broadband that the bidding portal “reduces the burden of complying with the Commission’s document retention rules over the long term.” In adopting this requirement, we do not make any modifications to § 54.516(a) of the Commission’s rules. However, applicants and service providers do not need to separately retain documents that are also uploaded to the competitive bidding portal and can rely on this documentation to meet their document retention requirements.

Processing of FCC Forms 471. We expect that USAC will continue to issue funding commitments in a timely manner according to the standard that the Commission provided in the *First 2014 E-Rate Order*, 80 FR 167, January 5, 2015. There, the Commission directed USAC “to aim to issue funding commitments or denials for all ‘workable’ funding requests by September 1st of each funding year,” noting that this date would “provide[] USAC with approximately five months beyond the [usual] application filing window deadline to review all timely filed and complete funding requests.” In issuing this direction, the Commission acknowledged that “even ‘workable’ funding requests may be time consuming for USAC to process” and that USAC should continue to perform a “thorough review of each application,” including by “contact[ing] applicants to seek additional information concerning a funding request” and “provid[ing] applicants with an opportunity to respond to [USAC’s] questions.”

A few commenters raise concerns about whether the additional data and documentation submitted to the competitive bidding portal may result in system issues or delays in reviewing applications and slow procurement timelines. While these process changes will result in additional documentation, we find that expecting USAC to maintain the same processing timelines for issuing funding commitments is justified, given the paramount importance of making funding commitments prior to the start of the typical school year, i.e., in or around early September. We direct USAC to incorporate data analytics and other tools to select specific FCC Form 471 applications for additional review and to detect potential competitive bidding violations during pre-commitment reviews using the additional documentation that will be available through the competitive bidding portal. While any additional pre-commitment reviews may

increase processing times in some respects, we find that USAC's processing times will be lessened in other respects as it can use the submitted competitive bidding and contract documentation to resolve potential issues with funding applications internally, rather than incur delays by reaching out to applicants or service providers for additional information. We find that asking USAC to continue to follow existing processing times and review standards while, at the same time, strategically incorporating this additional competitive bidding and contract documentation into its review processes strikes a reasonable balance between ensuring that funding commitments are issued in time for schools and libraries to purchase vital broadband services and equipment and ensuring that USAC uses this additional information to detect rule violations and strengthen program integrity.

Information Security and Confidentiality. Some commenters raise the question of whether proprietary and confidential information submitted to the competitive bidding portal would be kept confidential. For example, the South Dakota Department of Education notes that the public availability of bidding information submitted into the competitive bidding portal could run afoul of state law. Given the possibility that certain bidding documentation (i.e., non-winning bids) submitted to the bidding portal may contain confidential financial or proprietary information, we will treat bids and other pricing data submitted to the bidding portal as presumptively confidential and will not make the non-winning bids and submitted pricing data routinely available for public inspection. This includes bid reviews by applicants and other related documents which may include or reference information from bids. However, we are not making any changes to the data that is currently available for the E-Rate program, and all pricing data included on the FCC Form 471 will remain publicly available. We direct the Bureau, in consultation with the Office of General Counsel, to evaluate and determine whether additional data (e.g., aggregated information for reporting purposes) could be made publicly available without compromising the security or confidentiality concerns raised in the record, including not publicly disclosing any data that is confidential, like non-winning bids. We direct USAC to retain all documentation in the portal and repository in accordance with the applicable federal records schedule for Universal Service Fund-related records and protect, retain, manage, and use all data and documentation in accordance with applicable federal information security and privacy requirements. We also direct that access to the competitive bidding portal and repository be limited to the applicant's Account Administrator and up to two other

authorized users (including consultants) and audit logs to be maintained on when, by whom, and what documentation was accessed in the portal.

Bid Response Template. In the *Promoting Competitive Bidding NPRM*, the Commission sought comment on “whether service providers should be required to submit information in a manner that enables applicants to compare competing bids.” The Commission also asked whether applicants face difficulty in comparing bids submitted in different formats. Most commenters did not address this issue. DOJ supports this proposal, specifically stating that service providers should submit information “in a manner that enables applicants to compare competing bids.” In particular, DOJ supports a requirement that service providers submit a summary form, which could be a portion of the FCC Form 471, that contains “key data points,” in an effort to allow USAC to better leverage the data for compliance and investigative purposes, and allow applicants to “be confident that they are comparing apples to apples when selecting a service provider.”

We direct the Bureau, after seeking comment if deemed necessary or advisable, to develop a standardized bid response template, and make it available for applicants to use on an optional basis. We find that a standardized template, made available for service providers to use for submitting bids, would prove useful to applicants, as it could help standardize bid responses and make it easier for applicants to compare bids and ensure compliance with our rules for several reasons. First, we find that having a standardized bid response template would help service providers formulate bids in a more uniform manner by making clear the required information. Second, a standard template would help applicants in their bid evaluation process because each response would contain data that could easily and appropriately be compared across service providers. Third, we find that a bid template could help USAC better utilize data analytics because it will allow for the data points to be provided in a uniform manner, making it easier for USAC to identify areas of concern that warrant further review. Applicants choosing to use the template can require potential bidders to use the template bid response form by stating that use of the template is a requirement for responding to its FCC Form 470. We will determine in the future whether to require mandatory use of a standardized bid response form by service providers.

We also take steps to streamline or clarify aspects of the E-Rate program and its administration based on the record received in response to the *2023 FNPRM*, 88 FR 152, August 9, 2023. Specifically,

we amend the E-Rate program rules to improve how applicants transition between service providers during a funding year and establish a process for applicants to increase bandwidth within a funding year. We also take this opportunity to provide guidance on transition of services; clarify cost allocation rules and procedures; provide guidance on competitive bidding requirements; eliminate the FCC Form 486; amend the Commission's invoicing rules; and update E-Rate program definitions. Each of these issues have caused challenges for applicants in applying for and receiving discounts on eligible services, and we anticipate that these changes will result in an overall simplification of E-Rate procedures and processes.

First, we adopt changes to improve how applicants request funding when they are transitioning between two service providers (or service offerings) during the funding year, given the difficulty in determining the precise cutover date during the application filing window. To prevent funding duplicative services, E-Rate procedures do not allow USAC to commit funding to two funding requests for service, to the same recipients, that overlap in time. At the same time, due to concerns about exceeding the E-Rate funding cap, the Commission's service substitution rules require that post-commitment service substitutions be based on the lower of either the pre-discount price of the service for which support was originally requested or the pre-discount price of the new, substituted service. In the *2023 FNPRM*, the Commission sought comment on the best way to allow applicants to adjust transition dates during the funding year, such as requesting twelve months of funding for the higher-priced service and then filing a post-commitment change request to reduce one of the requests. Commenters agree that the current process for transitioning services during the funding year should be streamlined.

Upon review of the record and consideration of the potential impact on demand, we amend our rules to create a process for applicants that are transitioning services to file a post-commitment request that changes the service start and end dates and permits, if the applicants meet certain criteria, increases in the commitment amount. Applicants that seek the flexibility to increase a funding commitment, if needed, will file partial year funding requests for both the old and the new services, estimating the cutover dates, but not to exceed twelve months. The applicant must indicate on the FCC Form 471 application that the services are transitioning. Once the dates are known, the applicant may file a post-commitment request, which USAC will be permitted to grant even if the date change results in a higher funding commitment.

Some commenters support an option mentioned in the *2023 FNPRM* to have the applicant request 12 months of service from the higher cost service; however, we find that this option would result in more volatile program demand and a more burdensome review when applicants want to transition service providers. By requiring applicants to file partial year funding requests for both services, estimated demand at the close of the application filing window will be closer to the actual demand, rather than inflating demand to accommodate the highest possible cost of every transition. In addition, USAC can review both funding requests and the associated contract records at the time of the application review and the amount of time needed for post-commitment review will be reduced. This will also permit the existing service provider to be reimbursed for services provided even if the new service provider has the higher-cost service. Additionally, applicants that estimated the transition dates correctly will not need to file any post-commitment requests, giving applicants an added incentive to work with their service providers to try to determine accurate cutover dates when transitioning service during a funding year. We expect that, in total, these changes will enable applicants to be able to more easily receive approved E-Rate funding when they are transitioning services even when the transition dates are not known at the time they are applying for E-Rate funding during the application filing window and will simplify the process for when they are transitioning services during the funding year. These changes will be effective in the funding year application filing window after the Office of Management and Budget (OMB) approves any necessary program form changes.

To effectuate this change, we direct USAC to approve a post-commitment increase if the applicant: (1) filed partial funding year requests for funding from both service providers (or service offerings, in the case of a transition to a different service from the same service provider) during the application filing window using the best estimates of the transition dates; (2) indicated on the FCC Form 471 that the requests were for a transition of service; and (3) there are available funds below the E-Rate program funding cap. We caution that if there are no available E-Rate funds when an applicant files the post-commitment request, USAC will not be permitted to approve an increase in the funding commitment. We do not expect this to be an issue in the near future under the current funding cap and demand, but we direct the Bureau to monitor demand and release guidance on how to request funding for transitions in future funding years if demand is nearing the cap. During post-commitment review, the

applicant shall provide details about the transition and dates of actual transition between the two service providers or offerings, including a showing of agreement from both service providers about the end date of the first service provider and the start date of the second service provider. We disagree with commenters suggesting that USAC should be permitted to commit funding for both service providers for the transition month and to resolve the duplicate funding issues during the invoicing review; we find that the administrative challenges during invoicing and potential for improper payments to both service providers outweigh any potential benefits of such an approach.

Finally, we recognize that there are some applicants that have transitioned services without the benefit of this post-commitment process and as a result have been unable to obtain reimbursement for all of the approved services delivered. For pending requests for waiver/appeals or pending service substitution requests, we direct the Bureau to review requests based on the new rules, once effective, and to find good cause for a waiver, if the following conditions are met: (1) the party indicated it was transitioning to new services during the funding year; (2) the delay in transitioning services was for reasons beyond the service providers' control; (3) the party filed an appeal within a reasonable amount of time after determining there was an issue with the transition of services; and (4) there is funding available based on overall program demand and the funding cap. When these conditions are met, there is good cause to find that applicants have taken the steps needed to transition between service providers, and it is appropriate to provide E-Rate support when the transition of service is delayed for reasons beyond their control.

Next, in response to stakeholder requests, we offer additional guidance on cost allocation rules and procedures. As part of its efforts to simplify the E-Rate program, the Commission provided guidance in the *2023 E-Rate Report and Order*, 88 FR 156, August 15, 2023, on several common cost allocation issues that applicants experienced. Specifically, the Commission provided guidance on when on-campus Internet usage can be considered ancillary and when the use of shared equipment located in a non-instructional facility requires cost allocation. In addition, the Commission sought further comment on cost allocation issues that would benefit from additional guidance.

Several commenters support applying the Internet ancillary use guidance to data transmission services, wide area network services, or to all category one services. In the *2023 E-Rate Report and*

Order, the Commission adopted a presumption that, if at least 90% of an applicant's requested Internet service is being used for eligible purposes, the remaining ineligible use of the Internet service will be presumed to be ancillary and, therefore, cost allocation is not required. The *2023 E-Rate Report and Order* included guidance regarding data transmission services, and we agree that if at least 90% of an applicant's requested recurring category one service, be it a data transmission service or any other category one service, will be used for an eligible purpose during the funding year, the remaining ineligible use of the category one service at eligible locations will be presumed to be ancillary and, therefore, cost allocation will not be required. As the Commission stated in the *2023 E-Rate Report and Order*, if an applicant selected the most cost-effective offering to meet its needs, then the minimal ineligible use of the service should be treated as ancillary and cost allocation is not required. Category one services, including Internet access services, provide connectivity to a location as a whole, and incidental, ancillary on-premises use beyond that eligible use should be permissible without additional paperwork burdens.

Next, American Library Association (ALA) notes that some libraries may extend their Wi-Fi a short distance into the community and asks whether the presumption of ancillary use applies. This presumption is limited to on-premises ancillary use. Each of the examples provided by commenters to the *2023 E-Rate Report and Order* discussed the burden of attempting to allocate costs associated with in-building school or library ineligible uses, such as healthcare clinics, childcare services, or services to a classroom offering services to students under the age of three. Applicants are required to cost allocate off-campus use from their E-Rate requests.

As proposed, we adopt a limited exception to our competitive bidding rules to allow applicants to seek needed bandwidth increases in between E-Rate funding cycles. The E-Rate program rules require applicants to competitively bid services using the FCC Form 470. This process starts at least four weeks before the applicant files its FCC Form 471 applications during the annual filing window, but can occur six months before, or—in the case of multi-year contracts—years before the funding application is submitted. Applicants are encouraged to seek bids for and sign contracts that include a range of bandwidths in order to accommodate changes in bandwidth needs in the future, but applicants are not always able to anticipate all their bandwidth needs. For example, in 2020, the Bureau opened a second application filing window in September to address increased on-campus bandwidth needs as a result of

remote learning challenges caused by the COVID-19 pandemic. However, in other instances, applicants may be unable to increase their bandwidth mid-funding year without potentially violating the E-Rate program competitive bidding rules. We therefore agree with commenters supporting a limited exception to the competitive bidding rules so applicants can submit a service substitution request to increase bandwidth during the funding year at the existing commitment amount (i.e., total price of the current bandwidth service). We clarify that this exception means applicants will be responsible for any corresponding increase in price for the increased bandwidth for the remaining period of the funding year. To request the increased bandwidth (and a potential increased funding commitment) in subsequent funding years, applicants would need to file a new FCC Form 470 and seek competitive bids for the increased bandwidth service for the next application filing window. Applicants that can demonstrate that the bandwidth and price increase were covered by an existing FCC Form 470 and competitive bidding process would not need to rebid the service.

By providing this limited exception, we allow applicants flexibility to work with their service providers to obtain the services they need without risking unexpected changes in program demand or program abuse. We disagree with certain alternate proposals in the comments to the *2023 FNPRM*. For example, commenters suggest allowing for a commitment increase using pricing adjusted from the original bid or contract or allowing applicants to seek new bids mid-funding year. The E-Rate program relies on fair and open competitive bidding to ensure that schools and libraries supported by federal universal service funds receive the highest-quality services at the lowest available rates, and we do not intend to introduce unnecessary complexity to these rules. In general, the program does not allow for mid-funding year, post-commitment funding increases, and we find this action appropriately allows applicants to increase bandwidth during the funding year without affecting program demand.

We expect that the competitive bidding portal will help address the issue of unsolicited spam bids because the bidder will be required to use the portal to respond the applicant's FCC Form 470 and the applicant will not be permitted to consider bids received outside of the portal. Here, we address the treatment of spam or other automated bid responses that applicants receive until the portal is fully implemented. In the *2023 FNPRM*, the Commission sought comment on the types of spam and other automated bid responses that are being generated and sent to the applicant once or soon after their FCC

Form 470 is posted, their frequency and quantity, as well as whether to consider changes to the FCC Form 470 to simplify how to establish disqualification factors and deadlines. In considering comments, the Commission is primarily focused on how to ensure applicants carefully consider all qualified bids in accordance with program requirements.

We expect applicants to retain all bid documentation, including those applicants consider to be spam bid responses. Commenters raise concerns about bid responses received that lacked information requested on the FCC Form 470, such as pricing or information tailored to the applicant. These responses often appear as generic email solicitations with a list of all goods and services and contact information to receive additional information. Applicants may establish disqualification factors, such as disqualifying if the bid lacks pricing and other necessary information, in the FCC Form 470, provided those factors are consistent with applicable Commission rules, and document when a bid response is disqualified. Although we recognize that applicants may face a small burden in documenting why a bid was disqualified or not considered during the bid evaluation, our current information concerning the quantity and types of bid responses that applicants seek to discard is limited, and it would be premature to determine whether particular bid responses do not need to be retained and the characteristics of such responses.

We also agree with those commenters that assert that bid responses that do not include pricing information or require the applicant to contact the solicitor to request pricing for the sought-after services for the requested time period can be disqualified as non-responsive even if the applicant does not state in the FCC Form 470 that pricing information is specifically required. The Commission's rules require that price be the primary factor in selecting the most cost-effective service offering. In the 2011 *Baltimore City Order*, the Bureau provided guidance that explained that applicants must provide notice—in either its FCC Form 470 or its RFP—of any disqualification criteria, but also made clear that price is required to be the primary factor applicants must consider. When pricing is not expressly provided in the bid response, the bid response can be disqualified without the applicant needing to state that fact in its FCC Form 470 or RFP. The applicant should still retain the bid response and note why the response was disqualified and not evaluated. Multiple copies of the same spam bid need only be disqualified once in a bid evaluation. The Commission encourages the Bureau and USAC to consider implementing system controls for spam

bids during the design and development of the portal.

We next modify our rules to clarify the bids that applicants must consider in the evaluation process. Applicants must wait at least four weeks from the posting of the FCC Form 470 before selecting service providers. Our rules require applicants to carefully consider all bids received before the bid evaluation process has occurred. Even if the minimum 28-day waiting period has lapsed, applicants should consider all bids received up until they begin consideration, unless they provided a specific bid submission deadline and noted that bids received after the deadline would be disqualified on the FCC Form 470 or RFP document. Commenters suggest that the bid response deadline, the point after which a bid could be disqualified for being late-submitted, should be presumed to be at 11:59 pm E.T. on the day before the allowable contract date (the day after the 28-day waiting period when applicants may select a service provider), but some also seek the flexibility to consider bids received after that deadline. We reject this proposal and revise our rules to make our current interpretation clear that absent a deadline in the narrative, applicants should consider all bids received before the evaluation process, which may occur sometime after the minimum 28-day waiting period. Considering more bids, rather than fewer, benefits applicants and the E-Rate program. Stakeholders also acknowledge that “there may be some instances where the applicant may want to consider all late submitted bid[s],” noting that rural or remote applicants may need additional time to receive bids. The benefits of considering additional bids that may be meritorious and are received prior to the bid evaluation far outweigh the burden to applicants of considering them, and to the extent that an applicant finds the burden to be too high, it may set a bid response deadline in the narrative section of the FCC Form 470 or an RFP document that could be used to disqualify all late-submitted bids.

To reduce the number of forms required to be filed by E-Rate applicants throughout the funding year, we adopt the proposal to remove the requirement that applicants file the FCC Form 486 (Receipt of Service Confirmation and Children’s Internet Protection Act (CIPA) Certification Form) for future funding years, beginning in funding year 2028. We find the notification that an applicant makes that their services have started to be duplicative and we transfer the remaining CIPA compliance certifications to the FCC Form 471 funding application. There was strong support from commenters regarding this proposal and no opposition.

We agree with commenters that state this proposal would reduce applicant burden by removing duplicative certifications and reducing the risk of penalties. Requiring applicants to provide notice to USAC that services have started is duplicative of certifications made on the FCC Forms 472 and 474, associated invoicing forms. For example, the FCC Form 472 currently requires certification that “The discount amounts listed in this Billed Entity Applicant Reimbursement Form are accurate and represent charges for eligible services and/or equipment delivered to and used by eligible schools, libraries, or consortia of those entities for educational purposes, on or after the service start date reported on the associated Form 486.” We also find the limited benefits of requiring an applicant to certify that services have started prior to invoicing are outweighed by the burden of filing the FCC Form 486. Commenters also note that “any ministerial or clerical errors made by applicants in the form [486] can result in reduced or denial of funding thereby causing additional hardship and burdens without a corresponding benefit.” The failure to timely file the FCC Form 486 has real consequences for applicants and service providers, resulting in loss of funding or additional time spent filing appeals.

For the CIPA certifications that are collected on the FCC Form 486, we will move the certifications to the funding application form, or the FCC Form 471. Commenters support this transfer. We do not expect applicants to have significant challenges with making this annual certification of compliance earlier in the calendar year.

In order to move the CIPA certification, beginning in funding year 2028, consortia applicants will need to collect the annual FCC Form 479, the Certification by Administrative Authority to Billed Entity of Compliance with the Children’s Internet Protection Act (CIPA) Form, prior to the Billed Entity certifying a consortium’s CIPA compliance on the FCC Form 471 application. This aligns the timing of the FCC Form 479 with both the FCC Form 471 application filing window and the existing timeline for applicant entities to demonstrate that a consortium billed entity applicant has authorization to file on behalf of its member entities. We recognize that this will be a shift in the filing procedures of consortia, but decline to preemptively extend this new FCC Form 479 filing deadline and encourage consortia leads to start planning for this timeline change in advance of funding year 2028’s application filing window. Relatedly, we decline to adopt a proposal by SECA to allow school or library applicants that are part of a consortium to fill out an FCC Form 479 that certifies to CIPA compliance for multiple funding years,

while the consortium lead is required to certify annually. We find this proposal inconsistent with the language of section 254(h) of the Communications Act requiring schools and libraries to annually certify compliance regarding the CIPA requirements. Although the statute does not prescribe consortium requirements, we do not agree that an annual certification by the consortium lead alone is sufficient to meet the plain language requirement that a school and library annually certify its compliance with the CIPA requirements to the Commission.

To align program rules with the elimination of FCC Form 486 for future funding years, we also amend § 54.514(a) of the Commission's rules, which codifies the invoice filing deadline, to remove the reference to the FCC Form 486 and replace it with a deadline based on the date of the funding commitment decision letter. This change permits applicants and service providers time to invoice in the limited instances when a funding commitment decision letter is not issued until after the last day to receive service. In those instances, we direct USAC to remind applicants in the funding commitment decision letter of the last day to receive service and to check that services were delivered during the appropriate funding period before disbursing funds in response to requests for reimbursement. We also make further changes to § 54.520 of the Commission's rules to revise references to FCC Form 486.

Lastly, we direct the Bureau to take all necessary steps to remove the FCC Form 486 requirement for future funding years, transfer the annual CIPA compliance certifications to the FCC Form 471, and update the FCC Forms 472 and 474 (i.e., the invoicing certifications and forms). In accordance with this section, we also direct the Bureau to work with USAC to update the EPC, all program notifications (e.g., the funding commitment decision letter), and all outreach materials regarding references to the FCC Form 486 or next steps in the funding commitment process. Because applicants are required to annually certify compliance with CIPA, the FCC Form 486 must continue be filed until the CIPA certifications can be made on the FCC Form 471 and the EPC is updated to account for the new application and invoicing certifications, as well as to account for any changes to the invoicing filing system. Applicants with open commitments or approved appeals from prior funding years will continue to use the FCC Form 486 to certify CIPA compliance for the appropriate funding year at issue.

Next, we amend E-Rate program invoicing rules to ease certain restrictions around the invoice filing deadline. In 2014, the Commission codified the invoice filing deadline and adopted an

“extraordinary circumstances” standard for waiving the rule and granting extensions to ensure the efficient operation of the program, provide certainty for program participants, and allow USAC and the Commission to identify unused E-Rate funds that may be carried forward to future funding years. The rule met those objectives, but some commenters suggest that additional leeway is needed for a small number of applicants and service providers that failed to file their requests for reimbursement or request an extension by the invoice filing deadline despite navigating most of the E-Rate funding processes. In the 2023 *FNPRM*, the Commission sought comment on a proposal to modify the invoice filing deadline extension rule to allow applicants and service providers to seek an extension of the original invoice filing deadline from USAC if the request is made within 15 days of the original invoice filing deadline. The Commission also directed the Bureau to hold any waiver requests that were filed within 15 days of the original invoice filing deadline and sought further comment on other potential ways to simplify or streamline the invoicing and disbursement process, including providing a grace period for applicants and service providers to re-submit timely filed but rejected requests for reimbursement.

We now amend our rules and adopt the proposal to permit applicants and service providers under § 54.514(b) of the Commission’s rules to request the single 120-day extension of the original invoice filing deadline from USAC if the request is made within 15 days of the original invoice filing deadline. This change will reduce the number of waiver requests by providing a small window for applicants and service providers who missed the invoice filing deadline to request additional time, while maintaining the codified invoice filing deadline rule. Commenters are broadly supportive of this proposed rule change, with the Illinois Office of Broadband pointing out that such a rule change would “avert the dire consequences” of failing to request an extension before the invoice filing deadline. While one commenter suggests providing a longer period, we conclude that 15 days provides an adequate window of time for those who missed the initial deadline to submit an invoice filing extension request. Fifteen days is also consistent with the 15-day period provided after the USAC reminder to file the FCC Form 486. Consistent with this new approach, we direct the Bureau to grant all of the held waiver requests that are pending and were filed within 15 days of the missed invoice filing deadline, or that demonstrate an attempt to file a reimbursement request with USAC within 15 days of the missed invoice filing deadline.

At the same time, we decline to permit applicants and service providers to submit requests for

more than one 120-day extension of the invoice filing deadline to USAC because such extensions would be contrary to our efforts to ensure timely invoicing. To the extent applicants and service providers can demonstrate good cause for an additional extension, they may consider seeking an additional extension through a waiver from the Commission. We also decline to direct USAC to accept requests for *reimbursement* from applicants and service providers that are filed within 15 days of the invoice filing deadline date if USAC has not granted a request for extension filed by the applicant. We are concerned that this could lead to confusion or ambiguity over the invoice filing deadline itself. At the same time, we direct USAC to develop a mechanism to remind applicants and service providers that have not filed a request for reimbursement or a request for extension as of the invoice filing deadline to seek an extension within 15 days of the deadline. We also direct USAC to include instructions in the reminder on how to request an extension of the invoice filing deadline consistent with this Order.

We retain the extraordinary circumstances standard for those seeking a waiver of the invoice filing deadline rule from the Commission, and we disagree with those parties suggesting that we eliminate it. The invoice filing deadline provides certainty to applicants and service providers, as well as to the Commission and USAC, which relies on the invoicing filing deadline to de-obligate committed funds efficiently. The extraordinary circumstances standard incentivizes parties to meet the invoice filing deadline and reduces uncertainty regarding extensions. The Bureau has waived the invoice filing deadline rules when warranted, such as when a service provider acquisition made invoicing a technical impossibility, when the owner of a service provider and person responsible for invoicing passed away, and when weather and other similar disasters impeded applicants' ability to file requests for reimbursement by the invoice filing deadline. Taken together, we find that the extraordinary circumstances standard, the new invoice filing reminder mechanism, and the 15-day period after the invoice filing deadline to request a one-time, 120-day extension from USAC strike the right balance between flexibility for E-Rate participants and certainty to ensure the efficient administration of the E-Rate program.

Next, we adopt a rule providing for a one-time, 60-day grace period for applicants and service providers to resubmit corrected versions of requests for reimbursement that were timely filed before the invoice filing deadline but rejected by USAC. Requests for reimbursement may be rejected for a variety

of reasons and, while applicants and service providers have the option to appeal a rejected request for reimbursement to USAC that was timely filed, submitting an appeal is more burdensome than refiling a corrected request for reimbursement, especially for smaller schools and libraries that, as NCTA – The Internet & Television Association (NCTA) identifies in their comments, are more “well-versed” in refiling corrected requests for reimbursement than in drafting and submitting an appeal. Commenters are broadly supportive of this change, claiming that it would increase program efficiency by removing the appeal review process for those applicants and service providers who timely filed a request for reimbursement that was rejected. While the Commission initially sought comment on a 30-day grace period, some commenters suggest a 60-day grace period is more consistent with the 60-day appeal period. We agree that aligning these two time periods is the most streamlined option and will reduce confusion. This will allow applicants and service providers that can correct the rejected request for reimbursement to refile, rather than filing an appeal, waiting for a decision, and then being given an additional period of time to resubmit the request for reimbursement. We decline USTelecom – The Broadband Association’s (USTelecom) request to allow for invoice filing deadline extensions for funding requests that have pending invoices for the total amount, finding it unneeded based on the other changes adopted in this Order that permit refiling after an invoice is rejected.

As indicated, applicants and service providers also have the option to appeal a rejected request for reimbursement to USAC, if for some reason they are unable to correct the discrepancy or deficiency that is causing the rejection. We also clarify that the applicants and service providers that choose to refile the invoice but receive another rejection can appeal that subsequent rejection to USAC within 60 days. If the appeal is granted, our rules provide that the applicant or service provider will have 120 days from the date of the revised funding commitment decision letter (RFCDL) to refile the request for reimbursement. If the appeal is denied, the applicant may file a request for review and/or waiver from the Commission.

Finally, we provide guidance to applicants, service providers, and USAC, and modify the rule language regarding post-commitment requests to extend the invoice filing deadline under § 54.514(a)(3). In 2020, the Commission addressed an issue in the program rules that left applicants with some pending post-commitment requests or appeals unable to invoice by the invoice filing deadline. To fix the issue, the Commission amended the invoicing deadline rules to provide 120 days from the date of a Revised

Funding Commitment Decision Letter approving a post-commitment request or a successful appeal. Such relief is limited to approvals of timely filed post-commitment requests that affect invoicing, like service substitutions filed prior to the service delivery deadline or service provider changes. Reduction or cancellation of a portion of a funding request would not, for example, result in additional time to invoice. We amend the rule now to provide applicants and service providers with clarity without notice and comment in accordance with the exception to the Administrative Procedure Act (APA) for procedural rules.

We next update certain E-Rate program's definitions to better reflect current technology and to eliminate confusion. We also amend § 54.503(b) of the Commission's to clean up an incorrect cross-reference and § 54.513(d) to align the document retention period for equipment transfers with the overall document retention rule.

Wiring Between Buildings. We first adopt language that should make it easier for multiple schools that share a campus to use category two support for cabling. In funding year 2017, the Bureau modified the eligible services list to provide guidance on the classifications of connections between buildings of a single school. In that guidance, the Bureau noted that “[c]onnections between different schools with campuses located at the same property (e.g., an elementary school and middle school located on the same property) are considered to be category one digital transmission services,” which have separate competitive bidding requirements. In funding year 2018, the Bureau further clarified that connections between two schools in a single building may be classified as a category two service, but rejected requests to allow the term “single school campus” in the definition of “internal connections” as allowing for a single campus containing multiple schools.

In order to make this cabling eligible under category two, the Commission sought comment on a proposal to modify the definitions of “internal connections” and “wide area network” to allow applicants to seek funding for wiring between different schools (e.g., a high school and a middle school) in the same contiguous area as an internal connection. Commenters agree with the need for a change, and we adopt language to implement it and permit multiple schools located on the same property to share a single school campus. We decline to replace “single school” with the phrase “E-Rate eligible site(s)” because the rule language already includes references to libraries. In addition, we remove references to “voice” in

the definition of “wide area network” because voice services are no longer eligible for E-Rate support.

We received no comments opposing this change.

Definition of Consortium. We also adopt our proposal to amend the definition of “consortium” to align it with the definition of “consortium” used in the Emergency Connectivity Fund (ECF) program. Our E-Rate rules allowed ineligible private sector entities to join consortia only if the pre-discount prices for interstate services are at tariffed rates. Given that many services have been de-tariffed, we find the definition adopted for the ECF program is more appropriate and do not allow private sector entities to participate in E-Rate consortia. While the American Library Association suggests that we should continue to allow private entities to participate in a consortium, we lack sufficient information to ensure universal service funds are safeguarded with this practice. We also find the ECF definition to more clearly ensure that E-Rate eligible entities are in control of the competitive bidding process and compliance with program rules. Commenters also support this change.

Finally, we amend § 54.503(b) of the Commission’s rules to correct a cross reference to the competitive bidding exemptions in § 54.503(e). We also amend § 54.513(d) of the Commission’s rules to remove the reference to five years in order to eliminate confusion and align the document retention period with § 54.516(a), which requires retention of documents relating to compliance with the equipment transfer rules for ten years.

III. ORDER ON RECONSIDERATION

Finally, we address SECA’s petition for reconsideration and/or clarification regarding the Commission’s discussion in the *2023 E-Rate Report and Order* of whether the shared use of a category two piece of equipment by a non-instructional facility must be cost allocated from the request for E-Rate funding for that piece of equipment. The Commission provided that if the applicant is choosing the most cost-effective offering for the shared equipment without regard for the non-instructional facility’s use, the applicant is not required to cost allocate the non-instructional facility’s use of the shared equipment. SECA asserts that the *2023 E-Rate Report and Order* and associated regulation, § 54.502(d)(6), are ambiguous and could be construed to limit relief only to those non-instructional facilities where the equipment is physically located, and not to other non-instructional facilities that use the equipment. We now clarify that the use of shared equipment by other non-instructional facilities also does not require cost

allocation “[a]s long as the applicant is choosing the most cost-effective offering for the shared equipment (e.g., a district switch) without regard for the [non-instructional facility’s] use.” In a district-wide budget, we find this cost allocation is unnecessarily burdensome given the need for shared equipment within school or library networks to serve their students and library patrons. Accordingly, we grant SECA’s petition and amend § 54.502(d)(6) of the Commission’s rules to make clear that shared equipment does not require cost allocation of a non-instructional facilities’ use.

IV. PROCEDURAL MATTERS

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this *Report and Order* on small entities.

As required by the RFA, an Initial Regulatory Flexibility Analyses (IRFAs) in the *Promoting Fair and Open Competitive Bidding in the E-Rate Program NPRM*, released December 2021 and in the *Schools and Libraries Universal Service Support Mechanism, et al., Report and Order and Further Notice of Proposed Rulemaking*, released in July 2023. The Commission sought written public comment on the IRFAs. No comments were filed addressing the IRFAs. This FRFA conforms to the RFA and it (or summaries thereof) will be published in the Federal Register.

The Commission is required by section 254 of the Communications Act of 1934, as amended, to promulgate rules to implement the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules to reform its system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. Specifically, under the schools and libraries universal service support mechanism, also known as the E-Rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may receive discounts for eligible telecommunications services, Internet access, and internal connections. The E-Rate program thus plays an important role in expanding digital equity and closing the digital divide. Taking steps to close the digital divide is a top priority for the Commission. The Commission’s E-Rate program provides vital

support to schools and libraries allowing them to obtain affordable, high-speed broadband services and internal connections, which enables them to connect students and library patrons to critical next-generation learning opportunities and services.

In the *Report and Order*, we enhance the E-Rate program's competitive bidding rules by establishing the bidding portal. Starting in funding year 2028 (FY 2028), service providers will be required to respond to applicants' FCC Form 470 by uploading their bids into the Universal Service Administrative Company (USAC)-managed portal and applicants will use the portal to finalize their competitive bidding process. We also create a competitive bidding documentation repository to store applicants' competitive bidding and contract documentation, along with the submitted bids. After applicants complete their bid evaluation process, the evaluation and contract award documentation must be uploaded into the bidding portal. If there is a delay in implementing the portal by FY 2028, applicants are required to upload all competitive bidding documentation (i.e., bids, correspondence with bidders, evaluation documentation, contracts) when they submit the FY 2028 FCC Form 471 applications. This will ensure the competitive bidding documentation is collected with the FCC Form 471 beginning in FY 2028 and stored in the repository should any delays with implementation occur.

For multi-year contracts, the applicant needs to upload the contract during the first year of the contract, and then reference the existing contract record for the multi-year contract for the subsequent funding years relying on that contract. For existing multi-year contracts that are currently being used to support funding requests, in funding year 2029, applicants will be required to upload the associated bids, competitive bidding, and bid evaluation documents for the multi-year contract into the portal by the time the applicant submits their FCC Forms 471 that rely on that contract. For state master contracts, applicants are required to upload a copy of the state master contract and the related bid documentation to show how they selected the winning bidder. When applicants are required to perform a "mini-bid" evaluation, based on a multi-award state master contract, the documents that the applicant prepared, considered, executed or relied on in connection with the mini-bid process, including those reflecting how the applicant selected the winning bidder among the available vendors in the multi-award state master contract, must also be provided to USAC. For consortium applicants, the consortium lead needs to provide to USAC the competitive bidding and contract documentation related to the consortium's FCC

Form 471 application on behalf of its members.

The *Report and Order* establishes (after seeking comment, if necessary) a bid response template that can optionally be used by service providers when submitting their bids to an applicant's FCC Form 470. This template will allow applicants to more quickly review and evaluate bids from service providers and allow applicants to conduct an apples to apples bid evaluation. This template could also help service providers formulate bids in a more uniform manner and help USAC better utilize data analytics as part of its investigative function. In addition, the bid template can be incorporated into the applicant's FCC Form 471 application to further streamline the time for completing this form.

In addition, the *Report and Order* adopts proposals from the 2023 FNPRM for streamlining the E-Rate program. The *Report and Order* refines the process for applicants requesting funding when they are transitioning from one service provider to another during the funding year and provide further guidance on cost allocation rules and procedures in response to stakeholder requests. In the *Report and Order*, we also make changes and clarifications to the E-Rate competitive bidding requirements, including guidance on mid-year bandwidth increases; when competitive bidding must be restarted; clarifications around spam bids and bids received after the 28 day waiting period. We amend our E-Rate invoicing rules to provide greater flexibility to applicants and service providers that failed to file requests for reimbursements or extensions by the invoice filing deadline and provide a streamlined way to refile requests for reimbursement that were filed timely, but rejected after the invoice filing deadline. We also adopt the proposal to remove the requirement that applicants file the FCC Form 486 (Receipt of Service Confirmation and Children's Internet Protection Act (CIPA) Certification Form) for future funding years, beginning in FY 2028. We find the notification that services have started to be duplicative and we transfer the remaining CIPA compliance certifications to the FCC Form 471 funding application. In order to move the CIPA certification, beginning in funding year 2028, consortia applicants will need to collect the annual FCC Form 479, the Certification by Administrative Authority to Billed Entity of Compliance with the Children's Internet Protection Act (CIPA) Form, prior to the Billed Entity certifying a consortium's CIPA compliance on the FCC Form 471 application. This aligns the timing of the FCC Form 479 with both the FCC Form 471 application filing window and the existing timeline for applicant entities to demonstrate that a consortium billed entity applicant has authorization to file on behalf of its

member entities. Lastly, we update several E-Rate program definitions.

These actions allow the Commission and USAC to improve efficiencies in the E-Rate competitive bidding process, thus better ensuring that limited E-Rate funds are more effectively used by schools and libraries to connect students and library patrons to critical next-generation learning opportunities and services. The requirements in the *Report and Order* will allow the Commission and USAC to better identify and remediate instances of waste, fraud, and abuse associated with the E-Rate competitive bidding, improve transparency and competition associated with E-Rate bidding processes, and ensure that limited E-Rate funds are spent efficiently, including by reducing the number of denials, rescissions, and recoveries of funding, and audit findings based on an applicant's failure to retain or otherwise produce competitive bidding documentation after receiving E-Rate program funding commitment(s). The requirements will also promote greater accountability and enhance program integrity as USAC will have timely access to the competitive bidding and contract documentation associated with each FCC Form 471 application.

These actions are expected to lessen the burden on applicants in responding to requests from USAC and auditors for applicants' contract related documentation, as this documentation will be uploaded into the bidding portal at the time the applicants have completed their competitive bid process and signed contracts with their service providers. As part of the *Report and Order*, we also direct USAC to prepare training and outreach materials that will enable applicants and service providers to successfully participate in the E-Rate program and avoid common errors that lead to audit findings and improper payments. This action is also expected to lessen burdens on E-Rate applicants by ensuring that they have the information and tools they need comply with program rules and requirements. We also direct USAC, at the direction of the Bureau, to add guidance on their website and seek stakeholder feedback on the technical aspects of the development of the portal via means that will provide constructive input, such as user testing.

Comments expressed concerns that a bidding portal may increase burden, costs and discourage small schools, libraries, and vendors from participating. The proposals adopted in this *Report and Order*, require applicants to upload documents that they already are required to retain and produce under our rules and provides a centralized place for service providers to submit bids and communicate with

applicants about any questions they may have. Currently, to initiate the competitive bidding process, applicants are required to complete and upload their FCC Form 470 applications and documentation into EPC. As such, E-Rate program participants already possess the requisite skills they need to comply with these new requirements and other than adjusting how this documentation is shared with the Commission and USAC, the proposals adopted are not intended to change the way applicants or service providers conduct their competitive bidding processes. Therefore, we disagree that the competitive bidding portal will discourage applicants or service providers from participating in the E-Rate program and that the burden of the adopted changes will be substantial. To the extent that the portal does alter the rules, we expect that it leans towards a more fair, open, and transparent process, resulting in the cost effectiveness of the proposed services and reduction of waste. The use of the document repository will aid smaller entities with compliance with recordkeeping requirements because all the required documents would be uploaded and available in the portal.

Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy, and also provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the adopted rules. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

Our actions, over time, may affect small entities that are not easily categorized at present. We

therefore describe three broad groups of small entities that could be directly affected by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, “small organizations” are not-for-profit enterprises that are independently owned and operated and are not dominant in their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, “small governmental jurisdictions” are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

The rules adopted in the *Report and Order* will apply to small entities in the industries identified in the chart by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, we conclude that the adopted rules will impact a substantial number of small entities. Where available, we also provide additional information regarding the number of potentially affected entities in the identified industries.

Table 1. 2022 U.S. Census Bureau Data by NAICS Code

Regulated Industry (Footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS Code	SBA Size Standard	Total Firms	Total Small Firms	% Small Firms
Telephone Apparatus Manufacturing	334210	1,250 employees	155	136	87.74%
Radio and Television Broadcasting and Wireless Communications Equip Manufacturing	334220	1,250 employees	155	136	87.74%
Wired Telecommunications Carriers	517111	1,500 employees	3,403	3,027	88.95%
Wireless Telecommunications Carriers (except Satellite)	517112	1,500 employees	1,184	1,081	91.30%
All Other Telecommunications	517810	\$40 million	1,673	1,007	60.19%
Libraries and Archives	519210	\$21 million	2,030	1,891	93.15%

Regulated Industry (Footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS Code	SBA Size Standard	Total Firms	Total Small Firms	% Small Firms
Schools	611110	\$20 million	14,088 ¹	14,087	99.99%

Table 2. Telecommunications Service Provider Data

2024 Universal Service Monitoring Report Telecommunications Service Provider Data (Data as of December 2023)	SBA Size Standard (1500 Employees)		
Affected Entity	Total # FCC Form 499A Filers	Small Firms	% Small Entities
Wired Telecommunications Carriers	4,682	4,276	91.33
Wireless Telecommunications Carriers (except Satellite)	585	498	85.13
Wireless Telephony	326	247	75.77

Table 3. E-Rate Funding Data

Affected Entity	# Receiving E-Rate Funding Commitments
Schools	101,522
Libraries	11,671

The RFA directs agencies to describe the economic impact of adopted rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

The purpose of the *Report and Order* is to strengthen the competitive bidding rules for the E-Rate program by requiring applicants to submit their competitive bidding and contract related documentation into the competitive bidding portal, and also to streamline the E-Rate administrative process, as detailed in section A. Small entity applicants are already required to retain this documentation under § 54.516(a) of the Commission’s rules. Therefore, we expect that the burden of uploading the documentation will not be substantial. Under our adopted rules, once an applicant uploads the competitive bidding documentation into the bidding portal, applicants will be able to access this documentation when needed and provide it to other local, state, or federal agencies with jurisdiction over the applicant as necessary.

Thus, by preserving this documentation in the bidding portal and repository, the portal will assist in ensuring compliance with the competitive bidding recordkeeping and production requirements set forth in § 54.516(a)-(b) of the Commission's rules. In adopting this requirement, we do not make any modifications to § 54.516(a) of the Commission's rules. However, applicants and service providers do not need to separately retain documents that are also uploaded to the competitive bidding portal and can rely on this documentation to meet their document retention requirements. Moreover, the new process reduces the likelihood that small entity applicants will receive, and respond to, outreach communications from USAC and its auditors, related to their compliance with E-Rate program's competitive bidding rules.

Under our new rules, applicants can continue to hold conferences or other meetings. Questions and answers that were provided during the meeting and are relevant to the competitive bidding process must be uploaded to the competitive bidding portal within 72 hours to ensure that all potential bidders have access to the same information, and the competitive bidding process is fair and open to all bidders. A summary of all meetings held between the applicant and any potential bidders must be uploaded to the competitive bidding portal by the time the FCC Form 471 is filed. This affords applicants the ability to hold these important conferences and walkthroughs without raising a concern about certain bidders having conversations with an applicant in a manner that gives special treatment. Internal communications between the applicant's bid evaluation team do not need to be uploaded, but the final bid evaluation results must be uploaded. The documentation included in the portal should be similar to the documentation applicant and service providers are already required to retain and produce under the Commission's rules.

We estimate that the cost of creating, implementing, and managing the competitive bidding portal for the first year of operation will be under \$750,000, followed thereafter by annual operating costs of around \$100,000 to \$200,000, which together represents a comparatively low cost to take measures to protect a program where the funding cap in funding year 2026 is \$5.2 billion. Notably, the competitive bidding portal will be integrated into the existing EPC system, minimizing costs to both the Universal Service Fund and stakeholders, while ensuring that E-Rate program participants will be able to quickly adjust to the new requirements.

Further, the creation of a standardized bid template will reduce the burden on small applicants to compare bids as compared to existing E-Rate processes. We also direct USAC to enhance its E-Rate

training and outreach materials for use by applicants that will help applicants avoid common errors that lead to audit findings and improper payments. Also, the improvements made in the *Report and Order* to streamline the E-Rate administrative process may result in new or reduced reporting, recordkeeping, and compliance obligations for small entities. The Commission's rule modifications will simplify the E-Rate application and reimbursement process for small entities. For example, if a small entity wishes to transition service during a funding year, the applicant may request a funding commitment for a partial year of both services and then file a request for a post commitment change once the applicant knows the cutover dates. We also amend our rules to allow small applicants and service providers to request a single 120-day extension of the original invoice filing deadline if the request is made within 15 days of the original invoice filing deadline. We also adopt the proposal to remove the requirement that applicants file the FCC Form 486 for future funding years, beginning in FY 2028. The Commission anticipates these modifications will not require small entities to hire professionals to comply with the new rules, will have modest cost implications and should reduce compliance requirements for small entities that may have smaller staff and fewer resources. As such, we expect that the Commission's rule modifications will reduce the economic impact of current compliance obligations on small entities.

The RFA requires an agency to provide, "a description of the steps the agency has taken to minimize the significant economic impact on small entities...including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."

In the *Report and Order*, we take steps to minimize the economic impact on small entities through the rule changes that we have adopted. In considering whether to establish a competitive bidding and repository portal, we disagree with commenters that believe the portal will be unnecessary or substantially burdensome. Though the portal will require new or additional document submissions, we find that these obligations are outweighed by the Commission's goals of strengthening the E-Rate program by reducing the potential for waste, fraud, and abuse. As an initial matter, we expect that any burden on applicants to upload documentation as specified by the new rules will be offset, in part or in full, by the lessened burden on applicants to consider and prepare responses to outreach communications

from USAC, and its auditors, related to their compliance with the E-Rate program's rules. Moreover, we take a number of additional steps in the *Report and Order* to provide small entity E-Rate applicants with maximum flexibility in reducing their potential costs of compliance with the document upload requirements. For multi-year contracts, our rules require to applicants to provide the required competitive bidding and contract documentation only once, thus avoiding additional burdens on applicants for uploading duplicative competitive bidding and contract documentation for the remainder of the contract's term. This approach minimizes burdens on these applicants as compared to an alternative potential requirement that they upload this documentation with each year's funding cycle. For existing multi-year contracts that are currently being used to support funding requests, in funding year 2029, applicants will be required to upload the associated bids, competitive bidding, and bid evaluation documents for the multi-year contract into the portal by the time the applicant submits their FCC Forms 471 that rely on that contract. For consortium applicants, we only require that the consortium leader upload the competitive bidding and contract documentation related to the consortium's FCC Form 471 application on behalf of its members, thus avoiding an additional burden on each member to perform a similar upload. Removing the requirement that applicants file the FCC Form 486 will also lessen the burden on applicants.

In the *Report and Order*, we considered the alternative proposal to adopt a repository without the proposed competitive bidding portal. However, implementing a repository alone would fail to address Office of Inspector General's and the United States Department of Justice's concerns with bid collusion and bid alteration. Additionally, in the *Report and Order*, we also consider a number of alternatives designed to streamline the E-Rate administrative process, many of which result in rule changes that will minimize the economic impact for small applicants to the E-Rate program. For example, the Commission aims to alleviate burdensome cost allocation by not requiring an applicant to cost allocate the non-instructional facility's use of shared equipment. This provision should eliminate unnecessary burden for small entities, given the need for shared equipment within school or library networks to serve their students and library patrons. We clarify our cost allocation rules to limit the burden on all applicants, including small entities, clarifying that if at least 90% of an applicant's requested category one data or Internet service is being used for eligible purposes, the remaining ineligible portion is presumed to be ancillary and, therefore, cost allocation is not required. We also update our invoicing rules to provide a

15-day period after the original invoice filing deadline for applicants and service providers to request a single 120-day extension of the original invoice filing deadline, instead of allowing multiple extensions because many requests are filed in a timely manner, and providers with special circumstances may request a waiver from the Commission. Such a change will provide small entities that miss the deadline by a short period of time with the opportunity to still receive E-Rate funding if they fail to file their requests for reimbursement by the deadline.

Moreover, in the *Report and Order*, we direct USAC, with oversight from the Wireline Competition Bureau (WCB) and the Office of the Managing Director (OMD), to create a bid response template (after seeking comment, if necessary) for service providers to use when responding to applicants' FCC Forms 470. The optional use of this bid response template by service providers will standardize bid responses that applicants receive and make it easier for applicants to compare bids, thus reducing their burdens for conducting competitive bidding as required by E-Rate rules. Applicants choosing to use the template can require potential bidders to use the template bid response form by stating that use of the template is a requirement for responding to its FCC Form 470. We will determine in the future whether to require mandatory use of a standardized bid response form by service providers. We also direct USAC to enhance its training and outreach materials to better assist E-Rate participants with complying with the Commission's competitive bidding rules. These enhanced training and outreach materials will reduce applicant confusion thus reducing burdens on applicants for complying with E-Rate rules. We also direct USAC, at the direction of the Bureau, to add guidance on their website and seek stakeholder feedback on the technical aspects of the development of the portal via means that will provide constructive input, such as user testing. Further, we direct the Bureau to take into account when the new portal was adopted when considering requests for waiver, particularly for procedural or administrative errors by smaller or more rural participants.

Finally, to the extent that these rules introduce new compliance burdens on applicants in some respects, those burdens are outweighed by the benefits to applicants. These rules will better ensure that applicants receive and retain funding from the E-Rate program by reducing the number of denials, rescissions, and recoveries of funding, as well as by reducing audit findings based on an applicant's failure to retain or otherwise produce competitive bidding documentation after receiving E-Rate program

funding commitment(s).

The Commission will send a copy of the *Report and Order*, including this Final Regulatory Flexibility Analysis, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report and Order*, including this Final Regulatory Flexibility Analysis, to the Chief Counsel for the SBA Office of Advocacy and will publish a copy of the *Report and Order*, and this Final Regulatory Flexibility Analysis (or summaries thereof) in the *Federal Register*.

Paperwork Reduction Act. This *Report and Order* contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the revised information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, the Commission previously sought specific comment on how it might further reduce the information collection burden on small business concerns with fewer than 25 employees. We provide guidance to applicants, service providers, and USAC, and modify the rule language regarding post-commitment requests to extend the invoice filing deadline under § 54.514(a)(3). In 2020, the Commission addressed an issue in the program rules that left applicants with some pending post-commitment requests or appeals unable to invoice by the invoice filing deadline. To fix the issue, the Commission amended the invoicing deadline rules to provide 120 days from the date of a Revised Funding Commitment Decision Letter approving a post-commitment request or a successful appeal. Such relief is limited to approvals of timely filed post-commitment requests that affect invoicing, like service substitutions filed prior to the service delivery deadline or service provider changes. Reduction or cancellation of a portion of a funding request would not, for example, result in additional time to invoice. We amend the rule now to provide applicants and service providers with clarity without notice and comment in accordance with the exception to the APA for procedural rules. The updated rule will become effective upon publication in the *Federal Register*.

Congressional Review Act. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that the rules are non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this

Report and Order and Order on Reconsideration to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Report and Order* and Order on Reconsideration, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.

V. ORDERING CLAUSES

ACCORDINGLY, IT IS ORDERED, that pursuant to the authority contained in sections 1 through 4, 201-202, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151-154, 201-202, 254, 303(r), and 403, this *Report and Order and Order on Reconsideration* IS ADOPTED and effective thirty (30) days after publication in the *Federal Register*.

IT IS FURTHER ORDERED, that pursuant to the authority contained in sections 1 through 4, 201 through 202, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151-154, 201-202, 254, 303(r), and 403, Part 54 of the Commission's rules, 47 CFR Part 54, is AMENDED, and such rule amendments shall be effective thirty (30) days after publication in the *Federal Register*, except for §§ 54.503(c)(4)-(6) and 54.504(d)(1)(iv), which contains information collection requirements that are not effective until approved by the Office of Management and Budget. The FCC will publish a document in the Federal Register announcing the effective date for these sections.

IT IS FURTHER ORDERED, pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and § 1.429 of the Commission's rules, 47 CFR 1.429, that the Petition for Reconsideration and/or Clarification of the State E-rate Coordinators' Alliance on September 6, 2023, IS GRANTED.

List of Subjects in 47 CFR Part 54

Communications common carriers, Hotspots, Internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Aleta Bowers,
Federal Register Liaison Officer,
Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 54 as follows:

PART 54 – UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601-1609, and 1752, unless otherwise noted.

2. Amend § 54.500 by revising the definitions of “*Consortium*,” “*Internal connections*,” and “*Wide area network*” to read as follows:

§ 54.500 Terms and definitions.

* * * * *

Consortium. A “consortium” is any local, statewide, regional, or interstate cooperative association of schools and/or libraries eligible for support under this Subpart that seeks competitive bids for eligible services or funding for eligible services on behalf of some or all of its members. A consortium may also include health care providers eligible under subpart G of this part, and public sector (governmental) entities, including, but not limited to, state colleges and state universities, state educational broadcasters, counties, and municipalities, although such entities are not eligible for support.

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Internal connections. A service is eligible for support as a component of an institution’s “internal connections” if such service is necessary to transport or distribute broadband within one or more instructional buildings of a single school campus or within one or more non-administrative buildings that comprise a single library branch. Multiple schools with the same billed entity may share a single school campus.

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Wide area network. For purposes of this subpart, a “wide area network” is a data network that provides connections from one or more computers within an eligible school or library to one or more computers or networks that are external to such eligible school or library. Excluded from this definition is a data network that provides connections between or among instructional buildings of a single school

campus or between or among non-administrative buildings of a single library branch.

3. Amend § 54.502 by revising paragraph (d)(6) to read as follows:

§ 54.502 Eligible services.

* * * * *

(d) * * *

(6) *Non-instructional buildings.* Support is not available for category two services provided to or within non-instructional school buildings or separate library administrative buildings unless those category two services are essential for the effective transport of information to or within one or more instructional buildings of a school or non-administrative library buildings, or the Commission has found that the use of those services meets the definition of educational purpose, as defined in § 54.500. When applying for category two support for eligible services shared with or within a non-instructional school building or library administrative building, the applicant shall not be required to deduct the cost of a non-instructional building's use of the category two services or equipment.

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4. Delayed indefinitely, amend § 54.503 by revising paragraphs (b) and (c)(4) and adding paragraphs (c)(5) and (6) to read as follows:

§ 54.503 Competitive Bid Requirements.

* * * * *

(b) *Competitive bid requirements.* Except as provided in paragraph (e) of this section, an eligible school, library, or consortium that includes an eligible school or library shall seek competitive bids, pursuant to the requirements established in this subpart, for all services eligible for support under § 54.502. These competitive bid requirements apply in addition to state and local competitive bid requirements and are not intended to preempt such state or local requirements.

(c) * * *

(4) After posting on the Administrator's Web site an eligible school, library, or consortium FCC Form 470, the Administrator shall send confirmation of the posting to the entity requesting service. Providers of services shall not respond to a request for services directly to the requesting

entity and shall not reveal responses to other parties, including other providers of services, but shall submit responses through a secured Web site portal (“bidding portal” or “bid portal”) managed by the Administrator. The eligible school, library, or consortium shall then wait at least four weeks from the date on which its description of services is posted on the Administrator’s Web site before making commitments with the selected providers of services. The confirmation from the Administrator shall include the date after which the requestor may sign a contract with its chosen provider(s). The entity must consider all bid responses received prior to their bid evaluation, unless it has set a specific bid deadline within the controlling FCC Form 470 or any associated Requests for Proposal.

(5) Service providers shall respond to requests for services through a secured Web site portal (“bidding portal” or “bid portal”) managed by the Administrator, by submitting bids into the portal. Service providers will not have access to the bids of other service providers. If permitted under state/local law, service providers may anonymously submit questions or other inquiries to applicants through the bidding portal, to which applicants must publicly respond during the competitive bidding process. Applicants may hold meetings or conferences with interested bidders, so long as applicants post new questions and answers from the meeting/conference relevant to the competitive bidding process no later than 72 hours after the meeting. A summary of all meetings and conferences held with interested bidder(s) must be submitted by the time the FCC Form 471 is filed. Otherwise, communications between service providers and applicants or any representative thereof related to the services and products requested or the competitive bidding process must be conducted in the bidding portal from the date the FCC Form 470 is posted to the contract award. This requirement does not prohibit service providers from submitting bids or having communications with the applicant that are required under state/local law. The bids must be identical and copies of such communications must be submitted to the bidding portal by the time the FCC Form 471 is filed. All potential program bidders and service providers must have access to the same information and must be treated in the same manner throughout the entire procurement process.

(6) After making commitments with the selected providers of services, eligible schools, libraries,

or consortia shall upload the following before submitting an FCC Form 471 for the services:

(i) *Competitive bidding documents.* Applicants must submit documentation to support their certifications that they have carefully considered and selected the most cost-effective bid with price being the primary factor considered, including the bid evaluation criteria, and the following documents (as applicable, and to the extent not already captured and stored as part of competitive bidding process): Completed bid evaluation worksheets or matrices; explanation for any disqualified bids; a list of people who evaluated the bids (along with their title/role/relationship to the applicant), memos, board minutes, or similar documents related to the service provider selection/award; copies of notices to winners; and any correspondence with the service providers during the competitive bidding (i.e., from the date the FCC Form 470 is filed to the contract award date), evaluation, and award phase of the process that occurred outside of the bidding portal.

(ii) *Contracts or other documentation.* All applicants must submit a contract or other documentation, as applicable, that clearly identifies the service provider(s) selected; costs for which support is being requested; and the term of the service agreement(s) if applicable (i.e., if services are not being provided on a month-to-month basis). For services provided under contract, the applicant must submit a copy of the contract signed and dated after the Allowable Contract Date established pursuant to paragraph (c)(4) in this section by the applicant. If the services are provided by another legally binding agreement or on a month-to-month basis, the applicant must submit a bill, service offer, letter, or similar document from the service provider that provides the required information.

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5. Delayed indefinitely, amend § 54.504 by revising paragraphs (d)(1)(iv) and adding paragraph (g) to read as follows:

§ 54.504 Requests for Services.

* * * * *

(d) * * *

(1) * * *

(iv) The applicant certifies that the requested change is either within the scope of the controlling FCC Form 470, including any associated Requests for Proposal, for the original services, or is the result of an unanticipated need for additional bandwidth and the applicant will seek competitive bids prior to the next funding year if the applicant plans to continue to receive the additional bandwidth.

* * * * *

(g) *Transition of services during a funding year.* (1) The Administrator shall grant a request by an applicant to modify the service start and end dates, including in the event that a service start and end date modification results in an upward change in the pre-discount price for the supported service provided during the funding year for the transitioning recurring services identified on its FCC Form 471, where:

(i) The applicant filed partial funding year requests for the supported service from both providers (or service offerings, in the case of a transition to a different service from the same provider) during the application filing window using the best estimates of the transition dates, provided there is no overlap in dates,

(ii) The applicant indicated on the FCC Form 471 that the requests were for a transition of service, and

(iii) There are available funds below the schools and libraries universal service support program funding cap.

6. Amend § 54.513 by revising paragraph (d) to read as follows:

§ 54.513 Resale and transfer of equipment.

* * * * *

(d) Eligible services and equipment components of eligible services purchased at a discount under this subpart shall not be transferred, with or without consideration of money or any other thing of value, for a period of three years after purchase, except that eligible services and equipment components of eligible services may be transferred to another eligible school or library in the event that the particular location where the service originally was received is permanently or temporarily closed, or is part of the

same eligible school district or library system as the location receiving the eligible services or equipment components of eligible services. If an eligible service or equipment component of a service is transferred pursuant to this paragraph, both the transferor and recipient must maintain detailed records documenting the transfer and the reason for the transfer.

7. Amend § 54.514 by revising paragraphs (a) and (b) to read as follows:

§ 54.514 Payment for discounted services.

(a) *Invoice filing deadline.* Invoices must be submitted to the Administrator by the latest of:

- (1) 120 days after the last day to receive service;
- (2) 120 days after the date of the Funding Commitment Decision Letter;
- (3) 120 days after the date of the Revised Funding Commitment Decision Letter approving a post-commitment request made by the applicant or service provider or a successful appeal of a previously denied or reduced funding request that is impacting requests for reimbursement, whichever is latest; or
- (4) 60 days after the date of the first notification of a denial or reduction of a timely filed request for reimbursement.

(b) *Invoice filing deadline extension.* Service providers or billed entities may request a one-time extension of the invoicing filing deadline if such request is filed before, or within 15 days after, the deadline calculated pursuant to paragraph (a) of this section. The Administrator shall grant a 120-day extension of the invoice filing deadline calculated in paragraph (a) of this section if it is timely requested. The Commission may find good cause for a waiver of the invoice filing deadline extension rule and a one-time extension of 120 days from the original invoicing deadline for requests for waiver where the Petitioner can demonstrate that they attempted to file for an extension within 15 days of the original invoice filing deadline.

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8. Amend § 54.520 by revising introductory text of paragraph (c)(1), paragraph (c)(1)(iii), introductory text of paragraph (c)(2), paragraphs (c)(2)(iii), (c)(3)(ii) and (iii), and (g) to read as follows:

§ 54.520 Children's Internet Protection Act certifications required from recipients of discounts under the federal universal service support mechanism for schools and libraries.

* * * * *

(c) *******(1) *Schools*. The billed entity for a school that receives discounts for Internet access or internal connections must certify on FCC Form 471 that an Internet safety policy is being enforced. If the school is an eligible member of a consortium but is not the billed entity for the consortium, the school must certify instead on FCC Form 479 (“Certification to Consortium Leader of Compliance with the Children's Internet Protection Act”) that an Internet safety policy is being enforced.

* * * * *

(iii) A school must satisfy its obligations to make certifications by making one of the following certifications required by paragraph (c)(1) of this section on FCC Form 471:

(A) The recipient(s) of service represented in the Funding Request Number(s) on this Form 471 has (have) complied with the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l).

(B) Pursuant to the Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), the recipient(s) of service represented in the Funding Request Number(s) on this Form 471, for whom this is the first funding year in the federal universal service support mechanism for schools and libraries, is (are) undertaking such actions, including any necessary procurement procedures, to comply with the requirements of CIPA for the next funding year, but has (have) not completed all requirements of CIPA for this funding year.

(C) The Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 471 is (are) receiving discount services only for telecommunications services.

(2) *Libraries*. The billed entity for a library that receives discounts for Internet access and internal connections must certify, on FCC Form 471, that an Internet safety policy is being enforced. If the library is an eligible member of a consortium but is not the billed entity for the consortium, the library must instead certify on FCC Form 479 (“Certification to Consortium Leader of Compliance with the Children's Internet Protection Act”) that an Internet safety policy

is being enforced.

* * * * *

(iii) A library must satisfy its obligations to make certifications by making one of the following certifications required by paragraph (c)(2) of this section on FCC Form 471:

(A) The recipient(s) of service represented in the Funding Request Number(s) on this Form 471 has (have) complied with the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l).

(B) Pursuant to the Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), the recipient(s) of service represented in the Funding Request Number(s) on this Form 471, for whom this is the first funding year in the federal universal service support mechanism for schools and libraries, is (are) undertaking such actions, including any necessary procurement procedures, to comply with the requirements of CIPA for the next funding year, but has (have) not completed all requirements of CIPA for this funding year.

(C) The Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 471 is (are) receiving discount services only for telecommunications services.

(3) * * *

(ii) The billed entity for a consortium, as defined in paragraph (a)(3) of this section, must make one of the following two certifications on FCC Form 471: "I certify as the Billed Entity for the consortium that I have collected duly completed and signed Forms 479 from all eligible members of the consortium."; or I certify "as the Billed Entity for the consortium that the only services that I have been approved for discounts under the universal service support on behalf of eligible members of the consortium are telecommunications services, and therefore the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), do not apply."; and

(iii) The billed entity for a consortium, as defined in paragraph (a)(3) of this section, who

filed an FCC Form 471 as a “consortium application” and who is also a recipient of services as a member of that consortium must select one of the certifications under paragraph (c)(3)(i) of this section on FCC Form 471.

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(g) *Funding year certification deadlines.* For Funding Year 2003 through Funding Year 2027, billed entities shall provide one of the certifications required under paragraph (c)(1), (c)(2) or (c)(3) of this section on an FCC Form 486 in accordance with the prior existing program guidelines established by the Administrator. For Funding Year 2028 and for subsequent funding years, billed entities shall provide one of the certifications required under paragraph (c)(1), (c)(2), or (c)(3) of this section on an FCC Form 471.

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