



May 29, 2024

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: Schools and Libraries Cybersecurity Pilot Program, WC Docket No. 23-234

Dear Madam Secretary:

The Schools, Health & Libraries Broadband (SHLB) Coalition, the American Library Association (ALA), the Consortium for School Networking (CoSN), and Common Sense (collectively referred to herein as the “School and Library Advocates”) respectfully submit this request for clarification of the Federal Communications Commission’s (Commission) Schools and Libraries Cybersecurity Pilot Program (Pilot) draft Report and Order (Draft Report and Order).¹

The School and Library Advocates support the Draft Report and Order and the Commission’s efforts to secure our nation’s vulnerable institutions from the increasing threat of cyberattack. The need for expanded cybersecurity protections is urgent, and we welcome the Commission’s leadership to address this challenge. We encourage the Commission to provide increased funding and a quick timeline for upgrading the E-rate program to provide needed financial support to protect these vulnerable school and library networks for the long term. Nonetheless, the purpose of this letter is not to revisit those requests but instead to raise several questions about the Draft Report and Order and to suggest several important ways to streamline the operation of the pilot program so that it is as successful as possible.

Some elements of the processes described by the Draft Report and Order are complicated and will be confusing to applicants. It is not immediately apparent that there is a need for funding floors or caps since this is a pilot program in which the Commission retains the authority to choose which applicants are going to receive funding. If the Commission nonetheless believes the funding floors and caps for this Pilot are essential, we encourage the Commission to provide

¹ *Schools and Libraries Cybersecurity Pilot Program*, WC Docket No. 23-234, Report and Order (Rel. May 16, 2024). (Draft Report and Order)

greater guidance as to how they would work in practice as set forth below. Otherwise, applicants will be discouraged from participating in the program.

Furthermore, it is not clear how the Commission will choose which applications to fund. If the Commission receives more requests for funding than the \$200 million, will the Commission make a qualitative evaluation of each application using the “weighing factors” identified in paragraphs 67-73 to ensure a diversity of applicants (which include schools/libraries at different discount levels)? Or will the Commission award funding (relatively quantitatively) using the E-Rate matrix to award funding first to all the schools and libraries in the 90% discount rate, as set forth in paragraph 74, regardless of applicant size or geographic location?

Below we provide additional detailed questions about various procedural and operational aspects of the Draft Report and Order:

1. Budget Allocation

- Can the Commission clarify whether a chosen applicant will receive an overall or *annual* budget through the Pilot? In paragraph 23, the Commission refers to the 2021 Funds for Learning study (FFL Study) that estimates the costs required to support various cybersecurity services and equipment, specifically citing that it would cost “approximately \$13.60 per student annually to support advanced or next-generation firewall services, \$16.20 per student annually to support endpoint security and protection, and \$14.50 per student annually to support additional, advanced cybersecurity services and equipment.”² Subsequently, paragraph 25 states that “[s]chools and school districts will be eligible to receive up to \$13.60 per student, on a pre-discount basis, to purchase eligible cybersecurity services and equipment over the three-year Pilot duration[.]”³ but does not specify if this per-student budgeted amount is an *annual* amount allocated for each of the years over the three year Pilot duration.⁴ Paragraph 27 then establishes a \$15,000 funding floor and \$1.5M funding maximum for schools and school districts, again citing to the FFL Study.⁵ However, similar to the issue presented in paragraph 25, it is unclear as to whether the proposed funding floor/maximum amounts provide applicants annual budget amounts. Because the FFL Study estimates *annual* costs, we assume that the \$13.60 per student amount, \$15,000 funding floor, and \$1.5M

² Draft Report and Order at 14.

³ *Id.*

⁴ Footnote 77 states that the Commission will use a participant’s student count from the first year of the Pilot as the applicable student count throughout all three years, rather than changing the count each year. This appears to suggest that the Commission is adopting an *annual* budget process.

⁵ Draft Report and Order at 15-16.

maximum are also *annual* budgets. If this is the Commission's intent, we suggest the following changes to the Draft Report and Order:

25. Schools and school districts will be eligible to receive up to \$13.60 per student, **annually**, on a pre-discount basis, to purchase eligible cybersecurity services and equipment over the three-year Pilot duration.

Additionally, we note that this per-student **annual** budget is sufficient to support the majority of the total **annual** costs related to any one of the three types of security measures FFL and CoSN identified in their cost estimate,

27. Schools and school districts selected for the Pilot Program will be eligible to receive, at a minimum, \$15,000 in **annual** support, on a pre-discount basis, over the three-year Pilot duration.

We set the **annual** funding floor at \$15,000, pre-discount, because it aligns with the cost estimate submitted by FFL and CoSN, which found that that the approximate per-site **annual** cost for advanced firewalls is \$15,994.

We also establish an **annual** budget maximum of \$1.5 million, pre-discount, which equates to approximately 110,000 students, using the pre-discount \$13.60 per-student budget.

Schools and school districts with more than 110,000 students will be subject to the **annual** budget maximum of \$1.5 million, over the three-year Pilot duration.

Footnote 85 *Id.* (finding that the **annual** cost of advanced firewall for a school district with 50+ sites is approximately \$1.2 million);

We also suggest the following changes to the proposed CFR language on page 73:

§ 54.2001(b)(1) Schools. At a minimum, each eligible school or school district will receive \$15,000 **annually**. Schools and school districts with 1,100 students or fewer will be eligible to receive the **annual** \$15,000 funding floor. For schools and school districts with more than 1,100 students, the **annual** budget is calculated using the pre-discount price \$13.60 per-student multiplier, subject an **annual** budget maximum of \$1.5 million.

2. Libraries, Library Systems, and Consortia Budget

- The proposed CFR language states: “At a *minimum*, each eligible library will receive \$15,000.”⁶ The word “minimum” appears to be in conflict with Paragraph 28 of the Draft Report and Order, which states that the Commission “establish[es] a pre-discount budget of \$15,000 per library, consistent with [its] analysis above regarding the minimum per-site funding amount needed to support advanced firewalls.”⁷ This language seems to instead set a \$15,000 *maximum* amount that each library is eligible to receive. If \$15,000 is indeed the minimum or floor amount, what is the maximum amount each library can receive? Likewise, consistent with our analysis above regarding budget allocation, can the Commission clarify if this \$15,000 amount is an *annual* budgeted amount?
- The proposed CFR language states: “Library systems with more than 11 sites will be eligible for support up to \$175,000.”⁸ Does this mean that a large urban library system, like the Houston Public Library system that contains 39 sites, will only be eligible for a maximum of \$175,000? If yes, Houston will receive just \$4,487 per site (\$175,000/39) which is considerably less than the \$15,994.84 cost for advanced firewalls cited in paragraph 27. Additionally, we note that the \$175,000 maximum for library systems with 11 or more sites is far less than the \$1.5 million maximum allotted for schools. Is there additional context the Commission can provide to understand limiting this funding allocation to 11 sites which means that many large urban or county-wide library systems will get much less than \$15,000? Could the Commission consider increasing the per-library amount or simply state that \$15,000 is the minimal amount per library regardless of how many sites a library system has? Likewise, consistent with our analysis above regarding budget allocation, can the Commission clarify if this \$175,000 amount is an *annual* budgeted amount?
- The proposed CFR language states: “Consortia solely comprised of schools or comprised of both eligible schools and libraries are subject to the \$1.5 million budget maximum for schools and school districts.”⁹ Does this mean that any libraries in such consortia are still subject to the \$15,000 limit per library and a maximum of \$175,000 for 11 or more library systems?
- Paragraph 28 states that the Commission establishes “a pre-discount budget of \$15,000 per library, consistent with our analysis above regarding the minimum per-site funding amount needed to support **advanced firewalls**.”¹⁰ Are libraries

⁶ *Id.* at 73 (emphasis added).

⁷ *Id.* at 16.

⁸ *Id.* at 73.

⁹ *Id.*

¹⁰ *Id.* at 16 (emphasis added).

able to apply for more comprehensive cybersecurity tools as specified in the P-ESL outside of, or in addition to, advanced firewalls?

3. Eligible and Ineligible Equipment/Costs

- The proposed P-ESL states: “Ineligible costs include: Any equipment, service, or other related cost that is eligible in the Commission’s E-Rate eligible services list program in the funding year for which Pilot reimbursement is sought.”¹¹ Are certain components that are now cost-allocated out of an E-Rate application eligible for reimbursement under the Pilot? For example, an applicant might purchase a specific brand of firewall that was 70% eligible and 30% ineligible using one model number under the E-Rate program. Can the applicant seek reimbursement for the 30% under the Pilot, assuming this 30% is now covered by the P-ESL? If yes, we are concerned as to whether a manufacturer can or will sell eligible and ineligible components separately (especially for bundled offerings). We assume that the manufacturer would have to create a separate model number for each E-Rate ineligible component, but are unsure if that is actually workable. Can the Commission direct the Bureau and USAC to clarify how an applicant can seek reimbursement for cost-allocated components under the Pilot?

4. Asset Retention

- The Draft Report and Order sets out requirements for “[p]ilot participants to ‘retain all documents related to their participation in the [Pilot] program sufficient to demonstrate compliance with all program rules for at least 10 years from the last date of service or delivery of equipment’ and ‘maintain asset and inventory records of services and equipment purchased sufficient to verify the actual location of such services and equipment for a period of 10 years after purchase.’¹² Can the Commission clarify that this 10-year provision only applies to the time period a Pilot participant must retain documents regarding participation and asset/inventory *accumulated during the Pilot*, and does not extend this requirement beyond the timeline stated in the proposed rule governing the prohibition on resale of supported services and equipment?¹³
- If an applicant purchases a firewall with a separate firewall license that provides basic firewall services using E-Rate funding and later (within five years of the original firewall license purchase) purchases an advanced firewall license that

¹¹ *Id.* at 102.

¹² *Id.* at 53.

¹³ *Id.* at 75, proposing 47 CFR 54.2003(b) stating that “[e]ligible supported services and equipment shall not be sold, resold, or transferred in consideration of money or any other thing of value, until the conclusion of the Schools and Libraries Cybersecurity Pilot Program, as provided in §54.2001.”

provides enhanced firewall services using Pilot funding, will the discontinued use of the original firewall license (providing basic firewall services) be a violation of the current E-Rate rule governing disposal of obsolete equipment components of eligible services?¹⁴ We ask the Commission to clarify that once the basic firewall equipment/services are no longer being used, they become obsolete at that point.

5. Additional Considerations

- Can the Commission direct the Bureau to establish a timeline to issue a final report on the Pilot and recommendations regarding next steps by a certain number of months after the Pilot ends? It would also be helpful for the Bureau to publish interim reports after years one and two of the Pilot (subject to confidentiality measures) so that data can be measured throughout the duration of the Pilot.
- Can the Draft Report and Order contain language allowing the Commission to begin analyzing the data and impact of the Pilot prior to the end of the three-year term (such as that which is gleaned through interim reporting, as suggested above)?
- Can the Report and Order contain language allowing the Bureau to increase the Pilot budget if demand supports it? For example, the text could include an additional provision stating that the initial Pilot budget is \$200M but could be increased at the Bureau's discretion to \$300M (for example) if there is sufficient demand and sufficient unused E-Rate funds not expended in prior funding years.
- Can the Commission clarify when the Pilot will begin, or even give an approximate date, so that applicants can better understand how much time they have to prepare their forms?
- If a consortium participates, can individual sites apply separately if there is no overlap on the purchases?
- We urge the Commission to ensure that information gathered from potential participants via the FCC Form 484, Part One, will not be used to automatically prohibit their ability to participate in the Pilot. For example, a Pilot applicant must state whether it "has a cybersecurity officer or other senior-level staff member designated to be the cybersecurity officer for its Pilot project."¹⁵ We do not want a potential applicant to be discouraged from participating if, for example, they have a staff member who can be the "cybersecurity officer" but who does not have specific IT or cybersecurity credentials or experience.

¹⁴ 47 CFR 54.513(b), requiring that eligible equipment components "shall be considered obsolete if the equipment components have been installed for at least five years" after which they "may be resold or transferred in consideration of money or any other thing of value, disposed of, donated, or traded."

¹⁵ Draft Report and Order at 36.

- Finally, there are several references to the pre-discount amount a school or library will “receive”.¹⁶ But the applicant does not “receive” the full pre-discount amount. Can the Commission clarify that the amount the applicant is awarded depends on the percentage as determined by the E-Rate discount matrix?

Thank you again for initiating this important Pilot. As the agency proceeds toward a vote, the School and Library Advocates urge the Commission to direct the Wireline Competition Bureau to work with stakeholders (by gathering feedback and recommendations) and USAC to address these and other questions as they operationalize the Draft Report and Order.

Respectfully,



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¹⁶ See, e.g., *Id.* at 14 stating that, “[s]chools and school districts will be eligible to **receive** up to \$13.60 per student, on a pre-discount basis, to purchase eligible cybersecurity services and equipment over the three-year Pilot duration.” (Emphasis added).

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