BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of	)	
	)	
Ensuring Children's Safe Use of Screens and E-Rate-Funded Services	)	WC Docket No. 26-133
	)	
Modernizing the E-Rate Program for Schools and Libraries	)	WC Docket No. 13-184
	)	
Establishing the Emergency Connectivity Fund to Close the Homework Gap	)	WC Docket No. 21-93
	)	
Promoting Fair and Open Competitive Bidding in the E-Rate Program	)	WC Docket No. 21-455

REPLY COMMENTS OF TECHFREEDOM

TechFreedom, pursuant to Sections 1.415 and 1.419 of the Commission's rules,[1] hereby files these Reply Comments in response to the Notice of Proposed Rulemaking in the above-referenced proceedings.[2] In these Reply Comments, we respond to the E-Rate NPRM's questions about the role consultants play in the Universal Service Fund (USF) process. While the E-Rate NPRM does highlight the activities of some unscrupulous consultants, the attached paper highlights that the E-Rate rules themselves essentially mandate that schools and libraries hire consultants to help them through the Byzantine structure of the rules, and

[1] 47 C.F.R. §§ 1.415 & 1.419.

[2] Ensuring Children's Safe Use of Screens and E-Rate-Funded Services, WC Docket 26-133, et al., released June 26, 2026 [E-Rate NPRM]. The E-Rate NPRM was published in the Federal Register on August 14, 2026, 91 Fed. Reg. 52626 (Aug. 14, 2026). The E-Rate NPRM set the comment date as October 13, 2026, and the reply comment date as November 12, 2026. These Reply Comments are timely filed.

specifically to act as document repositories and backstops against the combination of the utter lack of any statute of limitations and the Universal Service Administrative Company's (USAC's) overly aggressive attempts to reach back more than a decade to demand repayment by beneficiary schools and libraries. We echo the many comments in this proceeding that correctly point out that increased regulatory burdens on the E-Rate system for consultants will be passed on to beneficiaries, making participation in the program even more cumbersome and expensive.[3]

I. The NPRM's Focus on Consultants Misses the Mark

A. The NPRM Is Correct to Ask Questions About Consultants, but Must Also Ask Why Consultants Are Necessary

The NPRM spends nearly 30 paragraphs and proposes 20 new rules or sub-rules aimed at curbing ways to limit waste, fraud and abuse by consultants:

> In this FNPRM, we propose and seek comment on a number of new measures aimed at enhancing program integrity by reducing opportunities for fraudulent conduct by consultants. Building on the Commission's recent successes in addressing waste, fraud, and abuse risks associated with the E Rate program, and recognizing the role consultants play in assisting program participants, these measures are designed to facilitate and improve the Commission's and USAC's oversight of consultants and consulting firms and provide the Commission and USAC with additional tools to address instances

[3] TechFreedom cannot proceed with these Reply Comments without calling out the utter "waste, fraud, and abuse" perpetrated on the FCC in this proceeding by Theodora Scarato who has chosen to file 604 separate filings raising identical issues related to alleged environmental issues regarding electromagnetic radiation which are wholly outside the subject matter of this proceeding. Such spam postings are reminiscent of the fraud perpetrated against the FCC during the Restoring Internet Freedom proceeding. Obviously the reforms that then-Chair Ajit Pai proposed in 2018 (*see* Letter from Ajit Pai, Chair, to Sen. Merkley (July 6, 2018), https://cdn.arstechnica.net/wp-content/uploads/2018/07/Pai-letter-to-merkley.pdf), have not stopped bad actors from disrupting FCC proceedings; having to wade through hundreds of off-topic near-identical filings makes participating in the FCC's rulemaking processes all the more difficult and costly for average citizens seeking the best result for our children and those in need of public support for schools and libraries. If Ms. Scarato thinks that such tactics will rally support for her cause, she is sorely mistaken.

> of consultant misconduct. We also seek comment on further efforts to streamline and strengthen our oversight of the E-Rate program.[4]

While noting that consultants do have a role in the E-Rate program,[5] the NPRM never asks the real reason why so many schools and libraries must engage the services of consultants to participate in E-Rate. Several commenters provide the answer to that unanswered question:

> The underlying problem is program complexity. The best long-term reform is to make the application process simple enough that a school can complete it on its own . . . The program, as it is run today, especially around the "competitive bidding" requirements is fraught with pitfalls, ambiguous, and hard to follow standards which leads to schools not participating in the program, or being forced to compromise and procure services that do not meet a school's real needs.[6]

> E-rate involves detailed competitive bidding, application, documentation, invoicing, and compliance requirements. Large school systems may have staff who specialize in the program, but smaller districts often do not. For those applicants, experienced consultants can provide expertise and administrative capacity that would be difficult to maintain internally.[7]

> While a simple low-cost 471 can be filed by a small entity, the more services you seek and the higher your costs, the more you need professional assistance to ensure you are maximizing your funding and ensuring compliance with the ever changing E-Rate rules. There are literally thousands of different projects and funding scenarios with unique complexities that impact the eligibility and process for E-Rate funding. Consultants provide a greater depth and breadth of knowledge than a single applicant could ever achieve. Given the complexities of the program regulations and the cyclical nature of the application process, it is not feasible for an applicant to hire a permanent staff member to keep apprised of all the rules and changes to the program, to

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[4] E-Rate NPRM ¶ 54 (footnote omitted). *See also* n. 173 (listing many instances of consultant fraud and abuse).

[5] *Id.* ¶ 55 ("Consultants and consulting firms play a supporting role in the E-Rate program, assisting applicants and service providers across all phases of the program, including, for example, helping applicants with the submission of FCC Form 471 applications and responses to program integrity assurance (PIA) review and audit inquiries.").

[6] Comments of Metcomm.net at 9-10.

[7] Comments of the Consortium for School Networking at 14.

> manage the numerous forms, to ensure full compliance, and also to manage a workload of other library services projects.[8]

FCC staffers who work full-time on USF matters can understand how to navigate the complex USF rules they create. USAC, which skimmed $266 million off the top of USF contributions in 2025 to fund its existence and oversight of the program,[9] clearly has the money to train its employees and contractors on administering its rules and systems. What neither entity realizes is the "eternal fog of uncertainty"[10] these rules create for the beneficiaries the program was created to benefit who don't spend every waking minute of their existence memorizing form numbers, due dates, and document retention requirements. Whether created intentionally,[11] or unintentionally,[12] the USF rules are collapsing under their own complexity.

B. Beneficiaries Must Hire Consultants as Partial "Insurance Policies"

Because of both the complexity of the rules and the dangers that USAC will move to recoup subsidies that schools and libraries can't afford to repay, many participants hire consultants as backstop insurance policies against aggressive USAC audits. "Many schools hire consultants today mainly to protect themselves from complex rules, ***not because***

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[8] Comments of E-Rate Expertise, 6.

[9] USAC 2025 Annual Report, https://www.usac.org/wp-content/uploads/about/documents/annual-reports/2025/USAC_2025_Annual_Report.pdf.

[10] Loper Bright Enter. v. Raimondo, 603 U.S. 369, 411 (2024).

[11] *See, e.g.,* Dana Foarta & Massimo Morelli, *The Common Determinants of Legislative and Regulatory Complexity*, 42 J. OF L., ECON., & ORG. 538 (2025), https://academic.oup.com/jleo/article-abstract/42/2/538/8114079.

[12] Patrick McLaughlin & Chad Reese, *Against Regulatory Complexity*, MERCATUS CTR. (July 20, 2016), https://www.mercatus.org/economic-insights/expert-commentary/against-regulatory-complexity.

consultants add value."[13] "We rely on the expertise of our consultants to ensure best practices in meeting regulations. We are experts at teaching and forming children. We need the support of our consultants in faithfully complying with E-Rate regulations."[14] These commenters, as well as many others, admit that because of the complexity of the program rules, hiring a consultant is a cost of participating. Consultants have become indispensable to the program, most likely by design. Who staffs these consultants? Many are ex-FCC or ex-USAC employees. The combination of a regulatory revolving door and a self-licking ice cream cone can't be ignored.[15]

C. Creating New Consultant Rules Will Only Increase Costs Passed on to Beneficiaries

The one consensus among those filing comments responding to the new proposed rules on consultants is that they will raise compliance costs and risks on beneficiaries, not curb waste, fraud, and abuse:

> The Commission should not equate additional administrative requirements for applicants with improved program integrity. The relevant question is whether the proposed requirements would meaningfully deter fraud, waste, and abuse, or merely impose additional burdens on compliant participants. Individuals' intent on committing misconduct may simply disregard the new

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[13] Comments of Metcomm.net, 9-10 (emphasis added). *See also* Comments of Northside Independent School District, 6 ("E-rate consultants keep Northside ISD's funding on track by expert-guiding district staff through complex USAC regulations and managing timely form filings. They enforce strict competitive bidding procedures to prevent costly errors, help satisfy regulatory requirements, and ensure NISD remains fully compliant and audit-ready to protect essential connectivity funding across all campuses.").

[14] Comments of the Roman Catholic Diocese of Orange.

[15] *See* Clark v. State of Florida, No. 1D2025-0452, *23 (Fla. Dist. Ct. App. Sept. 9, 2026), https://cases.justia.com/florida/first-district-court-of-appeal/2026-1d2025-0453.pdf?ts=1788966711 (in describing the problem of pro se criminal appeals not raising issues that courts are required to adjudicate: "The procedure has become a self-licking ice cream cone: a process sustained by the very labor it exists to generate.").

> requirements, while responsible consultants, applicants, and service providers would bear the administrative costs of compliance.[16]

Similar comments came from beneficiaries,[17] public interest groups,[18] and consultants.[19] It is amazing that an FCC which prides itself on reducing regulatory burdens now sees the cure for a bloated regulatory system to be yet more regulations that increase compliance costs that cannot be recouped through the program.[20] Layering on additional burdensome regulations with scant beneficial impacts will not curb waste, fraud and abuse, but rather will drive poor schools and libraries out of the program altogether.[21]

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[16] Comments of Infinity Communications and Compliance, 26.

[17] *See, e.g.,* Comments of Lucia Mar United School District, 6 ("Our concern is who carries the paperwork. As proposed, Form 5654 would be filed by applicants and service providers, and an applicant that uses no consultant would still have to certify that. We ask the Commission to put most of the work on consultants, not schools, so that small and under-resourced districts don't end up with a stack of new filings to keep the funding they already depend on."); Comments of Northwest Arctic Borough School District, 11 ("The District supports proportionate documentation requirements that allow USAC to verify a consultant's role without adding one more form, one more deadline, and one more hoop for applicants to jump through.").

[18] *See, e.g.,* Comments of the Consortium for School Networking, 14 ("Changes affecting consultants should not make it harder for districts to obtain legitimate professional assistance or add compliance burdens that discourage participation. Any new requirements should place obligations on consultants, not applicants.").

[19] *See, e.g.,* Comments of Metcomm.net, 9 ("But the proposal should be built around one principle: the burden of consultant oversight should fall on consultants and USAC, not on schools."); Comments of EdTechnologyFunds, Inc., 5 ("A federal certification regime, mandatory contract terms or fee restrictions would raise the cost of help for the applicants who most need it: single-campus charters, private schools and small libraries that hire a consultant precisely because they have no one else.");

[20] Just two weeks ago Chairman Carr took to Facebook to applaud the Commission's efforts to reduce regulatory burdens: "DELETE. DELETE. DELETE. The FCC has now removed over 2,200 rules or requirements from our books." Fed. Commc'ns Comm'n, FACEBOOK (Oct. 21, 2026, 4:24 PM), https://www.facebook.com/FCC/posts/delete-delete-delete-the-fcc-has-now-removed-over-2200-rules-or-requirements-fro/1556818153157768/.

[21] *See supra* note 6 ("The program, as it is run today, especially around the "competitive bidding" requirements is fraught with pitfalls, ambiguous, and hard to follow standards which leads to schools not participating in the program, or being forced to compromise and procure services that do not meet a school's real needs.").

II. One "Eternal Fog of Uncertainty" the Commission Should Lift Is the Forever Danger of Audits

If the Commission is serious about trying to reduce the influence of consultants over beneficiaries,[22] it should start by examining the impact of its decision to jettison any notion of timeliness on the part of USAC in its audit structure. The cost and risk to beneficiaries imposed by USAC's ability to look back decades and suddenly demand repayment of funds applied for, approved, and spent under the USF program, effectively demands that they hire consultants to house the records and institutional knowledge of decades of USAC filings which may come under fire far into the future.

To support these Reply Comments, we submit a 2022 comprehensive study of USAC's violations of due process in administering the USF, especially as it relates to the schools and libraries (E-Rate) program.[23] Our study looked at cases after the FCC's *Net56* decision,[24] which overturned decades of FCC policy requiring USAC to complete investigations within five years, thus allowing USAC to claw back USF funds directly from beneficiaries long after the expiration of the prior five-year period. That study revealed that beginning just after *Net56,* USAC began issuing Commitment Adjustment Letters (COMADs) in cases dating back well beyond the prior five-year limitation period. Further, the study reveals that, at least in

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[22] *See* E-Rate NPRM ¶ 24 ("We also seek comment on the role of E-Rate funding within these technology ecosystems, and the degree of influence consultants and vendors may have on the services and equipment (both E-Rate eligible and non E-Rate eligible) selected by schools and libraries.").

[23] J. Dunstan, *The FCC, USF, and USAC: An Alphabet Soup of Due Process Violations* (2022), attached hereto (USAC Study).

[24] Application for Review of a Decision of the Wireline Competition Bureau by Net56, Inc., Palatine, Illinois, CC Docket No. 02-6, Memorandum Opinion and Order, 32 FCC Rcd 963 (2017) (Net56 Order).

the past, there is clear evidence that USAC was paying employee bonuses based on the amount of money recaptured from beneficiaries.[25]

In short, the *Net56* case became a "release the hounds" moment for USAC. Almost immediately, USAC began a string of audits of beneficiaries that dated back well beyond five years, and in several instances, even beyond the ten-year document retention period. In those cases, USAC's demand for repayments from beneficiaries and not the carriers who were paid to provide the services, were premised on complicated rules and highly fact-specific actions taken by beneficiaries. These beneficiaries, often schools and libraries in very poor areas, have been put in the untenable position of sustaining a burden of proof that they adhered to the USF rules a decade or more after the fact, when many of the individuals involved in the process have long since left. And proving again that what USAC does is not merely "administrative," the study notes:

> Post-*Net56*, however, USAC devoted many more resources on old cases, including 75 percent of the decisions it rendered in the third quarter of 2020. Moreover, recall that these appeals are not over ministerial or clerical mistakes, or missed deadlines, issues that lend themselves to simple submissions of factual evidence on appeal. These appeals have to do with highly fact-specific questions of rule violations. Indeed, in the eight cases listed above where decisions came down after ten years of delay, almost all of them centered around the issue of whether the beneficiary properly conducted the competitive bidding process, or whether the ultimate recipient of the contract unduly participated in the preparation of the required forms.[26]

We explained the implications of subjecting beneficiaries to audits long after the fund year has elapsed:

> Stretch the USAC decision out past five years, or worse, past the ten-year document retention period, and the chance that an appellant can put together

[25] USAC Alphabet Soup, 6 (citing Letter from Anthony J. Dale, Managing Director, FCC, to Brian Talbott, Chairman of the Board, USAC (Dec. 1, 2008)).

[26] *Id.* at 21 (footnotes omitted).

> a persuasive case dwindles. People move on, responsibility for E-rate compliance may change offices, and files are inevitably lost. Given that most of the "delayed" cases involve issues of whether the competitive bidding rules were followed, or whether the winning bidder was chosen using price as the "dominant factor," or whether the ultimate contract awardee imparted undue influence on the process, one can imagine the near impossibility of an appellant proving its case after a decade of not even knowing that there might be allegations of rule violations.[27]

The ***only*** defense against the infinite sword of Damocles hanging over their heads is for schools and libraries to hire someone and pay them year-after-year to take on the burden of maintaining all documentation ***forever*** for a library or school district whose human resources with knowledge of any particular year's participation will move to other roles, retire, or inevitably, die. Only a corporate entity such as an E-Rate consultant can outlive the eye (and ire) of USAC.

III. Conclusion

If the Commission is serious about reducing the influence and control consultants have over the E-Rate process, it should do what it is doing elsewhere—reduce burdensome regulations and the complexity of its rules. E-Rate, indeed, needs its own "DELETE, DELETE, DELETE." The last thing the Commission should do is continue to feed the beast of a complex regulatory system. Layering on more regulations and more risk of USAC demanding repayment of monies for paperwork deficiencies and incomplete certifications will only heighten the need for, and influence of, consultants who will raise the rates they charge beneficiaries. Great if you're looking to retire from the Commission or move on from USAC to become an E-Rate consultant, but a true blight on the public interest behind the schools and libraries program within the Universal Service Fund.

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[27] *Id.* at 22.

Respectfully submitted,

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