

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

WC Docket No. 18-89

Further Notice of Proposed
Rulemaking

FCC 19-121

Protecting Against National Security
Threats to the Communications
Supply Chain Through FCC Programs

**REPLY COMMENTS OF COSN AND SETDA REGARDING NETWORK SECURITY
AND INTEGRITY**

The Consortium for School Networking (CoSN) and the State Educational Technology Directors Association (SETDA) submit these Reply Comments to express support for the recommendations submitted by the State E-rate Coordinators Alliance (SECA) in the above captioned proceeding. Ensuring network security and integrity, including preventing unauthorized access to confidential student and employee data held by state and local education agencies, is a top priority for CoSN's and SETDA's members. Our organizations strongly support the Federal Communications Commission's (Commission) decision to address the national security threats associated with compromised network infrastructure, while also carefully evaluating the new rules' impact on E-rate and other Universal Service Fund (USF) beneficiaries. As you evaluate the record in this proceeding, we respectfully encourage you to consider the following recommendations.

**BIDS THAT INCLUDE PROHIBITED PRODUCTS AND SERVICES SHOULD BE
AUTOMATICALLY DISQUALIFIED, AND THE COMMISSION SHOULD TAKE
OTHER STEPS TO MINIMIZE THE RULES' IMPACT ON E-RATE APPLICANTS**

CoSN and SETDA support SECA's recommendation that the rules should permit the "automatic disqualification of bids that include any prohibited products or services, regardless of whether the applicant's RFP or other procurement documents included this specific disqualification reason." Applicants should not be required to expend time and resources to ensure that procurement

materials provide a basis for disqualification, when the products or services are disqualified per se by regulation.

Similarly, we also agree with SECA that the “Queen of Peace” rule should be modified to account for prohibited products and services. The rule’s requirement that applicants consider equivalent products and services during the competitive bidding process remains appropriate. However, satisfying the requirement by using the phrase “or equivalent”, when describing a requested product or service, is insufficient under the new national security rules. As suggested by SECA, the phrase should include the following qualifier: “unless such equivalent product lines include any prohibited companies or their products”. Updating this phraseology will help build awareness in the novice applicant and provider community that certain companies and their products are prohibited by the Commission from USF support.

Taking the above recommended steps, in addition to ensuring applicants are financially held harmless, will help to minimize the overall burden and regulatory complexity of implementing the supply chain requirements applicable to the E-rate and other USF programs. These steps will lessen the amount of information required to appear in procurement materials and encourage the use of language that puts applicants and providers alike on notice of the national security regulations, which the Commission has signaled could be expanded to other companies over time.

ADOPT A REASONABLE IMPLEMENTATION TIMELINE AND EMPOWER APPLICANTS TO ADDRESS NON-COMPLIANT PROVIDERS

CoSN and SETDA agree with the Commission’s decision in the Report and Order to apply the new national security rules prospectively. Our organizations support SECA’s recommendation that any additional requirements adopted by the Commission through this proceeding should take effect no earlier than the first application period following at least one full year from the new rule’s adoption. This reasonable implementation timeline would provide applicants with time to learn about and successfully support, as needed, service provider compliance with the regulations. We also agree with SECA that the service provider compliance timeline – their deadline for ensuring existing equipment and services are modified to satisfy the new regulations – should not disrupt multi-year E-rate contracts. We also urge the Commission to recognize that in some cases equipment may not be readily available to replace prohibited products, so the agency should ensure

that the implementation timelines are not so rigid that they lead to the disruption of services to schools. When necessary, applicants should have the authority to seek Operational Service Provider Identification Number changes to address the failure of a service provider to comply with the national security requirements.

PROVIDERS SHOULD BE PRIMARILY RESPONSIBLE FOR IDENTIFYING PROHIBITED COMPANIES AND PRODUCTS

Carriers, not applicants, should bear the primary responsibility for identifying prohibited products and services covered by the Commission's proposed rule. It is unreasonable to expect school districts and schools, especially in small and low resource communities, to know what equipment a carrier uses in their data center. Although both applicants and providers have long term record keeping obligations under the program's rules, service providers are uniquely qualified by their technical and industry expertise to: (1) prevent prohibited services and product from slipping into future networks; and (2) identify legacy products and services for removal and replacement. CoSN and SETDA echo SECA's argument that service providers – as industry specialists – “are best equipped...to identify the origin of components” of finished products, product components, and specific subcomponents that are “incorporated in their proposals for eligible E-rate products and services.” Furthermore, while E-rate applicants must assume responsibility for understanding the supply-chain requirements and exercise great care when selecting vendors and acquiring equipment, and services, in general, E-rate service providers (carriers and non-carriers) are best positioned to recover disbursed funds when the supply chain rules are violated. We also agree with SECA that the “Commission should expect applicant adoption of “best practice” procurement policies consistent with such rules and the underlying security threats.”

Lastly, CoSN and SETDA agree with the Commission's decision in the Report and Order to prohibit not only finished products by a covered company, but also products containing specific components or sub-parts produced or provided by a covered company. We agree with the Commission that this approach provides more regulatory certainty for USF recipients and urge the agency to use the same scope to identify equipment and services subject to a removal and replacement requirement.

Respectfully submitted,

Keith Krueger
CEO
Consortium for School
Networking (CoSN)
1325 G Street, NW
Washington, D.C. 20005

Candice Dodson
Executive Director
State Educational Technology
Directors Association (SETDA)
P.O. Box 10
Glenn Burnie, MD 21060