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Funding Status – FY 2020 and FY 2021

FY 2020:

Wave 50 for FY 2020 was released on Thursday, April 8th, for a total of $4.09 million, none for North Carolina applicants. Cumulative commitments are $2.31 billion including $73.3 million for North Carolina. Nationwide, USAC has now funded 98% of the FY 2020 applications representing 86% of the requested funding.

FY 2021:

The FY 2021 Form 471 application window closed Thursday, March 25th. USAC's estimated demand for FY 2021 totals $3.03 billion, up 4% from FY 2020. Funding waves are expected to start in early May.

A second E-rate application window, for the $7 billion of funding authorized under the Emergency Connectivity Fund ("ECF") of the American Rescue Plan Act of 2021, is expected to open later this Spring or early Summer (see our newsletters of March 15 and March 22).

FCC Emergency Connectivity Fund Comments

Over a hundred initial responses were received as of last Monday's deadline to the FCC's request for comments (DA 21-317) on the Emergency Connectivity Fund ("ECF"). Links and summaries to some of the more interesting and potentially influential comments are provided below.

Benton Institute for Broadband & Society
Cities of Los Angeles et al
Common Sense Media
Connected Nation
Consortium for School Networking ("CoSN")

Council of the Great City Schools
EducationSuperHighway
Education and Library Networks Coalition ("EdLiNC")
E-Rate Central
E-Rate Management Professions Association ("E-mpa®")
Funds For Learning
National League of Cities
Schools, Health & Libraries Broadband Coalition ("SHLB")
State Educational Technology Directors Association ("SETDA")
State E-Rate Coordinators' Alliance ("SECA")

Allocation of Funding:

One of the most important issues addressed in comments concerns the allocation of funds among school and library applicants. If applicants are allowed to request any amount of funding, the total demand for funds may exceed the $7 billion cap. Should this occur, the FCC would most likely impose a prioritization mechanism, perhaps funding only the highest discount applicants.

As an alternative, most of the responders listed above favored a pre-allocation mechanism capping funding for individual applicants based on size, E-rate discount, and/or urban/rural location. Two of the earliest responders, E-Rate Central and Funds For Learning, proposed establishing funding caps based on the well-understood Category 2 budget algorithm and designed to leverage existing USAC systems. Most of the other comments recommended a similar, if not identical, approach.

One advantage of funding caps is that they would guarantee some amount of funding for all interested schools and libraries. A further advantage, to the extent that the FCC would agree, is to provide applicants with greater flexibility to decide how to best utilize their allocated funding. From the FCC's perspective, this might mean:

- A broader definition of eligible products and services;
- No need to set price caps on individual products and services; and/or
- Permission to use funding to cover retroactive product and service expenses as far back as January or July 2020.

To the extent funding is capped for each applicant, there will undoubtedly be applicants that will not use all of their allocated funds. Although the FCC is likely to establish an initial ECF application window opening in June or July, one or more windows may be established six to twelve months later — and with different applicant eligibility rules — to allow for full utilization of ECF funds. This will provide the FCC with additional flexibility to meet specific applicant needs.

Funding caps also give the FCC greater latitude to lengthen the initial application window. Many comments, seeking to get funding flowing as quickly as possible, recommended windows of 30-45 days with funding to be awarded shortly thereafter. With both total program and individual applicant funding caps, however, there is no reason that applications submitted early in the window cannot be approved and funded before the window closes. A longer window gives applicants opportunities to apply for some emergency services immediately while designing more robust systems for the longer-term.

Product and Service Eligibility:

Short-term versus long-term is an important distinction to be made with regard to product and service eligibility. Short-term refers to the immediate need to provide remote learners with individual home internet subscriptions (perhaps with mobile hotspots) and/or connected devices (computers, laptops, and tablets). A more intermediate option would be to equip school buses and bookmobiles to serve as wireless hotspots in underserved neighborhoods. A longer-term approach, which could help provide remote connectivity beyond the pandemic, might involve the construction of LTE or other wireless networks into the surrounding communities.

In general, most comments urged greater flexibility on product and service eligibility by letting applicants decide on the best way to use their funding caps to meet their own unique needs.

A sidebar issue on eligibility was the need to specify a minimum internet speed. Using the FCC's current definition of advanced telecommunications service — 25 Mbps downstream, 3 Mbps upstream — many argued that this standard provided insufficient bandwidth for student learners taking classes remotely, particularly in households with multiple students. Other comments, while supporting the objective of effective bandwidth, worried about some areas of the country with more limited available bandwidth.

Given the increased risks implicit in greater off-campus access to school and library internet systems, we were surprised to see few comments on the need to increase the eligibility of cybersecurity products and services, perhaps hoping that the FCC plans to address this issue separately.

Competitive Bidding Requirements:

Comments were split on the need to impose competitive bidding requirements. Some responders wanted a more streamlined version of the traditional 28-day Form 470 process, other encouraged the FCC to rely solely on compliance with state and local bidding rules. The objective in both cases is to accelerate the deployment of necessary services while, at the same time, maintaining a level of protection against waste, fraud, and abuse. As a safeguard, some commentors recommended capping the prices of certain products and services; others argued that applicant funding caps would serve a self-regulating function.

Other Issues:

Other key issues addressed by the responders included the following:

- The need to clarify that CIPA does not apply to off-campus internet services. Elimination of CIPA, which might otherwise require updating all internet safety policies, would also permit applicants to skip the normal post-commitment Form 486 step.
- Several library filings urged the FCC to forego proposed recordkeeping requirements on devices loaned to patrons in light of privacy laws in most states barring disclosure of patron records.
- Most parties urged the retention of both BEAR and SPI invoicing options.

Reply comments on the Emergency Connectivity Fund ("ECF") are due by April 23rd.

E-Rate Updates and Reminders

Upcoming E-Rate Dates:

April 16	Form 486 deadline for FY 2020 covering funding committed in Wave 34. More generally, the Form 486 deadline is 120 days from the FCDL date or the service start date (typically July 1st), whichever is later. Upcoming Form 486 deadlines are:

Wave 35	04/22/2021
Wave 36	04/30/2021

April 23	Deadline for filing reply comments on the FCC Emergency Connectivity Fund ("ECF").
May 10	Legislative deadline for the FCC to promulgate regulations for the Emergency Connectivity Fund ("ECF").

USAC News Brief Dated April 9 – Overview of the PIA Review Process

USAC's Schools and Libraries News Brief of April 9, 2021 provides a review of USAC's Program Integrity Assurance ("PIA") process for reviewing and approving Form 471 applications. The three key review steps preceding the release of Funding Commitment Decision Letters ("FCDLs") are:

- Initial Review
- Final Review
- Quality Assurance