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Funding Status – FY 2021

Wave 4 for FY 2021 was released on Thursday, May 6th, for a total of $80.0 million including $4.32 million for 28 North Carolina applicants. Cumulative commitments are $958 million including $33.4 million for North Carolina. Nationwide, USAC has now funded 62% of the FY 2021 applications representing 32% of the requested funding.

Final ECF Rules Due Today

The FCC's final rules for the Emergency Connectivity Fund ("ECF") are due to be released today, May 10th. The past week has been a busy one for everyone involved — applicants, service providers, associated organizations, USAC, and the FCC itself.

Following the release of a draft of the new ECF rules on April 30th (see our newsletter of May 3rd), the FCC gave interested parties the opportunity to make *ex parte* presentations through Wednesday, May 5th, to suggest changes and/or corrections. The invitation was not ignored. As of last Friday afternoon, almost fifty *ex parte* reports had been filed with the Commission (see the FCC's Electronic Comment Filing System for Docket No. 21-93).

For the most part, commenting parties recognized that the draft rules were unlikely to change dramatically when finalized due to the accelerated ECF implementation period. Commenters, therefore, focused more narrowly on suggested modifications rather than on a broad restructuring. Several of the more important issues addressed are summarized below with links to representative filings.

- Application Periods: The draft rules proposed an initial application window covering retroactive expenditures (not covered by other federal COVID funding) incurred from July 1, 2020, to April 30, 2021. At least one additional window would cover incurred or projected expenditures beginning as of May 1, 2021.
  A common request was to expand the initial reimbursement period back to at least March 1, 2020 (e.g., NYCDOE) or January 27, 2020 (e.g., CGCS) to more fully cover the start of the pandemic. More broadly, but perhaps less likely, others recommended a single window starting from an earlier date and extending into the future, say through June 30, 2022 (e.g., Remote Learning Coalition).

- Allocation of Limited Funds: The FCC has proposed that if ECF demand exceed the $7 billion program cap, funding would be allocated first to those applicants with the highest discount rate (or even the highest NSLP percentage) much like the old Priority 2 rule. To assure that all applicants would receive some funding, several parties have proposed pro rata allocation (e.g., SECA).
- Equipment and Service Eligibility: The FCC's draft rules are focused on provider-supplied internet services and devices to unserved students and patrons. The construction of facilities to extend school and library internet services off-campus to reach unserved households is conditioned on a showing that commercial service to those areas is unavailable. Numerous comments sought clarification of related certifications and the elimination of the FCC's cost allocation rule for off-campus internet services (e.g., SHLB and USTelecom).

  A related issue involves the treatment of connected end-user devices that have never before been E-rate eligible. The proposed rule requires a strict one-to-one accounting of devices with user names and the traditional ten years plus record retention. Comments indicated that this was problematic in several ways. EdLiNC, for one, suggested that applicants be allowed "to purchase additional devices to account for damage and breakage to permit uninterrupted learning." ALA was concerned about the confidentiality of patron data noting that many libraries, often by law, proactively delete loan records when any items are returned. If the rule requiring retention of patron data is left unchanged, many libraries nationwide will be legally unable to benefit from ECF support.

- Competitive Bidding: Many parties supported the FCC's plan not to require competitive bidding for ECF purchases (presumably eliminating Form 470s while still requiring compliance with state and local procurement rules). An ask by CTIA that the FCC clarify that the Lowest Corresponding Price ("LCP") rule not be applied to ECF is likely to fall on deaf ears.
- Invoicing: NAIS expressed disappointment that the FCC proposed to require only BEAR invoices arguing that many applicants will be unable to front-end ECF purchases. Other filers proposed to circumvent that barrier by permitting BEAR ECF "reimbursements" upfront based upon applicant purchase orders or vendor invoices.

This has been only a brief review of *ex parte* comments filed within a very short time in an attempt to support or modify provisions of an early draft of the FCC's ECF rules. With the final rules set to be released today, we will see what effect, if any, these comments made. Please see next week's newsletter.

E-Rate Updates and Reminders

Upcoming E-Rate Dates:

May 10	Expected release date of the FCC's ECF rules (see article above).
May 12	"Launch date" for the Emergency Broadband Benefit ("EBB") program. See FCC announcement (DA 21-493) and our newsletter of May 3rd.

May 14	Form 486 deadline for FY 2020 covering funding committed in Wave 38. 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:

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Wave 39   05/21/2021

Wave 40   05/28/2021

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May 26	USAC webinar for beginner applicants on PIA and Selective Reviews.

ECF SAM Registration Requirement:

One administrative detail in the FCC's draft ECF order, which will surely be included in the final order, reads:

> 96. *System for Award Management (SAM) Registration.* All applicants that intend to participate in the Emergency Connectivity Fund Program must also register with the System for Award Management (SAM). SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's partners in support of federal awards, grants, and electronic payment processes.

Many schools and libraries already have SAM registrations, but this is a small ECF detail that is worth checking. If not registered, or if the annual registration has expired, now is the time to correct the problem. Although there are a number of firms that will provide assistance on registrations or renewals, the process can be done free and without much difficulty on the SAM.GOV site. The SEARCH RECORDS tab provides a simple way to check registration status.

Searching by entity name should work well for most applicants but it worth noting that searching by DUNS Number, required for all E-rate applicants, is another option. A successful search will show the following information (including the registration Expiration Date):

USAC News Brief Dated May 7 – CIPA Reminders

[USAC's Schools and Libraries News Brief of May 7, 2021](#) discusses the following topics concerning compliance with the Childers's Internet Protection Act ("CIPA"):

- The three basic CIPA requirements
  - Technology protection measure (a.k.a. "filter")
  - Internet safety policy
  - Public notice and hearing
- Certifying compliance with CIPA
- Timing of compliance with CIPA
- Documentation of compliance with CIPA

Last Friday's News brief also announced the opening of registration for the following two webinars:

Date and Time	Topic	Audience	Experience Level
May 26, 2021 1:00 p.m. EDT	Supply Chain Office Hours	Service providers	All levels
May 26, 2021 2:00 p.m. EDT	Program Integrity Assurance (PIA) Review and Selective Review	Applicants	Beginner