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## **FY 2022 Application Window**

The FY 2022 Form 471 application window will open on **Wednesday, January 12, 2022**, at 12:00 noon EST and will close on Tuesday, March 22, 2022, at 11:59 p.m. EDT.

Applicants are reminded to update their EPC entity profiles before the close of the Administrative Window on January 10<sup>th</sup> at 11:59 p.m. EST. Once the Administrative Window is closed, entity profiles will be locked for the duration of the application window.

## **Funding Status for 2021-2022**

### *E-Rate:*

Wave 38 for FY 2021 was released on Thursday, December 30<sup>th</sup>, for a total of \$16.8 million, none for North Carolina applicants. Cumulative commitments are now \$2.52 billion including \$84.6 million for North Carolina. Nationwide, USAC has now funded 98% of the FY 2021 applications representing 90% of the requested funding.

### *ECF:*

As of Wave 6 released on December 20<sup>th</sup>, cumulative ECF commitments are \$3.83 billion including \$127 million for North Carolina. Funding is now being committed for both first and second window applications. Authorized disbursements as of last Friday totaled \$101million.

## 2021 Review – 2022 Preview

At the New Year, it is worthwhile to look back on the past year and to plan for the new one. Here's our annual E-rate review of 2021 and a preview of 2022. Additional details on 2021 developments can be found in our [E-Rate Weekly News Archive](#). Both years were or will be characterized by continued pandemic concerns and new broadband funding programs.

### *Key Milestones in 2021:*

- January
  - The FCC began a rulemaking procedure for the administration of the \$3.2 billion Emergency Broadband Benefit (“EBB”) program.
  - The FY 2021 Form 471 application window opened January 15<sup>th</sup>.
- February
  - Working on an abbreviated schedule, the FCC issued the EBB Order ([FCC 21-29](#)) on home internet services and connected devices. As originally adopted, the EBB program might have supported bulk subscription plans coordinated by schools and libraries — a need ultimately addressed by the ECF program and possibly by the new ACP program (see below).
- March
  - The FCC began a rulemaking procedure for the administration of the \$7.1 billion Emergency Connectivity Fund (“ECF”), the FCC’s second COVID-relief plan specifically targeted to meet the “unmet” off-campus needs of school students, school teaching staff, and library patrons.
  - The FY 2021 Form 471 application window closed March 25<sup>th</sup>.
- April
  - An active month for comments and reply comments re. ECF program rules.
  - The first wave of E-rate funding commitments for FY 2021 was released on April 16<sup>th</sup>.
- May
  - The FCC issued the ECF Order ([FCC 21-58](#)) to provide 100% reimbursements of the unmet needs for home internet services and connected devices for fiscal year 2021-2022.
- June
  - The initial, 45-day, ECF application window was opened June 29<sup>th</sup>.
- July
  - As of July 1<sup>st</sup>, the start of FY 2021, USAC had released twelve funding waves with FCDLs issued on just over 82% of applications totaling approximately \$1.51 billion.
  - USAC upgraded the BEAR form filing system in its One Portal system to eliminate the need for unique user PINs.
- August
  - The FCC continued to release a stream of FAQs clarifying various aspects of the ECF program.

- September
  - After receiving \$5.1 billion in funding requests during the first ECF application window, a second shorter 15-day application window opened on September 28<sup>th</sup>.
  - USAC posted a long-awaited [ECF Form 471 dataset](#) and issued the first ECF funding wave.
- October
  - Recognizing the difficulty of obtaining accurate student NSLP data in a year in which all students are eligible for free meals as a result of the ongoing COVID pandemic, the FCC and USAC clarified that applicants could use enrollment and NSLP data from older school years if more current data is not available.
  - President Biden appointed Jessica Rosenworcel to the full-time position of Chairwoman of the FCC, making her the first woman to hold that position. Chairwoman Rosenworcel was subsequently nominated and confirmed for a second full term.
- November
  - Included in the \$1.3 trillion Infrastructure Act was roughly \$60 billion in new broadband support programs including \$14.2 billion for the Affordable Connectivity Program (“ACP”) to replace and extend the EBB program. The FCC opened a comment period on proposed ACP rules ([DA 21-1453](#)) and issued interim rules on the EBB-to-ACP transition to take place at the end of December.
- December
  - Julie Tritt Schell, State E-Rate Coordinator representing the Pennsylvania Department of Education, was reappointed to the USAC Board.
  - The FCC adopted a Notice of Proposed Rulemaking ([FCC 21-124](#)) to consider the implementation of an online competitive bidding portal for E-rate.
  - The FCC released a Notice of Inquiry ([FCC 21-127](#)), entitled a “Report on the Future of the Universal Services Fund,” focusing on the various new federal broadband programs funded by the Infrastructure Act in light of the FCC’s universal service goals.
  - The FCC adopted the Eligible Services List (“[ESL](#)”) for FY 2022 with only minor changes from recent years. On the plus side, the FCC did suggest that it might consider future changes to cover cybersecurity equipment and services, and to address WiFi on school buses.

*Anticipated Developments in 2022:*

The E-rate program is running smoothly; we expect that to continue through 2022. At this point, USAC is on track for opening the Form 471 application window on January 12<sup>th</sup> and closing it on

March 22<sup>nd</sup>. To be safe, we encourage applicants to complete their competitive bidding processes, sign their contracts, and file their FY 2022 applications as early in the year as possible.

The most difficult aspect of the FY 2022 application process, at least for some applicants such as expanding charter schools, may be validating increased student enrollments and updating EPC accordingly to justify higher Category 2 budgets. EPC entity updates need to be done before the administrative window closes on January 10<sup>th</sup> or after the Form 471 application window closes and entity profiles are again unlocked. Increasing a Category 2 budget within EPC is a two-stage process involving updating enrollment then requesting a revised budget — see [USAC Category 2 webinar](#).

The most controversial E-rate development in 2022 is expected to revolve around the FCC’s efforts to implement an online competitive bidding portal — see FCC Notice of Inquiry ([FCC 21-124](#)) referenced above and in our [newsletter of December 22<sup>nd</sup>](#). Fortunately, the bidding portal is not expected to be implemented until FY 2024 at the earliest and will not directly affect FY 2022 applications.

The real action for schools and libraries in 2022 is likely to involve two other FCC broadband programs to provide off-campus internet services.

**ECF:** The FCC must decide what to do with the existing ECF program. The Commission accepted applications in two funding windows for 2021-2022 and approvals of all applications at the 90% plus level will not exhaust the \$7.1 billion in authorized funding. In addition, the pending Build Back Better legislation proposes to increase ECF funding by an additional \$300 million. The FCC will not have a good estimate of excess funding until well after the August 29<sup>th</sup> invoice deadline. It could be in the range of \$1 billion.

To fully utilize ECF funding, the FCC has several options including:

- Open a third window for purchase made in 2021-2022;
- Open a new window to retroactively cover COVID-related expenditures before 2021-2022;
- Open a new window for prospective purchases to be made in 2022-2023; or
- Extend existing monthly recurring internet service requests into 2022-2023, perhaps transitioning those services into ACP as suggested by [SHLB/E-Rate Central](#) and supported in other ACP reply comments (see below).

Note: Opening additional ECF windows (bullets 1-3), as opposed to extending existing services until funding is depleted (bullet 4), would likely lead to demand in excess of the \$7.1 billion, requiring funding allocations based on applicant discount rates.

**ACP:** As discussed in the ACP Reply Comments article below, both the proposed rules ([DA 21-1453](#)) and many of the comments supported bulk subscription ACP eligibility for multiple dwelling units (“MDUs”). Extending that concept slightly, as some comments suggested, would

permit schools and libraries to efficiently coordinate internet services for low-income students and library patrons at an average cost per household likely to be significantly less than the cost of requiring each of those households to subscribe to ACP services individually.

Other developments to look for in 2022 include:

- FCC modernization of its suspension and debarment rules as per the Notice of Proposed Rulemaking ([FCC 19-120](#)) (see our [newsletter of December 2, 2019](#)).
- Possible expansion of the list of “covered companies” included in the FCC’s order Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs ([FCC 19-121](#)) based on additional threats out of China.
- Reevaluation of the E-rate eligibility of enhanced cybersecurity products and services as the FCC hinted in the cover memo to the [Eligible Services List for FY 2022](#).

## Updates and Reminders

### *Upcoming Dates:*

December 28	FCC reply comments due on the new Affordable Connectivity Program ( <a href="#">DA 21-1453</a> ) (see article above).						
January 7	Last day of the PIA winter deferral period.						
January 7	Form 486 deadline for FY 2021 covering funding committed in Wave 22. More generally, the Form 486 deadline is 120 days from the FCDL date or from the service start date (typically July 1 <sup>st</sup> ), whichever is later. Upcoming Form 486 deadlines for 2021 are: <table><tr><td>Wave 23</td><td>01/14/2022</td></tr><tr><td>Wave 24</td><td>01/21/2022</td></tr><tr><td>Wave 25</td><td>01/28/2022</td></tr></table>	Wave 23	01/14/2022	Wave 24	01/21/2022	Wave 25	01/28/2022
Wave 23	01/14/2022						
Wave 24	01/21/2022						
Wave 25	01/28/2022						
January 10	Close of the Administrative Window; last chance to update EPC entity profiles for FY 2022. Thereafter, entity profiles will be locked until the close of the Form 471 application window.						
January 12	Opening of the FY 2022 application window.						
January 17	FCC comments due on the Future of the Universal Service Fund Notice of Inquiry ( <a href="#">FCC 21-127</a> ) (see our <a href="#">newsletter of December 20<sup>th</sup></a> ). Reply comments are due January 31 <sup>st</sup> .						
January 28	Invoice filing deadline for FY 2019 and FY 2020 non-recurring services.						
February 25	Extended invoice filing deadline for FY 2020 recurring services.						
March 22	Close of the FY 2022 application window at 11:59 p.m. EDT.						

### *ACP Reply Comments:*

The deadline for submitting reply comments in the FCC’s ACP rulemaking docket ([DA-21-1453](#)) was last Tuesday, December 28<sup>th</sup>. As discussed in our [newsletter of December 27<sup>th</sup>](#), and referenced above, an interesting aspect of many of the reply comments was the support expressed for bulk subscriptions. Most importantly, specifically for schools and libraries, was the support for the initial comments filed by [SHLB/E-Rate Central](#) recommending that the ACP rules: (a) explicitly include homeless shelters in the list of eligible multiple dwelling units (“MDUs”); and (b), schools and libraries currently funded under ECF for recurring internet services be permitted to seamlessly transition those services into ACP as ECF funding is depleted.

Representative reply comments supporting either or both these positions include those filed by:

[California Emerging Technology Fund](#)  
[Cities of Boston, Chicago, Los Angeles, et al](#)  
[City of Seattle](#)  
[Common Sense Media, Public Knowledge](#)  
[EducationSuperHighway](#)  
[New York State Education Department](#)  
[Wisconsin Department of Public Instruction](#)

### *FCC Appoints Seven USAC Board Members:*

FCC Chairwoman Jessica Rosenworcel appointed seven members to the USAC Board of Directors ([DA 21-1640](#)). Most importantly, from an E-rate perspective, the list included the reappointment of Julie Tritt Schell to a new three-year term ending December 31, 2024. As the State E-Rate Coordinator representing the Pennsylvania Department of Education, this will be Ms. Schell’s third term on the USAC Board during which she has been, and will continue to be, an experienced and active proponent of the E-rate program.

### *FCC Streamlined Decisions:*

The FCC issued another set of “streamlined” precedent-based decisions ([DA 21-1609](#)) last week. As with past streamlined decisions, applicants facing similar problems as those addressed in these decisions may garner useful information by carefully reading the additional FCC explanations found in the footnotes. The original appeal and waiver requests can be found online in the FCC’s [Search for Filings](#) under Docket 02-6 (E-rate) or Docket 21-93 (ECF).

In December’s streamlined decisions, the FCC:

1. Granted:
  - a. Seven Requests for Waiver finding that USAC appeals had not been filed late. In six cases, the FCC found that USAC’s late-filing determinations had been based on the application approval date rather, more properly, on the invoice decision dates. All appeals were remanded back to USAC for consideration on their merits.

- b. One Petition for Reconsideration finding that the requested service was within the scope of the contract and the approved funding request.
  - c. One Request for Waiver for an applicant's six late-filed FY 2021 applications certified within 14 days of the close of the window.
  - d. Four Requests for Waiver for ministerial and/or clerical errors involving incorrect BENs, discount rates, or application cancellations.
  - e. One Request for Review confirming that E-rate discounts should be based on service prices prior to the application of any state-provided support.
  - f. One Request for Review for an untimely appeal/waiver filed within a "reasonable period of time" after receiving an adverse USAC decision.
2. Dismissed as Moot:
- a. Four Requests for Waiver of late-filed ECF applications for the first window that were carried forward or refiled in the second ECF window.

### **No USAC ECF Newsletter or E-Rate News Brief This Week**

USAC did not release a regular Newsletter or News Brief during the New Year's Eve week.

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*Newsletter information and disclaimer: This newsletter may contain unofficial information on prospective E-rate developments and/or may reflect E-Rate Central's own interpretations of E-rate practices and regulations. Such information is provided for planning and guidance purposes only. It is not meant, in any way, to supplant official announcements and instructions provided by USAC, the FCC, or NCDPI.*

*Additional North Carolina specific E-rate information is available through our Web site — <http://www.e-ratecentral.com/us/stateInformation.asp?state=NC>. Note that this site provides easy access to formatted North Carolina applicant E-rate histories via the Billed Entity Number ("BEN") search mechanism in the upper left-hand corner. Detailed information can be obtained by "drilling down" using the links for specific funding years and individual FRNs.*

*If you have received this newsletter from a colleague and you would like to receive your own copy of the North Carolina E-Rate Forum, send an email to [join-ncerate@lists.dpi.state.nc.us](mailto:join-ncerate@lists.dpi.state.nc.us). Please include your name, organization, telephone, and e-mail address.*

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