

- FY 2022 Application Window
- Funding Status for 2021-2022
 - E-Rate
 - ECF
- Requested Adjustments to the ECF Program
- Updates and Reminders
 - Upcoming Dates
 - FCC Supply Chain Annual Reporting Portal
 - Guilty Plea in E-Rate Fraud Case
- USAC ECF Newsletter dated February 8 – ECF Reimbursements, cont.

FY 2022 Application Window

The FY 2022 Form 471 Application Window will close on Tuesday, March 22, 2022, at 11:59 p.m. EDT. Form 470s must be filed no later than February 22nd to meet the 28-day posting requirement before the Form 471 window closes.

Funding Status for 2021-2022

E-Rate:

Wave 44 for FY 2021 was released on Thursday, February 10th, for \$9.10 million, none for North Carolina applicants. Cumulative commitments are now \$2.59 billion including \$84.5 million for North Carolina. Nationwide, USAC has now funded 98% of the FY 2021 applications representing 93% of the requested funding.

ECF:

Wave 9 was [released](#) on February 8th for a total of \$128 million including \$3.11 million for seven North Carolina applicants. Cumulative ECF [commitments](#) are now \$4.54 billion including \$147 million for North Carolina. Nationwide, USAC has funded almost 87% of filed applications. Authorized disbursements as of last Friday totaled \$384 million.

Requested Adjustments to the ECF Program

With Emergency Connectivity Fund (“ECF”) funding commitments still going out, many schools and libraries have realized that they will be unable to fully utilize all approved funding this fiscal year and are seeking expansion of ECF benefits beyond June 30, 2022. As a result, an *Ex Parte* filing in late January by SHLB, CoSN, SETDA and ALA is beginning to generate broad support by the ECF applicant and service provider communities.

The original [SHLB/CoSN/SETDA/ALA filing](#) asked the FCC to take the following actions:

- (1) Extend the June 30, 2022, service delivery deadline;
- (2) Open a third funding window in the spring of 2022 to distribute the program’s remaining funds;
- (3) Extend the gift rule to coincide with the extended service delivery deadline;
- (4) Reconsider the record-keeping requirements with respect to library applicants; and
- (5) Waive the cost allocation rule in the E-rate program, at least for the duration of the public health emergency.

Support for these changes, most importantly for the extended service delivery deadline, came last week from:

[E-Rate Management Professionals Association \(“E-mpa”\)](#)
[Schools, Health & Libraries Broadband \(“SHLB”\) Coalition](#)
[State E-Rate Coordinators Alliance \(“SECA”\)](#)

The problems cited in these filings, which we have seen as well, include late approvals of applications, lengthy post-commitment changes, and delayed reimbursements, as well as major supply chain disruptions. It is also becoming clear that total funding requested in the two windows, minus approved funding likely to be unused during the year, will mean that available funding may well exceed one billion dollars. This excess funding could be used to support a third window and/or to extend approved recurring expenses well beyond June 30, 2022.

Updates and Reminders

Upcoming Dates:

- | | | | | | |
|-------------|---|---------|------------|---------|------------|
| February 16 | Next USAC “office hours” session on ECF Reimbursements (register) (3:00 p.m. EST). Another session will be held next Wednesday. | | | | |
| February 17 | FCC comments due on the Future of the Universal Service Fund Notice of Inquiry (FCC 21-127) (see our newsletter of December 20th). Reply comments are due March 17 th . | | | | |
| February 18 | Form 486 deadline for FY 2021 covering funding committed in Wave 28. More generally, the Form 486 deadline is 120 days from the FCDL date or from the service start date (typically July 1 st), whichever is later. Upcoming Form 486 deadlines are:
<table border="0" style="margin-left: 40px;"><tr><td>Wave 29</td><td>02/25/2022</td></tr><tr><td>Wave 30</td><td>03/04/2022</td></tr></table> | Wave 29 | 02/25/2022 | Wave 30 | 03/04/2022 |
| Wave 29 | 02/25/2022 | | | | |
| Wave 30 | 03/04/2022 | | | | |
| February 22 | Last possible date to file a Form 470 in time to meet the 28-day posting requirement for the close of the FY 2022 Form 471 application window. | | | | |
| February 25 | Extended invoice filing deadline for FY 2020 recurring services. | | | | |
| March 22 | FY 2022 Form 471 Application Filing Window closes at 11:59 p.m. EDT. | | | | |

March 28

FCC comments due on the FCC's proposal to create an E-rate competitive bidding portal ([FCC 21-124](#)). Reply comments are due April 27th.

FCC Supply Chain Annual Reporting Portal:

Late in 2019, following the enactment of the Secure and Trusted Communications Networks Act of 2019, the FCC adopted the USF National Security Rules Order ([FCC 19-121](#)) (see our [newsletter of December 2, 2019](#)). This Order barred the use of Universal Service Fund ("USF") subsidies, including E-rate, to fund equipment, components, and services from "covered" companies deemed to provide a national security risk including, at the outset, Huawei and ZTE.

Although very few E-rate applicants have been found to have purchased equipment or services attributable, even in part, to Huawei and ZTE, the prohibition must be observed particularly with respect to advanced communication services provided by U.S. service providers. The FCC has recently announced ([DA 22-109](#)) the establishment of the online reporting portal for providers of advanced communications services to report the extent to which their networks contain or use covered communications equipment or services. Under the Order, each provider of advanced communications services must file an initial report by May 5, 2022. Any service providers reporting such use must update their usage report annually with respect to the locations, types, suppliers, historic and replacement cost, functionality, replacement plans, and detailed justifications of why such equipment was obtained.

The reporting portal, instructions, and other information regarding the Annual Reporting requirement are now available at <https://www.fcc.gov/supplychain>.

Guilty Plea in E-Rate Fraud Case:

The U.S. Department of Justice [announced](#) a guilty plea by a Kentucky businessman in what it described as a decade-long scheme to defraud the E-rate program. The DOJ reported that the businessman, one of his employees, and the school E-rate consultant "...made false statements and submitted fabricated documents to the E-Rate Program regarding the required co-pays and the program's fair and open bidding process. In essence...the co-conspirators used the victim schools as vehicles to fraudulently obtain money" from the E-rate program. The loss to the E-rate program was calculated at approximately \$6.9 million dollars. The case, involving schools in Tennessee and Missouri, was investigated by the FCC's Office of Inspector General ("OIG") and the Federal Bureau of Investigation ("FBI").

According to the plea agreement, obtained by a local Kentucky [newspaper](#), the conspiracy to commit wire fraud carries a maximum statutory sentence of not more than twenty years, a fine of not more than \$250,000, and a period of supervised release of not more than five years.

We conclude this article with a reminder to read the "Certifications" section of all E-rate forms that, in the case of the Form 473, the Service Provider Annual Certification ("SPAC"), reads in part:

I acknowledge that any false statement on this Form or on the Service Provider Invoice Form (FCC Form 474) can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. § 502,

503 (b), or fine and imprisonment under Title 16 of the United States Code, 18 U.S.C. § 1001, and could subject this Service Provider to liability under the False Claims Act.

USAC ECF Newsletter dated February 8 – ECF Reimbursements, cont.

[USAC's Emergency Connectivity Fund Program Newsletter of February 8, 2022](#), continues to provide information for requesting ECF reimbursements. This week's newsletter includes the following discussion of common mistakes USAC is finding in reimbursement claims:

- Please only request reimbursement for taxes on eligible equipment and services. Additional taxes on an invoice for equipment and services that are not eligible for reimbursement should be removed from the request for reimbursement amount.
- Costs that were bundled on the submitted ECF FCC Form 471 should also show as bundled on the submitted vendor invoice. For example, a license is not a reimbursable expense if it is itemized on the vendor invoice attachment, but if a license was bundled in the base price of a connected device on the ECF FCC Form 471, it must show as bundled on the vendor invoice attachment as well.
- Cases for iPads and headphones are not an eligible reimbursable expense.
- If the vendor invoice attachment does not include the delivery date, please also upload shipping/delivery documentation (i.e., packing slip) that references the equipment and includes the date of delivery, along with the vendor invoice attachment.

Although not referenced in the weekly ECF Newsletter, USAC presented an informative Invoice Training webinar for applicants last Tuesday. That webinar is still available via the original [registration](#) link. The three key slides on invoice attachments from the presentation are shown below.



Available for Public Use

Provide a Detailed Vendor Invoice Attachment

- Vendor invoices must include the level of detail needed for USAC to validate the following information during its review of this supporting documentation:
 1. **The invoice contains the date that the service or equipment is delivered or shipped and the date is within the relevant funding period.**
 - Please make sure to identify the start and end dates for services or the date of delivery (or shipment) in the vendor invoice attachment.
 - If the vendor invoice does not include the shipping or delivery date, please upload additional documentation that includes these date(s). Examples of documentation may include:
 - updated invoices containing the shipping and/or delivery date, or
 - a supporting document such as a shipping label, packing slip, or delivery service tracking numbers.
 - If you submit a supporting shipping or delivery document, we also ask that it include a way to identify that the shipping pertains to a particular request for reimbursement purchase, such as a purchase order number, an invoice number, or any other identifying information.
 - *Please Note: If you receive the equipment and/or services prior to July 1, 2021 (e.g., the start of the relevant funding period for the first and second application filing windows), you must seek a waiver of the FCC's rules to be able to seek reimbursement for that equipment and/or services.*

11

Provide a Detailed Vendor Invoice Attachment

2. The date of the service for non-recurring charges, or the bill date for recurring charges that is consistent with what was entered on the ECF FCC Form 472/474.
3. The equipment or services provided are the same as what was approved on the ECF FCC Form 471 (unless modified pursuant to an approved post-commitment change), and are at or below the price approved on the ECF FCC Form 471.
 - Additionally, please only request reimbursement for taxes on eligible equipment and services. Additional taxes on an invoice for equipment and services that are not eligible for reimbursement should be removed from the request for reimbursement amount.
 - Costs that were bundled on the submitted ECF FCC Form 471 should also show as bundled on the submitted service provider invoice.
 - *For Example: A license is not a reimbursable expense if it is itemized on the vendor invoice attachment. If a license was bundled in the price of a connected device on the ECF FCC Form 471, it must show as bundled on the vendor invoice attachment.*

Provide a Detailed Vendor Invoice Attachment

4. The service provider who provided the equipment or services is the same as the service provider approved on the ECF FCC Form 471 (unless modified pursuant to an approved post-commitment service provider (SPIN) change).
5. For recurring services, the vendor invoice should also include the following: a confirmation of the lines purchased by the applicant that supports the number approved, the dollar charge per line, and billing dates that match the invoiced service dates approved on the ECF FCC Form 471.
6. For monthly fees, please attach each monthly invoice and an itemized date list.

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. Please include your name, organization, telephone, and e-mail address.

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